

1 S.197

2 Introduced by Senator Ingram

3 Referred to Committee on Economic Development, Housing and General
4 Affairs

5 Date: January 7, 2020

6 Subject: Genetic information; discrimination

7 Statement of purpose of bill as introduced: This bill proposes to prohibit
8 discrimination based on an individual's genetic information in relation to
9 employment, labor relations, insurance coverage, and the provision of social
10 and medical services.

11 An act relating to prohibiting discrimination based on genetic information

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 * * * Genetic Information and Testing * * *

14 Sec. 1. 18 V.S.A. § 9331 is amended to read:

15 § 9331. DEFINITIONS

16 For purposes of As used in this chapter:

17 * * *

18 (6) "Genetic information" means:

1 ~~or genetic information in connection with life, disability income, or long-term~~
2 ~~care insurance provided under an employee benefit plan.~~

3 * * *

4 ~~Sec. 3. 18 V.S.A. § 9334 is amended to read:~~

5 ~~§ 9334. GENETIC TESTING AS A CONDITION OF INSURANCE~~
6 ~~COVERAGE~~

7 ~~(a) No policy of insurance offered for delivery or issued in this State shall~~
8 ~~be underwritten or conditioned on the basis of:~~

9 ~~(1) any requirement or agreement of the individual to undergo genetic~~
10 ~~testing; or~~

11 ~~(2) the results of genetic testing of genetic information of a member of~~
12 ~~the individual's family.~~

13 ~~Sec. 3. 18 V.S.A. § 9334 is amended to read:~~

~~§ 9334. GENETIC TESTING AS A CONDITION OF INSURANCE~~
~~COVERAGE~~

~~(a) No policy of insurance offered for delivery or issued in this State shall~~
~~be underwritten or conditioned on the basis of:~~

~~(1) any requirement or agreement of the individual to undergo genetic~~
~~testing; or~~

~~(2) genetic information of the individual that may be associated with a~~
~~potential genetic condition in that individual but that has not resulted in a~~
~~diagnosed condition in the individual; or~~

~~(3) the results of genetic testing of genetic information of a member of~~
~~the individual's family.~~

* * *

~~(2) pay~~ Pay or allow, or offer to pay or allow, as an inducement to insurance, a rebate or premium payable on the policy;

~~(3) grant~~ Grant a special favor or advantage in the dividends or other benefits to accrue thereon;

~~(4) provide~~ Provide any valuable consideration or inducement not specified in the policy.

(5)(A) Condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing;

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) the genetic information of a member of the individual's family.

(B) As used in this subdivision (5), "genetic testing" and "genetic information" have the same meaning as in 18 V.S.A. § 9331.

(C) Notwithstanding subdivisions (A) and (B) of this subdivision (5), a life insurance company or its agent may condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for an individual on the individual's family medical history, including the manifestation of a disease or disorder in one or more family members of the individual, provided that there is a relationship between the individual's family medical history and the cost of the insurance risk that the insurer would assume by insuring the individual. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience.

(6) Request, require, purchase, or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the individual who has been tested.

1 ~~See 5 8 V.S.A. § 4724 is amended to read:~~

2 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
3 DECEPTIVE ACTS OR PRACTICES DEFINED

4 The following are hereby defined as unfair methods of competition or

5 ~~unfair or deceptive acts or practices in the business of insurance:~~

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(7) Unfair discrimination; arbitrary underwriting action.

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(D) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance based on medical information, including the results of genetic testing the individual's genetic information, where there is not a relationship between the medical information and the cost of the insurance risk that the insurer would assume by insuring the proposed insured. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience. As used in this subdivision, "genetic testing information" shall be defined as the term is defined has the same meaning as in 18 V.S.A. § 9331(7) 9331.

* * *

(22) Genetic testing.

(A) Conditioning insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo

~~genetic testing; or~~

1 ~~(ii) the results of genetic testing, genetic information of a member~~
2 ~~of the individual's family unless the results are information is contained in the~~
3 ~~individual's medical record.~~
4 ~~(B) As used in this subdivision, "genetic testing" shall be defined as~~
5 ~~the term is defined and "genetic information" have the same meaning as in~~
6 ~~18 V.S.A. § 9331(7) 9331.~~

Sec. 5. 8 V.S.A. § 4724 is amended to read:

*§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
DECEPTIVE ACTS OR PRACTICES DEFINED*

*The following are hereby defined as unfair methods of competition or unfair
or deceptive acts or practices in the business of insurance:*

** * **

(7) Unfair discrimination; arbitrary underwriting action.

