

COUNCIL OF THE DISTRICT OF COLUMBIA

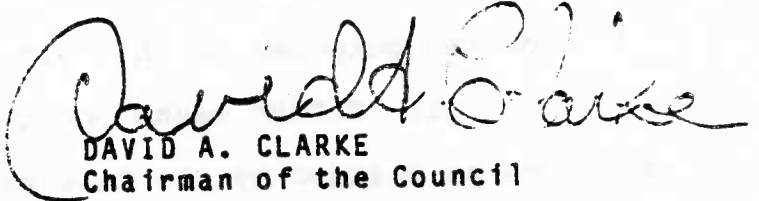
NOTICE

D.C. LAW 6-132

"Prohibition of Discrimination in the Provision of Insurance Act of 1986".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-343 on first and second readings, May 13, 1986 and May 27, 1986, respectively. Following the signature of the Mayor on June 6, 1986, this legislation was assigned Act No. 6-170, published in the June 20, 1986, edition of the D.C. Register, (Vol. 33 page 3615) and transmitted to Congress on June 12, 1986 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-132, effective August 7, 1986.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

June 12,13,16,17,18,19,20,23,24,25,26,27

July 14,15,16,17,18,21,22,23,24,25,28,29,30,31

August 1,4,5,6

~~LEGISLATIVE~~
~~DATE~~ AUG 07 1986

AN ACT

DC ACT 6 - 170

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUN 06 1986

Codification,
new subchapter I
of chapter 2 of
title 35
(1987 supp.)

To prohibit health, life, and disability insurers in the District of Columbia from discriminating in the provision of insurance coverage or benefits on the basis of any test to screen for the probable causative agent of AIDS, ARC, or HTLV-III infection, and to prohibit any exclusion of benefits because the insured develops AIDS, ARC, or the HTLV-III infection.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Prohibition of
Discrimination in the Provision of Insurance Act of 1986".

Sec. 2. Definitions.

For the purposes of this act, the term:

New,
D.C. Code,
35-221
(1987 supp.)

(1) "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

(2) "ARC" means AIDS-related complex as defined by the Centers for Disease Control of the United States Public Health Service or, during any period when the Centers for Disease Control have not issued a definition, by the

District of Columbia Commission of Public Health.

(3) "District" means the District of Columbia.

(4) "Health maintenance organization" means a public or private organization that is a qualifying health maintenance organization under federal regulations, or has been determined to be a health maintenance organization pursuant to regulations adopted by the State Health Planning and Development Agency of the District of Columbia.

(5) "HTLV-III" means human T-lymphotropic virus, type-III.

(6) "Mayor" means the Mayor of the District of Columbia.

(7) "Insurer" means any individual, partnership, corporation, association, fraternal benefit association, nonprofit health service plan, health maintenance organization, or other business entity that issues, amends, or renews individual or group health, disability, or life insurance policies or contracts, including health maintenance organization membership contracts, in the District. The term "insurer" shall include Group Hospitalization and Medical Services, Incorporated.

Sec. 3. Application of the act.

The requirements of this act shall apply to the practices and procedures employed by insurers and their agents and employees in making determinations about any

New,
D.C. Code,
35-222
(1987 supp.)

individual or group policy or contract of health, disability, or life insurance.

Sec. 4. Prohibited actions.

New,
D.C. Code,
35-223
(1987 supp

(a) An insurer may not deny, cancel, or refuse to renew insurance coverage, or alter benefits covered or expenses reimbursable, because an individual has tested positive on any test to screen for the presence of any probable causative agent of AIDS, ARC, or the HTLV-III infection, including, but not limited to, a test to screen for the presence of any antibody to the HTLV-III virus, or because an individual has declined to take such a test.

(b) (1) In determining whether to issue, cancel, or renew insurance coverage, an insurer may not use age, marital status, geographic area of residence, occupation, sex, sexual orientation, or any similar factor or combination of factors for the purpose of seeking to predict whether any individual may in the future develop AIDS or ARC.

