

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 196**  
**SENATE BILL 1100**

AN ACT

AMENDING SECTION 20-448, ARIZONA REVISED STATUTES; RELATING TO UNFAIR  
INSURANCE PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-448, Arizona Revised Statutes, is amended to  
3 read:

4 20-448. Unfair discrimination; definitions

5 A. A person shall not make or permit any unfair discrimination  
6 between individuals of the same class and equal expectation of life in the  
7 rates charged for any contract of life insurance or of life annuity or in  
8 the dividends or other benefits payable or in any other of the terms and  
9 conditions of the contract.

10 B. A person shall not make or permit any unfair discrimination  
11 respecting hemophiliacs or between individuals of the same class and of  
12 essentially the same hazard in the amount of premium, policy fees or rates  
13 charged for any policy or contract of disability insurance or in the  
14 benefits payable or in any of the terms or conditions of the contract, or  
15 in any other manner whatever. The provisions of this subsection regarding  
16 hemophiliacs do not apply to any policy or subscription contract ~~which~~  
17 **THAT** provides only benefits for specific diseases or for accidental  
18 injuries or ~~which~~ **THAT** provides only indemnity for blood transfusion  
19 services or replacement of whole blood products, fractions or derivatives.

20 C. As to kinds of insurance other than life and disability, a  
21 person shall not make or permit any unfair discrimination in favor of  
22 particular persons or between insureds or subjects of insurance having  
23 substantially like insuring, risk and exposure factors, or expense  
24 elements, in the terms or conditions of any insurance contract, or in the  
25 rate or amount of premium charged.

26 D. An insurer shall not refuse to consider an application for life  
27 or disability insurance on the basis of a genetic condition, developmental  
28 delay or developmental disability.

29 E. The rejection of an application or the determining of rates,  
30 terms or conditions of a life or disability insurance contract on the  
31 basis of a genetic condition, developmental delay or developmental  
32 disability constitutes unfair discrimination, unless the applicant's  
33 medical condition and history and either claims experience or actuarial  
34 projections establish that substantial differences in claims are likely to  
35 result from the genetic condition, developmental delay or developmental  
36 disability.

37 F. In addition to the provisions in subsection E of this section,  
38 the rejection of an application or the determination of rates, terms or  
39 conditions of a disability insurance contract on the basis of a genetic  
40 condition constitutes unfair discrimination in the absence of a diagnosis  
41 of the condition related to information obtained as a result of a genetic  
42 test.

43 **G. AN INSURER THAT OFFERS LIFE, DISABILITY OR LONG-TERM CARE**  
44 **INSURANCE CONTRACTS MAY NOT UNFAIRLY DISCRIMINATE AGAINST A LIVING ORGAN**  
45 **DONOR IN THE OFFERING, ISSUANCE, PRICE OR CONDITIONS OF AN INSURANCE**

1 POLICY BASED SOLELY, AND WITHOUT ADDITIONAL ACTUARIAL RISKS, ON THAT  
2 PERSON'S STATUS AS A LIVING ORGAN DONOR.

3 ~~G.~~ H. An insurer that offers life, disability, property or  
4 liability insurance contracts shall not deny a claim incurred or deny,  
5 refuse, refuse to renew, restrict, cancel, exclude or limit coverage or  
6 charge a different rate for the same coverage solely on the basis that the  
7 insured or proposed insured is or has been a victim of domestic violence  
8 or is an entity or individual that provides counseling, shelter,  
9 protection or other services to victims of domestic violence. If an  
10 insurer that offers life, disability, property or liability insurance  
11 contracts denies a claim incurred or denies, refuses, refuses to renew,  
12 restricts, cancels, excludes or limits coverage or charges a different  
13 rate for the same coverage on the basis of a mental or physical condition  
14 and the insured or the proposed insured is or has been a victim of  
15 domestic violence, the insurer shall submit a written explanation to the  
16 insured or proposed insured of the reasons for the insurer's actions, in  
17 accordance with section 20-2110. The fact that an insured or proposed  
18 insured is or has been the victim of domestic violence is not a mental or  
19 physical condition. ~~Nothing contained in~~ This subsection is NOT intended  
20 to provide any private right or cause of action to or on behalf of any  
21 applicant or insured. It is the specific intent of this subsection to  
22 provide solely an administrative remedy to the director for any violation  
23 of this section. ~~Nothing in~~ This subsection ~~prevents~~ DOES NOT PREVENT  
24 an insurer from refusing to issue a life insurance policy insuring a person  
25 who has been the victim of domestic violence if either of the following is  
26 true:

27 1. The family or household member who commits the act of domestic  
28 violence is the applicant for or prospective owner of the policy or would  
29 be the beneficiary of the policy and any of the following is true:

30 (a) The applicant or prospective beneficiary of the policy is  
31 known, on the basis of police or court records, to have committed an act  
32 of domestic violence.

33 (b) The insurer has knowledge of an arrest or conviction for a  
34 domestic violence related offense by the family or household member.