** * **

*(D) Making or permitting any unfair discrimination against any
individual by conditioning insurance rates, the provision or renewal of
insurance coverage, or other conditions of insurance based on medical
information, including the results of genetic testing, where there is not a
relationship between the medical information and the cost of the insurance risk
that the insurer would assume by insuring the proposed insured. In
demonstrating the relationship, the insurer can rely on actual or reasonably
anticipated experience. As used in this subdivision, "genetic testing" shall be
defined as the term is defined in 18 V.S.A. § 9331(7).*

** * **

*(F)(i) Making or permitting any unfair discrimination against any
individual by conditioning insurance rates, the provision or renewal of
insurance coverage, or other conditions of insurance on:*

*(I) any requirement or agreement of the individual to undergo
genetic testing;*

*(II) genetic information of the individual that may be
associated with a potential genetic condition in that individual, but which has
not resulted in a diagnosed condition in the individual; or*

(III) the genetic information of a member of the individual's family.

(ii) As used in this subdivision (7)(F), "genetic testing" and "genetic information" have the same meaning as in 18 V.S.A. § 9331.

* * *

(22) Genetic testing.

(A) Conditioning insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing; ~~or~~

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

~~(iii) the results of genetic testing genetic information of a member of the individual's family unless the results are contained in the individual's medical record.~~

~~(B) As used in this subdivision (22), "genetic testing" shall be defined as the term is defined and "genetic information" have the same meaning as in 18 V.S.A. § 9331(7) 9331.~~

1 Sec. 6. 8 V.S.A. § 5115 is amended to read:

2 § 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE
3 ORGANIZATIONS

4 (a) Any nonprofit health maintenance organization subject to this chapter
5 shall offer nongroup plans to individuals in accordance with section 4080b of
6 this title without discrimination based on age, gender, industry, genetic
7 information, and medical history, except as allowed by ~~subdivisions~~
8 ~~4080a(h)(2)(B) and 4080b(h)(2)(B) of this title pursuant to 33 V.S.A.~~
9 § 1811(f)(2)(A).

(b)(1) No long-term care insurance policy or certificate may exclude coverage for a loss or confinement which is the result of a preexisting condition, unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

(2)(A) No long-term care insurance policy or certificate may condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing;

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) the genetic information of a member of the individual's family.

(B) As used in this subdivision, "genetic testing" and "genetic information" have the same meaning as in 18 V.S.A. § 9331.

* * *

* * * Employment * * *

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Sec. 8. 21 V.S.A. § 495 is amended to read:

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§ 495. UNLAWFUL EMPLOYMENT PRACTICE

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(a) It shall be unlawful employment practice, except where a bona fide

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occupational qualification requires persons of a particular race, color, religion,

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national origin, sex, sexual orientation, gender identity, ancestry, place of birth,

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age, crime victim status, ~~or~~ physical or mental condition, or with particular

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genetic information:

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(1) For any employer, employment agency, or labor organization to

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discriminate against any individual because of race, color, religion, ancestry,

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national origin, sex, sexual orientation, gender identity, place of birth, crime

1 victim status, genetic information, or age or against a qualified individual with
2 a disability;

3 (2) For any person seeking employees or for any employment agency or
4 labor organization to cause to be printed, published, or circulated any notice or
5 advertisement relating to employment or membership indicating any
6 preference, limitation, specification, or discrimination based upon race, color,
7 religion, ancestry, national origin, sex, sexual orientation, gender identity,
8 place of birth, crime victim status, genetic information, age, or disability;

9 (3) For any employment agency to fail or refuse to classify properly or
10 refer for employment or to otherwise discriminate against any individual
11 because of race, color, religion, ancestry, national origin, sex, sexual
12 orientation, gender identity, place of birth, crime victim status, genetic
13 information, or age or against a qualified individual with a disability;

14 (4) For any labor organization, because of race, color, religion, ancestry,
15 national origin, sex, sexual orientation, gender identity, place of birth, crime
16 victim status, genetic information, or age to discriminate against any
17 individual or against a qualified individual with a disability or to limit,
18 segregate, or qualify its membership;

19 * * *

20 Sec. 9. 21 V.S.A. § 495d is amended to read:

21 § 495d. DEFINITIONS

22 As used in this subchapter:

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(16) “Genetic information” has the same meaning as in 18 V.S.A. § 9331.

