

SENATE BILL No. 40

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-9; IC 22-9.5-2; IC 27-4-1-4; IC 27-8-25.

Synopsis: Sickle cell anemia discrimination. Provides that it is a violation of a person's civil rights to discriminate against a person because the person has sickle cell disease or sickle cell trait. Prohibits an insurer from: (1) denying coverage; (2) adding a surcharge or rating factor; (3) excluding or limiting coverage; or (4) requiring genetic testing because an insured individual or an applicant for insurance has or may have sickle cell trait. Provides that an insurer may not: (1) decline to provide life, accident, disability, or health insurance coverage to an individual because the individual has sickle cell disease; (2) exclude or limit coverage for losses or deny a claim because a covered person has or may have sickle cell disease; (3) designate that if a person has sickle cell disease it is a preexisting condition that causes coverage to be denied for any period; or (4) require an insured person or an applicant for insurance to be tested for sickle cell disease.
(Continued next page)

Effective: July 1, 1998.

Randolph

January 6, 1998, read first time and referred to Committee on Health and Environmental Affairs.



Digest Continued

Provides that an insurer may adjust the premium of an individual on the basis that the individual has a physical condition or medical claims history.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 40

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-9-1-3, AS AMENDED BY P.L.164-1997,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 3. As used in this chapter:

4 (a) "Person" means one (1) or more individuals, partnerships,
5 associations, organizations, limited liability companies, corporations,
6 labor organizations, cooperatives, legal representatives, trustees,
7 trustees in bankruptcy, receivers, and other organized groups of
8 persons.

9 (b) "Commission" means the civil rights commission created under
10 section 4 of this chapter.

11 (c) "Director" means the director of the civil rights commission.

12 (d) "Deputy director" means the deputy director of the civil rights
13 commission.

14 (e) "Commission attorney" means the deputy attorney general, such
15 assistants of the attorney general as may be assigned to the

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- 1 commission, or such other attorney as may be engaged by the
2 commission.
- 3 (f) "Consent agreement" means a formal agreement entered into in
4 lieu of adjudication.
- 5 (g) "Affirmative action" means those acts that the commission
6 determines necessary to assure compliance with the Indiana civil rights
7 law.
- 8 (h) "Employer" means the state or any political or civil subdivision
9 thereof and any person employing six (6) or more persons within the
10 state, except that the term "employer" does not include:
- 11 (1) any nonprofit corporation or association organized exclusively
12 for fraternal or religious purposes;
- 13 (2) any school, educational, or charitable religious institution
14 owned or conducted by or affiliated with a church or religious
15 institution; or
- 16 (3) any exclusively social club, corporation, or association that is
17 not organized for profit.
- 18 (i) "Employee" means any person employed by another for wages or
19 salary. However, the term does not include any individual employed:
- 20 (1) by his parents, spouse, or child; or
21 (2) in the domestic service of any person.
- 22 (j) "Labor organization" means any organization that exists for the
23 purpose in whole or in part of collective bargaining or of dealing with
24 employers concerning grievances, terms, or conditions of employment
25 or for other mutual aid or protection in relation to employment.
- 26 (k) "Employment agency" means any person undertaking with or
27 without compensation to procure, recruit, refer, or place employees.
- 28 (l) "Discriminatory practice" means:
- 29 (1) the exclusion of a person from equal opportunities because of
30 race, religion, color, sex, disability, national origin, or ancestry;
- 31 (2) a system that excludes persons from equal opportunities
32 because of race, religion, color, sex, disability, national origin, or
33 ancestry;
- 34 (3) the promotion of racial segregation or separation in any
35 manner, including but not limited to the inducing of or the
36 attempting to induce for profit any person to sell or rent any
37 dwelling by representations regarding the entry or prospective
38 entry in the neighborhood of a person or persons of a particular
39 race, religion, color, sex, disability, national origin, or ancestry;
40 or
- 41 (4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is
42 committed by a covered entity (as defined in IC 22-9-5-4).



1 Every discriminatory practice relating to the acquisition or sale of real
 2 estate, education, public accommodations, employment, or the
 3 extending of credit (as defined in IC 24-4.5-1-301) shall be considered
 4 unlawful unless it is specifically exempted by this chapter.

5 (m) "Public accommodation" means any establishment that caters
 6 or offers its services or facilities or goods to the general public.

