



# **Genetic Nondiscrimination in Employment: A Comparison of Title II Provisions in S. 358 and H.R. 493, 110<sup>th</sup> Congress**

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## Summary

H.R. 493, 110<sup>th</sup> Congress, the Genetic Information Nondiscrimination Act (GINA), passed the House on April 25, 2007. On March 5, 2008, the text of H.R. 493 as passed by the House was added to the Paul Wellstone Mental Health and Addiction Equity Act of 2007 (H.R. 1424) in the engrossment of H.R. 1424. The Senate bill, S. 358, 110<sup>th</sup> Congress, was reported out of the Senate Health, Education, Labor, and Pensions Committee on March 29, 2007, and is currently awaiting Senate action. This report compares the provisions of H.R. 493 and S. 358 relating to GINA's prohibition of genetic discrimination in employment.

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## Introduction

H.R. 493, 110<sup>th</sup> Congress, the Genetic Information Nondiscrimination Act (GINA), passed the House on April 25, 2007. On March 5, 2008, the text of H.R. 493 as passed by the House was added to the Paul Wellstone Mental Health and Addiction Equity Act of 2007 (H.R. 1424) in the engrossment of H.R. 1424. The Senate bill, S. 358, 110<sup>th</sup> Congress, was reported out of the Senate Health, Education, Labor, and Pensions Committee on March 29, 2007, and is currently awaiting Senate action. This report compares the provisions of H.R. 493 and S. 358 relating to GINA's prohibition of genetic discrimination in employment.<sup>1</sup>

## Overview of Differences in S. 358 and H.R. 493

Both the House and Senate versions of GINA prohibit discrimination in employment because of genetic information and, with certain exceptions, prohibit an employer from requesting, requiring, or purchasing genetic information. The House and Senate versions of GINA are similar in many respects; however, there are several significant differences. For example, the employment sections of the bills contain differing versions of the definitions of “family member”<sup>2</sup> and “genetic information.”<sup>3</sup> Generally, where the employment provisions describe unlawful employment practices, S. 358 includes a prohibition against discrimination on the basis of “information about a request for or the receipt of genetic services by such employee or family member of such employee,”<sup>4</sup> whereas the House version does not explicitly include this prohibition. The House bill contains an exception to the prohibition of discrimination regarding DNA analysis for law enforcement purposes,<sup>5</sup> which does not have a parallel provision in the Senate bill. Section 206 of both S. 358 and H.R. 493 provides for the treatment of genetic information as part of a confidential medical record. The House bill, but not the Senate bill, provides that an employer, employment agency, labor organization, or joint labor-management committee “shall be considered to be in compliance with the maintenance of information requirements of this subsection with respect to genetic information subject to this subsection that is maintained with and treated as a confidential medical record under section 102(d)(3)(B) of the Americans with Disabilities Act...”<sup>6</sup> The House bill, but not the Senate bill, also contains a provision relating to the Health Insurance Portability and Accountability Act (HIPAA) stating: “this title does not prohibit a covered entity under such regulations from any use or disclosure of health information that is authorized for

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<sup>1</sup> All references to the House and Senate bills are to S. 358, as reported, and H.R. 493, as passed. The title I insurance provision of GINA is discussed in a companion report: CRS Report RL33988, *Genetic Nondiscrimination in Health Insurance: A Side-by-Side Comparison of the Title I Provisions in S. 358 and H.R. 493*, by (name redacted) and (name redacted).

<sup>2</sup> Section 201(3), S. 358, as reported; Section 201(3), H.R. 493, as passed.

<sup>3</sup> Section 201(4), S. 358, as reported; Section 201(4), H.R. 493, as passed.

<sup>4</sup> Sections 202(a), 203(a), 204(a), and 205(a), S. 358, as reported.

<sup>5</sup> Sections 202(b)(6), 205(b)(6), H.R. 493, as passed.

<sup>6</sup> Section 206(a), H.R. 493, as passed.

the covered entity under such regulations. The previous sentence does not affect the authority of such Secretary to modify such regulations.”<sup>7</sup>

H.R. 493, but not S. 358, adds a provision relating to the genetic information of a fetus or embryo. The House bill provides that references to genetic information include genetic information on a fetus carried by a pregnant woman and, with respect to an individual utilizing assisted reproductive technology, includes genetic information of any embryo legally held by the individual or family member.<sup>8</sup>

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<sup>7</sup> Section 206(c), H.R. 493, as passed.