* * * Labor Relations * * *

Sec. 10. 3 V.S.A. § 902 is amended to read:

§ 902. DEFINITIONS

As used in this chapter:

* * *

(13) “Genetic information” has the same meaning as in 18 V.S.A. § 9331.

* * *

Sec. 11. 3 V.S.A. § 904 is amended to read:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters that are prescribed or controlled by statute. The matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include:

* * *

(9) rules for personnel administration, except the following: rules relating to persons exempt from the classified service under section 311 of this title and rules relating to applicants for employment in State service and

1 employees in an initial probationary status, including any extension or
2 extensions thereof, provided the rules are not discriminatory by reason of an
3 applicant's race, color, creed, sex, national origin, sexual orientation, gender
4 identity, ancestry, place of birth, age, genetic information, or physical or
5 mental condition; and

6 * * *

7 Sec. 12. 3 V.S.A. § 961 is amended to read:

8 § 961. EMPLOYERS

9 It shall be an unfair labor practice for an employer:

10 * * *

11 (6) to discriminate against an employee on account of race, color, creed,
12 religion, age, disability, sex, sexual orientation, gender identity, genetic
13 information, or national origin;

14 * * *

15 Sec. 13. 3 V.S.A. § 963 is amended to read:

16 § 963. MEMBERSHIP; EMPLOYEES' RIGHTS

17 An employee organization entering into an agreement shall not:

18 (1) discriminate against a person seeking or holding membership ~~therein~~
19 in the organization on account of race, color, creed, religion, age, disability,
20 sex, sexual orientation, gender identity, genetic information, or national origin;

21 * * *

22 Sec. 14. 3 V.S.A. § 1001 is amended to read:

1 § 1001. GRIEVANCES; APPLICANTS AND EXCLUDED PERSONNEL

2 (a) Persons who are applicants for State employment in the classified
3 service and classified employees in their initial probationary period and any
4 extension or extensions thereof may appeal to the State Labor Relations Board
5 if they believe themselves discriminated against on account of their race, color,
6 creed, religion, disability, sex, sexual orientation, gender identity, age, genetic
7 information, or national origin.

8 * * *

9 Sec. 15. 3 V.S.A. § 1011 is amended to read:

10 § 1011. DEFINITIONS

11 As used in this chapter:

12 * * *

13 (18) “Genetic information” has the same meaning as in 18 V.S.A.

14 § 9331.

15 Sec. 16. 3 V.S.A. § 1013 is amended to read:

16 § 1013. SUBJECTS FOR BARGAINING

17 All matters relating to the relationship between the employer and
18 employees are subject to collective bargaining, to the extent those matters are
19 not prescribed or controlled by law, including:

20 * * *

21 (9) rules for personnel administration of employees provided the rules
22 are not discriminatory in regard to an applicant’s race, color, creed, sex, sexual

1 orientation, gender identity, age, national origin, religion, genetic information,
2 or disability;

3 * * *

4 Sec. 17. 3 V.S.A. § 1026 is amended to read:

5 § 1026. EMPLOYERS

6 It shall be an unfair labor practice for an employer:

7 * * *

8 (6) to discriminate against an employee on account of race, color, creed,
9 sex, sexual orientation, gender identity, national origin, age, religion, genetic
10 information, or disability;

11 * * *

12 Sec. 18. 3 V.S.A. § 1028 is amended to read:

13 § 1028. MEMBERSHIP; EMPLOYEE RIGHTS

14 An employee organization entering into an agreement shall not:

15 (1) discriminate against a member or applicant for membership on
16 account of race, color, creed, sex, sexual orientation, gender identity, national
17 origin, age, religion, genetic information, or disability;

18 * * *

19 Sec. 19. 3 V.S.A. § 1041 is amended to read:

20 § 1041. GRIEVANCES; APPLICANTS AND EXCLUDED PERSONNEL

21 (a) An applicant for employment in a position included in the bargaining
22 unit and employees who are in the initial or extended probationary period may

1 appeal to the Board if they believe they were discriminated against on account
2 of race, color, creed, sex, sexual orientation, gender identity, age, national
3 origin, religion, genetic information, or disability.

