
SENATE BILL 5665

State of Washington

57th Legislature

2001 Regular Session

By Senators Prentice, Winsley, Franklin, Hochstatter, Kohl-Welles, Kastama, Hargrove, Fairley, Patterson, Kline, Shin, B. Sheldon and Jacobsen

Read first time 01/30/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to protecting genetic information; amending RCW
2 9.91.010, 9A.36.080, 26.26.100, 35.81.170, 41.14.180, 43.01.100,
3 48.18.480, 48.30.300, 48.43.021, 48.43.505, 48.44.220, 48.46.370,
4 49.60.010, 49.60.020, 49.60.030, 49.60.040, 49.60.175, 49.60.176,
5 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.215, 49.60.223,
6 49.60.224, 49.60.225, and 70.02.010; reenacting and amending RCW
7 49.60.222; adding a new section to chapter 48.01 RCW; and creating a
8 new section.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** The legislature declares that every
11 individual possesses a fundamental right of privacy with respect to his
12 or her genetic information.

13 (1) It is the public policy of the state of Washington that:

14 (a) Every individual has the fundamental right to choose or refuse
15 to release his or her genetic information;

16 (b) The state shall not deny or interfere with a person's
17 fundamental right to choose or refuse to release his or her genetic
18 information; and

1 (c) The state shall not discriminate against the exercise of these
2 rights in the regulation or provision of benefits, facilities,
3 services, or information.

4 (2) It is the purpose of this act to (a) protect the results of
5 genetic tests as private information; (b) prohibit discrimination based
6 on genetic information; (c) prohibit disclosure of genetic information
7 without the consent of the person to whom the information pertains; and
8 (d) prohibit required genetic testing or the release of genetic
9 information as a condition of employment, real estate transactions,
10 credit transactions, or insurance.

11 **Sec. 2.** RCW 9.91.010 and 1953 c 87 s 1 are each amended to read as
12 follows:

13 Terms used in this section shall have the following definitions:

14 (1)(a) "Every person" shall be construed to include any owner,
15 lessee, proprietor, manager, agent or employee whether one or more
16 natural persons, partnerships, associations, organizations,
17 corporations, cooperatives, legal representatives, trustees, receivers,
18 of this state and its political subdivisions, boards and commissions,
19 engaged in or exercising control over the operation of any place of
20 public resort, accommodation, assemblage, or amusement.

21 (b) "Deny" is hereby defined to include any act which directly or
22 indirectly, or by subterfuge, by a person or his agent or employee,
23 results or is intended or calculated to result in whole or in part in
24 any discrimination, distinction, restriction, or unequal treatment, or
25 the requiring of any person to pay a larger sum than the uniform rates
26 charged other persons, or the refusing or withholding from any person
27 the admission, patronage, custom, presence, frequenting, dwelling,
28 staying, or lodging in any place of public resort, accommodation,
29 assemblage, or amusement except for conditions and limitations
30 established by law and applicable alike to all persons, regardless of
31 race, creed or color.

32 (c) "Full enjoyment of" shall be construed to include the right to
33 purchase any service, commodity or article of personal property offered
34 or sold on, or by, any establishment to the public, and the admission
35 of any person to accommodations, advantages, facilities or privileges
36 of any place of public resort, accommodation, assemblage, or amusement,
37 without acts directly or indirectly causing persons of any particular

1 race, creed or color, to be treated as not welcome, accepted, desired
2 or solicited.

3 (d) "Any place of public resort, accommodation, assemblage, or
4 amusement" is hereby defined to include, but not to be limited to, any
5 public place, licensed or unlicensed, kept for gain, hire or reward, or
6 where charges are made for admission, service, occupancy or use of any
7 property or facilities, whether conducted for the entertainment,
8 housing or lodging of transient guests, or for the benefit, use or
9 accommodation of those seeking health, recreation or rest, or for the
10 sale of goods and merchandise, or for the rendering of personal
11 services, or for public conveyance or transportation on land, water or
12 in the air, including the stations and terminals thereof and the
13 garaging of vehicles, or where food or beverages of any kind are sold
14 for consumption on the premises, or where public amusement,
15 entertainment, sports or recreation of any kind is offered with or
16 without charge, or where medical service or care is made available, or
17 where the public gathers, congregates, or assembles for amusement,
18 recreation or public purposes, or public halls, public elevators and
19 public washrooms of buildings and structures occupied by two or more
20 tenants, or by the owner and one or more tenants, or any public library
21 or any educational institution wholly or partially supported by public
22 funds, or schools of special instruction, or nursery schools, or day
23 care centers or children's camps; nothing herein contained shall be
24 construed to include, or apply to, any institute, bona fide club, or
25 place of accommodation, which is by its nature distinctly private
26 provided that where public use is permitted that use shall be covered
27 by this section; nor shall anything herein contained apply to any
28 educational facility operated or maintained by a bona fide religious or
29 sectarian institution; and the right of a natural parent in *loco*
30 *parentis* to direct the education and upbringing of a child under his
31 control is hereby affirmed.

32 (e) "Genetic information" means information about genes, gene
33 products, or inherited characteristics, that may derive from an
34 individual or a family member of such individual and includes but is
35 not limited to information derived from genetic tests and information
36 about a request for or the receipt of genetic services by such
37 individual or family member of such individual. "Genetic information"
38 also includes information about the occurrence of a disease or disorder
39 in family members.

1 (f) "Genetic services" means health services, including genetic
2 tests, provided to obtain, assess, or interpret genetic information for
3 diagnostic and therapeutic purposes, and for genetic education and
4 counseling.

5 (g) "Genetic test" means the analysis of human DNA, RNA,
6 mitochondrial DNA, chromosomes, proteins, and certain metabolites in
7 order to detect genotypes, mutations, chromosomal damages, or the
8 presence or absence of inherited or acquired characteristics in genetic
9 material.

10 (2) Every person who denies to any other person because of race,
11 creed, ((~~or~~)) color, or genetic information, the full enjoyment of any
12 of the accommodations, advantages, facilities or privileges of any
13 place of public resort, accommodation, assemblage, or amusement, shall
14 be guilty of a misdemeanor.

15 **Sec. 3.** RCW 9A.36.080 and 1993 c 127 s 2 are each amended to read
16 as follows:

17 (1) A person is guilty of malicious harassment if he or she
18 maliciously and intentionally commits one of the following acts because
19 of his or her perception of the victim's race, color, religion,
20 ancestry, national origin, genetic information as defined in RCW
21 9.91.010, gender, sexual orientation, or mental, physical, or sensory
22 handicap:

23 (a) Causes physical injury to the victim or another person;

24 (b) Causes physical damage to or destruction of the property of the
25 victim or another person; or

26 (c) Threatens a specific person or group of persons and places that
27 person, or members of the specific group of persons, in reasonable fear
28 of harm to person or property. The fear must be a fear that a
29 reasonable person would have under all the circumstances. For purposes
30 of this section, a "reasonable person" is a reasonable person who is a
31 member of the victim's race, color, religion, ancestry, national
32 origin, gender, or sexual orientation, or who has the same genetic
33 characteristics or mental, physical, or sensory handicap as the victim.
34 Words alone do not constitute malicious harassment unless the context
35 or circumstances surrounding the words indicate the words are a threat.
36 Threatening words do not constitute malicious harassment if it is
37 apparent to the victim that the person does not have the ability to
38 carry out the threat.