(2) In determining rates, premiums, dues, assessments, benefits covered, or expenses reimbursable, or in any other aspect of insurance marketing or coverage, an insurer may not use age, marital status, geographic area of residence, occupation, sex, sexual orientation, or any similar factor or combination of factors for the purpose of seeking to predict whether any individual may in the future

develop AIDS or ARC.

(c) No health or disability insurance policy or contract shall contain any exclusion, reduction, other limitation of coverage, deductibles, or coinsurance provisions related to the care and treatment of AIDS, ARC, HTLV-III infection, or any illness or disease arising from these medical conditions, unless the provisions apply generally to all benefits under the policy or contract.

(d) No life insurance policy or contract shall contain any exclusion, reduction, or other limitation of benefits related to AIDS, ARC, HTLV-III infection, or any disease arising from these medical conditions, as a cause of death.

Sec. 5. Permissible use of tests for ratemaking purposes.

New,
D.C. Code,
35-224
(1987 supp.)

(a) In addition to the prohibitions set forth in section 4, an insurer, during the period of 5 years from the effective date of this act, may not:

(1) Require or request any individual, directly or indirectly, to take any test to screen for the presence of any probable causative agent of AIDS, ARC, or the HTLV-III infection, including, but not limited to, a test to screen for the presence of any antibody to the HTLV-III virus;

(2) Require or request any individual, directly or indirectly, to disclose whether he or she has taken such

a test, or to provide or authorize disclosure of the results of the test, if taken by the individual; or

(3) Consider in the determination of rates, premiums, dues, or assessments whether any individual has taken such a test, or the results of the test, if taken by the individual.

(b)(1) Following the period of 5 years from the effective date of this act, an insurer may apply to the Superintendent of Insurance for permission to increase rates, premiums, dues, or assessments, or impose a surcharge, for individuals who test positive for exposure to the probable causative agent of AIDS. An insurer, in its application, shall identify the test it proposes to use to identify exposure to the probable causative agent of AIDS.

(2)(A) The Superintendent of Insurance, upon receipt of an application described in paragraph (1) of this section, shall first request the District of Columbia Commissioner of Public Health to determine whether the test proposed by the applicant is reliable and accurate in identifying exposure to the probable causative agent of AIDS.

(B) If the District of Columbia Commissioner of Public Health determines that the test is not reliable and accurate, the Superintendent of Insurance shall deny the application.

(C) If the District of Columbia Commissioner of

Public Health determines that the test is reliable and accurate, the Superintendent of Insurance shall review the application further and may approve the proposed increase or surcharge if he or she determines that it is fair, reasonable, nondiscriminatory, and related to actual experience or based on sound actuarial principles applied to analyses of a substantial amount of scientific data collected over a period of years.

(D) Upon approval of an application for an increase or surcharge, an insurer may subsequently request or require individuals to take the test specified in its application and may impose the surcharge or increased rates, premiums, dues, or assessments upon those who test positive and those who decline to take the test.

Section 6. Diagnosis of AIDS.

New,
D.C. Code,
35-225
(1987 supp.)

(a) Nothing in this act shall be construed as preventing or restricting insurers or their agents or employees from following standard procedures for determining the insurability of or establishing the rates or premiums for new applicants diagnosed by a licensed physician as having AIDS, provided that the procedures:

(1) Apply in the same manner to all other new applicants within the same category of insurance;

(2) Are justified on the basis of actuarial evidence; and

(3) Comply with other laws and rules of the District.

(b) An insurer may request or require a new applicant to take a test otherwise prohibited by this act if:

(1) The test is administered by a licensed physician as a required element of a diagnosis of AIDS; and

(2) Other symptoms of AIDS, as specified by the Centers for Disease Control of the United States Public Health Service, are present to the degree that a licensed physician determines that administration of the test is medically indicated.

Section 7. Restrictions on disclosure.

No insurer may request or require an individual to take a test or series of tests pursuant to sections 5 or 6 unless:

(1) The insurer agrees not to disclose the fact of the testing or the test results to any person except as required by law, or as authorized by the individual in writing; and

(2) The individual provides his or her informed consent by signing and dating a statement of agreement, which identifies the specific test or tests to be performed and identifies the person or persons to whom disclosure is authorized.