7 (n) "Complainant" means:

8 (1) any individual charging on his own behalf to have been
 9 personally aggrieved by a discriminatory practice; or

10 (2) the director or deputy director of the commission charging that
 11 a discriminatory practice was committed against a person other
 12 than himself or a class of people, in order to vindicate the public
 13 policy of the state (as defined in section 2 of this chapter).

14 (o) "Complaint" means any written grievance that is:

15 (1) sufficiently complete and filed by a complainant with the
 16 commission; or

17 (2) filed by a complainant as a civil action in the circuit or
 18 superior court having jurisdiction in the county in which the
 19 alleged discriminatory practice occurred.

20 The original of any complaint filed under subdivision (1) shall be
 21 signed and verified by the complainant.

22 (p) "Sufficiently complete" refers to a complaint that includes:

23 (1) the full name and address of the complainant;

24 (2) the name and address of the respondent against whom the
 25 complaint is made;

26 (3) the alleged discriminatory practice and a statement of
 27 particulars thereof;

28 (4) the date or dates and places of the alleged discriminatory
 29 practice and if the alleged discriminatory practice is of a
 30 continuing nature the dates between which continuing acts of
 31 discrimination are alleged to have occurred; and

32 (5) a statement as to any other action, civil or criminal, instituted
 33 in any other form based upon the same grievance alleged in the
 34 complaint, together with a statement as to the status or disposition
 35 of the other action.

36 No complaint shall be valid unless filed within one hundred eighty
 37 (180) days from the date of the occurrence of the alleged
 38 discriminatory practice.

39 (q) "Sex" as it applies to segregation or separation in this chapter
 40 applies to all types of employment, education, public accommodations,
 41 and housing. However:

42 (1) it shall not be a discriminatory practice to maintain separate



- 1 rest rooms;
- 2 (2) it shall not be an unlawful employment practice for an
3 employer to hire and employ employees, for an employment
4 agency to classify or refer for employment any individual, for a
5 labor organization to classify its membership or to classify or refer
6 for employment any individual, or for an employer, labor
7 organization, or joint labor management committee controlling
8 apprenticeship or other training or retraining programs to admit
9 or employ any other individual in any program on the basis of sex
10 in those certain instances where sex is a bona fide occupational
11 qualification reasonably necessary to the normal operation of that
12 particular business or enterprise; and
- 13 (3) it shall not be a discriminatory practice for a private or
14 religious educational institution to continue to maintain and
15 enforce a policy of admitting students of one (1) sex only.
- 16 (r) "Disabled" or "disability" means the physical or mental condition
17 of a person that constitutes a substantial disability. In reference to
18 employment, under this chapter, "disabled or disability" also means the
19 physical or mental condition of a person that constitutes a substantial
20 disability unrelated to the person's ability to engage in a particular
21 occupation. **As used in this article, the term includes having sickle
22 cell disease or sickle cell trait.**
- 23 (s) "**Sickle cell disease**" means a chronic hemolytic anemia
24 associated with sickle cell hemoglobin, either homozygous or in
25 combination with thalassemia or another abnormal hemoglobin
26 such as hemoglobin C or hemoglobin F.
- 27 (t) "**Sickle cell trait**" means the condition in which:
- 28 (1) the major natural hemoglobin components present in the
29 blood of an individual are hemoglobin A (normal) and
30 hemoglobin S (sickle hemoglobin) as defined by standard
31 chemical and physical analytic techniques, including
32 electrophoresis; and
- 33 (2) either:
- 34 (A) the proportion of hemoglobin A is greater than the
35 proportion of hemoglobin S; or
- 36 (B) one (1) natural parent of the individual is shown by
37 standard chemical and physical analytic tests to have only
38 normal hemoglobin components hemoglobin A,
39 hemoglobin A2, and hemoglobin F in the normal
40 proportions.
- 41 SECTION 2. IC 22-9-5-6 IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) As used in this chapter,



1 "disability" means with respect to an individual:

- 2 (1) a physical or mental impairment that substantially limits at
 3 least one (1) of the major life activities of the individual;
 4 (2) a record of an impairment described in subdivision (1); or
 5 (3) being regarded as having an impairment described in
 6 subdivision (1).

