

109TH CONGRESS
2^D SESSION

H. R. 6125

To prohibit discrimination by group health plans and employers based on genetic information.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2006

Mr. PAUL introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committees on Education and the Workforce, Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit discrimination by group health plans and employers based on genetic information.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Taxpayer Protection
5 from Genetic Discrimination Act of 2006”.

1 **SEC. 2. NO DISCRIMINATION BY GROUP HEALTH PLANS**
2 **BASED ON GENETIC INFORMATION.**

3 (a) NO DISCRIMINATION IN GROUP PREMIUMS.—A
4 group health plan sponsored by a covered entity, or a
5 health insurance issuer offering group health insurance
6 coverage in connection with a group health plan sponsored
7 by a covered entity, shall not adjust premium or contribu-
8 tion amounts for a group on the basis of genetic informa-
9 tion concerning an individual in the group or a family
10 member of the individual (including information about a
11 request for or receipt of genetic services by an individual
12 or family member of such individual).

13 (b) LIMITATION ON REQUESTING OR REQUIRING GE-
14 NETIC TESTING.—

15 (1) IN GENERAL.—A group health plan spon-
16 sored by a covered entity, or a health insurance
17 issuer offering health insurance coverage in connec-
18 tion with a group health plan sponsored by a covered
19 entity, shall not request or require an individual or
20 a family member of such individual to undergo a ge-
21 netic test.

22 (2) RULE OF CONSTRUCTION.—Nothing in
23 paragraph (1) shall be construed to—

24 (A) limit the authority of a health care
25 professional who is providing health care serv-
26 ices with respect to an individual to request

1 that such individual or a family member of such
2 individual undergo a genetic test;

3 (B) limit the authority of a health care
4 professional who is employed by or affiliated
5 with a group health plan or a health insurance
6 issuer and who is providing health care services
7 to an individual as part of a bona fide wellness
8 program to notify such individual of the avail-
9 ability of a genetic test or to provide informa-
10 tion to such individual regarding such genetic
11 test; or

12 (C) authorize or permit a health care pro-
13 fessional to require that an individual undergo
14 a genetic test.

15 **SEC. 3. LIMITATION ON USE OF GENERIC INFORMATION IN**
16 **EMPLOYMENT.**

17 (a) USE OF GENETIC INFORMATION.—It shall be an
18 unlawful employment practice for any covered entity—

19 (1) to fail or refuse to hire or to discharge any
20 employee, or otherwise to discriminate against any
21 employee with respect to the compensation, terms,
22 conditions, or privileges of employment of the em-
23 ployee, because of genetic information with respect
24 to the employee (or information about a request for

1 or the receipt of genetic services by such employee
2 or family member of such employee); or

3 (2) to limit, segregate, or classify the employees
4 of the covered entity in any way that would deprive
5 or tend to deprive any employee of employment op-
6 portunities or otherwise adversely affect the status
7 of the employee as an employee, because of genetic
8 information with respect to the employee (or infor-
9 mation about a request for or the receipt of genetic
10 services by such employee or family member of such
11 employee).

12 (b) ACQUISITION OF GENETIC INFORMATION.—It
13 shall be an unlawful employment practice for a covered
14 entity to request, require, or purchase genetic information
15 with respect to an employee or a family member of the
16 employee (or information about a request for the receipt
17 of genetic services by such employee or a family member
18 of such employee) except—

19 (1) where a covered entity inadvertently re-
20 quests or requires family medical history of the em-
21 ployee or family member of the employee;

22 (2) where—

23 (A) health or genetic services are offered
24 by the covered entity, including such services
25 offered as part of a bona fide wellness program;

1 (B) the employee provides prior, knowing,
2 voluntary, and written authorization;

3 (C) only the employee (or family member
4 if the family member is receiving genetic serv-
5 ices) and the licensed health care professional
6 or board certified genetic counselor involved in
7 providing such services receive individually iden-
8 tifiable information concerning the results of
9 such services; and

10 (D) any individually identifiable genetic in-
11 formation provided under subparagraph (C) in
12 connection with the services provided under
13 subparagraph (A) is only available for purposes
14 of such services and shall not be disclosed to
15 the covered entity except in aggregate terms
16 that do not disclose the identity of specific em-
17 ployees;

18 (3) where an covered entity requests or requires
19 family medical history from the employee to comply
20 with the certification provisions of section 103 of the
21 Family and Medical Leave Act of 1993 (29 U.S.C.
22 2613) or such requirements under State family and
23 medical leave laws;

