

HOUSE BILL REPORT

ESB 6180

As Passed House:

March 2, 2004

Title: An act relating to genetic testing as a condition of employment.

Brief Description: Prohibiting the use of genetic information in employment decisions.

Sponsors: By Senators Franklin, Eide, Prentice, Kline, Fraser, Hargrove, B. Sheldon, Kohl-Welles, Fairley, Kastama, Regala, McAuliffe, Keiser, Shin, Jacobsen, T. Sheldon, Spanel, Roach and Rasmussen.

Brief History:

Committee Activity:

Commerce & Labor: 2/18/04, 2/23/04 [DP].

Floor Activity:

Passed House: 3/2/04, 94-0.

Brief Summary of Engrossed Bill

- Prohibits employers from requiring their employees submit genetic information or submit to genetic screening as a condition of employment.
- Defines "genetic information."

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; McMorris, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse, Holmquist, Kenney and McCoy.

Staff: Sarah Shirey (786-5793); Jill Reinmuth (786-7134).

Background:

Genetic testing in the workplace can be divided into two broad categories: genetic monitoring and genetic screening. Genetic monitoring involves periodic examination of employees to evaluate environmentally-induced modifications of their genetic material that might have evolved in the course of employment. Genetic screening involves examining the inherited genetic material of employees to identify predisposition to traits and disorders or susceptibilities to disease.

The idea of testing workers for genetic susceptibilities to occupational diseases started before World War II and gained momentum in the 1960s. In the 1970s, however, genetic screening began raising ethical question of discrimination in the work place. Although genetic markers are neutral, they often reveal a person or group's predisposition to disease. As a result, people or members of ethnic, racial, or gender groups may be stigmatized or discriminated against. This became evident in the 1970s with the introduction of programs to screen and identify carriers of sickle cell anemia, a disease which afflicts African-Americans.

Although there is anecdotal evidence of individual cases of genetic discrimination by employers, surveys indicate that there is little current use of genetic testing in the workplace. Recent advances in genome research, however, allow scientists to better predict a person's genetic predisposition to disorders or disease. More than 5,000 medical conditions have been traced directly to defective genes, and there are numerous genetic factors that have been linked with cancer, heart disease, diabetes, arthritis, dyslexia, and some mental illnesses.

Washington law does not prohibit an employer from using genetic screening as a basis to exclude individuals from employment or benefits because of genetic defects or predispositions. Laws in 28 states prohibit employers from discriminating against employees on the basis of genetic information. The federal Americans with Disabilities Act prohibits employers from making pre-employment medical inquiries, including requiring genetic screening, but does not prevent employers from obtaining genetic information once an employee has been given a conditional offer of employment.

Summary of Bill:

Employers, including persons, firms, corporations, and state and local governments, may not require an employee or prospective employee to submit genetic information or submit to genetic screening as a condition of employment or continued employment.

Genetic information is defined as information about inherited characteristics that can be derived from a DNA-based or other laboratory test, family history, or medical examination. Genetic information does not include drug or HIV tests, nor does it include routine physical measurements, such as chemical, blood, and urine analysis, unless conducted to diagnose genetic characteristics.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Every person carries genetic markers showing predispositions to some illnesses. These markers, however, represent only an increased chance of illness, not a

certainty that a person will become ill. To deny employment on the basis of a genetic predisposition denies people's basic rights and opens the door to widespread discrimination. Allowing employers to not give someone a job because they fear that this person will likely use health care benefits, file worker compensation claims, or miss work could potentially create an unemployable workforce. Ethnic and racial communities, such as the Jewish community, have grave concerns about genetic testing at the work place.

Testimony Against: None.

Persons Testifying: Randy Loomans, Washington State Labor Council; and Remy Trupin, Jewish Federation.

Persons Signed In To Testify But Not Testifying: None.