7 **(b) For purposes of this chapter, an individual has a disability**
 8 **if the individual has sickle cell disease or sickle cell trait.**

9 ~~(b)~~ (c) As used in this subsection, "illegal use of drugs" means the
 10 use of drugs the possession or distribution of which is unlawful under
 11 the Controlled Substances Act. The term does not include the use of a
 12 drug taken under the supervision of a licensed health care professional
 13 or another use authorized by the Controlled Substances Act (21 U.S.C.
 14 812) or other provisions of federal law. For purposes of this chapter, an
 15 individual shall not be considered disabled solely because the
 16 individual is currently engaging in the illegal use of drugs. However,
 17 this subsection does not exclude as an individual with a disability an
 18 individual who:

- 19 (1) has successfully completed a supervised drug rehabilitation
 20 program and is no longer engaging in the illegal use of drugs or
 21 has otherwise been rehabilitated successfully and is no longer
 22 engaging in the illegal use of drugs;
 23 (2) is participating in a supervised rehabilitation program and is
 24 no longer engaging in the illegal use of drugs; or
 25 (3) is erroneously regarded as engaging in the illegal use of drugs
 26 but is not engaging in the illegal use of drugs.

27 It is not a violation of this chapter for a person or other entity covered
 28 by this chapter to adopt or administer reasonable policies or
 29 procedures, including but not limited to drug testing, designed to
 30 ensure that an individual described in subdivision (1) or (2) is no
 31 longer engaging in the illegal use of drugs. Nothing in this section shall
 32 be construed to encourage, prohibit, restrict, or authorize testing for the
 33 illegal use of drugs.

34 ~~(c)~~ (d) Notwithstanding subsection ~~(b)~~; (c), an individual shall not
 35 be denied health services or services provided in connection with drug
 36 rehabilitation on the basis of the current illegal use of drugs if the
 37 individual is otherwise entitled to those services.

38 ~~(d)~~ (e) For purposes of this chapter, an individual shall not be
 39 considered disabled solely on the basis of the following:

- 40 (1) Homosexuality.
 41 (2) Bisexuality.
 42 (3) Transvestism, transsexualism, pedophilia, exhibitionism,



1 voyeurism, gender identity disorders not resulting from physical
2 impairments, or other sexual behavior disorders.

3 (4) Compulsive gambling, kleptomania, or pyromania.

4 (5) Psychoactive substance use disorders resulting from current
5 illegal use of drugs (as defined in section ~~14~~ **12** of this chapter).

6 SECTION 3. IC 22-9-5-17.3 IS ADDED TO THE INDIANA CODE
7 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 1998]: **Sec. 17.3. As used in this chapter, "sickle cell disease" has**
9 **the meaning set forth in IC 22-9-1-3(s).**

10 SECTION 4. IC 22-9-5-17.5 IS ADDED TO THE INDIANA CODE
11 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 1998]: **Sec. 17.5. As used in this chapter, "sickle cell trait" has**
13 **the meaning set forth in IC 22-9-1-3(t).**

14 SECTION 5. IC 22-9-6-1 IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) As used in this chapter, and
16 unless otherwise indicated by the context, "person with a disability"
17 means an individual who, by reason of physical or mental defect or
18 infirmity, whether congenital or acquired by accident, injury, or
19 disease, is or may subsequently be totally or partially prevented from
20 achieving the fullest attainable physical, social, economic, mental, and
21 vocational participation in the normal process of living.

22 (b) "Persons with disabilities" include blind persons, visually
23 disabled persons, **persons with sickle cell disease**, and other physically
24 disabled persons.

25 **(c) As used in this chapter, "sickle cell disease" has the meaning**
26 **set forth in IC 22-9-1-3(s).**

27 SECTION 6. IC 22-9.5-2-10 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. (a) "Disabled"
29 means, with respect to a person:

30 (1) a physical or mental impairment that substantially limits one

31 (1) or more of the person's major life activities;

32 (2) a record of having an impairment described in subdivision (1);

33 or

34 (3) being regarded as having an impairment described in
35 subdivision (1).

36 **(b) The term includes an individual who has sickle cell disease**
37 **or sickle cell trait.**

38 ~~(b)~~ **(c)** The term does not include current illegal use of or addiction
39 to a controlled substance (as defined in Section 102 of the Controlled
40 Substances Act (21 U.S.C. 802)).

