§ 2612. Discrimination based on being a victim of domestic violence. (a) No individual, insurer or entity subject to the supervision of the superintendent shall solely because a person is or has been a victim of domestic violence:

(1) refuse to issue or renew, deny or cancel any insurance policy or contract;

(2) demand or require a greater premium or payment from any person;

(3) designate domestic violence as a preexisting condition, for which coverage will be denied or reduced;

(4) fix any lower rate or discriminate in the fees or commissions of agents or brokers for writing or renewing such a policy.

(b) The fact that a person is or has been a victim of domestic violence is not a permitted underwriting criterion.

(c) For the purposes of this section, the following terms shall be defined as:

(1) "victim of domestic violence" shall be as defined by subdivision one of section four hundred fifty-nine-a of the social services law.

(2) "insurer" shall mean an insurer, a corporation organized pursuant to article forty-three of this chapter, a municipal cooperative health benefit plan established pursuant to article forty-seven of this chapter, a health maintenance organization certified pursuant to article forty-four of the public health law or a provider issued a special certificate of authority pursuant to section four thousand four hundred three-a of such law, or an agent, representative or designee thereof regulated pursuant to this chapter.

(3) "policy" shall mean a policy of insurance issued pursuant to this chapter, a child health insurance plan issued pursuant to title one-A of article twenty-five of the public health law or medical assistance or health care services provided pursuant to title eleven or eleven-D of article five of the social services law.

(d) The prohibitions contained in subsection (a) of this section shall not preclude an insurer from taking any of the actions described in subsection (a) of this section so long as such insurer relies on underwriting criteria reasonably related to the physical or mental condition of a person, their property or claim history and the decision was based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience. In such case the

selection criteria permitted must be based on such principles. The insurer shall notify the insured of its specific reason or reasons for such decision.

(e) An insurer that complies with subsections (a), (f) and (g) of this section and acts reasonably and in good faith shall not be subject to civil or criminal liability on account of compliance with such subsections.

(f) If any person covered by an insurance policy issued to another person as the policyholder delivers to the insurer that issued the policy, at its home office, a valid order of protection against the policyholder, issued by a court of competent jurisdiction in this state, or, except where the insurance policy was issued by a health insurer as defined in subparagraph (B) of paragraph (1) of subsection (h) of this section, a request to designate an alternative mailing address, telephone number or method of contact for the purpose of receiving claim related information if the person states that disclosure of all or part of the claim related information could endanger the person, the insurer shall be prohibited for the duration of the order, or until the request designating an alternative mailing address, telephone number or other method of contact is cancelled by the requesting person in writing, from disclosing to the policyholder the address, telephone number or other method of contact for the insured, or for any person or entity providing covered services to the insured, any personally identifying information of the insured, or the nature of the covered services provided to the insured, or from mailing, delivering, or otherwise providing claim related information to any mailing address, telephone number, or other method of contact other than as designated by the requesting person pursuant to this subsection. If a child is the covered person, the right established by this subsection may be asserted by, and shall also extend to, the parent or guardian of the child. An insurer may require a person making a request to designate an alternative mailing address, telephone number or other method of contact pursuant to this subsection to: make the request in writing; include in the request a statement that disclosure of all or part of the claim related information to which the request pertains could endanger the person or child; and specify an alternative mailing address, telephone number, or other method of contact. For the purpose of this subsection, "claim related information"

means all claim or billing information relating specifically to an insured or person covered by an insurance policy issued by an insurer other than a health insurer as defined in subparagraph (B) of paragraph (1) of subsection (h) of this section. The superintendent, in consultation with the commissioner of health and the office of children and family services and the office for the prevention of domestic violence, shall promulgate rules to guide and enable insurers to guard against the disclosure of the address and location of an insured who is a victim of domestic violence.