<sup>8</sup> Section 209(b), H.R. 493, as passed.

**Table I. Prohibiting Employment Discrimination on the Basis of Genetic Information (Title II)**

<b>S. 358 (as reported by the HELP Committee, March 29, 2007)</b>		<b>H.R. 493 (as passed by the House, April 25, 2007)</b>
Section 201(1)	(1) COMMISSION- The term “Commission” means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).	Same as Senate subsection 201(1).
Section 201(2)(A)	(A) IN GENERAL- The term “employee” means—  (i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));  (ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16c(a));  (iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);  (iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or  (v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies.	Same as Senate subsection 201(2)(A).
Section 201(2)(B)	(B) EMPLOYER- The term “employer” means—  (i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)));  (ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;  (iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;  (iv) an employing office, as defined in section 411(c) of title 3, United States Code; or  (v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.	Same as Senate subsection 201(2)(B).
Section 201(2)(C-D)	(C) EMPLOYMENT AGENCY; LABOR ORGANIZATION- The terms “employment agency” and “labor organization” have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).  (D) MEMBER- The term “member,” with respect to a labor organization, includes an applicant for membership in a labor organization.	Same as Senate subsections 201(2)(C-D).

S. 358 (as reported by the HELP Committee, March 29, 2007)		H.R. 493 (as passed by the House, April 25, 2007)
Section 201(3)	<p>(3) Family Member.—The term “family member” means with respect to an individual—</p> <p>(A) the spouse of the individual;</p> <p>(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and</p> <p>(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).</p>	<p>(3) Family Member.—The term “family member” means with respect to an individual—</p> <p>(A) a dependent (as such term is used for purposes of section 701(f)(2) of the Employee Retirement Income Security Act of 1974) of such individual; and</p> <p>(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of an individual described in subparagraph (A).</p>
Section 201(4)	<p>(4) Genetic Information.—</p> <p>(A) In general.—Except as provided in subparagraph (B), the term “genetic information” means information about—</p> <p>(i) an individual's genetic tests;</p> <p>(ii) the genetic tests of family members of the individual; or</p> <p>(iii) the occurrence of a disease or disorder in family members of the individual.</p> <p>(B) Exceptions.—The term “genetic information” shall not include information about the sex or age of an individual.</p>	<p>(4) Genetic Information.—</p> <p>(A) In general.—The term “genetic information” means, with respect to any individual, information about—</p> <p>(i) such individual's genetic tests;</p> <p>(ii) the genetic tests of family members of such individual; and</p> <p>(iii) subject to subparagraph (D), the manifestation of a disease or disorder in family members of such individual.</p> <p>(B) Inclusion of Genetic Services.—Such term includes, with respect to any individual, any request for, or receipt of, genetic services (including genetic services received pursuant to participation in clinical research) by such individual or any family member of such individual.</p> <p>(C) Exclusions.—The term “genetic information” shall not include information about the sex or age of any individual.</p>
Section 201(5)	<p>(5) GENETIC MONITORING- The term “genetic monitoring” means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.</p>	<p>Same as Senate subsections 201(5).</p>