4 * * *

5 Sec. 20. 21 V.S.A. § 1502 is amended to read:

6 § 1502. DEFINITIONS

7 As used in this chapter:

8 * * *

9 (15) “Genetic information” has the same meaning as in 18 V.S.A.

10 § 9331.

11 Sec. 21. 21 V.S.A. § 1621 is amended to read:

12 § 1621. UNFAIR LABOR PRACTICES

13 (a) It shall be an unfair labor practice for an employer:

14 * * *

15 (7) To discriminate against an employee on account of race, color,
16 creed, religion, sex, sexual orientation, gender identity, national origin, age,
17 genetic information, or disability.

18 * * *

19 (b) It shall be an unfair labor practice for a labor organization or its agents:

20 * * *

21 (8) ~~Compulsory membership; employees’ rights. A To, where the labor~~
22 organization ~~entering~~ has entered into an agreement requiring a person’s

1 membership ~~therein~~ in the labor organization as a condition of employment by
2 the employer ~~shall not~~:

3 (A) discriminate against a person seeking or holding membership
4 ~~therein~~ in the labor organization on account of race, color, disability, religion,
5 creed, sex, sexual orientation, gender identity, age, genetic information, or
6 national origin;

7 * * *

8 Sec. 22. 21 V.S.A. § 1631 is amended to read:

9 § 1631. DEFINITIONS

10 As used in this chapter:

11 * * *

12 (5) “Genetic information” has the same meaning as in 18 V.S.A. § 9331.

13 (6) “Grievance” means the exclusive representative’s formal written
14 complaint regarding the improper application of one or more terms of the
15 collective bargaining agreement, the failure to abide by any agreement
16 reached, or the discriminatory application of a rule or regulation, which has
17 not been resolved to a satisfactory result through informal discussion with the
18 State.

19 ~~(6)~~(7) “Independent direct support provider” means any individual who
20 provides home- and community-based services to a service recipient and is
21 employed by the service recipient, shared living provider, or surrogate.

1 (6) discriminate against an independent direct support provider based on
2 race, color, creed, religion, age, gender, sexual orientation, gender identity,
3 genetic information, or national origin, or because the provider is a qualified
4 individual with a disability.

5 * * *

6 Sec. 24. 21 V.S.A. § 1722 is amended to read:

7 § 1722. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (23) “Genetic information” has the same meaning as in 18 V.S.A.
11 § 9331.

12 Sec. 25. 21 V.S.A. § 1726 is amended to read:

13 § 1726. UNFAIR LABOR PRACTICES

14 (a) It shall be an unfair labor practice for an employer:

15 * * *

16 (7) To discriminate against an employee on account of race, color,
17 religion, creed, sex, sexual orientation, gender identity, national origin,
18 disability, age, genetic information, or political affiliation.

19 * * *

20 (b) It shall be an unfair labor practice for an employee organization or its
21 agents:

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(9) To discriminate against a person seeking or holding membership therein in the employee organization on account of race, color, religion, creed, sex, sexual orientation, national origin, disability, age, genetic information, or political affiliation.

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Sec. 26. 33 V.S.A. § 3602 is amended to read:

§ 3602. DEFINITIONS

As used in this chapter:

* * *

(7) “Genetic information” has the same meaning as in 18 V.S.A. § 9331.

Sec. 27. 33 V.S.A. § 3612 is amended to read:

§ 3612. GENERAL DUTIES AND PROHIBITED CONDUCT

* * *

(b) It shall be an unfair labor practice for the State to:

* * *

(6) discriminate against an early care and education provider based on race, color, religion, ancestry, age, sex, sexual orientation, gender identity, national origin, place of birth, genetic information, or marital status, or against a qualified disabled individual; or

* * *

1 December 31. The statement shall be in such form and contain such matters as
2 the Commissioner shall prescribe. To qualify for the tax exemption set forth in
3 section 4518 of this title, the statement shall include a certification that the
4 hospital service corporation operates on a nonprofit basis for the purpose of
5 providing an adequate hospital service plan to individuals of the State, both
6 groups and nongroups, without discrimination based on age, gender,
7 geographic area, industry, genetic information, and medical history, except as
8 allowed by ~~subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title~~
9 pursuant to 33 V.S.A. § 1811(f)(2)(A).

10 (b) As used in this section, “genetic information” has the same meaning as
11 in 18 V.S.A. § 9331.