1 (2) In any prosecution for malicious harassment, unless evidence
2 exists which explains to the trier of fact's satisfaction that the
3 person did not intend to threaten the victim or victims, the trier of
4 fact may infer that the person intended to threaten a specific victim
5 or group of victims because of the person's perception of the victim's
6 or victims' race, color, religion, ancestry, national origin, gender,
7 sexual orientation, or mental, physical, or sensory handicap if the
8 person commits one of the following acts:

9 (a) Burns a cross on property of a victim who is or whom the actor
10 perceives to be of African American heritage; or

11 (b) Defaces property of a victim who is or whom the actor perceives
12 to be of Jewish heritage by defacing the property with a swastika.

13 This subsection only applies to the creation of a reasonable
14 inference for evidentiary purposes. This subsection does not restrict
15 the state's ability to prosecute a person under subsection (1) of this
16 section when the facts of a particular case do not fall within (a) or
17 (b) of this subsection.

18 (3) It is not a defense that the accused was mistaken that the
19 victim was a member of a certain race, color, religion, ancestry,
20 national origin, gender, or sexual orientation, or had certain genetic
21 characteristics or a mental, physical, or sensory handicap.

22 (4) Evidence of expressions or associations of the accused may not
23 be introduced as substantive evidence at trial unless the evidence
24 specifically relates to the crime charged. Nothing in this chapter
25 shall affect the rules of evidence governing impeachment of a witness.

26 (5) Every person who commits another crime during the commission of
27 a crime under this section may be punished and prosecuted for the other
28 crime separately.

29 (6) "Sexual orientation" for the purposes of this section means
30 heterosexuality, homosexuality, or bisexuality.

31 (7) Malicious harassment is a class C felony.

32 (8) The penalties provided in this section for malicious harassment
33 do not preclude the victims from seeking any other remedies otherwise
34 available under law.

35 (9) Nothing in this section confers or expands any civil rights or
36 protections to any group or class identified under this section, beyond
37 those rights or protections that exist under the federal or state
38 Constitution or the civil laws of the state of Washington.

1 **Sec. 4.** RCW 26.26.100 and 1997 c 58 s 946 are each amended to read
2 as follows:

3 (1) The court may, and upon request of a party shall, require the
4 child, mother, and any alleged or presumed father who has been made a
5 party to submit to blood tests or genetic tests of blood, tissues, or
6 other bodily fluids. If a party objects to a proposed order requiring
7 blood or genetic tests, the court shall require the party making the
8 allegation of possible paternity to provide sworn testimony, by
9 affidavit or otherwise, stating the facts upon which the allegation is
10 based. The court shall order blood or genetic tests if it appears that
11 a reasonable possibility exists that the requisite sexual contact
12 occurred or where nonpaternity is alleged, that the requisite sexual
13 contact did not occur. The tests shall be performed by an expert in
14 paternity blood or genetic testing appointed by the court. The
15 expert's verified report identifying the blood or genetic
16 characteristics observed is admissible in evidence in any hearing or
17 trial in the parentage action, if (a) the alleged or presumed father
18 has had the opportunity to gain information about the security,
19 validity, and interpretation of the tests and the qualifications of any
20 experts, and (b) the report is accompanied by an affidavit from the
21 expert which describes the expert's qualifications as an expert and
22 analyzes and interprets the results. Verified documentation of the
23 chain of custody of the blood or genetic samples tested is admissible
24 to establish the chain of custody. The court may consider published
25 sources as aids to interpretation of the test results.

26 (2)(a) Any objection to genetic testing results must be made in
27 writing and served upon the opposing party, within twenty days before
28 any hearing at which such results may be introduced into evidence.

29 (b) If an objection is not made as provided in this subsection, the
30 test results are admissible as evidence of paternity without the need
31 for foundation testimony or other proof of authenticity or accuracy.

32 (3) The court, upon request by a party, shall order that additional
33 blood or genetic tests be performed by the same or other experts
34 qualified in paternity blood or genetic testing, if the party
35 requesting additional tests advances the full costs of the additional
36 testing within a reasonable time. The court may order additional
37 testing without requiring that the requesting party advance the costs
38 only if another party agrees to advance the costs or if the court
39 finds, after hearing, that (a) the requesting party is indigent, and

1 (b) the laboratory performing the initial tests recommends additional
2 testing or there is substantial evidence to support a finding as to
3 paternity contrary to the initial blood or genetic test results. The
4 court may later order any other party to reimburse the party who
5 advanced the costs of additional testing for all or a portion of the
6 costs.

7 (4) In all cases, the court shall determine the number and
8 qualifications of the experts.

9 (5) The court shall not make available any genetic information, as
10 defined in RCW 9.91.010, obtained under the terms of this section for
11 any purpose other than paternity determination.

12 **Sec. 5.** RCW 35.81.170 and 1965 c 7 s 35.81.170 are each amended to
13 read as follows:

14 For all of the purposes of this chapter, no person shall, because
15 of race, creed, color, ~~((or))~~ national origin, or genetic information
16 as defined in RCW 9.91.010, be subjected to any discrimination.

17 **Sec. 6.** RCW 41.14.180 and 1959 c 1 s 18 are each amended to read
18 as follows:

19 No commissioner or any other person, shall, ~~((by himself))~~ singly
20 or in cooperation with others, defeat, deceive, or obstruct any person
21 in respect of his or her right of examination or registration according
22 to the rules and regulations, or falsely mark, grade, estimate, or
23 report upon the examination or proper standing of any person examined,
24 registered, or certified pursuant to this chapter, or aid in so doing,
25 or make any false representation concerning the same, or concerning the
26 person examined, or furnish any person any special or secret
27 information for the purpose of improving or injuring the prospects or
28 chances of any person so examined, registered or certified, or to be
29 examined, registered, or certified, or persuade any other person, or
30 permit or aid in any manner any other person to personate him or her,
31 in connection with any examination or registration of application or
32 request to be examined or registered.

33 The right of any person to an appointment or promotion to any
34 position in a sheriff's office shall not be withheld because of ~~((his))~~
35 race, color, creed, national origin, genetic information as defined in
36 RCW 9.91.010, political affiliation or belief, nor shall any person be
37 dismissed, demoted, or reduced in grade for such reason.

1 **Sec. 7.** RCW 43.01.100 and 1965 c 8 s 43.01.100 are each amended to
2 read as follows:

3 The inclusion of any question relative to an applicant's race
4 (~~(or)~~), religion, or genetic information as defined in RCW 9.91.010 in
5 any application blank or form for employment or license required to be
6 filled in and submitted by an applicant to any department, board,
7 commission, officer, agent, or employee of this state or the disclosure
8 on any license of the race or religion of the licensee is hereby
9 prohibited.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.01 RCW
11 to read as follows:

12 As used in this title:

13 (1) "Genetic information" means information about genes, gene
14 products, or inherited characteristics, that may derive from an
15 individual or a family member of such individual and includes but is
16 not limited to information derived from genetic tests and information
17 about a request for or the receipt of genetic services by such
18 individual or family member of such individual. "Genetic information"
19 also includes information about the occurrence of a disease or disorder
20 in family members.

