

HOUSE BILL NO. HB0119

Genetic information privacy.

Sponsored by: Representative(s) Olsen, Clem, Greear, Harshman, Hunt, Laursen, Lindholm, Miller, Salazar and Zwonitzer and Senator(s) Bebout, Case, Driskill and Rothfuss

A BILL

for

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

8

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

10

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

13

14

CHAPTER 31

1 GENETIC INFORMATION PRIVACY

2

3 **35-31-101. Definitions.**

4

5 (a) As used in this chapter:

6

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

10

11 (ii) "DNA" means deoxyribonucleic acid;

12

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

17

18 (iv) "Genetic characteristic" means a gene or
19 chromosome, or alteration thereof, that is scientifically
20 or medically believed to predispose an individual to a
21 disease, disorder, trait or syndrome, or to identify an
22 individual or a blood relative;

23

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

5

6 (vi) "Informed consent" means the signing of a
7 consent form by an individual or an individual's authorized
8 representative which includes a description of:

9

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

13

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

16

17 (C) An individual's rights under W.S.
18 35-31-103.

19

20 **35-31-102. Genetic testing; prohibitions; exceptions.**

21

22 (a) Except as provided in subsection (b) of this
23 section, no person conducting genetic analysis shall do any

1 of the following without the informed consent of the
2 individual or the individual's authorized representative:

3

4 (i) Obtain an individual's genetic information;

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6 (ii) Perform a genetic analysis on an
7 individual;

8

9 (iii) Retain an individual's genetic
10 information;

11

12 (iv) Disclose an individual's genetic
13 information.

14

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

18

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

21

22 (ii) Law enforcement purposes otherwise
23 authorized by law;

1

2 (iii) The state DNA database created by W.S.
3 7-19-402 or the comparable provisions of another
4 jurisdiction;

5

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

8

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

11

12 (vi) Determining the identity of a deceased
13 individual;

14

15 (vii) Newborn screening requirements under W.S.
16 35-4-801;

17

18 (viii) The provision of emergency medical
19 treatment;

20

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

23

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

3

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

8

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

16

17 **35-31-103. Genetic information; inspection;**
18 **retention.**

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

23

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

5
6 (i) The information was obtained pursuant to
7 W.S. 35-31-102(b); or

8
9 (ii) Retention of the information is necessary
10 for a purpose disclosed to the individual or representative
11 in the informed consent.

12
13 (c) Genetic information about an individual obtained
14 pursuant to W.S. 35-31-102(b) shall be used solely for the
15 purposes obtained and shall be destroyed or returned to the
16 individual or the individual's authorized representative
17 upon completion of the purposes for which the information
18 was obtained or in accordance with law.

19
20 **35-31-104. Criminal penalty; private right of action.**

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22 (a) Any person violating the provisions of this
23 chapter is guilty of a misdemeanor punishable by a fine of

1 not more than one thousand dollars (\$1,000.00) for each
2 violation.

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

12

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

17

18

(END)