
SENATE BILL 5207

State of Washington

57th Legislature

2001 Regular Session

By Senators Hargrove, Franklin and Kohl-Welles

Read first time 01/16/2001. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to individually identifiable DNA testing
2 information; amending RCW 70.02.010 and 70.83.050; adding new sections
3 to chapter 43.131 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.02.010 and 1993 c 448 s 1 are each amended to read
6 as follows:

7 As used in this chapter, unless the context otherwise requires:

8 (1) "Audit" means an assessment, evaluation, determination, or
9 investigation of a health care provider by a person not employed by or
10 affiliated with the provider to determine compliance with:

11 (a) Statutory, regulatory, fiscal, medical, or scientific
12 standards;

13 (b) A private or public program of payments to a health care
14 provider; or

15 (c) Requirements for licensing, accreditation, or certification.

16 (2) "Directory information" means information disclosing the
17 presence, and for the purpose of identification, the name, residence,
18 sex, and the general health condition of a particular patient who is a

1 patient in a health care facility or who is currently receiving
2 emergency health care in a health care facility.

3 (3) "General health condition" means the patient's health status
4 described in terms of "critical," "poor," "fair," "good," "excellent,"
5 or terms denoting similar conditions.

6 (4) "Health care" means any care, service, or procedure provided by
7 a health care provider:

8 (a) To diagnose, treat, or maintain a patient's physical or mental
9 condition; or

10 (b) That affects the structure or any function of the human body.

11 (5) "Health care facility" means a hospital, clinic, nursing home,
12 laboratory, office, or similar place where a health care provider
13 provides health care to patients.

14 (6) "Health care information" means any information, whether oral
15 or recorded in any form or medium, that identifies or can readily be
16 associated with the identity of a patient and directly relates to the
17 patient's health care. The term includes any record of disclosures of
18 health care information. The term includes genetic test information in
19 a person's DNA and a person's DNA.

20 (7) "Health care provider" means a person who is licensed,
21 certified, registered, or otherwise authorized by the law of this state
22 to provide health care in the ordinary course of business or practice
23 of a profession.

24 (8) "Institutional review board" means any board, committee, or
25 other group formally designated by an institution, or authorized under
26 federal or state law, to review, approve the initiation of, or conduct
27 periodic review of research programs to assure the protection of the
28 rights and welfare of human research subjects.

29 (9) "Maintain," as related to health care information, means to
30 hold, possess, preserve, retain, store, or control that information.

31 (10) "Patient" means an individual who receives or has received
32 health care. The term includes a deceased individual who has received
33 health care.

34 (11) "Person" means an individual, corporation, business trust,
35 estate, trust, partnership, association, joint venture, government,
36 governmental subdivision or agency, or any other legal or commercial
37 entity.

38 (12) "Reasonable fee" means the charges for duplicating or
39 searching the record, but shall not exceed sixty-five cents per page

1 for the first thirty pages and fifty cents per page for all other
2 pages. In addition, a clerical fee for searching and handling may be
3 charged not to exceed fifteen dollars. These amounts shall be adjusted
4 biennially in accordance with changes in the consumer price index, all
5 consumers, for Seattle-Tacoma metropolitan statistical area as
6 determined by the secretary of health. However, where editing of
7 records by a health care provider is required by statute and is done by
8 the provider personally, the fee may be the usual and customary charge
9 for a basic office visit.

10 (13) "Third-party payor" means an insurer regulated under Title 48
11 RCW authorized to transact business in this state or other
12 jurisdiction, including a health care service contractor, and health
13 maintenance organization; or an employee welfare benefit plan; or a
14 state or federal health benefit program.