21 (2) "Genetic services" means health services, including genetic
22 tests, provided to obtain, assess, or interpret genetic information for
23 diagnostic and therapeutic purposes, and for genetic education and
24 counseling.

25 (3) "Genetic test" means the analysis of human DNA, RNA,
26 mitochondrial DNA, chromosomes, proteins, and certain metabolites in
27 order to detect genotypes, mutations, chromosomal damages, or the
28 presence or absence of inherited or acquired characteristics in genetic
29 material.

30 **Sec. 9.** RCW 48.18.480 and 1957 c 193 s 12 are each amended to read
31 as follows:

32 No insurer shall make or permit any unfair discrimination between
33 insureds or subjects of insurance having substantially like insuring,
34 risk, and exposure factors, and expense elements, in the terms or
35 conditions of any insurance contract, or in the rate or amount of
36 premium charged therefor, or in the benefits payable or in any other
37 rights or privileges accruing thereunder. This provision shall not

1 prohibit fair discrimination by a life insurer as between individuals
2 having unequal expectation of life, except that insurers shall neither
3 require nor use genetic information as a basis for such discrimination.

4 **Sec. 10.** RCW 48.30.300 and 1993 c 492 s 287 are each amended to
5 read as follows:

6 Notwithstanding any provision contained in Title 48 RCW to the
7 contrary:

8 (1) No person or entity engaged in the business of insurance in
9 this state shall refuse to issue any contract of insurance or cancel or
10 decline to renew such contract because of the sex ~~((or))~~, marital
11 status, or genetic information of the insured or prospective insured or
12 the presence of any sensory, mental, or physical handicap of the
13 insured or prospective insured. The amount of benefits payable, or any
14 term, rate, condition, or type of coverage shall not be restricted,
15 modified, excluded, increased or reduced on the basis of the sex
16 ~~((or))~~, marital status, or genetic information of the insured or
17 prospective insured, or be restricted, modified, excluded or reduced on
18 the basis of the presence of any sensory, mental, or physical handicap
19 of the insured or prospective insured. Subject to the provisions of
20 subsection (2) of this section these provisions shall not prohibit fair
21 discrimination on the basis of sex, or marital status, or the presence
22 of any sensory, mental, or physical handicap when bona fide statistical
23 differences in risk or exposure have been substantiated, except that
24 insurers shall neither require nor use genetic information as a basis
25 for such discrimination.

26 (2) With respect to disability policies issued or renewed on and
27 after July 1, 1994, that provide coverage against loss arising from
28 medical, surgical, hospital, or emergency care services:

29 (a) Policies shall guarantee continuity of coverage. Such
30 provision, which shall be included in every policy, shall provide that:

31 (i) The policy may be canceled or nonrenewed without the prior
32 written approval of the commissioner only for nonpayment of premium or
33 as permitted under RCW 48.18.090; and

34 (ii) The policy may be canceled or nonrenewed because of a change
35 in the physical or mental condition or health of a covered person only
36 with the prior written approval of the commissioner. Such approval
37 shall be granted only when the insurer has discharged its obligation to
38 continue coverage for such person by obtaining coverage with another

1 insurer, health care service contractor, or health maintenance
2 organization, which coverage is comparable in terms of premiums and
3 benefits as defined by rule of the commissioner.

4 (b) It is an unfair practice for a disability insurer to modify the
5 coverage provided or rates applying to an in-force disability insurance
6 policy and to fail to make such modification in all such issued and
7 outstanding policies.

8 (c) Subject to rules adopted by the commissioner, it is an unfair
9 practice for a disability insurer to:

10 (i) Cease the sale of a policy form unless it has received prior
11 written authorization from the commissioner and has offered all
12 policyholders covered under such discontinued policy the opportunity to
13 purchase comparable coverage without health screening; or

14 (ii) Engage in a practice that subjects policyholders to rate
15 increases on discontinued policy forms unless such policyholders are
16 offered the opportunity to purchase comparable coverage without health
17 screening.

18 The insurer may limit an offer of comparable coverage without
19 health screening to a period not less than thirty days from the date
20 the offer is first made.

21 **Sec. 11.** RCW 48.43.021 and 2000 c 79 s 22 are each amended to read
22 as follows:

23 Except as otherwise required by statute or rule, a carrier and the
24 Washington state health insurance pool, and persons acting at the
25 direction of or on behalf of a carrier or the pool, who are in receipt
26 of an enrollee's or applicant's personally identifiable health
27 information included in the standard health questionnaire or any
28 genetic information shall not disclose the identifiable health or
29 genetic information unless such disclosure is explicitly authorized in
30 writing by the person who is the subject of the information.

31 **Sec. 12.** RCW 48.43.505 and 2000 c 5 s 5 are each amended to read
32 as follows:

33 (1) Health carriers and insurers shall adopt policies and
34 procedures that conform administrative, business, and operational
35 practices to protect an enrollee's right to privacy including the
36 privacy of genetic information or right to confidential health care
37 services granted under state or federal laws.

1 (2) The commissioner may adopt rules to implement this section
2 after considering relevant standards adopted by national managed care
3 accreditation organizations and the national association of insurance
4 commissioners, and after considering the effect of those standards on
5 the ability of carriers to undertake enrollee care management and
6 disease management programs.

7 **Sec. 13.** RCW 48.44.220 and 1983 c 154 s 4 are each amended to read
8 as follows:

9 No health care service contractor shall deny coverage to any person
10 solely on account of race, religion, national origin, genetic
11 information, or the presence of any sensory, mental, or physical
12 handicap. Nothing in this section shall be construed as limiting a
13 health care service contractor's authority to deny or otherwise limit
14 coverage to a person when the person because of a medical condition
15 does not meet the essential eligibility requirements established by the
16 health care service contractor for purposes of determining coverage for
17 any person, except that health care service contractors shall neither
18 require nor use genetic information in determining coverage.

19 No health care service contractor shall refuse to provide
20 reimbursement or indemnity to any person for covered health care
21 services for reasons that the health care services were provided by a
22 holder of a license under chapter 18.22 RCW.

23 **Sec. 14.** RCW 48.46.370 and 1983 c 106 s 15 are each amended to
24 read as follows:

25 No health maintenance organization may deny coverage to a person
26 solely on account of the presence of any sensory, mental, or physical
27 handicap. Nothing in this section may be construed as limiting a
28 health maintenance organization's authority to deny or otherwise limit
29 coverage to a person when the person because of a medical condition
30 does not meet the essential eligibility requirements established by the
31 health maintenance organization for purposes of determining coverage
32 for any person, except that health maintenance organizations shall
33 neither require nor use genetic information in determining coverage for
34 any person.