41 ~~(c)~~ **(d)** The term does not include an individual solely because that
42 individual is a transvestite.



1 SECTION 7. IC 22-9.5-2-12.3 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 1998]: **Sec. 12.3. As used in this chapter,**
 4 **"sickle cell disease" has the meaning set forth in IC 22-9-1-3(s).**

5 SECTION 8. IC 22-9.5-2-12.5 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 1998]: **Sec. 12.5. As used in this chapter,**
 8 **"sickle cell trait" has the meaning set forth in IC 22-9-1-3(t).**

9 SECTION 9. IC 27-4-1-4, AS AMENDED BY P.L.150-1997,
 10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 1998]: Sec. 4. The following are hereby defined as unfair
 12 methods of competition and unfair and deceptive acts and practices in
 13 the business of insurance:

14 (1) Making, issuing, circulating, or causing to be made, issued, or
 15 circulated, any estimate, illustration, circular, or statement:

16 (A) misrepresenting the terms of any policy issued or to be
 17 issued or the benefits or advantages promised thereby or the
 18 dividends or share of the surplus to be received thereon;

19 (B) making any false or misleading statement as to the
 20 dividends or share of surplus previously paid on similar
 21 policies;

22 (C) making any misleading representation or any
 23 misrepresentation as to the financial condition of any insurer,
 24 or as to the legal reserve system upon which any life insurer
 25 operates;

26 (D) using any name or title of any policy or class of policies
 27 misrepresenting the true nature thereof; or

28 (E) making any misrepresentation to any policyholder insured
 29 in any company for the purpose of inducing or tending to
 30 induce such policyholder to lapse, forfeit, or surrender his
 31 insurance.

32 (2) Making, publishing, disseminating, circulating, or placing
 33 before the public, or causing, directly or indirectly, to be made,
 34 published, disseminated, circulated, or placed before the public,
 35 in a newspaper, magazine, or other publication, or in the form of
 36 a notice, circular, pamphlet, letter, or poster, or over any radio or
 37 television station, or in any other way, an advertisement,
 38 announcement, or statement containing any assertion,
 39 representation, or statement with respect to any person in the
 40 conduct of his insurance business, which is untrue, deceptive, or
 41 misleading.

42 (3) Making, publishing, disseminating, or circulating, directly or



1 indirectly, or aiding, abetting, or encouraging the making,
2 publishing, disseminating, or circulating of any oral or written
3 statement or any pamphlet, circular, article, or literature which is
4 false, or maliciously critical of or derogatory to the financial
5 condition of an insurer, and which is calculated to injure any
6 person engaged in the business of insurance.

7 (4) Entering into any agreement to commit, or individually or by
8 a concerted action committing any act of boycott, coercion, or
9 intimidation resulting or tending to result in unreasonable
10 restraint of, or a monopoly in, the business of insurance.

11 (5) Filing with any supervisory or other public official, or making,
12 publishing, disseminating, circulating, or delivering to any person,
13 or placing before the public, or causing directly or indirectly, to
14 be made, published, disseminated, circulated, delivered to any
15 person, or placed before the public, any false statement of
16 financial condition of an insurer with intent to deceive. Making
17 any false entry in any book, report, or statement of any insurer
18 with intent to deceive any agent or examiner lawfully appointed
19 to examine into its condition or into any of its affairs, or any
20 public official to which such insurer is required by law to report,
21 or which has authority by law to examine into its condition or into
22 any of its affairs, or, with like intent, willfully omitting to make a
23 true entry of any material fact pertaining to the business of such
24 insurer in any book, report, or statement of such insurer.

25 (6) Issuing or delivering or permitting agents, officers, or
26 employees to issue or deliver, agency company stock or other
27 capital stock, or benefit certificates or shares in any common law
28 corporation, or securities or any special or advisory board
29 contracts or other contracts of any kind promising returns and
30 profits as an inducement to insurance.

31 (7) Making or permitting any of the following:

32 (A) Unfair discrimination between individuals of the same
33 class and equal expectation of life in the rates or assessments
34 charged for any contract of life insurance or of life annuity or
35 in the dividends or other benefits payable thereon, or in any
36 other of the terms and conditions of such contract; however, in
37 determining the class, consideration may be given to the
38 nature of the risk, plan of insurance, the actual or expected
39 expense of conducting the business, or any other relevant
40 factor.

