**COUNTY COUNCIL**
**FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Andrews, Council President Subin, and Councilmembers Leggett, Praisner, Ewing, and Berlage

**AN ACT to:**

1. prohibit employment discrimination based on genetic status;
2. generally amend County law regarding the use of genetic information; and
3. make stylistic and technical changes in County law regarding human relations and civil liberties.

By amending

Montgomery County Code
Chapter 27, Human Relations and Civil Liberties
Sections 27-1, 27-6, 27-17, 27-18, and 27-19.

By adding to the Laws of Montgomery County

- **Boldface**
  - Heading or defined term.
- **Underlining**
  - Added to existing law by original bill.
- **[Single boldface brackets]**
  - Deleted from existing law by original bill.
- **[Double boldface brackets]**
  - Added by amendment.
- **[Single underlining]**
  - Deleted from existing law or the bill by amendment.
- **[Double underlining]**
  - Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act...
Sec. 1. Short title.
This Act may be cited as the Genetic Information Employment Rights Act of 2000.

Sec. 2. Findings.
The County Council finds that:

(a) Genetic status can be used as a proxy for otherwise illegal grounds for discrimination, such as discrimination based on religion, race, nationality, sex, or age, providing a loophole in employment protections previously guaranteed by County law.

(b) The threat of discrimination in employment based on the actual or perceived genetic status of an employee (including an applicant for employment) discourages genetic testing that could prevent or reduce disease or disabilities, provide peace of mind for individuals at risk for certain genetic conditions, and improve medical knowledge through genetic research.

(c) Montgomery County, as home to the Human Genome Project of the National Institutes of Health, the Food and Drug Administration, Celera Genomics, and other public and private institutions at the cutting edge of genetic research, is an international center for the discovery of genetic knowledge to improve public health and welfare that depends on clinical research volunteers who live and work in the County.

(d) Other than an Executive Order protecting federal employees, federal, state, and local employment laws generally have not kept pace with recent, rapid advances in genetic testing and therapies.
Sec. 3. Sections 27-1, 27-6, 27-17, 27-18, and 27-19 are amended as follows:

27-1. Statement of policy.

(a) It is the public policy of Montgomery County:

(1) To eliminate discrimination, prejudice, intolerance, and bigotry that exists as described in this article:

[A.] On account of race, color, sex, religious creed, ancestry, national origin, handicap, marital status, or sexual orientation in housing, employment, and public accommodations;

[B.] On account of age or genetic status in employment;

[C.] On account of the presence of children in housing; and

(2) That the discrimination, described in paragraph (1):

[A.] Is injurious to and threatens the health, safety, and welfare of persons in this county;

[B.] Is contrary to the purposes of a free, democratic society;

[C.] Is illegal and should be abolished; and

(3) That the prejudice, intolerance, and bigotry, described in paragraph (1) only refers to persons who do not treat individuals with the basic respect that the individuals deserve as human beings.
(b) It is not the public policy of Montgomery County:

(1) To advocate, encourage, promote, or endorse any particular race, color, sex, religious creed, ancestry, national origin, marital status, age, [or] sexual orientation including homosexuality, or genetic status; or

(2) To promote the absence or presence of children in housing; or

(3) To eliminate the legitimate rights of citizens to safeguard their communities and work places from public conduct that is contrary to accepted community standards of public decency.

* * *

27-6. Duties generally.

(a) The commission on human relations [shall have the power and it shall be its duty] must:

(1) [To research, assemble] Research, analyze, and disseminate [pertinent data and educational materials relating to] information about activities and programs [which will assist in the elimination of] to eliminate prejudice, intolerance, bigotry, and discrimination and [to institute and] conduct educational and other programs [, meetings and conferences] to promote equal rights and opportunities of all persons regardless of [their] race, color, religious creed, ancestry, national origin, sex, age, marital status, handicap, [or] sexual orientation or genetic status and to promote goodwill, cooperation, understanding, and human relations among all persons. [In performance of its duties, the]

The commission [shall] must cooperate with interested citizens [, racial, religious, and ethnic groups [,] and community,
business, professional, technical, educational, and civic
organizations.

(2) [To cooperate] Cooperate with the county executive[,] and all
governmental agencies [concerned with] on matters within [their
jurisdictions] the commission’s jurisdiction.

(3) [To study] Study and investigate [by means of], through public or
private meetings, conferences, and public hearings, conditions
[which may] that could result in discrimination, prejudice,
intolerance, [and] or bigotry because of race, color, religious
creed, ancestry, national origin, sex, age, marital status, handicap,
[or] sexual orientation, or genetic status.

(4) [To advise and counsel the] Advise county residents [of the
county], the county council, the county executive, and the various
departments of county, state, and federal governments [on
matters involving] about racial, religious, [or] and ethnic
prejudice, intolerance, discrimination, and bigotry and [[to]]
recommend [such] procedures, [program or legislation as it may
deem necessary and proper] programs, and laws to promote and
[insure] protect equal rights and opportunities for all persons,
regardless of [their] race, color, religious creed, ancestry, national
origin, sex, age, marital status, handicap, [or] sexual orientation,
or genetic status.

