

AN ACT

ENTITLED, An Act to prohibit employers from obtaining, seeking, or using genetic information.

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

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

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

- (1) The employer is a law enforcement agency conducting a criminal investigation; or
- (2) The employer relies on the test results from genetic information obtained by law enforcement through a criminal investigation, the employer legally acquires the test results, the employer keeps the test results confidential except as otherwise required by law, and the employer uses the test results for the limited purpose of taking disciplinary action against the employee based only on the alleged misconduct.

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

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

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

direct analysis of genes or chromosomes.

An Act to prohibit employers from obtaining, seeking, or using genetic information.

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I certify that the attached Act  
originated in the

SENATE as Bill No. 2

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No.   2    
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State