35 **Sec. 15.** RCW 49.60.010 and 1997 c 271 s 1 are each amended to read
36 as follows:

1 This chapter shall be known as the "law against discrimination".
2 It is an exercise of the police power of the state for the protection
3 of the public welfare, health, and peace of the people of this state,
4 and in fulfillment of the provisions of the Constitution of this state
5 concerning civil rights. The legislature hereby finds and declares
6 that practices of discrimination against any of its inhabitants because
7 of race, creed, color, national origin, genetic information, families
8 with children, sex, marital status, age, or the presence of any
9 sensory, mental, or physical disability or the use of a trained dog
10 guide or service animal by a disabled person are a matter of state
11 concern, that such discrimination threatens not only the rights and
12 proper privileges of its inhabitants but menaces the institutions and
13 foundation of a free democratic state. A state agency is herein
14 created with powers with respect to elimination and prevention of
15 discrimination in employment, in credit and insurance transactions, in
16 places of public resort, accommodation, or amusement, and in real
17 property transactions because of race, creed, color, national origin,
18 genetic information, families with children, sex, marital status, age,
19 or the presence of any sensory, mental, or physical disability or the
20 use of a trained dog guide or service animal by a disabled person; and
21 the commission established hereunder is hereby given general
22 jurisdiction and power for such purposes.

23 **Sec. 16.** RCW 49.60.020 and 1993 c 510 s 2 are each amended to read
24 as follows:

25 The provisions of this chapter shall be construed liberally for the
26 accomplishment of the purposes thereof. Nothing contained in this
27 chapter shall be deemed to repeal any of the provisions of any other
28 law of this state relating to discrimination because of race, color,
29 creed, national origin, genetic information, sex, marital status, age,
30 or the presence of any sensory, mental, or physical disability, other
31 than a law which purports to require or permit doing any act which is
32 an unfair practice under this chapter. Nor shall anything herein
33 contained be construed to deny the right to any person to institute any
34 action or pursue any civil or criminal remedy based upon an alleged
35 violation of his or her civil rights.

36 **Sec. 17.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read
37 as follows:

1 (1) The right to be free from discrimination because of race,
2 creed, color, national origin, genetic information, sex, or the
3 presence of any sensory, mental, or physical disability or the use of
4 a trained dog guide or service animal by a disabled person is
5 recognized as and declared to be a civil right. This right shall
6 include, but not be limited to:

7 (a) The right to obtain and hold employment without discrimination;

8 (b) The right to the full enjoyment of any of the accommodations,
9 advantages, facilities, or privileges of any place of public resort,
10 accommodation, assemblage, or amusement;

11 (c) The right to engage in real estate transactions without
12 discrimination, including discrimination against families with
13 children;

14 (d) The right to engage in credit transactions without
15 discrimination;

16 (e) The right to engage in insurance transactions or transactions
17 with health maintenance organizations without discrimination:
18 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
19 48.44.220, or 48.46.370 does not constitute an unfair practice for the
20 purposes of this subparagraph; and

21 (f) The right to engage in commerce free from any discriminatory
22 boycotts or blacklists. Discriminatory boycotts or blacklists for
23 purposes of this section shall be defined as the formation or execution
24 of any express or implied agreement, understanding, policy or
25 contractual arrangement for economic benefit between any persons which
26 is not specifically authorized by the laws of the United States and
27 which is required or imposed, either directly or indirectly, overtly or
28 covertly, by a foreign government or foreign person in order to
29 restrict, condition, prohibit, or interfere with or in order to exclude
30 any person or persons from any business relationship on the basis of
31 race, color, creed, religion, genetic information, sex, the presence of
32 any sensory, mental, or physical disability, or the use of a trained
33 dog guide or service animal by a disabled person, or national origin or
34 lawful business relationship: PROVIDED HOWEVER, That nothing herein
35 contained shall prohibit the use of boycotts as authorized by law
36 pertaining to labor disputes and unfair labor practices.

37 (2) Any person deeming himself or herself injured by any act in
38 violation of this chapter shall have a civil action in a court of
39 competent jurisdiction to enjoin further violations, or to recover the

1 actual damages sustained by the person, or both, together with the cost
2 of suit including reasonable attorneys' fees or any other appropriate
3 remedy authorized by this chapter or the United States Civil Rights Act
4 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988
5 (42 U.S.C. Sec. 3601 et seq.).

6 (3) Except for any unfair practice committed by an employer against
7 an employee or a prospective employee, or any unfair practice in a real
8 estate transaction which is the basis for relief specified in the
9 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any
10 unfair practice prohibited by this chapter which is committed in the
11 course of trade or commerce as defined in the Consumer Protection Act,
12 chapter 19.86 RCW, is, for the purpose of applying that chapter, a
13 matter affecting the public interest, is not reasonable in relation to
14 the development and preservation of business, and is an unfair or
15 deceptive act in trade or commerce.

16 **Sec. 18.** RCW 49.60.040 and 1997 c 271 s 3 are each amended to read
17 as follows:

18 As used in this chapter:

19 (1) "Person" includes one or more individuals, partnerships,
20 associations, organizations, corporations, cooperatives, legal
21 representatives, trustees and receivers, or any group of persons; it
22 includes any owner, lessee, proprietor, manager, agent, or employee,
23 whether one or more natural persons; and further includes any political
24 or civil subdivisions of the state and any agency or instrumentality of
25 the state or of any political or civil subdivision thereof;

26 (2) "Commission" means the Washington state human rights
27 commission;

28 (3) "Employer" includes any person acting in the interest of an
29 employer, directly or indirectly, who employs eight or more persons,
30 and does not include any religious or sectarian organization not
31 organized for private profit;

32 (4) "Employee" does not include any individual employed by his or
33 her parents, spouse, or child, or in the domestic service of any
34 person;

35 (5) "Labor organization" includes any organization which exists for
36 the purpose, in whole or in part, of dealing with employers concerning
37 grievances or terms or conditions of employment, or for other mutual
38 aid or protection in connection with employment;

1 (6) "Employment agency" includes any person undertaking with or
2 without compensation to recruit, procure, refer, or place employees for
3 an employer;

4 (7) "Marital status" means the legal status of being married,
5 single, separated, divorced, or widowed;

6 (8) "National origin" includes "ancestry";

7 (9) "Full enjoyment of" includes the right to purchase any service,
8 commodity, or article of personal property offered or sold on, or by,
9 any establishment to the public, and the admission of any person to
10 accommodations, advantages, facilities, or privileges of any place of
11 public resort, accommodation, assemblage, or amusement, without acts
12 directly or indirectly causing persons of any particular race, creed,
13 color, sex, national origin, or with any sensory, mental, or physical
14 disability, or the use of a trained dog guide or service animal by a
15 disabled person, to be treated as not welcome, accepted, desired, or
16 solicited;