S. 358 (as reported by the HELP Committee, March 29, 2007)		H.R. 493 (as passed by the House, April 25, 2007)
Section 201(6)	<p>(6) GENETIC SERVICES- The term “genetic services” means—</p> <p>(A) a genetic test;</p> <p>(B) genetic counseling (such as obtaining, interpreting or assessing genetic information); or</p> <p>(C) genetic education.</p>	<p>(6) GENETIC SERVICES- The term “genetic services” means—</p> <p>(A) a genetic test;</p> <p>(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or</p> <p>(C) genetic education.</p>
Section 201(7)	<p>(7) GENETIC TEST-</p> <p>(A) IN GENERAL- The term “genetic test” means the analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.</p> <p>(B) EXCEPTION- The term “genetic test” does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.</p>	<p>(7) GENETIC TEST-</p> <p>(A) IN GENERAL- The term “genetic test” means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.</p> <p>(B) EXCEPTIONS- The term “genetic test” does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.</p>
Section 202(a)	<p>(a) Use of Genetic Information.—It shall be an unlawful employment practice for an employer—</p> <p>(1) to fail or refuse to hire or to discharge any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee); or</p> <p>(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee).</p>	<p>(a) Discrimination Based on Genetic Information.— It shall be an unlawful employment practice for an employer—</p> <p>(1) to fail or refuse to hire or to discharge any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee or</p> <p>(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.</p>
Section 202(b)	<p>(b)Acquisition of Genetic Information.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee (or information about a request for the receipt of genetic services by such employee or a family member of such employee) except—</p>	<p>(b)Acquisition of Genetic Information.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee except—</p>

S. 358 (as reported by the HELP Committee, March 29, 2007)	H.R. 493 (as passed by the House, April 25, 2007)	
Section 202(b)(1)-(2)	(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;	Same as Senate subsections 202(b)(1)-(2).
	(2) where—	
	(A) health or genetic services are offered by the employer, including such services offered as part of a bona fide wellness program;	
	(B) the employee provides prior, knowing, voluntary, and written authorization;	
	(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and	
	(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;	
Section 202(b)(3)-(4)	(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;	Same as Senate subsections 202(b)(3)-(4).
	(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or	
Section 202(b)(5)(A)-(D)	(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—	Same as Senate subsection 202(b)(5) except the word “or” is added at the end of the subsection.
	(A) the employer provides written notice of the genetic monitoring to the employee;	
	(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or	
	(ii) the genetic monitoring is required by Federal or State law;	
	(C) the employee is informed of individual monitoring results;	
	(D) the monitoring is in compliance with—	
	(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or	

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**S. 358 (as reported by the HELP Committee, March 29, 2007)**

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**H.R. 493 (as passed by the House,  
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	(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and	
Section 202(b)(5)(E)	(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees;	Same as Senate subsection 202(b)(5) except the word “or” is added at the end of the subsection.
Section 202(b)(6)	No comparable provision	(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory, includes such analysis in the Combined DNA Index System pursuant to section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132), and requests or requires genetic information of such employer’s employees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.
Section 202(c)	(c) Preservation of Protections.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.	(c) Preservation of Protections.—In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.
Section 203(a)	(a) Use of Genetic Information- It shall be an unlawful employment practice for an employment agency—  (1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);  (2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or  (3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.	(a) Discrimination Based on Genetic Information.- It shall be an unlawful employment practice for an employment agency—  (1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual;  (2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

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<p>Section 203(b)(1) (b) Acquisition of Genetic Information- It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—</p> <p>(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;</p>	<p>(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.</p> <p>(b) Acquisition of Genetic Information- It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—</p> <p>(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;</p>
<p>Section 203(b)(2) (2) where—</p> <p>(A) health or genetic services are offered by the employment agency, including such services offered as part of a bona fide wellness program;</p> <p>(B) the individual provides prior, knowing, voluntary, and written authorization;</p> <p>(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and</p> <p>(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;</p>	<p>Same as Senate subsection 203(b)(2).</p>
<p>Section 203(b)(3)-(4) (3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;</p> <p>(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or</p>	<p>Same as Senate subsections 203(b)(3)-(4).</p>

S. 358 (as reported by the HELP Committee, March 29, 2007)		H.R. 493 (as passed by the House, April 25, 2007)
Section 203(b)(5)(A)-(D)	<p>(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—</p> <p>(A) the employment agency provides written notice of the genetic monitoring to the individual;</p> <p>(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or (ii) the genetic monitoring is required by Federal or State law;</p> <p>(C) the individual is informed of individual monitoring results;</p> <p>(D) the monitoring is in compliance with—</p> <p>(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or</p> <p>(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and</p>	Same as Senate subsection 203(b)(5)(A)-(D).
Section 203(b)(5)(E)	(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;	Same as Senate subsection 203(b)(5)(E).
Section 203(c)	(c) Preservation of Protections- In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.	(c) Preservation of Protections- In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) , (2) or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.
Section 204(a)	<p>(a) Use of Genetic Information- It shall be an unlawful employment practice for a labor organization—</p> <p>(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member);</p> <p>(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of</p>	<p>(a) Discrimination Based on Genetic Information.— It shall be an unlawful employment practice for a labor organization—</p> <p>(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member;</p> <p>(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for</p>