24 (4) where an covered entity purchases docu-
25 ments that are commercially and publicly available

1 (including newspapers, magazines, periodicals, and
2 books, but not including medical databases or court
3 records) that include family medical history; or

4 (5) where the information involved is to be used
5 for genetic monitoring of the biological effects of
6 toxic substances in the workplace, but only if—

7 (A) the covered entity provides written no-
8 tice of the genetic monitoring to the employee;

9 (B)(i) the employee provides prior, know-
10 ing, voluntary, and written authorization; or

11 (ii) the genetic monitoring is required by
12 Federal or State law;

13 (C) the employee is informed of individual
14 monitoring results;

15 (D) the monitoring is in compliance with—

16 (i) any Federal genetic monitoring
17 regulations, including any such regulations
18 that may be promulgated by the Secretary
19 of Labor pursuant to the Occupational
20 Safety and Health Act of 1970 (29 U.S.C.
21 651 et seq.), the Federal Mine Safety and
22 Health Act of 1977 (30 U.S.C. 801 et
23 seq.), or the Atomic Energy Act of 1954
24 (42 U.S.C. 2011 et seq.); or

1 (ii) State genetic monitoring regula-
2 tions, in the case of a State that is imple-
3 menting genetic monitoring regulations
4 under the authority of the Occupational
5 Safety and Health Act of 1970 (29 U.S.C.
6 651 et seq.); and

7 (E) the covered entity, excluding any li-
8 censed health care professional or board cer-
9 tified genetic counselor that is involved in the
10 genetic monitoring program, receives the results
11 of the monitoring only in aggregate terms that
12 do not disclose the identity of specific employ-
13 ees.

14 (c) PRESERVATION OF PROTECTIONS.—In the case
15 of information to which any of paragraphs (1) through
16 (5) of subsection (b) applies, such information may not
17 be used in violation of subsection (a) or section 2.

18 **SEC. 4. RELIEF.**

19 (a) CAUSE OF ACTION.—Any employee or family
20 member of an employee of a covered entity who has been
21 adversely effected by a covered entity's violation of section
22 2 or 3 shall have a cause of action in Federal court for
23 both compensatory and punitive damages.

1 (b) LIMITATION ON PUNITIVE DAMAGES.—In such a
2 case, punitive damages shall not exceed be 30 percent of
3 compensatory damages.

4 **SEC. 5. DEFINITIONS.**

5 (a) COVERED ENTITY.—In this Act, the term “cov-
6 ered entity” refers to any agency or part of the Federal
7 Government, any State or local entity that receives Fed-
8 eral funds, or a Federal contractor.

9 (b) FAMILY MEMBER.—In this Act, the term “family
10 member” means with respect to an individual—

11 (1) the spouse of the individual;

12 (2) a dependent child of the individual, includ-
13 ing a child who is born to or placed for adoption
14 with the individual; and

15 (3) all other individuals related by blood to the
16 individual or the spouse or child described in para-
17 graph (1) or (2).

18 (c) GENETIC INFORMATION.—

19 (1) IN GENERAL.—In this Act the term “ge-
20 netic information” means, with respect to an indi-
21 vidual, information—

22 (A) about an individual’s genetic tests;

23 (B) about the genetic tests of family mem-
24 bers of the individual; or

1 (C) about the occurrence of a disease or
2 disorder in family members of the individual.

3 (2) EXCLUSIONS.—Such term does not include
4 information about the sex or age of an individual.

5 (d) GENETIC TEST.—

6 (1) IN GENERAL.—In this Act, the term “ge-
7 netic test” means an analysis of human DNA, RNA,
8 chromosomes, proteins, or metabolites, that detects
9 genotypes, mutations, or chromosomal changes.

10 (2) EXCEPTIONS.—Such term does not in-
11 clude—

12 (A) an analysis of proteins or metabolites
13 that does not detect genotypes, mutations, or
14 chromosomal changes; or

15 (B) an analysis of proteins or metabolites
16 that is directly related to a manifested disease,
17 disorder, or pathological condition that could
18 reasonably be detected by a health care profes-
19 sional with appropriate training and expertise
20 in the field of medicine involved.

21 (e) GENETIC SERVICES.—In this Act, the term “ge-
22 netic services” means—

23 (1) a genetic test;

24 (2) genetic counseling (such as obtaining, inter-
25 preting, or assessing genetic information); or

1 (3) genetic education.

