



**Testimony for the Senate Finance Committee  
February 22, 2012**

**SB 317 - Property and Casualty Insurance – Victims of Crimes of  
Violence – Discrimination Prohibited**

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The ACLU of Maryland urges a favorable report on SB 317, a bill which would prohibit insurers from using information about an individual's status as a victim of a crime of violence to discriminate against them through various mechanisms in providing property and casualty insurance.

Victims of acts of random violence in their homes often find themselves in the situation of getting insurance coverage denied in the future or having their rates raised dramatically. This type of discrimination unfairly adds financial stress to an individual's life when they have just experienced a trauma and are least able to deal with it.

In addition to victims of random acts of violence, the ACLU is particularly concerned with the many women who are victims of domestic violence and are also often discriminated against by property and casualty insurance companies. Many insurance companies deny victims of domestic violence access to insurance by using domestic violence as an underwriting. They also deny coverage on the basis of abuse-related medical conditions and claims.

It is often very easy for insurers to learn that someone is a victim of domestic violence. When applying for insurance, individuals often sign a release to permit the insurer to obtain medical records. Usually, it is those medical records that reveal the abuse information. This is becoming more common because health care professionals have been encouraged to follow protocols to identify and document abuse for the purpose of providing help and referrals.

There are also companies, such as the Medical Information Bureau (MIB) and Equifax, that maintain databases on risk factors, including medical and non- medical factors. Insurance companies that become members of these databases are required to report client risk factors and are entitled to request risk- related information on an applicant or insured. Property and casualty insurers also maintain databases on claims history. Information relating to domestic violence, as well as information regarding individuals victimized by random violence, can

be reported and disclosed through these databases. Insurers can also get information from other records, such as police reports, public court documents, and credit reports, which are becoming popular underwriting tools.

Insurance discrimination puts victims at risk by denying them the benefits that insurance provides and by discouraging them from seeking help because it may lead to loss of insurance. Without insurance, victims are unable to obtain health care for themselves and their families or provide for their families in case of death or disability. If unable to obtain health and other insurance, victims may feel they have no alternative but to stay in an abusive situation.

Victims will stop seeking appropriate and necessary medical treatment, counseling, legal intervention, and other forms of assistance as they learn that insurers use information in their records to deny insurance. Victims will also refrain from disclosing that domestic violence is the cause of their injuries. Furthermore, doctors, health care workers and other service providers who have started identifying and documenting abuse may stop if it puts their patients at risk of losing their insurance. This will significantly undermine the enormous efforts made over the past 20 years to create new sources of assistance and avenues of relief for victims of domestic violence.

In addition to using the fact that an individual is a victim of domestic violence as an underwriting criterion, property and casualty insurers engage in other practices that penalize and harm victims of domestic violence. One such practice is underwriting on the basis of past claims. Property and casualty insurers look at past claims history to determine whether to issue coverage because they consider the past claims to represent an underlying risk associated with the property or person. When insurers deny coverage to a victim of domestic violence on the basis of past abuse-related claims, they consider the underlying risk to be the abuse. So, in essence, insurers are really denying coverage on the basis of abuse. The effect of this practice is to punish the victim for the batterer's acts.

Another practice is the denial of abuse-related claims on the basis of exclusions in the insurance policy for intentional acts. A common example is the situation in which the batterer sets the family home on fire to hurt his partner. Even though it is the batterer's act that is intentional and caused the fire, insurers deny the claim made by the innocent victim of abuse by applying the intentional act exclusion in the policy to all persons included in the policy definition of "insured." By leaving the victim without a home or the means to replace it, insurers guarantee the accomplishment of the batterer's goal of harming the victim.

In addition, insurers pay the mortgage company in these cases, thus freeing the batterer from any responsibility. This practice in no way supports the intentional act exclusion — which is intended to prevent wrongdoer's from benefiting from their wrongful acts — and perpetuates outdated notions that women have no identity separate or apart from their husbands.

This bill would help to prevent discrimination against all victims of violence by insurance companies. For these reasons, we urge a favorable report.