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2002 Survey of Rhode Island Law: Legislation: Employment Law: An Act Relating to Labor and Labor Relations - Genetic Testing as a Condition of Employment

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Employment Law. *An Act Relating to Labor and Labor Relations – Genetic Testing as a Condition of Employment.* This Act expands and clarifies the scope of the ban against genetic testing of employees by employers, employment agencies, and licensing agencies. It also prohibits the use of any genetic information to adversely affect the employment of any individual. The Act also provides a list of applicable definitions to broaden its reach, and prohibits any contracts to waive the provisions of this law. Effective June 8, 2002. 2002 R.I. Pub. Laws ch. 49.

SUMMARY

This legislation (the Act) amends section 28-6.7-1 of the Rhode Island General Laws to prohibit genetic testing of any employee, licensee, or applicant for employment or licensure for any reason.¹ The Act explicitly proscribes the use of adverse inferences by employers when employees refuse to submit to genetic tests or when they refuse to provide information about any genetic tests to which they have otherwise submitted.² Most notably, the proscription against adverse inferences by employers extends to an employee's refusal to give a family health history.³ Furthermore, the Act forbids any employer from revealing any genetic information about employees.⁴ Additionally, the Act repeals section 28-6.7-2, which defined "Genetic Testing," and creates a new definition section, 28-6.7-2.1, that refines the definition of "Genetic Testing" and also defines other pertinent terms such as "Employer," "Employment Agency," and "Genetic Information."⁵ Particularly, the term "Genetic Testing" is more clearly defined and expressly exempts routine tests for drugs or infections except insofar as they may reveal genetic information.⁶ Finally, the Act adds section 28-6.7-5 to the Rhode Island General Laws, which prohibits any agreement or contract to waive the provisions of section 28-6.7.⁷

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1. 2002 R.I. Pub. Laws ch. 49 (codified as amended at R.I. GEN. LAWS § 28-6.7-1 (2002)).

2. R.I. GEN. LAWS § 28-6.7-1 (2002).

3. *Id.*

4. *Id.*

5. *Id.* § 28-6.7-2.1.

6. *Id.*

7. *Id.* § 28-6.7-5.