(g) If any person covered by a group insurance policy delivers to the insurer that issued the policy, at its home office, (i) a valid order of protection against another person covered by the group policy, issued by a court of competent jurisdiction in this state, or, except where the insurance policy was issued by a health insurer as defined in subparagraph (B) of paragraph (1) of subsection (h) of this section, a request to designate an alternative mailing address, telephone number or other method of contact for the purpose of receiving claim related information if the person states that disclosure of all or part of the claim related information could endanger the person, the insurer shall be prohibited for the duration of the order, or until the request designating an alternative mailing address, telephone number or other method of contact is cancelled by the requesting person in writing, from disclosing to the person against whom a valid order of protection was issued the address, telephone number or other method of contact for the insured person covered by the order of protection or for any person or entity providing covered services to the insured person covered by the order of protection, any personally identifying information of the insured, or the nature of the covered services provided to the insured, or from mailing, delivering, or otherwise providing claim related information to any mailing address, telephone number, or other method of contact other than as designated by the requesting person pursuant to this subsection. If a child is the covered person, the right established by this subsection may be asserted by, and shall also extend to, the parent or guardian of the child. An insurer may require a person making a request to designate an alternative mailing address, telephone number or other method of contact pursuant to this subsection to: make the request in writing; include in the request a statement that disclosure

of all or part of the claim related information to which the request pertains could endanger the person or child; and specify an alternative mailing address, telephone number, or other method of contact. For the purpose of this subsection, "claim related information" means all claim or billing information relating specifically to an insured or person covered by an insurance policy issued by an insurer other than a health insurer as defined in subparagraph (B) of paragraph (1) of subsection (h) of this section. The superintendent, in consultation with the commissioner of health, the office of children and family services and the office for the prevention of domestic violence, shall promulgate rules to guide and enable insurers to guard against the disclosure of the address and location of an insured who is a victim of domestic violence.

(h)(1) For purposes of this subsection:

(A) "Claim related information" means all claim or billing information relating specifically to an insured, subscriber or person covered by an insurance policy or contract issued by the health insurer.

(B) "Health insurer" means an insurer licensed to write accident and health insurance or salary protection insurance in this state, a corporation organized pursuant to article forty-three of this chapter, a municipal cooperative health benefit plan established pursuant to article forty-seven of this chapter, a health maintenance organization certified pursuant to article forty-four of the public health law or a provider issued a special certificate of authority pursuant to section four thousand four hundred three-a of such law, or an agent, representative or designee thereof regulated pursuant to this chapter.

(2)(A) A health insurer shall accommodate a reasonable request by a person covered by an insurance policy or contract issued by the health insurer to receive communications of claim related information from the health insurer by alternative means or at alternative locations if the person clearly states that disclosure of all or part of the information could endanger the person.

(B) If a child is covered by an insurance policy or contract issued by the health insurer, then the child's parent or guardian may make a request to the health insurer pursuant to subparagraph (A) of this paragraph.

(3) A health insurer may require: a person to make a request pursuant

to paragraph two of this subsection in writing; the request to contain a statement that disclosure of all or part of the claim related information to which the request pertains could endanger the person or child; and the specification of an alternative address, telephone number or other method of contact.

(4) With respect to an insurer authorized to write accident and health insurance in this state, this subsection shall apply only to a policy of accident and health insurance or a policy of salary protection insurance, as defined in subsection (a) of section one thousand one hundred thirteen of this chapter.

(5) Nothing in this subsection shall prevent, hinder, or otherwise affect the entry of an appropriate order made in the best interests of a child by a court of competent jurisdiction adjudicating disputed issues of child welfare or custody.

(6) Except with the express consent of the person making a request pursuant to subparagraph (A) of paragraph two of this subsection, a health insurer shall not disclose to the policyholder (i) the address, telephone number, or any other personally identifying information of the person who made the request or child for whose benefit a request was made; (ii) the nature of the health care services provided; or (iii) the name or address of the provider of the covered services.

(7) A health insurer that makes reasonable and good faith efforts to comply with this subsection shall not be subject to civil or criminal liability on the ground of non-compliance with this subsection.

(8) The superintendent, in consultation with the commissioner of health, the office of children and family services and the office for the prevention of domestic violence, shall promulgate rules to guide health insurers in guarding against the disclosure of the information protected pursuant to this subsection.