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	<p>the member as an employee, because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member); or</p> <p>(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.</p>	<p>employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member; or</p> <p>(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.</p>
Section 204(b)(1)	<p>(b) Acquisition of Genetic Information- It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member (or information about a request for the receipt of genetic services by such member or a family member of such member) except—</p> <p>(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;</p>	<p>(b) Acquisition of Genetic Information- It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member except—</p> <p>(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;</p>
Section 204(b)(2)	<p>(2) where—</p> <p>(A) health or genetic services are offered by the labor organization, including such services offered as part of a bona fide wellness program;</p> <p>(B) the member provides prior, knowing, voluntary, and written authorization;</p> <p>(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and</p> <p>(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;</p>	<p>Same as Senate subsection 204(b)(2).</p>

<b>S. 358 (as reported by the HELP Committee, March 29, 2007)</b>		<b>H.R. 493 (as passed by the House, April 25, 2007)</b>
Section 204(b)(3)-(4)	<p>(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;</p> <p>(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or</p>	Same as Senate subsections 204(b)(3)-(4).
Section 204(b)(5)(A)-(D)	<p>(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—</p> <p>(A) the labor organization provides written notice of the genetic monitoring to the member;</p> <p>(B)(i) the member provides prior, knowing, voluntary, and written authorization; or (ii) the genetic monitoring is required by Federal or State law;</p> <p>(C) the member is informed of individual monitoring results;</p> <p>(D) the monitoring is in compliance with—</p> <p>(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or</p> <p>(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and</p>	Same as Senate subsection 204(b)(5)(A)-(D).
Section 204(b)(5)(E)	(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members;	Same as Senate subsection 204(b)(5)(E).
Section 204(c)	(c) Preservation of Protections- In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.	(c) Preservation of Protections- In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.

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**S. 358 (as reported by the HELP Committee, March 29, 2007)**

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**H.R. 493 (as passed by the House,  
April 25, 2007)**

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**Section 205(a)**

(a) Use of Genetic Information- It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

**Section 205(b)(1)**

(b) Acquisition of Genetic Information- It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(a) Discrimination Based on Genetic Information- It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) Acquisition of Genetic Information- It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

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Section 205(b)(2)	<p>(2) where—</p> <p>(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a bona fide wellness program;</p> <p>(B) the individual provides prior, knowing, voluntary, and written authorization;</p> <p>(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services;</p> <p>(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;</p>	Same as Senate subsection 205(b)(2).
Section 205(b)(3)-(4)	<p>(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;</p> <p>(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or</p>	Same as Senate subsections 205(b)(3)-(4).
Section 205(b)(5)(A)-(D)	<p>(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—</p> <p>(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;</p> <p>(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or</p> <p>(ii) the genetic monitoring is required by Federal or State law;</p> <p>(C) the individual is informed of individual monitoring results;</p> <p>(D) the monitoring is in compliance with—</p> <p>(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of</p>	Same as Senate subsections 205(b)(5)(A)-(D).

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	1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or	
	(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and	
Section 205(b)(5)(E)	(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;	Same as Senate subsection 205(b)(5)(E) except the word “or” is added at the end of the subsection.
Section 205(b)(6)	No comparable provision.	(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory, includes such analysis in the Combined DNA Index System pursuant to section 210304 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132), and requests or requires genetic information of such employer’s apprentices or trainees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.
Section 205(c)	(c) Preservation of Protections- In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.	(c) Preservation of Protections- In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 206.
Section 206(a)	(a) Treatment of Information as Part of Confidential Medical Record.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member), such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member.	(a) Treatment of Information as Part of Confidential Medical Record.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member, such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member. An employer, employment agency, labor organization, or joint labor-management committee shall be considered to be in compliance with the maintenance of information requirements of this

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**Section 206(b)**

Limitation on Disclosure.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member) except—

(1) to the employee (or family member if the family member is receiving the genetic services) or member of a labor organization at the request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall provide the employee or member with adequate notice to challenge the court order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation; or

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws.

subsection with respect to genetic information subject to this subsection that is maintained with and treated as a confidential medical record under section 102(d)(3)(B) of the Americans with Disabilities Act (42 U.S.C. 12112(d)(3)(B)).

