

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [S 102]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a**
9 **section numbered 40.1-28.7:1 as follows:**10 *§ 40.1-28.7:1. Genetic testing or genetic characteristics as a condition of employment.*11 *A. No employer shall:*12 *1. Request, require, solicit or administer a genetic test, as defined in § 38.2-508.4, to any person as*
13 *a condition of employment; or*14 *2. Refuse to hire, fail to promote, discharge or otherwise adversely affect any terms or conditions of*
15 *employment of any employee or prospective employee solely on the basis of a genetic characteristic, as*
16 *defined in § 38.2-508.4, or the results of a genetic test, regardless of how the employer obtained such*
17 *information or results. Nothing in this section shall preclude the use of information related to a criminal*
18 *investigation.*19 *B. The employee may bring an action in a court of competent jurisdiction over the employer who*
20 *took adverse action against the employee in violation of this section. Any such action shall be brought*
21 *within 180 days from the date of the adverse action. The court may, in its discretion, award actual or*
22 *punitive damages, including back pay with interest at the judgment rate as provided in § 6.1-330.54, or*
23 *injunctive relief.*24 *C. Nothing in this section shall be construed to require the Department of Labor and Industry to*
25 *conduct any investigations or enforcement actions.*26 *D. As used in subdivision A 2 of this section, "terms and conditions of employment" shall not include*
27 *any long term care, life or disability insurance policy.*

ENROLLED

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