

Representative Craig Hall proposes the following substitute bill:

GENETIC INFORMATION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions and provides limitations regarding the use of genetic information.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes provisions regulating an employer's and a health insurer's use of personal genetic information;
- ▶ provides limitations on law enforcement's ability to obtain and use personal genetic information;
- ▶ provides limitations on law enforcement's ability to obtain a DNA sample from certain sources; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **26-45-102**, as enacted by Laws of Utah 2002, Chapter 120

28 ENACTS:

29 **26-45-104.5**, Utah Code Annotated 1953

30 REPEALS:

31 **26-45-103**, as enacted by Laws of Utah 2002, Chapter 120

32 **26-45-104**, as enacted by Laws of Utah 2002, Chapter 120

33 **26-45-105**, as enacted by Laws of Utah 2002, Chapter 120



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **26-45-102** is amended to read:

37 **26-45-102. Definitions.**

38 As used in this chapter:

39 ~~[(1) "Blood relative" means a person's biologically related:]~~

40 ~~[(a) parent;]~~

41 ~~[(b) grandparent;]~~

42 ~~[(c) child;]~~

43 ~~[(d) grandchild;]~~

44 ~~[(e) sibling;]~~

45 ~~[(f) uncle;]~~

46 ~~[(g) aunt;]~~

47 ~~[(h) nephew;]~~

48 ~~[(i) niece; or]~~

49 ~~[(j) first cousin.]~~

50 ~~[(2)] (1) "Combined DNA Index System" or "CODIS" means the program operated by~~
51 ~~the Federal Bureau of Investigation to support criminal justice DNA databases and the software~~
52 ~~used to run the databases.~~

53 ~~(2) "DNA" means deoxyribonucleic acid, ribonucleic acid, and chromosomes[; which~~
54 ~~may be analyzed to detect heritable diseases or conditions, including the identification of~~
55 ~~carriers, predicting risk of disease, or establishing a clinical diagnosis].~~

56 (3) "DNA sample" means ~~[any]~~ a human biological specimen from which DNA can be

57 extracted, or DNA extracted from such specimen.

58 ~~[(4) (a) "Genetic analysis" or "genetic test" means the testing or analysis of an~~
59 ~~identifiable individual's DNA that results in information that is derived from the presence,~~
60 ~~absence, alteration, or mutation of an inherited gene or genes, or the presence or absence of a~~
61 ~~specific DNA marker or markers.]~~

62 ~~[(b) "Genetic analysis" or "genetic test" does not mean:]~~

63 ~~[(i) a routine physical examination;]~~

64 ~~[(ii) a routine chemical, blood, or urine analysis;]~~

65 ~~[(iii) a test to identify the presence of drugs or HIV infection; or]~~

66 ~~[(iv) a test performed due to the presence of signs, symptoms, or other manifestations~~
67 ~~of a disease, illness, impairment, or other disorder.]~~

68 ~~[(5) "Individual" means the person from whose body the DNA sample originated.]~~

69 ~~[(6) "Person" means any person, organization, or entity other than the individual.]~~

70 ~~[(7) (a) "Private genetic information" means any information about an identifiable~~
71 ~~individual that is derived from the presence, absence, alteration, or mutation of an inherited~~
72 ~~gene or genes, or the presence or absence of a specific DNA marker or markers, and which has~~
73 ~~been obtained:]~~

74 ~~[(i) from a genetic test or analysis of the individual's DNA; or]~~

75 ~~[(ii) from a genetic test or analysis of a person's DNA to whom the individual is a~~
76 ~~blood relative.]~~

77 ~~[(b) "Private genetic information" does not include information that is derived from:]~~

78 ~~[(i) a routine physical examination;]~~

79 ~~[(ii) a routine chemical, blood, or urine analysis;]~~

80 ~~[(iii) a test to identify the presence of drugs or HIV infection; or]~~

81 ~~[(iv) a test performed due to the presence of signs, symptoms, or other manifestations~~
82 ~~of a disease, illness, impairment, or other disorder.]~~

83 (4) "Genetic genealogy service" means a person that receives an individual's DNA
84 sample or personal genetic information and uses the DNA sample or personal genetic
85 information to obtain or provide information about the individual's genetic traits or biological
86 relationships.

87 (5) "Genetic testing company" means a person that receives an individual's DNA

88 sample and uses the DNA sample to produce personal genetic information.

89 (6) "Law enforcement agency" means:

90 (a) an entity of the state or a political subdivision of the state that exists to primarily
91 prevent, detect, or prosecute crime and enforce criminal statutes or ordinances;

92 (b) an officer or employee of an entity described in Subsection (6)(a) acting in the
93 officer or employee's official capacity; or

94 (c) a person contracted by an agency or an officer or employee of an agency described
95 in Subsection (6)(a) to perform a task relating to DNA or personal genetic information analysis
96 on the agency's behalf.

97 (7) "Personal genetic information" means any information acquired from an analysis of
98 a DNA sample, or from the analysis of any other element of an individual, that identifies an
99 inherited or acquired genetic characteristic of the individual, including identification of the
100 individual's biological relationships.

101 Section 2. Section **26-45-104.5** is enacted to read:

102 **26-45-104.5. Restrictions on law enforcement.**

103 (1) Except as provided in Subsection (2), a law enforcement agency may not request,
104 obtain, use, or share an individual's personal genetic information.

105 (2) A law enforcement agency may:

106 (a) provide a lawfully obtained DNA sample to the Utah Bureau of Forensic Services
107 Laboratory System or a genetic testing company for analysis; and

108 (b) use the resulting personal genetic information in a criminal investigation to:

109 (i) ascertain the identity of an individual by using CODIS or an alternative DNA
110 database maintained by a state or local law enforcement agency, if the alternative DNA
111 database:

112 (A) contains only the personal genetic information of individuals charged with or
113 convicted of a criminal offense; and

114 (B) is not used to search for a biological relative of an unidentified individual;

115 (ii) confirm a match to an existing DNA sample for purposes of a criminal
116 investigation; or

117 (iii) identify human remains.

118 (3) A law enforcement agency that obtains personal genetic information under

119 Subsection (2) may not:

120 (a) provide the personal genetic information to a genetic genealogy service; or

121 (b) share or use the personal genetic information in any manner not authorized by law.

122 (4) A law enforcement agency may not:

123 (a) obtain, use, share, process, or retain a DNA sample unless authorized by Title 53,

124 Chapter 10, Part 4, Bureau of Forensic Services;

125 (b) retrieve a DNA sample from personal property currently or no longer in the
126 possession of an individual, unless:

127 (i) the personal property is located within the area of an active crime scene; or

128 (ii) a law enforcement officer has reasonable suspicion that the personal property

129 contains DNA evidence relevant to an active criminal investigation;

130 (c) request, obtain, use, share, process, or retain a DNA sample from, or information
131 derived from, a newborn screening test conducted under Subsection 26-10-6(1); or

132 (d) provide false information or make a false representation to a genetic testing
133 company or genetic genealogy service.

134 (5) Evidence obtained in violation of this section is inadmissible in any court
135 proceeding.

136 **Section 3. Repealer.**

137 This bill repeals:

138 Section **26-45-103, Restrictions on employers.**

139 Section **26-45-104, Restrictions on health insurers.**

140 Section **26-45-105, Private right of action.**