35 (c) The insurance company has other reasonable grounds to believe,  
36 and those grounds are corroborated, that the applicant or proposed  
37 beneficiary of a policy is a family or household member committing acts of  
38 domestic violence.

39 2. The applicant or prospective owner of the policy lacks an  
40 insurable interest in the insured.

41 ~~H.~~ I. ~~Nothing in~~ Subsection ~~G.~~ H of this section ~~prevents~~ DOES NOT  
42 PREVENT an insurer that:

43 1. Offers life or disability insurance contracts from underwriting  
44 coverage on the basis of an insured's or proposed insured's mental or  
45 physical condition if the underwriting:

1 (a) Does not consider whether or not the mental or physical  
2 condition was caused by an act of domestic violence.

3 (b) Is the same for an insured or proposed insured who is not the  
4 victim of domestic violence as it is for an insured or proposed insured  
5 who is the victim of domestic violence.

6 (c) Does not violate any other rule or law.

7 2. Offers property or liability insurance contracts from  
8 underwriting coverage on the basis of the insured's claims history or  
9 characteristics of the insured's property and using rating criteria  
10 consistent with section 20-384.

11 ~~J.~~ J. Any determination made pursuant to section 20-2537 by the  
12 external independent review organization shall not be considered in  
13 connection with the evaluation of whether any person subject to this  
14 article has complied with this section.

15 ~~K.~~ K. A property or liability insurer may exclude coverage for  
16 losses caused by an insured's intentional or fraudulent act. The  
17 exclusion shall not deny an insured's otherwise covered property loss if  
18 the property loss is caused by an act of domestic violence by another  
19 insured under the policy and the insured who claims the property loss  
20 cooperates in any investigation relating to the loss and did not cooperate  
21 in or contribute to the creation of the property loss. The insurer may  
22 apply reasonable standards of proof for claims filed under this  
23 subsection. The insurer may limit the payment to the insured's insurable  
24 interest in the property minus any payment made to any mortgagee or other  
25 party with a secured interest in the property. This subsection does not  
26 require an insurer to pay any amount that is more than the amount of the  
27 loss or property coverage limits. An insurer who pays a claim under this  
28 subsection has the right of subrogation against any person except the  
29 victim of the domestic violence.

30 ~~L.~~ L. All insurers shall adopt and adhere to written policies that  
31 are consistent with chapter 11 of this title and that specify the  
32 procedures to be followed by employees, contractors, producers, agents and  
33 brokers to ensure the privacy of and to help protect the safety of a  
34 victim of domestic violence when taking an application, investigating a  
35 claim, pursuing subrogation or taking any other action relating to a  
36 policy or claim involving a victim of domestic violence. Insurers shall  
37 distribute the written policies to employees, contractors, producers,  
38 agents and brokers who have access to personal or privileged information  
39 regarding domestic violence.

40 ~~M.~~ M. For the purposes of this section:

41 1. "Developmental delay" means a delay of at least one and one-half  
42 standard deviations from the norm.

43 2. "Developmental disability" has the same meaning prescribed in  
44 section 36-551.

1           3. "Domestic violence" means any act that is a dangerous crime  
2 against children as defined in section 13-705 or an offense defined in  
3 section 13-1201 through 13-1204, 13-1302 through 13-1304, 13-1502 through  
4 13-1504 or 13-1602, section 13-2810, section 13-2904, subsection A,  
5 paragraph 1, 2, 3 or 6, section 13-2916 or section 13-2921, 13-2921.01,  
6 13-2923 or 13-3623, if any of the following applies:

7           (a) The relationship between the victim and the defendant is one of  
8 marriage or former marriage or of persons residing or having resided in  
9 the same household.

10           (b) The victim and the defendant have a child in common.

11           (c) The victim or the defendant is pregnant by the other party.

12           (d) The victim is related to the defendant or the defendant's  
13 spouse by blood or court order as a parent, grandparent, child,  
14 grandchild, brother or sister, or by marriage as a parent-in-law,  
15 grandparent-in-law, stepparent, step-grandparent, stepchild,  
16 step-grandchild, brother-in-law or sister-in-law.

17           (e) The victim is a child who resides or has resided in the same  
18 household as the defendant and is related by blood to a former spouse of  
19 the defendant or to a person who resides or has resided in the same  
20 household as the defendant.

21           4. "Gene products" means gene fragments, nucleic acids or proteins  
22 derived from deoxyribonucleic acids that would be a reflection of or  
23 indicate DNA sequence information.

24           5. "Genetic condition" means a specific chromosomal or single-gene  
25 genetic condition.

26           6. "Genetic test" means an analysis of an individual's DNA, gene  
27 products or chromosomes that indicates a propensity for or susceptibility  
28 to illness, disease, impairment or other disorders, whether physical or  
29 mental, or that demonstrates genetic or chromosomal damage due to  
30 environmental factors, or carrier status for a disease or disorder.

31           7. "LIVING ORGAN DONOR" MEANS A LIVING PERSON WHO DONATES AN ORGAN  
32 TO ANOTHER LIVING PERSON.

APPROVED BY THE GOVERNOR MAY 8, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2019.