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SENATE BILL 6230

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State of Washington                      56th Legislature                      2000 Regular Session

By Senators Stevens, Fairley, Franklin, Oke and Kline

Read first time 01/11/2000. Referred to Committee on Judiciary.

1            AN ACT Relating to consent requirements for the acquisition or  
2 conveyance of a person's deoxyribonucleic acid; adding a new chapter to  
3 Title 7 RCW; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.**    (1) Any entity obtaining a person's  
6 deoxyribonucleic acid in a form that identifies an individual person  
7 must have the person's informed consent.

8            (2) Informed consent requires:

9            (a) An explanation of the purpose for which the deoxyribonucleic  
10 acid is being obtained, and whether it will be converted into a  
11 computerized individual sequence of chemical base pairs or other form  
12 for interpretation;

13            (b) Identification of the entity obtaining the deoxyribonucleic  
14 acid and individual sequence;

15            (c) Disclosure of any entity with whom the deoxyribonucleic acid  
16 and individual sequence may be shared, including disclosure that the  
17 deoxyribonucleic acid or individual sequence may be shared in the  
18 future with an unknown entity;

1 (d) A statement of the expected duration that the deoxyribonucleic  
2 acid and individual sequence may be kept;

3 (e) A description of reasonably foreseeable risks or harm  
4 associated with providing the deoxyribonucleic acid and individual  
5 sequence;

6 (f) An explanation of how the deoxyribonucleic acid will be  
7 maintained, whether the physical sample will be destroyed or stored,  
8 including how and where it will be stored, and how the individual  
9 sequence information will be destroyed or stored, including how and  
10 where it will be stored;

11 (g) A statement describing any reasonably expected benefits or  
12 advantages associated with providing the deoxyribonucleic acid and  
13 individual sequence;

14 (h) A statement describing any confidentiality or privacy  
15 protections for the deoxyribonucleic acid and individual sequence;

16 (i) Identification of an individual contact and contact information  
17 from whom further information may be obtained or reported relative to  
18 the deoxyribonucleic acid and individual sequence;

19 (j) Provisions for expunging or removing the deoxyribonucleic acid  
20 and the individual sequence from the entity that obtained it;

21 (k) The exclusion of any exculpatory provisions from liability  
22 against the entity obtaining the deoxyribonucleic acid and individual  
23 sequence;

24 (l) A disclosure that providing deoxyribonucleic acid and an  
25 individual sequence is voluntary; and

26 (m) Compliance with the federal informed consent requirements, when  
27 applicable, which are more protective of individual privacy.

28 (3) A person's informed consent is not required:

29 (a) In criminal matters if the deoxyribonucleic acid is obtained  
30 pursuant to a statute or a lawfully issued court order;

31 (b) In situations where the person requires emergency medical care  
32 as long as the person, or his or her representative in death cases, is  
33 informed in a timely manner after the emergency that the  
34 deoxyribonucleic acid was obtained; and

35 (c) In situations where a person's bodily fluids are obtained  
36 without consent pursuant to specific statutory requirement mandating  
37 testing.

1        NEW SECTION.    **Sec. 2.** Any entity that either obtains or conveys an  
2 individual's deoxyribonucleic acid that is individually identifiable or  
3 discloses any computerized interpretation of a person's  
4 deoxyribonucleic acid that is individually identifiable without proper  
5 authority either from the individual or pursuant to federal or state  
6 laws is liable in a civil action and shall pay reasonable attorneys'  
7 fees and costs. The court shall order an award of punitive damages  
8 against any party in violation of this section. The court's  
9 calculation of punitive damages shall be reasonable and include, but  
10 not be limited to, consideration of the merits of the case, the extent  
11 of actual damages incurred, the incentives of the offending party, the  
12 level of damages necessary to deter violations by the offending party,  
13 and the arguments of counsel.

14        NEW SECTION.    **Sec. 3.** Sections 1 and 2 of this act constitute a  
15 new chapter in Title 7 RCW.

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