17 (10) "Any place of public resort, accommodation, assemblage, or
18 amusement" includes, but is not limited to, any place, licensed or
19 unlicensed, kept for gain, hire, or reward, or where charges are made
20 for admission, service, occupancy, or use of any property or
21 facilities, whether conducted for the entertainment, housing, or
22 lodging of transient guests, or for the benefit, use, or accommodation
23 of those seeking health, recreation, or rest, or for the burial or
24 other disposition of human remains, or for the sale of goods,
25 merchandise, services, or personal property, or for the rendering of
26 personal services, or for public conveyance or transportation on land,
27 water, or in the air, including the stations and terminals thereof and
28 the garaging of vehicles, or where food or beverages of any kind are
29 sold for consumption on the premises, or where public amusement,
30 entertainment, sports, or recreation of any kind is offered with or
31 without charge, or where medical service or care is made available, or
32 where the public gathers, congregates, or assembles for amusement,
33 recreation, or public purposes, or public halls, public elevators, and
34 public washrooms of buildings and structures occupied by two or more
35 tenants, or by the owner and one or more tenants, or any public library
36 or educational institution, or schools of special instruction, or
37 nursery schools, or day care centers or children's camps: PROVIDED,
38 That nothing contained in this definition shall be construed to include
39 or apply to any institute, bona fide club, or place of accommodation,

1 which is by its nature distinctly private, including fraternal
2 organizations, though where public use is permitted that use shall be
3 covered by this chapter; nor shall anything contained in this
4 definition apply to any educational facility, columbarium, crematory,
5 mausoleum, or cemetery operated or maintained by a bona fide religious
6 or sectarian institution;

7 (11) "Real property" includes buildings, structures, dwellings,
8 real estate, lands, tenements, leaseholds, interests in real estate
9 cooperatives, condominiums, and hereditaments, corporeal and
10 incorporeal, or any interest therein;

11 (12) "Real estate transaction" includes the sale, appraisal,
12 brokering, exchange, purchase, rental, or lease of real property,
13 transacting or applying for a real estate loan, or the provision of
14 brokerage services;

15 (13) "Dwelling" means any building, structure, or portion thereof
16 that is occupied as, or designed or intended for occupancy as, a
17 residence by one or more families, and any vacant land that is offered
18 for sale or lease for the construction or location thereon of any such
19 building, structure, or portion thereof;

20 (14) "Sex" means gender;

21 (15) "Aggrieved person" means any person who: (a) Claims to have
22 been injured by an unfair practice in a real estate transaction; or (b)
23 believes that he or she will be injured by an unfair practice in a real
24 estate transaction that is about to occur;

25 (16) "Complainant" means the person who files a complaint in a real
26 estate transaction;

27 (17) "Respondent" means any person accused in a complaint or
28 amended complaint of an unfair practice in a real estate transaction;

29 (18) "Credit transaction" includes any open or closed end credit
30 transaction, whether in the nature of a loan, retail installment
31 transaction, credit card issue or charge, or otherwise, and whether for
32 personal or for business purposes, in which a service, finance, or
33 interest charge is imposed, or which provides for repayment in
34 scheduled payments, when such credit is extended in the regular course
35 of any trade or commerce, including but not limited to transactions by
36 banks, savings and loan associations or other financial lending
37 institutions of whatever nature, stock brokers, or by a merchant or
38 mercantile establishment which as part of its ordinary business permits

1 or provides that payment for purchases of property or service therefrom
2 may be deferred;

3 (19) "Families with children status" means one or more individuals
4 who have not attained the age of eighteen years being domiciled with a
5 parent or another person having legal custody of such individual or
6 individuals, or with the designee of such parent or other person having
7 such legal custody, with the written permission of such parent or other
8 person. Families with children status also applies to any person who
9 is pregnant or is in the process of securing legal custody of any
10 individual who has not attained the age of eighteen years;

11 (20) "Covered multifamily dwelling" means: (a) Buildings
12 consisting of four or more dwelling units if such buildings have one or
13 more elevators; and (b) ground floor dwelling units in other buildings
14 consisting of four or more dwelling units;

15 (21) "Premises" means the interior or exterior spaces, parts,
16 components, or elements of a building, including individual dwelling
17 units and the public and common use areas of a building;

18 (22) "Dog guide" means a dog that is trained for the purpose of
19 guiding blind persons or a dog that is trained for the purpose of
20 assisting hearing impaired persons;

21 (23) "Service animal" means an animal that is trained for the
22 purpose of assisting or accommodating a disabled person's sensory,
23 mental, or physical disability;

24 (24) "Genetic information" means information about genes, gene
25 products, or inherited characteristics, that may derive from an
26 individual or a family member of such individual and includes but is
27 not limited to information derived from genetic tests and information
28 about a request for or the receipt of genetic services by such
29 individual or family member of such individual. "Genetic information"
30 also includes information about the occurrence of a disease or disorder
31 in family members;

32 (25) "Genetic services" means health services, including genetic
33 tests, provided to obtain, assess, or interpret genetic information for
34 diagnostic and therapeutic purposes, and for genetic education and
35 counseling;

36 (26) "Genetic test" means the analysis of human DNA, RNA,
37 mitochondrial DNA, chromosomes, proteins, and certain metabolites in
38 order to detect genotypes, mutations, chromosomal damages, or the

1 presence or absence of inherited or acquired characteristics in genetic
2 material.

3 **Sec. 19.** RCW 49.60.175 and 1997 c 271 s 7 are each amended to read
4 as follows:

5 It shall be an unfair practice to use the sex, race, creed, color,
6 national origin, genetic information, marital status, or the presence
7 of any sensory, mental, or physical disability of any person, or the
8 use of a trained dog guide or service animal by a disabled person,
9 concerning an application for credit in any credit transaction to
10 determine the credit worthiness of an applicant.

11 **Sec. 20.** RCW 49.60.176 and 1997 c 271 s 8 are each amended to read
12 as follows:

13 (1) It is an unfair practice for any person whether acting for
14 himself, herself, or another in connection with any credit transaction
15 because of race, creed, color, national origin, genetic information,
16 sex, marital status, or the presence of any sensory, mental, or
17 physical disability or the use of a trained dog guide or service animal
18 by a disabled person:

19 (a) To deny credit to any person;

20 (b) To increase the charges or fees for or collateral required to
21 secure any credit extended to any person;

22 (c) To restrict the amount or use of credit extended or to impose
23 different terms or conditions with respect to the credit extended to
24 any person or any item or service related thereto;

25 (d) To attempt to do any of the unfair practices defined in this
26 section.

27 (2) Nothing in this section shall prohibit any party to a credit
28 transaction from considering the credit history of any individual
29 applicant.

30 (3) Further, nothing in this section shall prohibit any party to a
31 credit transaction from considering the application of the community
32 property law to the individual case or from taking reasonable action
33 thereon.

34 **Sec. 21.** RCW 49.60.178 and 1997 c 271 s 9 are each amended to read
35 as follows:

1 It is an unfair practice for any person whether acting for himself,
2 herself, or another in connection with an insurance transaction or
3 transaction with a health maintenance organization to cancel or fail or
4 refuse to issue or renew insurance or a health maintenance agreement to
5 any person because of sex, marital status, race, creed, color, national
6 origin, genetic information, or the presence of any sensory, mental, or
7 physical disability or the use of a trained dog guide or service animal
8 by a disabled person: PROVIDED, That a practice which is not unlawful
9 under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an
10 unfair practice for the purposes of this section. For the purposes of
11 this section, "insurance transaction" is defined in RCW 48.01.060,
12 health maintenance agreement is defined in RCW 48.46.020, and "health
13 maintenance organization" is defined in RCW 48.46.020.