12 Sec. 30. 33 V.S.A. § 101 is amended to read:

13 § 101. POLICY

14 It is the policy of the State of Vermont that:

15 * * *

16 (3) Assistance and benefits shall be administered promptly, with due
17 regard for the preservation of family life, and without restriction of individual
18 rights or discrimination on account of race, religion, political affiliation,
19 genetic information, or place of residence within the State.

20 * * *

1 any person because of the race, sex, sexual orientation, gender identity, age,
2 marital status, religious creed, color, national origin, genetic information, or
3 disability of a person, or because a person intends to occupy a dwelling with
4 one or more minor children, or because a person is a recipient of public
5 assistance, or because a person is a victim of abuse, sexual assault, or stalking.

6 (2) To discriminate against, or to harass any person in the terms,
7 conditions, privileges, and protections of the sale or rental of a dwelling or
8 other real estate, or in the provision of services or facilities in connection
9 therewith, because of the race, sex, sexual orientation, gender identity, age,
10 marital status, religious creed, color, national origin, genetic information, or
11 disability of a person, or because a person intends to occupy a dwelling with
12 one or more minor children, or because a person is a recipient of public
13 assistance, or because a person is a victim of abuse, sexual assault, or stalking.

14 (3) To make, print, or publish, or cause to be made, printed, or
15 published any notice, statement, or advertisement, with respect to the sale or
16 rental of a dwelling or other real estate that indicates any preference,
17 limitation, or discrimination based on race, sex, sexual orientation, gender
18 identity, age, marital status, religious creed, color, national origin, genetic
19 information, or disability of a person, or because a person intends to occupy a
20 dwelling with one or more minor children, or because a person is a recipient of

1 public assistance, or because a person is a victim of abuse, sexual assault, or
2 stalking.

3 (4) To represent to any person because of the race, sex, sexual
4 orientation, gender identity, age, marital status, religious creed, color, national
5 origin, genetic information, or disability of a person, or because a person
6 intends to occupy a dwelling with one or more minor children, or because a
7 person is a recipient of public assistance, or because a person is a victim of
8 abuse, sexual assault, or stalking, that any dwelling or other real estate is not
9 available for inspection, sale, or rental when the dwelling or real estate is in
10 fact so available.

11 * * *

12 (6) To discriminate against any person in the making or purchasing of
13 loans or providing other financial assistance for real-estate-related transactions
14 or in the selling, brokering, or appraising of residential real property, because
15 of the race, sex, sexual orientation, gender identity, age, marital status,
16 religious creed, color, national origin, genetic information, or disability of a
17 person, or because a person intends to occupy a dwelling with one or more
18 minor children, or because a person is a recipient of public assistance, or
19 because a person is a victim of abuse, sexual assault, or stalking.

20 (7) To engage in blockbusting practices, for profit, which may include
21 inducing or attempting to induce a person to sell or rent a dwelling by

1 representations regarding the entry into the neighborhood of a person or
2 persons of a particular race, sex, sexual orientation, gender identity, age,
3 marital status, religious creed, color, national origin, genetic information, or
4 disability of a person, or because a person intends to occupy a dwelling with
5 one or more minor children, or because a person is a recipient of public
6 assistance, or because a person is a victim of abuse, sexual assault, or stalking.

7 (8) To deny any person access to or membership or participation in any
8 multiple listing service, real estate brokers' organization, or other service,
9 organization, or facility relating to the business of selling or renting dwellings,
10 or to discriminate against any person in the terms or conditions of such access,
11 membership, or participation, on account of race, sex, sexual orientation,
12 gender identity, age, marital status, religious creed, color, national origin,
13 genetic information, or disability of a person, or because a person is a recipient
14 of public assistance, or because a person is a victim of abuse, sexual assault, or
15 stalking.

16 * * *

17 (12) To discriminate in land use decisions or in the permitting of
18 housing because of race, sex, sexual orientation, gender identity, age, marital
19 status, religious creed, color, national origin, genetic information, disability,
20 the presence of one or more minor children, income, or because of the receipt

1 of public assistance, or because a person is a victim of abuse, sexual assault, or
2 stalking, except as otherwise provided by law.

3 * * *

4 * * * Effective Date * * *

5 Sec. 38. EFFECTIVE DATE

6 This act shall take effect on July 1, 2020.