

027309448

SENATE BILL NO. 102

Senate Amendments in [] — January 24, 2002

A *BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:1, relating to employment; discrimination on the basis of genetic testing.*

Patrons prior to Engrossment—Senators Howell and Byrne; Delegate Welch

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:1 as follows:

§ 40.1-28.7:1. *Genetic testing as a condition of employment.*

A. No employer shall:

1. Request, require, solicit or administer a genetic test, as defined in § 38.2-508.4, to any person as a condition of employment; or

2. Refuse to hire, fail to promote, discharge or otherwise adversely affect any terms or conditions of employment of any employee or prospective employee solely on the basis of the results of a genetic test, regardless of how the employer obtained such results. [Nothing in this section shall preclude the use of information related to a criminal investigation.]

B. The employee may bring an action in a general district or circuit court having jurisdiction over the employer who took adverse action against the employee in violation of this section. Any such action shall be brought within 180 days from the date of the adverse action. The court may, in its discretion, award actual damages, including back pay with interest at the judgment rate as provided in § 6.1-330.54, punitive damages, [and] injunctive relief [; ~~and attorney's fees~~] .

[C. Nothing in this section shall be construed to require the Department of Labor and Industry to conduct any investigations or enforcement actions.]

ENGROSSED

SB102E