14 The fact that such unfair practice may also be a violation of
15 chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an
16 action brought under this section.

17 The insurance commissioner, under RCW 48.30.300, and the human
18 rights commission, under chapter 49.60 RCW, shall have concurrent
19 jurisdiction under this section and shall enter into a working
20 agreement as to procedure to be followed in complaints under this
21 section.

22 **Sec. 22.** RCW 49.60.180 and 1997 c 271 s 10 are each amended to
23 read as follows:

24 It is an unfair practice for any employer:

25 (1) To refuse to hire any person because of age, sex, marital
26 status, race, creed, color, national origin, genetic information, or
27 the presence of any sensory, mental, or physical disability or the use
28 of a trained dog guide or service animal by a disabled person, unless
29 based upon a bona fide occupational qualification: PROVIDED, That the
30 prohibition against discrimination because of such disability shall not
31 apply if the particular disability prevents the proper performance of
32 the particular worker involved.

33 (2) To discharge or bar any person from employment because of age,
34 sex, marital status, race, creed, color, national origin, genetic
35 information, or the presence of any sensory, mental, or physical
36 disability or the use of a trained dog guide or service animal by a
37 disabled person.

1 (3) To discriminate against any person in compensation or in other
2 terms or conditions of employment because of age, sex, marital status,
3 race, creed, color, national origin, genetic information, or the
4 presence of any sensory, mental, or physical disability or the use of
5 a trained dog guide or service animal by a disabled person: PROVIDED,
6 That it shall not be an unfair practice for an employer to segregate
7 washrooms or locker facilities on the basis of sex, or to base other
8 terms and conditions of employment on the sex of employees where the
9 commission by regulation or ruling in a particular instance has found
10 the employment practice to be appropriate for the practical realization
11 of equality of opportunity between the sexes.

12 (4) To print, or circulate, or cause to be printed or circulated
13 any statement, advertisement, or publication, or to use any form of
14 application for employment, or to make any inquiry in connection with
15 prospective employment, which expresses any limitation, specification,
16 or discrimination as to age, sex, marital status, race, creed, color,
17 national origin, genetic information, or the presence of any sensory,
18 mental, or physical disability or the use of a trained dog guide or
19 service animal by a disabled person, or any intent to make any such
20 limitation, specification, or discrimination, unless based upon a bona
21 fide occupational qualification: PROVIDED, Nothing contained herein
22 shall prohibit advertising in a foreign language.

23 (5) To offer a person an inducement to undergo a genetic test or
24 otherwise disclose genetic information; to question a person about his
25 or her genetic information; to solicit submission to, require, or
26 administer a genetic test to any person as a condition of employment;
27 or to collect, solicit, or require disclosure of genetic information
28 from any person as a condition of employment.

29 **Sec. 23.** RCW 49.60.190 and 1997 c 271 s 11 are each amended to
30 read as follows:

31 It is an unfair practice for any labor union or labor organization:

32 (1) To deny membership and full membership rights and privileges to
33 any person because of age, sex, marital status, race, creed, color,
34 national origin, genetic information, or the presence of any sensory,
35 mental, or physical disability or the use of a trained dog guide or
36 service animal by a disabled person.

37 (2) To expel from membership any person because of age, sex,
38 marital status, race, creed, color, national origin, genetic

1 information, or the presence of any sensory, mental, or physical
2 disability or the use of a trained dog guide or service animal by a
3 disabled person.

4 (3) To discriminate against any member, employer, employee, or
5 other person to whom a duty of representation is owed because of age,
6 sex, marital status, race, creed, color, national origin, genetic
7 information, or the presence of any sensory, mental, or physical
8 disability or the use of a trained dog guide or service animal by a
9 disabled person.

10 (4) To offer a person an inducement to undergo a genetic test or
11 otherwise disclose genetic information; to question a person about his
12 or her genetic information; to solicit submission to, require, or
13 administer a genetic test to any person as a condition of membership;
14 or to collect, solicit, or require disclosure of genetic information
15 from any person as a condition of membership.

16 **Sec. 24.** RCW 49.60.200 and 1997 c 271 s 12 are each amended to
17 read as follows:

18 It is an unfair practice for any employment agency:

19 (1) To fail or refuse to classify properly or refer for employment,
20 or otherwise to discriminate against, an individual because of age,
21 sex, marital status, race, creed, color, national origin, genetic
22 information, or the presence of any sensory, mental, or physical
23 disability or the use of a trained dog guide or service animal by a
24 disabled person, or to print or circulate, or cause to be printed or
25 circulated any statement, advertisement, or publication, or to use any
26 form of application for employment, or to make any inquiry in
27 connection with prospective employment, which expresses any limitation,
28 specification or discrimination as to age, sex, race, creed, color, or
29 national origin, genetic information, or the presence of any sensory,
30 mental, or physical disability or the use of a trained dog guide or
31 service animal by a disabled person, or any intent to make any such
32 limitation, specification, or discrimination, unless based upon a bona
33 fide occupational qualification: PROVIDED, Nothing contained herein
34 shall prohibit advertising in a foreign language.

35 (2) To offer a person an inducement to undergo a genetic test or
36 otherwise disclose genetic information; to question a person about his
37 or her genetic information; to solicit submission to, require, or
38 administer a genetic test to any person as a condition of employment

1 classification, assignment, or referral; or to collect, solicit, or
2 require disclosure of genetic information from any person as a
3 condition of employment classification, assignment, or referral.

4 **Sec. 25.** RCW 49.60.215 and 1997 c 271 s 13 are each amended to
5 read as follows:

6 It shall be an unfair practice for any person or the person's agent
7 or employee to commit an act which directly or indirectly results in
8 any distinction, restriction, or discrimination, or the requiring of
9 any person to pay a larger sum than the uniform rates charged other
10 persons, or the refusing or withholding from any person the admission,
11 patronage, custom, presence, frequenting, dwelling, staying, or lodging
12 in any place of public resort, accommodation, assemblage, or amusement,
13 except for conditions and limitations established by law and applicable
14 to all persons, regardless of race, creed, color, national origin,
15 genetic information, sex, the presence of any sensory, mental, or
16 physical disability, or the use of a trained dog guide or service
17 animal by a disabled person: PROVIDED, That this section shall not be
18 construed to require structural changes, modifications, or additions to
19 make any place accessible to a disabled person except as otherwise
20 required by law: PROVIDED, That behavior or actions constituting a
21 risk to property or other persons can be grounds for refusal and shall
22 not constitute an unfair practice.

