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HOUSE SUBSTITUTE FOR

SENATE BILL NO. 815

(As passed the House, February 23, 2000)

A bill to amend 1976 PA 220, entitled
"Persons with disabilities civil rights act,"
by amending sections 201 and 202 (MCL 37.1201 and 37.1202), section 201 as amended by 1990 PA 121 and section 202 as amended by 1998 PA 20.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 201. As used in this article:

2 (a) "Employee" does not include an individual employed in
3 domestic service of any person.

4 (b) "Employer" means a person who has 1 or more employees or
5 a person who as contractor or subcontractor is furnishing material or performing work for the state or a governmental entity or
6 agency of the state and includes an agent of such a person.
7

8 (c) "Employment agency" means a person regularly undertaking
9 with or without compensation to procure employees for an employer

1 or to procure for employees opportunities to work for an employer
2 and includes an agent of such a person.

3 (D) "GENETIC INFORMATION" MEANS INFORMATION ABOUT A GENE,
4 GENE PRODUCT, OR INHERITED CHARACTERISTIC OF AN INDIVIDUAL
5 DERIVED FROM THE INDIVIDUAL'S FAMILY HISTORY OR A GENETIC TEST.

6 (E) "GENETIC TEST" MEANS THE ANALYSIS OF HUMAN DNA, RNA,
7 CHROMOSOMES, AND THOSE PROTEINS AND METABOLITES USED TO DETECT
8 HERITABLE OR SOMATIC DISEASE-RELATED GENOTYPES OR KARYOTYPES FOR
9 CLINICAL PURPOSES. A GENETIC TEST MUST BE GENERALLY ACCEPTED IN
10 THE SCIENTIFIC AND MEDICAL COMMUNITIES AS BEING SPECIFICALLY
11 DETERMINATIVE FOR THE PRESENCE, ABSENCE, OR MUTATION OF A GENE OR
12 CHROMOSOME IN ORDER TO QUALIFY UNDER THIS DEFINITION. GENETIC
13 TEST DOES NOT INCLUDE A ROUTINE PHYSICAL EXAMINATION OR A ROUTINE
14 ANALYSIS INCLUDING, BUT NOT LIMITED TO, A CHEMICAL ANALYSIS OF
15 BODY FLUIDS UNLESS CONDUCTED SPECIFICALLY TO DETERMINE THE PRES-
16 ENCE, ABSENCE, OR MUTATION OF A GENE OR CHROMOSOME.

17 (F) ~~—(d)—~~ "Labor organization" includes:

18 (i) An organization of any kind, an agency or employee rep-
19 resentation committee, group, association, or plan in which
20 employees participate and which exists for the purpose, in whole
21 or in part, of dealing with employers concerning grievances,
22 labor disputes, wages, rates of pay, hours, or other terms or
23 conditions of employment.

24 (ii) A conference, general committee, joint or system board,
25 or joint council which is subordinate to a national or interna-
26 tional labor organization.

1 (iii) An agent of a labor organization.

2 Sec. 202. (1) ~~An~~ EXCEPT AS OTHERWISE REQUIRED BY FEDERAL
3 LAW, AN employer shall not:

4 (a) Fail or refuse to hire, recruit, or promote an individ-
5 ual because of a disability OR GENETIC INFORMATION that is unre-
6 lated to the individual's ability to perform the duties of a par-
7 ticular job or position.

8 (b) Discharge or otherwise discriminate against an individ-
9 ual with respect to compensation or the terms, conditions, or
10 privileges of employment, because of a disability OR GENETIC
11 INFORMATION that is unrelated to the individual's ability to per-
12 form the duties of a particular job or position.

13 (c) Limit, segregate, or classify an employee or applicant
14 for employment in a way which deprives or tends to deprive an
15 individual of employment opportunities or otherwise adversely
16 affects the status of an employee because of a disability OR
17 GENETIC INFORMATION that is unrelated to the individual's ability
18 to perform the duties of a particular job or position.

19 (d) Fail or refuse to hire, recruit, or promote an individ-
20 ual on the basis of physical or mental examinations that are not
21 directly related to the requirements of the specific job.

22 (e) Discharge or take other discriminatory action against an
23 individual on the basis of physical or mental examinations that
24 are not directly related to the requirements of the specific
25 job.

26 (f) Fail or refuse to hire, recruit, or promote an
27 individual when adaptive devices or aids may be utilized thereby

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1 enabling that individual to perform the specific requirements of
2 the job.

3 (g) Discharge or take other discriminatory action against an
4 individual when adaptive devices or aids may be utilized thereby
5 enabling that individual to perform the specific requirements of
6 the job.

7 (H) REQUIRE AN INDIVIDUAL TO SUBMIT TO A GENETIC TEST OR TO
PROVIDE GENETIC INFORMATION AS A
8 CONDITION OF EMPLOYMENT OR PROMOTION.

9 (2) SUBSECTION (1) DOES NOT PROHIBIT AN INDIVIDUAL FROM VOL-
10 UNTARILY PROVIDING TO AN EMPLOYER GENETIC INFORMATION THAT IS
11 RELATED TO THE EMPLOYEE'S HEALTH OR SAFETY IN THE WORKPLACE.
12 SUBSECTION (1) DOES NOT PROHIBIT AN EMPLOYER FROM USING GENETIC
13 INFORMATION RECEIVED FROM AN EMPLOYEE UNDER THIS SUBSECTION TO
14 PROTECT THE EMPLOYEE'S HEALTH OR SAFETY.

15 (3) ~~-(2)-~~ This section shall not apply to the employment of
16 an individual by his OR HER parent, spouse, or child.

17 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2), NO
18 EMPLOYER MAY DIRECTLY OR INDIRECTLY ACQUIRE OR HAVE ACCESS TO ANY
19 GENETIC INFORMATION CONCERNING AN EMPLOYEE OR APPLICANT FOR
20 EMPLOYMENT, OR A MEMBER OF THE EMPLOYEE'S OR APPLICANT'S FAMILY.