

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

247E0029

## HOUSE ENGROSSED NO. **SB 2** - 02/05/2001

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

1 FOR AN ACT ENTITLED, An Act to prohibit employers from obtaining, seeking, or using  
2 genetic information.

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

4 Section 1. That chapter 60-2 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 It is an unlawful employment practice for an employer to seek to obtain, to obtain, or to use  
7 genetic information, as defined in section 2 of this Act, of an employee or a prospective  
8 employee to distinguish between or discriminate against employees or prospective employees or  
9 restrict any right or benefit otherwise due or available to an employee or a prospective employee.  
10 However, it is not an unlawful employment practice for an employer to seek to obtain, to obtain,  
11 or to use genetic information if:

- 12 (1) The employer is a law enforcement agency conducting a criminal investigation; or  
13 (2) The employer relies on the test results from genetic information obtained by law  
14 enforcement through a criminal investigation, the employer legally acquires the test  
15 results, the employer keeps the test results confidential except as otherwise required

1           by law, and the employer uses the test results for the limited purpose of taking  
2           disciplinary action against the employee.

3           Any employee or prospective employee claiming to be aggrieved by this unlawful employment  
4           practice may bring a civil suit for damages in circuit court. The court may award reasonable  
5           attorney fees and costs in addition to any judgment awarded to the employee or prospective  
6           employee.

7           Section 2. That chapter 60-2 be amended by adding thereto a NEW SECTION to read as  
8           follows:

9           For the purposes of this Act, genetic information is information about genes, gene products,  
10          and inherited characteristics that may derive from the individual or a family member. This includes  
11          information regarding carrier status and information derived from laboratory tests that identify  
12          mutations in specific genes or chromosomes, physical medical examinations, family histories, and  
13          direct analysis of genes or chromosomes.