

SENATE BILL REPORT

SB 5282

As Reported By Senate Committee On:
Human Services & Corrections, February 22, 2001

Title: An act relating to use of DNA in insurance transactions.

Brief Description: Regulating use of DNA in insurance transactions.

Sponsors: Senators Franklin and Kohl-Welles.

Brief History:

Committee Activity: Human Services & Corrections: 1/31/01, 2/22/01 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5282 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Carlson, Franklin, Hewitt, Kastama, Kohl-Welles, Long and Stevens.

Staff: Joan K. Mell (786-7447)

Background: DNA means deoxyribonucleic acid, a component of human body cells. Analysis of DNA produces a sequence of chemical base pairs (A = adenylic acid, T = thymidylic acid, C = cytidylic acid, and G = guanylic acid), which is unique to the individual.

Researchers, scientists, criminal experts, and businesses value interpretation of the unique sequences. The federal government is competing with private researchers to map the entire human genome. The preliminary mapping is essentially completed. The federally supported effort is called the Human Genome Project; a segment of that project operates out of the University of Washington.

In the 1999 session, the Legislature enacted House Concurrent Resolution 4412, which resulted in an interim committee on DNA Identification. The resolution directed House and Senate members to study the policy implications relative to scientific advances that are making DNA useful. The resolution required consideration of privacy concerns given the wealth of individual information available from DNA. The interim committee completed its work in July of 2000, and did not make any consensus recommendations. Several pieces of legislation were introduced in the 2000 session. This legislation passed the Senate, but did not pass the House.

Consumers have expressed concerns about their individual privacy relative to DNA analysis. In the area of insurance, patients have hesitated when DNA testing is recommended. Testing can reveal genetic characteristics consistent with disease or indicate percentage probability

of disease. Consumers fear insurers would use this information to deny coverage, manage care, or increase premiums.

In this state, the law requires guaranteed issue— for group health coverage. Health insurers argue this law precludes them from underwriting group health coverage. This provision does not apply to other types of insurance. Further, in the 2000 legislative session a bill on individual insurance passed, which allows insurers to deny coverage to some individuals based on a health questionnaire. These individuals may enroll in the state’s high risk pool. At present, the questionnaire does not inquire about DNA or genetic characteristics; however, there are no state statutory restrictions prohibiting the inquiry.

A provision in the Health Insurance Portability Act, a federal law, prohibits discriminatory use of genetic information relative to health insurance for enrollment purposes in group plans of over 50 enrollees.

State law defines insurance transaction as solicitation; negotiations preliminary to execution; execution of an insurance contract; transaction of matters subsequent to the execution of the contract and arising out of it; and insuring.

Summary of Substitute Bill: An insurer cannot screen an individual’s DNA. The term screened— is defined. Insurance coverage for DNA testing cannot be denied under the provisions of the bill.

Substitute Bill Compared to Original Bill: The language has been clarified deleting reference to insurance transaction,— clarifying an insurer can obtain limited DNA information to pay claims, and screening includes consideration of interpreted data from DNA analysis.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: People fear use of DNA by insurers to deny coverage. Information from DNA analysis is not necessarily predictive of disease.

Testimony Against: The bill has technical language problems. Some information must go to insurers to pay claims. It is not clear what the bill is intended to do.

Testified: CON: Basil Bailey, AIA, HIAA; Ken Bertrand, Group Health; CONCERNS: Linda Hull, Washington Biotechnology and Biomedical Association.