

HB0231S01 compared with HB0231

~~text~~ shows text that was in HB0231 but was deleted in HB0231S01.

text shows text that was not in HB0231 but was inserted into HB0231S01.

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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

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- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

ENACTS:

26-45-104.5, Utah Code Annotated 1953

REPEALS:

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

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

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

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

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

26-45-102. Definitions.

As used in this chapter:

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

~~[(a) parent;]~~

~~[(b) grandparent;]~~

~~[(c) child;]~~

~~[(d) grandchild;]~~

~~[(e) sibling;]~~

~~[(f) uncle;]~~

~~[(g) aunt;]~~

~~[(h) nephew;]~~

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

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

~~[(2)] (1) "Combined DNA Index System" or "CODIS" means the program operated by~~

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the Federal Bureau of Investigation to support criminal justice DNA databases and the software used to run the databases.

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

(3) "DNA sample" means ~~[any]~~ a human biological specimen from which DNA can be extracted, or DNA extracted from such specimen.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(iv) a test performed due to the presence of signs, symptoms, or other manifestations~~

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of a disease, illness, impairment, or other disorder.]

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

(5) "Genetic testing company" means a person that receives an individual's DNA sample and uses the DNA sample to produce personal genetic information.

(6) "Law enforcement agency" means:

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

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

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

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

~~{ (8) "Twenty core CODIS loci" means the twenty core loci required by the Federal Bureau of Investigation, as of January 1, 2017, to upload a DNA profile to the National DNA Index System.~~

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

26-45-104.5. Restrictions on law enforcement.

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

(2) A law enforcement agency may:

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

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

(i) ascertain the identity of an individual by using CODIS or an alternative DNA

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database maintained by a state or local law enforcement agency, if the alternative DNA database:

(A) ~~uses~~ contains only the ~~twenty core CODIS loci and no other~~ personal genetic information of individuals charged with or convicted of a criminal offense; and

(B) is not used to ~~identify~~ search for a biological ~~relatives~~ relative of ~~the~~ an unidentified individual; ~~or~~

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

(iii) identify human remains.

(3) A law enforcement agency that obtains personal genetic information under Subsection (2) may not:

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

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

(4) A law enforcement agency may not:

(a) obtain, use, share, process, or retain a DNA sample unless authorized by Title 53, Chapter 10, Part 4, Bureau of Forensic Services;

(b) retrieve a DNA sample from personal property currently or no longer in the possession of an individual, ~~regardless of whether the individual has disposed of~~ unless:

(i) the personal property ~~, without a warrant~~ is located within the area of an active crime scene; or

(ii) a law enforcement officer has reasonable suspicion that the personal property contains DNA evidence relevant to an active criminal investigation;

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

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

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

Section 3. **Repealer.**

This bill repeals:

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

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

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