

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill
3 No. 197 entitled “An act relating to prohibiting discrimination based on genetic
4 information” respectfully reports that it has considered the same and
5 recommends that the bill be amended as follows:

6 First: By striking out Sec. 3, 18 V.S.A. § 9334, in its entirety and inserting
7 in lieu thereof a new Sec. 3 to read:

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

9 § 9334. GENETIC TESTING AS A CONDITION OF INSURANCE
10 COVERAGE

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

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

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

18 (3) the results of genetic testing of genetic information of a member of
19 the individual’s family.

20 * * *

1 Second: By striking out Sec. 4, 8 V.S.A. § 3702, in its entirety and
2 inserting in lieu thereof a new Sec. 4 to read:

3 Sec. 4. 8 V.S.A. § 3702 is amended to read:

4 § 3702. OTHER PROHIBITED PRACTICES

5 A life insurance company doing business in the State or an agent thereof
6 shall not do any of the following:

7 (1) ~~issue~~ Issue a policy of insurance or make an agreement other than
8 that plainly expressed in the policy issued to the insured;

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

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

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

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

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

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

1 (iii) the genetic information of a member of the individual’s
2 family.

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

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

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

18 Third: By striking out Sec. 5, 8 V.S.A. § 4724, in its entirety and inserting
19 in lieu thereof a new Sec. 5 to read:

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

21 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR

1 DECEPTIVE ACTS OR PRACTICES DEFINED

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

4 * * *

5 (7) Unfair discrimination; arbitrary underwriting action.

6 * * *

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

16 * * *

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

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

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

4 (III) the genetic information of a member of the individual’s
5 family.

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

8 * * *

9 (22) Genetic testing.

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

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

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

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

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

4 Fourth: By striking out Sec. 7, 8 V.S.A. § 8086, in its entirety and inserting
5 in lieu thereof a new Sec. 7 to read:

6 Sec. 7. 8 V.S.A. § 8086 is amended to read:

7 § 8086. PREEXISTING CONDITIONS; GENETIC TESTING

8 * * *

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

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

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

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

