State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

247E0029 **HOUSE COMMERCE COMMITTEE ENGROSSED NO.**

SB 2 - 02/01/2001

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

FOR 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

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Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

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.

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 the information about an individual or family obtained from a genetic test or an individual's deoxyribonucleic acid (DNA) sample.