41 (B) Unfair discrimination between individuals of the same
42 class involving essentially the same hazards in the amount of



1 premium, policy fees, assessments, or rates charged or made
 2 for any policy or contract of accident or health insurance or in
 3 the benefits payable thereunder, or in any of the terms or
 4 conditions of such contract, or in any other manner whatever;
 5 however, in determining the class, consideration may be given
 6 to the nature of the risk, the plan of insurance, the actual or
 7 expected expense of conducting the business, or any other
 8 relevant factor.

9 (C) Excessive or inadequate charges for premiums, policy
 10 fees, assessments, or rates, or making or permitting any unfair
 11 discrimination between persons of the same class involving
 12 essentially the same hazards, in the amount of premiums,
 13 policy fees, assessments, or rates charged or made for:

14 (i) policies or contracts of reinsurance or joint reinsurance,
 15 or abstract and title insurance;

16 (ii) policies or contracts of insurance against loss or damage
 17 to aircraft, or against liability arising out of the ownership,
 18 maintenance, or use of any aircraft, or of vessels or craft,
 19 their cargoes, marine builders' risks, marine protection and
 20 indemnity, or other risks commonly insured under marine,
 21 as distinguished from inland marine, insurance; or

22 (iii) policies or contracts of any other kind or kinds of
 23 insurance whatsoever.

24 However, nothing contained in clause (C) shall be construed to
 25 apply to any of the kinds of insurance referred to in clauses (A)
 26 and (B) nor to reinsurance in relation to such kinds of insurance.
 27 Nothing in clause (A), (B), or (C) shall be construed as making or
 28 permitting any excessive, inadequate, or unfairly discriminatory
 29 charge or rate or any charge or rate determined by the department
 30 or commissioner to meet the requirements of any other insurance
 31 rate regulatory law of this state.

32 (8) Except as otherwise expressly provided by law, knowingly
 33 permitting or offering to make or making any contract or policy
 34 of insurance of any kind or kinds whatsoever, including but not in
 35 limitation, life annuities, or agreement as to such contract or
 36 policy other than as plainly expressed in such contract or policy
 37 issued thereon, or paying or allowing, or giving or offering to pay,
 38 allow, or give, directly or indirectly, as inducement to such
 39 insurance, or annuity, any rebate of premiums payable on the
 40 contract, or any special favor or advantage in the dividends,
 41 savings, or other benefits thereon, or any valuable consideration
 42 or inducement whatever not specified in the contract or policy; or



1 giving, or selling, or purchasing or offering to give, sell, or
2 purchase as inducement to such insurance or annuity or in
3 connection therewith, any stocks, bonds, or other securities of any
4 insurance company or other corporation, association, limited
5 liability company, or partnership, or any dividends, savings, or
6 profits accrued thereon, or anything of value whatsoever not
7 specified in the contract. Nothing in this subdivision and
8 subdivision (7) shall be construed as including within the
9 definition of discrimination or rebates any of the following
10 practices:

11 (A) Paying bonuses to policyholders or otherwise abating their
12 premiums in whole or in part out of surplus accumulated from
13 nonparticipating insurance, so long as any such bonuses or
14 abatement of premiums are fair and equitable to policyholders
15 and for the best interests of the company and its policyholders.

16 (B) In the case of life insurance policies issued on the
17 industrial debit plan, making allowance to policyholders who
18 have continuously for a specified period made premium
19 payments directly to an office of the insurer in an amount
20 which fairly represents the saving in collection expense.

21 (C) Readjustment of the rate of premium for a group insurance
22 policy based on the loss or expense experience thereunder, at
23 the end of the first year or of any subsequent year of insurance
24 thereunder, which may be made retroactive only for such
25 policy year.

26 (D) Paying by an insurer or agent thereof duly licensed as such
27 under the laws of this state of money, commission, or
28 brokerage, or giving or allowing by an insurer or such licensed
29 agent thereof anything of value, for or on account of the
30 solicitation or negotiation of policies or other contracts of any
31 kind or kinds, to a broker, agent, or solicitor duly licensed
32 under the laws of this state, but such broker, agent, or solicitor
33 receiving such consideration shall not pay, give, or allow
34 credit for such consideration as received in whole or in part,
35 directly or indirectly, to the insured by way of rebate.