23 **Sec. 26.** RCW 49.60.222 and 1997 c 400 s 3 and 1997 c 271 s 14 are
24 each reenacted and amended to read as follows:

25 (1) It is an unfair practice for any person, whether acting for
26 himself, herself, or another, because of sex, marital status, race,
27 creed, color, national origin, genetic information, families with
28 children status, the presence of any sensory, mental, or physical
29 disability, or the use of a trained dog guide or service animal by a
30 disabled person:

31 (a) To refuse to engage in a real estate transaction with a person;

32 (b) To discriminate against a person in the terms, conditions, or
33 privileges of a real estate transaction or in the furnishing of
34 facilities or services in connection therewith;

35 (c) To refuse to receive or to fail to transmit a bona fide offer
36 to engage in a real estate transaction from a person;

1 (d) To refuse to negotiate for a real estate transaction with a
2 person;

3 (e) To represent to a person that real property is not available
4 for inspection, sale, rental, or lease when in fact it is so available,
5 or to fail to bring a property listing to his or her attention, or to
6 refuse to permit the person to inspect real property;

7 (f) To discriminate in the sale or rental, or to otherwise make
8 unavailable or deny a dwelling, to any person; or to a person residing
9 in or intending to reside in that dwelling after it is sold, rented, or
10 made available; or to any person associated with the person buying or
11 renting;

12 (g) To make, print, circulate, post, or mail, or cause to be so
13 made or published a statement, advertisement, or sign, or to use a form
14 of application for a real estate transaction, or to make a record or
15 inquiry in connection with a prospective real estate transaction, which
16 indicates, directly or indirectly, an intent to make a limitation,
17 specification, or discrimination with respect thereto;

18 (h) To offer, solicit, accept, use, or retain a listing of real
19 property with the understanding that a person may be discriminated
20 against in a real estate transaction or in the furnishing of facilities
21 or services in connection therewith;

22 (i) To expel a person from occupancy of real property;

23 (j) To discriminate in the course of negotiating, executing, or
24 financing a real estate transaction whether by mortgage, deed of trust,
25 contract, or other instrument imposing a lien or other security in real
26 property, or in negotiating or executing any item or service related
27 thereto including issuance of title insurance, mortgage insurance, loan
28 guarantee, or other aspect of the transaction. Nothing in this section
29 shall limit the effect of RCW 49.60.176 relating to unfair practices in
30 credit transactions; or

31 (k) To attempt to do any of the unfair practices defined in this
32 section.

33 (2) For the purposes of this chapter discrimination based on the
34 presence of any sensory, mental, or physical disability or the use of
35 a trained dog guide or service animal by a blind, deaf, or physically
36 disabled person includes:

37 (a) A refusal to permit, at the expense of the disabled person,
38 reasonable modifications of existing premises occupied or to be
39 occupied by such person if such modifications may be necessary to

1 afford such person full enjoyment of the dwelling, except that, in the
2 case of a rental, the landlord may, where it is reasonable to do so,
3 condition permission for a modification on the renter agreeing to
4 restore the interior of the dwelling to the condition that existed
5 before the modification, reasonable wear and tear excepted;

6 (b) To refuse to make reasonable accommodation in rules, policies,
7 practices, or services when such accommodations may be necessary to
8 afford a person with the presence of any sensory, mental, or physical
9 disability and/or the use of a trained dog guide or service animal by
10 a blind, deaf, or physically disabled person equal opportunity to use
11 and enjoy a dwelling; or

12 (c) To fail to design and construct covered multifamily dwellings
13 and premises in conformance with the federal fair housing amendments
14 act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws
15 or regulations pertaining to access by persons with any sensory,
16 mental, or physical disability or use of a trained dog guide or service
17 animal. Whenever the requirements of applicable laws or regulations
18 differ, the requirements which require greater accessibility for
19 persons with any sensory, mental, or physical disability shall govern.

20 Nothing in (a) or (b) of this subsection shall apply to: (i) A
21 single-family house rented or leased by the owner if the owner does not
22 own or have an interest in the proceeds of the rental or lease of more
23 than three such single-family houses at one time, the rental or lease
24 occurred without the use of a real estate broker or salesperson, as
25 defined in RCW 18.85.010, and the rental or lease occurred without the
26 publication, posting, or mailing of any advertisement, sign, or
27 statement in violation of subsection (1)(g) of this section; or (ii)
28 rooms or units in dwellings containing living quarters occupied or
29 intended to be occupied by no more than four families living
30 independently of each other if the owner maintains and occupies one of
31 the rooms or units as his or her residence.

32 (3) Notwithstanding any other provision of this chapter, it shall
33 not be an unfair practice or a denial of civil rights for any public or
34 private educational institution to separate the sexes or give
35 preference to or limit use of dormitories, residence halls, or other
36 student housing to persons of one sex or to make distinctions on the
37 basis of marital or families with children status.

38 (4) Except pursuant to subsection (2)(a) of this section, this
39 section shall not be construed to require structural changes,

1 modifications, or additions to make facilities accessible to a disabled
2 person except as otherwise required by law. Nothing in this section
3 affects the rights, responsibilities, and remedies of landlords and
4 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to
5 post and enforce reasonable rules of conduct and safety for all tenants
6 and their guests, provided that chapters 59.18 and 59.20 RCW are only
7 affected to the extent they are inconsistent with the nondiscrimination
8 requirements of this chapter. Nothing in this section limits the
9 applicability of any reasonable federal, state, or local restrictions
10 regarding the maximum number of occupants permitted to occupy a
11 dwelling.

12 (5) Notwithstanding any other provision of this chapter, it shall
13 not be an unfair practice for any public establishment providing for
14 accommodations offered for the full enjoyment of transient guests as
15 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of
16 families with children status. Nothing in this section shall limit the
17 effect of RCW 49.60.215 relating to unfair practices in places of
18 public accommodation.

19 (6) Nothing in this chapter prohibiting discrimination based on
20 families with children status applies to housing for older persons as
21 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
22 Sec. 3607(b)(1) through (3), as amended by the housing for older
23 persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.
24 Nothing in this chapter authorizes requirements for housing for older
25 persons different than the requirements in the federal fair housing
26 amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as
27 amended by the housing for older persons act of 1995, P.L. 104-76, as
28 enacted on December 28, 1995.

29 **Sec. 27.** RCW 49.60.223 and 1997 c 271 s 15 are each amended to
30 read as follows:

31 It is an unfair practice for any person, for profit, to induce or
32 attempt to induce any person to sell or rent any real property by
33 representations regarding the entry or prospective entry into the
34 neighborhood of a person or persons because of ((a particular)) race,
35 creed, color, sex, national origin, genetic information, families with
36 children status, or with any sensory, mental, or physical disability
37 and/or because of the use of a trained dog guide or service animal by
38 a blind, deaf, or physically disabled person.

1 **Sec. 28.** RCW 49.60.224 and 1997 c 271 s 16 are each amended to
2 read as follows:

3 (1) Every provision in a written instrument relating to real
4 property which purports to forbid or restrict the conveyance,
5 encumbrance, occupancy, or lease thereof to individuals because of ((a
6 specified)) race, creed, color, sex, national origin, genetic
7 information, families with children status, or with any sensory,
8 mental, or physical disability or the use of a trained dog guide or
9 service animal by a blind, deaf, or physically disabled person, and
10 every condition, restriction, or prohibition, including a right of
11 entry or possibility of reverter, which directly or indirectly limits
12 the use or occupancy of real property on the basis of race, creed,
13 color, sex, national origin, genetic information, families with
14 children status, or the presence of any sensory, mental, or physical
15 disability or the use of a trained dog guide or service animal by a
16 blind, deaf, or physically disabled person is void.

