

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

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.