(5) [To work] Work to [remove inequalities due to] eliminate
discrimination, prejudice, intolerance, and bigotry [on such
problems as] in housing, recreation, education, health,
employment, public accommodations, justice, and related
matters.
(6) [To initiate] **Initiate** or receive complaints of discrimination, prejudice, intolerance, and bigotry from any person or group because of race, color, sex, age, marital status, religious creed, ancestry, national origin, handicap, [or] sexual orientation [which]. or genetic status that deprives that person or group of equal rights, protection, or [opportunities] opportunity. [To] The commission must investigate [complaints], seek conciliation [of such complaints and, if warranted, to], hold hearings, and make recommendations [on such complaints] as necessary to resolve a complaint.

(7) [To adopt such] **Issue** regulations under method (2) [of section 2A-15 of this Code as may be] necessary to carry out [the purposes and provisions of] this article; [to] and keep a record of [its] the commission’s hearings[,] and activities and minutes of all other meetings. [The records and minutes shall be on file with the executive director of the commission and open to the public at reasonable business hours upon request.] The Commission is a public body under the State Public Information Act and Open Meetings Act.

(8) [To render at the request of the executive or within thirty (30) days following each quarter of the calendar year preliminary] Provide to the county executive and county council:

(A) a quarterly written or oral [reports] **report** of [its] commission activities and recommendations [to the county executive and the county council] within 30 days after each calendar quarter, and [a final]
(B) an annual written [yearly] report summarizing [its]
commission activities, goals, needs, and recommendations
promptly after each calendar year.

* * *

(b) [Despite the foregoing provisions of this section] If the county executive
does not object the commission [is authorized to proceed with other]
may conduct programs [which will seek] to relieve group tension
[and/or adverse intergroup [activities which may result from causes not
related to] actions resulting from causes other than race, color, sex,
religious creed, ancestry, national origin, age, marital status, handicap,
[or] sexual orientation [; provided, that such action is first submitted to
the county executive; and further provided, that the county executive
does not disapprove of such action]. or genetic status.

DIVISION 3. DISCRIMINATION IN EMPLOYMENT.

27-17. Declaration of policy.

The [council] county finds that discrimination in employment because of race,
color, religious creed, ancestry, national origin, age, sex, marital status, handicap. [or]
sexual orientation. or genetic status adversely affects the health, welfare, peace and
safety of the community. Persons subject to such discrimination suffer
unemployment and under employment resulting in low family income, overcrowded
housing, poor health conditions, antisocial behavior, poverty, and lack of hope,
injuring the public welfare, placing a burden upon the public treasury to ameliorate
the conditions thus produced and creating conditions which endanger the public
peace and order. The public policy of Montgomery County is [declared to be] to
foster equal employment opportunity for all without regard to race, color, religious
creed, ancestry, national origin, sex, marital status, age, handicap, [or] sexual
orientation, or genetic status and strictly [in accord with] according to their individual merits as human beings.


[As used] In this division, the following words and phrases [shall be defined as follows] have the following meanings:

(a) **Person** includes one [(1)] or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries, and their officers and agents.

(b) **Employer** includes any person, wherever situated, who employs more than [six (6)] 6 employees [within] in the county, either for compensation or on a volunteer basis, or who recruits individuals [within] in the county to apply for employment [within] in the county or elsewhere; the term shall include. **Employer** includes Montgomery County and its instrumentalities and agencies.

(c) **Employment agency** includes any person regularly undertaking or attempting, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer.

(d) **Labor organization** includes any organization, agency, employee representation committee, group, association, or plan in which employees participate directly or indirectly [and which exists for the purpose, in whole or in part, of] whose purposes include dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms, conditions, or privileges of employment [and]. **Labor organization** includes any agent [thereof], [and any] conference,
general committee, joint or system board, or joint council [which is
subordinate to a national or international labor organization] of these
entities.

(e) Employee includes any individual employed by an employer, either for
compensation or on a volunteer basis, and any person seeking or
applying for employment.

(f) Religious creed includes all [aspects of] religious beliefs, observances,
and practices[, as well as belief].

(g) [The terms "because] "Because of sex” or “on the basis of sex”
[include] includes, but [are] is not limited to, because of, or on the basis
of:

(1) pregnancy[.];

(2) childbirth; or

(3) [related] medical conditions related to pregnancy or childbirth.

(h) Genetic status: Discrimination based on genetic status includes
discrimination based on:

(1) genetic information: or

(2) the actual or perceived genetic condition of an employee or the
employee's relative.

(i) Genetic information includes information regarding an employee’s (or
an employee’s relative’s):

(1) actual or perceived genetic condition: [or]

(2) request for or receipt of any test that can detect, indicate, or
analyze a genetic condition: or

(3) [information about the] medical history [of an employee or the
employee’s relative]. if the information otherwise satisfies either
paragraph (1) or (2).
(j) Genetic condition includes the presence of deoxyribonucleic acid (DNA), ribonucleic acid (RNA), chromosomes, proteins, or certain metabolites that indicate or confirm that an individual has a mutation or other genotype associated with a disease or disability.