15 NEW SECTION. **Sec. 2.** The legislature finds that:

16 (1) The technology of deoxyribonucleic acid (DNA) identification is
17 of great potential benefit to the citizens of this state in many
18 fields, including human services and health care, scientific research,
19 criminal justice, and corrections;

20 (2) Technology is changing and improving at an ever-increasing
21 rate;

22 (3) DNA technology is particularly important in assisting law
23 enforcement in identifying and apprehending repeat criminal offenders
24 as well as exonerating those people convicted and incarcerated for a
25 crime they did not commit;

26 (4) There are legitimate concerns for privacy rights in the
27 creation, collection, maintenance, disclosure, identification, and use
28 of DNA;

29 (5) Protections of citizens' civil rights and individual privileges
30 necessitate policy development of protections preventing the
31 unauthorized use of DNA and the use of DNA for discriminatory purposes;
32 and

33 (6) There is a need to address the potential future uses of DNA
34 that may benefit citizens of this state, for purposes of the health,
35 safety, and welfare of its citizens.

36 NEW SECTION. **Sec. 3.** A DNA commission is established to consist
37 of twenty-four members selected as follows:

1 (1)(a) Two members of the senate, appointed by the president of the
2 senate, one from each of the two largest caucuses; and

3 (b) Two members of the house of representatives, appointed by the
4 co-speakers of the house of representatives, one from each of the two
5 largest caucuses;

6 (2) The following members shall be appointed by the governor:

7 (a) Two members representing local public health;

8 (b) One member representing genetic counselors;

9 (c) One member representing clinical research;

10 (d) One member representing epidemiological research;

11 (e) One member representing the Human Genome project;

12 (f) One member representing genetic ethics;

13 (g) One member representing institutional review boards;

14 (h) Two members representing geneticists, one clinical and one
15 research;

16 (i) One member representing research institutions;

17 (j) One member representing civil rights advocates;

18 (k) Two members representing criminal justice and corrections;

19 (l) Two members representing privacy advocates;

20 (m) One member representing citizens who have undergone genetic
21 testing;

22 (n) One member representing hospitals;

23 (o) One member representing pathologists or laboratory medicine;

24 and

25 (p) One member representing biotechnologists.

26 The commission shall be appointed within forty-five days from the
27 effective date of this act. Staffing shall be provided by the
28 legislature. Members shall serve without remuneration, except costs
29 may be provided according to the provisions of RCW 43.03.050 and
30 43.03.060.

31 NEW SECTION. **Sec. 4.** The DNA commission shall:

32 (1) Develop a statewide strategy for evaluating and recommending
33 public policies relating to the use of DNA;

34 (2) Conduct a survey and produce a resource guide for citizens
35 relating to the use of DNA;

36 (3) Evaluate methods for protecting an individual's privacy
37 interests in his or her DNA;

1 (4) Analyze the incidence of discriminatory actions statewide based
2 upon genetic information;

3 (5) Develop recommendations relative to civil rights' protections
4 as they relate to genetic information;

5 (6) Analyze available remedies to compensate individuals for the
6 inappropriate use of their genetic information;

7 (7) Identify appropriate disincentives to improper use of DNA;

8 (8) Identify incentives for further research and development in the
9 area of DNA that promotes public health, safety, and welfare; and

10 (9) An initial report of its findings and recommendations shall be
11 provided to the appropriate committees of the legislature by July 1,
12 2002.

13 **Sec. 5.** RCW 70.83.050 and 1967 c 82 s 5 are each amended to read
14 as follows:

15 The state board of health shall adopt rules and regulations
16 necessary to carry out the intent of this chapter. Rules adopted by
17 the state board of health must protect an individual's confidentiality
18 of his or her genetic information obtained under this chapter.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.131 RCW
20 to read as follows:

21 The DNA commission and its powers and duties shall be terminated on
22 June 30, 2006, as provided in section 7 of this act.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.131 RCW
24 to read as follows:

25 The following acts or parts of acts, as now existing or hereafter
26 amended, are each repealed, effective June 30, 2007:

27 (1) Section 2 of this act;

28 (2) Section 3 of this act; and

29 (3) Section 4 of this act.

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