



**House
Legislative
Analysis
Section**

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INSURERS: NO GENETIC TESTING

House Bill 4398 with committee
amendments
First Analysis (3-23-93)

Sponsor: Rep. Michael J. Bennane
Committee: Insurance

THE APPARENT PROBLEM:

People are beginning to become concerned that genetic testing will be used by insurance companies (and by employers when they are self-insured) to deny coverage to those identified as susceptible to certain medical conditions. It is possible now to detect a genetic predisposition to develop certain illnesses and diseases or to identify someone as a carrier of a gene that will likely result in his or her children developing certain conditions. One recent news article described the pace of new genetic discoveries as "astonishing." A mammoth research project, known as the Human Genome Initiative (HGI), is underway, according to news accounts, with the goal of mapping every human gene and analyzing its components. While this project may ultimately discover information that will lead to the early identification and treatment of many diseases, that same information could be used to discriminate for insurance and other purposes against people with certain genetic characteristics. While not much genetic testing is done now apparently, and the anecdotal evidence of discrimination is sparse, some people believe discrimination is already occurring in some cases and that in others people are avoiding having beneficial testing done out of fear of how the results will be used. Precautions should be taken, some say, to protect people from the misuse of genetic testing.

THE CONTENT OF THE BILL:

The bill would amend Chapter 20 of the Insurance Code to prohibit insurance companies from refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to a person because he or she declined to submit to genetic testing or because of the results of genetic testing. The bill would classify such activity under "unfair methods of competition and unfair or deceptive acts or practices in the business of insurance." The provision would no longer apply on January 1, 2012.

MCL 500.2027

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bill would prevent insurers from using the results of genetic testing to deny people insurance. There is some evidence that this is occurring and great fears that the practice will grow as genetic testing itself develops. Insurance is based, in part, on spreading risks across large numbers. If insurers begin to use genetic tests in an attempt to predict future medical costs of individuals, insurance as it has been known will cease to exist. There are fears information from genetic testing will be misused or misunderstood and customers unfairly treated. There are also fears that some people who are insured now (without destroying the insurance system) will become uninsurable based on genetic tests as the concern over health costs escalates. This will produce an uninsurable pool of those most in need, say bill supporters. What is worse, some people reportedly avoid tests that could identify conditions for which early treatments are beneficial because of fears of what could happen to their health coverage and that of their children.

Against:

Representatives of life insurers testified against this bill on several grounds. For one thing, they consider the bill premature. A problem does not exist now and more study of the possible consequences of genetic testing is needed before such drastic legislative action is taken. It is too early to know how or whether insurance underwriting will be affected by genetic tests.

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They also point out that fair treatment in insurance underwriting requires that prices be set to reflect risk. It is fair to treat equals equally and not fair to treat unequals equally. It is not unfair to charge someone who poses a higher risk a higher premium. Genetic testing ultimately could become a useful tool in establishing risks for some kinds of coverage. It should not be precluded arbitrarily. Relevant medical information of all kinds should be available so that customers do not get favorable treatment by the withholding of information. All policyholders will pay more if useful information about how to classify risks is withheld or ruled out. It is possible, by the way, that genetic testing will help some customers by demonstrating that, despite family histories of certain conditions, a person is not susceptible to a certain illness or condition. Finally, there is the danger that people will get special treatment if their "handicaps" are identified through genetic testing rather than through other means. It is now acceptable to rate in Michigan based on "handicap" in certain circumstances; will this bill rule that out in cases where a "handicap" is identified through genetic testing?

POSITIONS:

The Life Insurance Association of Michigan is opposed to the bill. (3-18-93)