36 (9) Requiring, as a condition precedent to loaning money upon the
37 security of a mortgage upon real property, that the owner of the
38 property to whom the money is to be loaned negotiate any policy
39 of insurance covering such real property through a particular
40 insurance agent or broker or brokers. However, this subdivision
41 shall not prevent the exercise by any lender of its or his right to
42 approve or disapprove of the insurance company selected by the



- 1 borrower to underwrite the insurance.
2 (10) Entering into any contract, combination in the form of a trust
3 or otherwise, or conspiracy in restraint of commerce in the
4 business of insurance.
5 (11) Monopolizing or attempting to monopolize or combining or
6 conspiring with any other person or persons to monopolize any
7 part of commerce in the business of insurance. However,
8 participation as a member, director, or officer in the activities of
9 any nonprofit organization of agents or other workers in the
10 insurance business shall not be interpreted, in itself, to constitute
11 a combination in restraint of trade or as combining to create a
12 monopoly as provided in this subdivision and subdivision (10).
13 The enumeration in this chapter of specific unfair methods of
14 competition and unfair or deceptive acts and practices in the
15 business of insurance is not exclusive or restrictive or intended to
16 limit the powers of the commissioner or department or of any
17 court of review under section 8 of this chapter.
18 (12) Requiring as a condition precedent to the sale of real or
19 personal property under any contract of sale, conditional sales
20 contract, or other similar instrument or upon the security of a
21 chattel mortgage, that the buyer of such property negotiate any
22 policy of insurance covering such property through a particular
23 insurance company, agent, or broker or brokers. However, this
24 subdivision shall not prevent the exercise by any seller of such
25 property or the one making a loan thereon, of his, her, or its right
26 to approve or disapprove of the insurance company selected by
27 the buyer to underwrite the insurance.
28 (13) Issuing, offering, or participating in a plan to issue or offer,
29 any policy or certificate of insurance of any kind or character as
30 an inducement to the purchase of any property, real, personal, or
31 mixed, or services of any kind, where a charge to the insured is
32 not made for and on account of such policy or certificate of
33 insurance. However, this subdivision shall not apply to any of the
34 following:
35 (A) Insurance issued to credit unions or members of credit
36 unions in connection with the purchase of shares in such credit
37 unions.
38 (B) Insurance employed as a means of guaranteeing the
39 performance of goods and designed to benefit the purchasers
40 or users of such goods.
41 (C) Title insurance.
42 (D) Insurance written in connection with an indebtedness and



- 1 intended as a means of repaying such indebtedness in the
 2 event of the death or disability of the insured.
 3 (E) Insurance provided by or through motorists service clubs
 4 or associations.
 5 (F) Insurance that is provided to the purchaser or holder of an
 6 air transportation ticket and that:
 7 (i) insures against death or nonfatal injury that occurs during
 8 the flight to which the ticket relates;
 9 (ii) insures against personal injury or property damage that
 10 occurs during travel to or from the airport in a common
 11 carrier immediately before or after the flight;
 12 (iii) insures against baggage loss during the flight to which
 13 the ticket relates; or
 14 (iv) insures against a flight cancellation to which the ticket
 15 relates.
 16 (14) Refusing, because of the for-profit status of a hospital or
 17 medical facility, to make payments otherwise required to be made
 18 under a contract or policy of insurance for charges incurred by an
 19 insured in such a for-profit hospital or other for-profit medical
 20 facility licensed by the state department of health.
 21 (15) Refusing to insure an individual, refusing to continue to issue
 22 insurance to an individual, limiting the amount, extent, or kind of
 23 coverage available to an individual, or charging an individual a
 24 different rate for the same coverage, solely because of that
 25 individual's blindness or partial blindness, except where the
 26 refusal, limitation, or rate differential is based on sound actuarial
 27 principles or is related to actual or reasonably anticipated
 28 experience.
 29 (16) Committing or performing, with such frequency as to
 30 indicate a general practice, unfair claim settlement practices (as
 31 defined in section 4.5 of this chapter).
 32 (17) Between policy renewal dates, unilaterally ~~cancelling~~
 33 **canceling** an individual's coverage under an individual or group
 34 health insurance policy solely because of the individual's medical
 35 or physical condition.
 36 (18) Using a policy form or rider that would permit a cancellation
 37 of coverage as described in subdivision (17).
 38 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
 39 vehicle insurance rates.
 40 (20) Violating IC 27-8-21-2 concerning advertisements referring
 41 to interest rate guarantees.
 42 (21) Violating IC 27-8-24.3 concerning insurance and health plan



1 coverage for victims of abuse.