Limitation on Disclosure.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member except—

(1) to the employee or member of a labor organization (or family member if the family member is receiving the genetic services) at the written request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall inform the employee or member of the court order and any genetic information that was disclosed pursuant to such order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation; or

(5) to the extent that such disclosure is made in connection with the employee's compliance with the

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Section 206(c)	No comparable provision	<p>certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws.</p> <p>(c) Relationship to HIPAA Regulation.—With respect to the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note), this title does not prohibit a covered entity under such regulations from any use or disclosure of health information that is authorized for the covered entity under such regulations. The previous sentence does not affect the authority of such Secretary to modify such regulations.</p>
Section 207(a)(1)-(2)	<p>(a) Employees Covered by Title VII of the Civil Rights Act of 1964-</p> <p>(1) IN GENERAL- The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).</p> <p>(2) COSTS AND FEES- The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.</p>	<p>Subsections 207(a)(1)-(2) are the same in both bills except that where the Senate bill states “Revised Statutes,” the House bill states “Revised Statutes of the United States.”</p>
Section 207(a)(3)	<p>(3) DAMAGES- The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).</p>	<p>Section 207(a)(3) is the same in both bills except that where the Senate bill states “Revised Statutes,” the House bill states “Revised Statutes of the United States.”</p>

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Section 207(b)(1)-(2)	<p>(b) Employees Covered by Government Employee Rights Act of 1991-</p> <p>(1) IN GENERAL- The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16b, 2000e-16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e-16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).</p> <p>(2) COSTS AND FEES- The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.</p>	Subsections 207(b)(1)-(2) are the same in both bills except that where the Senate bill states "Revised Statutes," the House bill states "Revised Statutes of the United States."
Section 207(b)(3)	<p>(3) DAMAGES- The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).</p>	Subsection 207(b)(3) is the same in both bills except that where the Senate bill states "Revised Statutes," the House bill states "Revised Statutes of the United States."

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Section 207(c)

(c) Employees Covered by Congressional Accountability Act of 1995-

(1) IN GENERAL- The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES- The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) DAMAGES- The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(4) OTHER APPLICABLE PROVISIONS- With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

Section 207(c) is the same in both bills except that where the Senate bill states "Revised Statutes," the House bill states "Revised Statutes of the United States."

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Section 207(d)(1)-(2)	<p>(d) Employees Covered by Chapter 5 of Title 3, United States Code-</p> <p>(1) IN GENERAL- The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).</p> <p>(2) COSTS AND FEES- The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice.</p>	Subsections 207(d)(1)-(2) are the same in both bills except that where the Senate bill states "Revised Statutes," the House bill states "Revised Statutes of the United States."
Section 207(d)(3)	<p>(3) DAMAGES- The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).</p>	Subsection 207(d)(3) is the same in both bills except that where the Senate bill states "Revised Statutes," the House bill states "Revised Statutes of the United States."
Section 207(e)(1)-(2)	<p>(e) Employees Covered by Section 717 of the Civil Rights Act of 1964-</p> <p>(1) IN GENERAL- The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).</p> <p>(2) COSTS AND FEES- The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.</p>	Subsections 207(e)(1)(2) are the same in both bills except that where the Senate bill states "Revised Statutes," the House bill states "Revised Statutes of the United States."
Section 207(e)(3)	<p>(3) DAMAGES- The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).</p>	Subsection 207(e)(3) is the same in both bills except that where the Senate bill states "Revised Statutes," the House bill states "Revised Statutes of the United States."