Sec. 8. Contestability.

New,
D.C. Code,
35-226
(1987 supp

New,
D.C. Code,
35-227
(1987 supp.

An insurer may contest the validity of a policy or contract that was issued, amended, or renewed in a period in which the determination provided in section 5(b) of this act is not in effect for a period of up to 3 years from the date of issuance, amendment, or renewal, if the basis for contesting the validity is that the insured knowingly failed or refused to disclose to the insurer that he or she had AIDS at the time of issuance, amendment, or renewal.

Sec. 9. Special enforcement provisions.

New,
D.C. Code,
35-228
(1987 supp

(a) Any practice that circumvents or contravenes or results in a circumvention or contravention of the provisions of this act or rules issued pursuant to this act is a violation of this act.

(b) Each day that a violation continues shall constitute a separate violation. The Corporation Counsel, in seeking penalties for each day of a continuing violation, shall establish to the satisfaction of the Superior Court of the District of Columbia that a violation occurred on each day for which the penalty is sought.

(c) An insurer or its agent or employee who violates any provision of this act or rules issued pursuant to this act shall be subject to a civil penalty of not less than \$1,000 or more than \$10,000 per violation in the case of insurers, and not less than \$50 or more than \$300 in the case of agents or employees.

(d) Whenever it appears to the Mayor that an insurer or its agent or employee has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this act or rules issued pursuant to this act, the Mayor shall request the Corporation Counsel to bring an action in the Superior Court of the District of Columbia for penalties and other appropriate relief. Relief may include an injunction commanding compliance with this act and rules issued pursuant to this act. Upon proper showing, a temporary or permanent restraining order shall be granted without bond.

(e) Any person injured by a violation of this act or rules issued pursuant to this act may bring an action for damages and other appropriate relief in the Superior Court of the District of Columbia in lieu of pursuing administrative remedies.

Sec. 10. Rules.

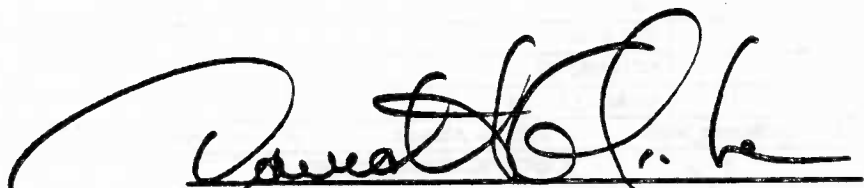
The Mayor shall issue proposed rules, within 90 days of the effective date of this act, to implement the provisions of this act. The proposed rules shall be submitted to the Council of the District of Columbia ("Council") for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not disapprove the proposed rules by resolution, within the 45-day review period, the proposed rules shall be deemed

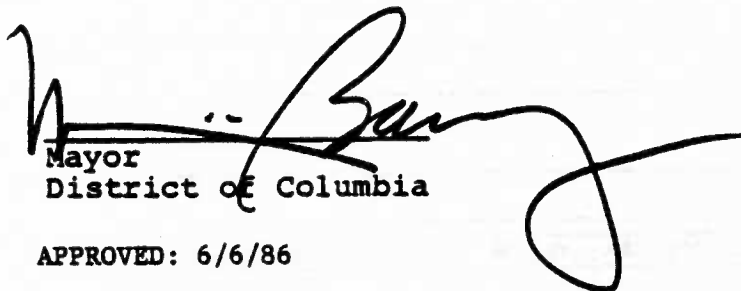
New,
D.C. Code,
35-229
(1987 supp.)

approved. The Council may approve or disapprove the proposed rules, in whole or in part, by resolution prior to the expiration of the 45-day review period.

Sec. 11. Effective date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED: 6/6/86



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Six — Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B6-343

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 5-13-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: Crawford

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith
Secretary to the Council

5/29/86
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 5-27-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith
Secretary to the Council

5/29/86
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date