2 (22) Violating IC 27-1-15.5-3(h).

3 (23) Violating IC 27-8-26 concerning genetic screening or testing.

4 **(24) Refusing to insure an individual, refusing to continue to**
 5 **issue insurance to an individual, limiting the amount, extent,**
 6 **or kind of coverage available to an individual, or charging an**
 7 **individual a different rate for the same coverage in violation**
 8 **of IC 27-8-26.**

9 SECTION 10. IC 27-8-25 IS ADDED TO THE INDIANA CODE
 10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 1998]:

12 **Chapter 25. Individuals with Sickle Cell Trait or Sickle Cell**
 13 **Disease**

14 **Sec. 1. This chapter applies to:**

15 (1) a policy of accident and sickness insurance (as described
 16 in IC 27-8-5-1), whether written on an individual basis, a
 17 group basis, a franchise basis, a blanket basis, or under a
 18 preferred provider plan (as defined in IC 27-8-11-1);

19 (2) a group contract (as defined in IC 27-13-1-16) or an
 20 individual contract (as defined in IC 27-13-1-21) through
 21 which a health maintenance organization furnishes health
 22 care services; and

23 (3) a policy of life insurance or disability insurance described
 24 under Class 1 of IC 27-1-5-1.

25 **Sec. 2. As used in this chapter, "individual" means a natural**
 26 **person, whether adult or minor.**

27 **Sec. 3. As used in this chapter, "insurance policy or a health**
 28 **plan" refers to an insurance policy or a health maintenance**
 29 **organization contract described in section 1 of this chapter.**

30 **Sec. 4. As used in this chapter, "insurer" means a company, a**
 31 **firm, a partnership, an association, an order, a society, or a system**
 32 **that writes insurance or enters into contracts described in section**
 33 **1 of this chapter.**

34 **Sec. 5. As used in this chapter, "sickle cell disease" has the**
 35 **meaning set forth in IC 22-9-1-3(s).**

36 **Sec. 6. As used in this chapter, "sickle cell trait" has the**
 37 **meaning set forth in IC 22-9-1-3(t).**

38 **Sec. 7. An insurer may not do any of the following:**

39 (1) Deny or refuse to issue coverage on, refuse to contract
 40 with, refuse to renew, refuse to reissue, or otherwise
 41 terminate or restrict coverage on an individual under an
 42 insurance policy or a health plan because the individual has



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- or may have sickle cell trait.
- (2) Add any surcharge or rating factor to a premium of an insurance policy or a health plan because an individual has or may have sickle cell trait.
- (3) Exclude or limit coverage for losses or deny a claim incurred by a person covered by an insurance policy or a health plan because the person has or may have sickle cell trait.
- (4) Designate that if an individual has sickle cell trait, it is a preexisting condition that causes coverage of any kind to be limited or to be denied for a specified period.
- (5) Ask an individual covered by or applying for an insurance policy or a health plan if the individual has sickle cell trait or require the person to be tested for sickle cell trait.

Sec. 8. An insurer may not do any of the following:

- (1) Deny or refuse to issue coverage on, refuse to contract with, refuse to renew, refuse to reissue, or otherwise terminate or restrict coverage on an individual under an insurance policy or a health plan because the individual has or may have sickle cell disease.
- (2) Exclude or limit coverage for losses or deny a claim incurred by a person covered by an insurance policy or a health plan because the person has or may have sickle cell disease.
- (3) Designate that if an individual has sickle cell disease, it is a preexisting condition that causes coverage of any kind to be denied for a specified period.
- (4) Require an individual covered by or applying for an insurance policy or a health plan to be tested for sickle cell disease.

Sec. 9. This chapter does not prohibit an insurer from adjusting premiums of an individual applying for or covered by an insurance policy described in Class 1(a) of IC 27-1-5-1 on the basis that the individual has a physical condition or medical claims history.

Sec. 10. A violation of this chapter is an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4.