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Section 207(f)	(f) Definition- In this section, the term “Commission” means the Equal Employment Opportunity Commission.	Same as Senate subsection 207(f).
Section 208(a)-(b)	<p>(a) General Rule- Notwithstanding any other provision of this Act, “disparate impact,” as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(k)), on the basis of genetic information does not establish a cause of action under this Act.</p> <p>(b) Commission- On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the “Commission”) to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.</p>	Same as Senate subsections 208(a)-(b).
Section 208(c)	<p>(c) Membership-</p> <p>(1) IN GENERAL- The Commission shall be composed of 8 members, of which—</p> <p>(A) 1 member shall be appointed by the Majority Leader of the Senate;</p> <p>(B) 1 member shall be appointed by the Minority Leader of the Senate;</p> <p>(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;</p> <p>(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;</p> <p>(E) 1 member shall be appointed by the Speaker of the House of Representatives;</p> <p>(F) 1 member shall be appointed by the Minority Leader of the House of Representatives;</p> <p>(G) 1 member shall be appointed by the Chairman of the Committee on Education and the Workforce of the House of Representatives; and</p> <p>(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and the Workforce of the House of Representatives.</p> <p>(2) COMPENSATION AND EXPENSES- The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission..</p>	Same as Senate subsection 208(c).

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Section 208(d)	<p>(d) Administrative Provisions-</p> <p>(1) LOCATION- The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.</p> <p>(2) DETAIL OF GOVERNMENT EMPLOYEES- Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.</p> <p>(3) INFORMATION FROM FEDERAL AGENCIES- The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.</p> <p>(4) HEARINGS- The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.</p> <p>(5) POSTAL SERVICES- The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.</p>	Same as Senate subsection 208(d).
Section 208(e)-(f)	<p>(e) Report- Not later than 1 year after all of the members are appointed to the Commission under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.</p> <p>(f) Authorization of Appropriations- There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.</p>	Same as Senate subsections 208(e) and (f).
Section 209	<p>Nothing in this title shall be construed to—</p> <p>(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);</p> <p>(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or</p> <p>(B) establish a violation under this title for an employer, employment agency, labor organization, or joint labor-management committee of a provision of the amendments</p>	<p>(a) In General.—Nothing in this title shall be construed to—</p> <p>(1) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title, including the protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), (including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112)), or under the Rehabilitation</p>

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<p>made by title I;</p> <p>(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title;</p> <p>(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;</p> <p>(5) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;</p> <p>(6) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulations or rule); and</p> <p>(7) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.</p>	<p>Act of 1973 (29 U.S.C. 701 et seq.);</p> <p>(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or</p> <p>(B) provide for enforcement of, or penalties for violation of, any requirement or prohibition applicable to any employer, employment agency, labor organization, or joint labor-management committee the enforcement of which, or penalties for which, are provided under the amendments made by title I;</p> <p>(3) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;</p> <p>(4) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;</p> <p>(5) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulations or rule);</p> <p>(6) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations; or</p> <p>(7) require any specific benefit for an employee or member or a family member of an employee or member under any group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan.</p> <p>(b) Genetic Information of a Fetus or Embryo.—Any reference in this title to genetic information concerning an individual or family member of an</p>

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		individual shall—
		(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and
		(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.
Section 210	<p>MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.</p> <p>An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.</p>	Same as Senate subsection 210.
Section 211	<p>REGULATIONS.</p> <p>Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations in an accessible format to carry out this title.</p>	<p>REGULATIONS.</p> <p>Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations to carry out this title.</p>
Section 212	<p>AUTHORIZATION OF APPROPRIATIONS.</p> <p>There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).</p>	Same as Senate subsection 212.
Section 213	<p>EFFECTIVE DATE.</p> <p>This title takes effect on the date that is 18 months after the date of enactment of this Act.</p>	Same as Senate section 213.

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Section 301 (House)	No comparable provision.	<p>GUARANTEE AGENCY COLLECTION RETENTION.</p> <p>Clause (ii) of section 428(c)(6)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(6)(A)) is amended to read as follows:</p> <p>“(ii) an amount equal to 23 percent of such payments for use in accordance with section 422B, except that beginning October 1, 2007, and ending September 30, 2008, this subparagraph shall be applied by substituting “22 percent” for “23 percent....”</p>
Section 301 (Senate)	SEVERABILITY.	Section 302 in the House bill is the same as Senate bill section 301.
Section 302 (House)	If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.	

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