

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

319E0036

## HOUSE BILL NO. 1003

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 test," the analysis of human DNA, RNA, chromosomes, and those proteins  
6 and metabolites used to detect heritable or somatic disease-related genotypes or  
7 karyotypes for the purpose of determining the presence or absence of genes that  
8 exhibit abnormalities, defects, or deficiencies, including carrier status, that are known  
9 to be the cause of a disease or disorder, or are determined to be associated with a  
10 statistically increased risk of development of a disease or disorder. The term, genetic  
11 test, does not include a routine physical examination or a routine analysis, including,  
12 a chemical analysis, of body fluids, unless conducted specifically to determine the  
13 presence, absence, or mutation of a gene or chromosome, and the term, genetic test,  
14 does not include a procedure performed as a component of biomedical research that  
15 is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and

1 45 C.F.R. part 46;

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

7 (3) "Health insurance," insurance provided pursuant to chapters 58-17A, 58-17B, 58-  
8 17C, 58-18, 58-18B, 58-38, 58-40, and 58-41; and

9 (4) "Individual," an applicant for coverage or a person already covered by a health carrier,  
10 a life insurance company, or a fraternal benefit society.

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

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

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

18 Section 3. No life insurance company or fraternal benefit society, in determining insurability  
19 for life insurance, may:

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

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