(k) Employee's relative means any individual who is, or is perceived to be:

(1) biologically related to the employee; or

(2) eligible for health care insurance or other benefit from the employee because of the individual's relationship to the employee.


(a) It shall be an unlawful employment practice to do any of the following acts because of the race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, [or] sexual orientation, or genetic status of any individual or because of any reason that would not have been asserted but for the race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, [or] sexual orientation, or genetic status of the individual:

(1) For an employer:

   [a.] To fail or refuse to hire or fail to accept the services of or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment.

   [b.] To limit, segregate, or classify employees in any way [which] that would deprive or tend to affect adversely any
individual's employment opportunities or status as an employee.

(2) For an employment agency to fail or refuse to refer for employment, to assign job classifications to, or to classify or refer for employment, or otherwise to discriminate against, any individual.

(3) For a labor organization:

[a.] To exclude or to expel from its membership, or otherwise to discriminate against any individual.

[b.] To limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual in any way [which] that would deprive or tend to deprive any individual of equal employment opportunities, or would affect adversely the individual's employment opportunities or status as an employee[,] or as an applicant for employment.

[c.] To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(4) For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training programs to discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training.

(b) * * *
(c) It shall be a violation of this division for any person, employer, labor organization or employment agency to print or publish or cause to be printed or published, any notice or advertisement relating to employment by such employer, or membership in or any classification or referral for employment by such labor organization, or relating to any classification or referral for employment by such employment agency, indicating any preference, limitation, or specification based on race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, or sexual orientation or genetic status. (except that such a notice or advertisement may indicate a preference, limitation, or specification which is a bona fide occupational qualification for employment reasonably necessary to the normal operation of the particular business or enterprise.

(d) Notwithstanding any other provision of this division, it shall not be an unlawful employment practice:

(1) For an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs, to admit or employ any individual in any such program, on the basis of race, color, religious creed, age, sex, marital status, national origin, ancestry, handicap, sexual orientation [in those certain instances where such]. or genetic status if the basis is a bona fide occupational qualification
reasonably necessary to the normal operation of that particular
business or enterprise[;]

(2) For a religious corporation, association, or society to hire and
employ employees of a particular religion to perform purely
religious functions[; and]

(3) For an employer to deny employment on the basis of religious
creed [in those cases when] if the observance, practice, or belief
cannot be reasonably accommodated by an employer without
cause undue hardship on the conduct of the employer's
business.

Notwithstanding any other provision of this division. a physician or
other licensed medical professional may use genetic information about.
and consider the genetic status of an employee to evaluate whether a
disease, medical condition, or disability that is currently manifest
[[prevents]] is preventing the employee from performing the essential
functions of the position if:

(1) the genetic information is provided to the employee in writing
as soon as the information is available:

(2) the genetic information is not disclosed to any other person
(including the employer) without the employee's voluntary
written consent:

(3) the genetic information is maintained as a medical record
separate from the employee's employment records: and

(4) no other law prohibits:
(A) the medical professional from collecting or using the
genetic information, or

(B) the employer from considering the disease or disability, or
the employee’s genetic status.

(h) This division does not prohibit genetic monitoring of biological effects
of toxic substances in the workplace if:

(1) the employee has provided prior voluntary informed consent in
writing to participate in the monitoring:

(2) the employee receives the results of the monitoring, including
both aggregate information and any information regarding the
specific employee, as soon as results are available:

(3) the monitoring complies with all other laws, such as regulations
protecting human subjects in research; and

(4) the employer (other than a licensed medical professional
involved in the genetic monitoring) receives results of the
monitoring only in aggregate terms that do not disclose the
identity of any specific employee.

(i) An employer must not require an employee to obtain or reveal any
genetic information that the employer is prohibited from considering
under this division.

Sec. 4. Regulations.

All County regulations in effect when this Act becomes law continue in effect,
except that any reference in a regulation to employment discrimination includes
discrimination based on genetic status, as provided in this Act. Within 120 days after
this Act becomes law, the County Executive and the Human Relations Commission
must submit to the Council, for approval under method (2), any amendments to their
respective regulations necessary to implement this Act.
Sec. 5. Public Education Program.

The Human Relations Commission must, within 90 days after this Act becomes law, prepare a program to inform employers, employees, genetic research and testing organizations, and the general public about County law regarding employment discrimination based on genetic information. In developing the proposed program, the Commission should consider the advice of employee and employer groups, genetics researchers, human rights organizations, and other interested individuals and organizations. This Section does not limit any authority or duty of the Commission under Chapter 27 of the County Code.

Approved:

Blair G. Ewing, President, County Council

Douglas M. Duncan, County Executive

Mary A. Edgar, CMC, Clerk of the Council

This is a correct copy of Council action.