

# 2002 SESSION

## HOUSE SUBSTITUTE

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### SENATE BILL NO. 102

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Commerce and Labor  
on February 19, 2002)

(Patron Prior to Substitute—Senator Howell)

*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 or genetic characteristics.*

**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 or genetic characteristics 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 a genetic characteristic, as defined in § 38.2-508.4, or the results of a genetic test, regardless of how the employer obtained such information or 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 court of competent 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 or punitive damages, including back pay with interest at the judgment rate as provided in § 6.1-330.54, or injunctive relief.*

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

*D. As used in subdivision A. 2. of this section, "terms and conditions of employment" shall not include any long term care, life or disability insurance policy.*

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