17 (2) It is an unfair practice to insert in a written instrument
18 relating to real property a provision that is void under this section
19 or to honor or attempt to honor such a provision in the chain of title.

20 **Sec. 29.** RCW 49.60.225 and 1997 c 271 s 17 are each amended to
21 read as follows:

22 (1) When a reasonable cause determination has been made under RCW
23 49.60.240 that an unfair practice in a real estate transaction has been
24 committed and a finding has been made that the respondent has engaged
25 in any unfair practice under RCW 49.60.250, the administrative law
26 judge shall promptly issue an order for such relief suffered by the
27 aggrieved person as may be appropriate, which may include actual
28 damages as provided by the federal fair housing amendments act of 1988
29 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable
30 relief. Such order may, to further the public interest, assess a civil
31 penalty against the respondent:

32 (a) In an amount up to ten thousand dollars if the respondent has
33 not been determined to have committed any prior unfair practice in a
34 real estate transaction;

35 (b) In an amount up to twenty-five thousand dollars if the
36 respondent has been determined to have committed one other unfair
37 practice in a real estate transaction during the five-year period
38 ending on the date of the filing of this charge; or

1 (c) In an amount up to fifty thousand dollars if the respondent has
2 been determined to have committed two or more unfair practices in a
3 real estate transaction during the seven-year period ending on the date
4 of the filing of this charge, for loss of the right secured by RCW
5 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as
6 now or hereafter amended, to be free from discrimination in real
7 property transactions because of sex, marital status, race, creed,
8 color, national origin, genetic information, families with children
9 status, or the presence of any sensory, mental, or physical disability
10 or the use of a trained dog guide or service animal by a blind, deaf,
11 or physically disabled person. Enforcement of the order and appeal
12 therefrom by the complainant or respondent may be made as provided in
13 RCW 49.60.260 and 49.60.270. If acts constituting the unfair practice
14 in a real estate transaction that is the object of the charge are
15 determined to have been committed by the same natural person who has
16 been previously determined to have committed acts constituting an
17 unfair practice in a real estate transaction, then the civil penalty of
18 up to fifty thousand dollars may be imposed without regard to the
19 period of time within which any subsequent unfair practice in a real
20 estate transaction occurred. All civil penalties assessed under this
21 section shall be paid into the state treasury and credited to the
22 general fund.

23 (2) Such order shall not affect any contract, sale, conveyance,
24 encumbrance, or lease consummated before the issuance of an order that
25 involves a bona fide purchaser, encumbrancer, or tenant who does not
26 have actual notice of the charge filed under this chapter.

27 (3) Notwithstanding any other provision of this chapter, persons
28 awarded damages under this section may not receive additional damages
29 pursuant to RCW 49.60.250.

30 **Sec. 30.** RCW 70.02.010 and 1993 c 448 s 1 are each amended to read
31 as follows:

32 As used in this chapter, unless the context otherwise requires:

33 (1) "Audit" means an assessment, evaluation, determination, or
34 investigation of a health care provider by a person not employed by or
35 affiliated with the provider to determine compliance with:

36 (a) Statutory, regulatory, fiscal, medical, or scientific
37 standards;

1 (b) A private or public program of payments to a health care
2 provider; or

3 (c) Requirements for licensing, accreditation, or certification.

4 (2) "Directory information" means information disclosing the
5 presence, and for the purpose of identification, the name, residence,
6 sex, and the general health condition of a particular patient who is a
7 patient in a health care facility or who is currently receiving
8 emergency health care in a health care facility.

9 (3) "General health condition" means the patient's health status
10 described in terms of "critical," "poor," "fair," "good," "excellent,"
11 or terms denoting similar conditions.

12 (4) "Genetic information" means information about genes, gene
13 products, or inherited characteristics, that may derive from an
14 individual or a family member of such individual and includes but is
15 not limited to information derived from genetic tests and information
16 about a request for or the receipt of genetic services by such
17 individual or family member of such individual. "Genetic information"
18 also includes information about the occurrence of a disease or disorder
19 in family members.

20 (5) "Genetic services" means health services, including genetic
21 tests, provided to obtain, assess, or interpret genetic information for
22 diagnostic and therapeutic purposes, and for genetic education and
23 counseling.

24 (6) "Genetic test" means the analysis of human DNA, RNA,
25 mitochondrial DNA, chromosomes, proteins, and certain metabolites in
26 order to detect genotypes, mutations, chromosomal damages, or the
27 presence or absence of inherited or acquired characteristics in genetic
28 material.

29 (7) "Health care" means any care, service, or procedure provided by
30 a health care provider:

31 (a) To diagnose, treat, or maintain a patient's physical or mental
32 condition; or

33 (b) That affects the structure or any function of the human body.

34 ((+5)) (8) "Health care facility" means a hospital, clinic,
35 nursing home, laboratory, office, or similar place where a health care
36 provider provides health care to patients.

37 ((+6)) (9) "Health care information" means any information,
38 whether oral or recorded in any form or medium, that identifies or can
39 readily be associated with the identity of a patient and directly

1 relates to the patient's health care. The term includes genetic
2 information and any record of disclosures of health care information.

3 ~~((+7))~~ (10) "Health care provider" means a person who is licensed,
4 certified, registered, or otherwise authorized by the law of this state
5 to provide health care in the ordinary course of business or practice
6 of a profession.

7 ~~((+8))~~ (11) "Institutional review board" means any board,
8 committee, or other group formally designated by an institution, or
9 authorized under federal or state law, to review, approve the
10 initiation of, or conduct periodic review of research programs to
11 assure the protection of the rights and welfare of human research
12 subjects.

13 ~~((+9))~~ (12) "Maintain," as related to health care information,
14 means to hold, possess, preserve, retain, store, or control that
15 information.

16 ~~((+10))~~ (13) "Patient" means an individual who receives or has
17 received health care. The term includes a deceased individual who has
18 received health care.

19 ~~((+11))~~ (14) "Person" means an individual, corporation, business
20 trust, estate, trust, partnership, association, joint venture,
21 government, governmental subdivision or agency, or any other legal or
22 commercial entity.

23 ~~((+12))~~ (15) "Reasonable fee" means the charges for duplicating or
24 searching the record, but shall not exceed sixty-five cents per page
25 for the first thirty pages and fifty cents per page for all other
26 pages. In addition, a clerical fee for searching and handling may be
27 charged not to exceed fifteen dollars. These amounts shall be adjusted
28 biennially in accordance with changes in the consumer price index, all
29 consumers, for Seattle-Tacoma metropolitan statistical area as
30 determined by the secretary of health. However, where editing of
31 records by a health care provider is required by statute and is done by
32 the provider personally, the fee may be the usual and customary charge
33 for a basic office visit.

34 ~~((+13))~~ (16) "Third-party payor" means an insurer regulated under
35 Title 48 RCW authorized to transact business in this state or other
36 jurisdiction, including a health care service contractor, and health

1 maintenance organization; or an employee welfare benefit plan; or a
2 state or federal health benefit program.

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