

ENROLLED ACT NO. 60, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2018 BUDGET SESSION

AN ACT relating to genetic information privacy; prohibiting the collection, retention and disclosure of genetic information without informed consent as specified; providing exceptions; providing for the retention and destruction of genetic information; providing a criminal penalty; providing for a civil cause of action; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-31-101 through 35-31-104 are created to read:

CHAPTER 31
GENETIC INFORMATION PRIVACY

35-31-101. Definitions.

(a) As used in this chapter:

(i) "Authorized representative" means a person authorized by state or federal law to make health care decisions for an individual;

(ii) "DNA" means deoxyribonucleic acid;

(iii) "Genetic analysis" means a test of an individual's DNA, gene products or chromosomes to determine the presence or absence of genetic characteristics in an individual or family;

(iv) "Genetic characteristic" means a gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a

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disease, disorder, trait or syndrome, or to identify an individual or a blood relative;

(v) "Genetic information" means information about the genetic characteristics of an individual or members of an individual's family that are the results of genetic analysis;

(vi) "Informed consent" means the signing of a consent form or forms in writing or by electronic signature as defined in W.S. 40-21-102(a)(viii) by an individual or an individual's authorized representative which includes a description of:

(A) Any genetic analysis to be performed and how the genetic analysis or resulting genetic information will be used;

(B) How any genetic information will be retained or disclosed;

(C) An individual's rights under W.S. 35-31-103.

35-31-102. Genetic testing; prohibitions; exceptions.

(a) Except as provided in subsection (b) of this section, no person conducting genetic analysis shall do any of the following without the informed consent of the individual or the individual's authorized representative:

(i) Obtain an individual's genetic information;

(ii) Perform a genetic analysis on an individual;

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(iii) Retain an individual's genetic information;

(iv) Disclose an individual's genetic information.

(b) Except as otherwise prohibited by law, an individual's genetic information may be obtained, retained, disclosed and used without informed consent for:

(i) Disclosures to the individual or the individual's authorized representative;

(ii) Law enforcement purposes otherwise authorized by law;

(iii) The state DNA database created by W.S. 7-19-402 or the comparable provisions of another jurisdiction;

(iv) The registration of sex offenders pursuant to W.S. 7-19-302;

(v) Determining paternity in accordance with a court or administrative order;

(vi) Determining the identity of a deceased individual;

(vii) Newborn screening requirements under W.S. 35-4-801;

(viii) The provision of emergency medical treatment;

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(ix) Complying with an order of a court of competent jurisdiction;

(x) Anonymous research where the identity of the individual will not be released;

(xi) Services limited to storage, retrieval, handling or transmission of genetic information by a third party service provider pursuant to a contract or other obligation;

(xii) Diagnosis or treatment of the individual if performed by a clinical laboratory that has received a specimen referral from the individual's treating physician or another clinical laboratory. Nothing in this paragraph shall be deemed to waive the requirement that a treating physician obtain specific informed consent for the taking of a specimen when required.

35-31-103. Genetic information; inspection; retention.

(a) An individual or the individual's authorized representative may inspect, correct and obtain genetic information about the individual.

(b) A person conducting genetic analysis shall destroy an individual's genetic information upon request by the individual or the individual's authorized representative unless:

(i) The information was obtained pursuant to W.S. 35-31-102(b); or

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(ii) Retention of the information is necessary for a purpose disclosed to the individual or representative in the informed consent.

(c) Genetic information about an individual obtained pursuant to W.S. 35-31-102(b) shall be used solely for the purposes obtained and shall be destroyed or returned to the individual or the individual's authorized representative upon completion of the purposes for which the information was obtained or in accordance with law.

35-31-104. Criminal penalty; private right of action.

(a) Any person violating the provisions of this chapter is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) for each violation.

(b) An individual whose rights have been violated under the provisions of this chapter may bring a civil action to enjoin or restrain any violation of this chapter and may in the same action seek damages from the person violating this chapter. A prevailing party in an action brought under this subsection may recover all costs and expenses reasonably associated with the action, including but not limited to reasonable attorney fees.

ORIGINAL HOUSE
BILL NO. HB0119

ENGROSSED

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Section 2. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk