

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

319E0036

## HOUSE ENGROSSED NO. **HB 1003** - 02/05/2001

Introduced by: Representatives Monroe, McCoy, and Slaughter and Senators Ham and Madden at the request of the Interim Judiciary Committee

1 FOR AN ACT ENTITLED, An Act to prohibit the use of genetic tests in the offer, sale, or  
2 renewal of certain types of insurance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

- 5 (1) "Genetic information," information about genes, gene products, and inherited  
6 characteristics that may derive from the individual or a family member. This includes  
7 information regarding carrier status and information derived from laboratory tests that  
8 identify mutations in specific genes or chromosomes, physical medical examinations,  
9 family histories, and direct analysis of genes or chromosomes;
- 10 (2) "Genetic test," a test of human DNA, RNA, chromosomes, or genes performed in  
11 order to identify the presence or absence of an inherited variation, alteration, or  
12 mutation which is associated with predisposition to disease, illness, impairment, or  
13 other disorder. Genetic test does not mean a routine physical measurement; a  
14 chemical, blood, or urine analysis; a test for drugs or HIV infection; any test  
15 commonly accepted in clinical practice; or any test performed due to the presence of

1 signs, symptoms, or other manifestations of a disease, illness, impairment, or other  
2 disorder;

3 (3) "Health carrier," any person who provides health insurance in this state. The term  
4 includes a licensed insurance company, a prepaid hospital or medical service plan, a  
5 health maintenance organization, a multiple employer welfare arrangement, a fraternal  
6 benefit contract, or any person providing a plan of health insurance subject to state  
7 insurance regulation;

8 (4) "Health factors," in relation to an individual, any of the following health status-related  
9 factors:

10 (a) Health status;

11 (b) Medical condition (including both physical and mental illnesses);

12 (c) Claims experience;

13 (d) Receipt of health care;

14 (e) Medical history;

15 (f) Genetic information;

16 (g) Evidence of insurability; or

17 (h) Disability;

18 (5) "Health insurance," insurance provided pursuant to chapters 58-17 (except disability  
19 income insurance), 58-17C, 58-18 (except disability income insurance), 58-18B, 58-  
20 38, 58-40, and 58-41; and

21 (6) "Individual," an applicant for coverage or a person already covered by a health carrier.

22 Section 2. No health carrier, in determining eligibility for coverage, establishing premiums,  
23 limiting coverage, renewing coverage, or any other underwriting decision, may, in connection  
24 with the offer, sale, or renewal of health insurance:

1       (1)    Require or request an individual or a blood relative of the individual to take a genetic  
2            test; or

3       (2)    Take into consideration the fact that a genetic test was refused by an individual or a  
4            blood relative of the individual.

5       Section 3. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7       No health carrier may discriminate in the underwriting of, renewal of, or rates charged for  
8 its health benefit plan based upon health factors.