

1 SENATE BILL NO. 351  
2 INTRODUCED BY D. ZOLNIKOV

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO BIOMETRIC PRIVACY;  
5 CREATING THE GENETIC INFORMATION PRIVACY ACT; REQUIRING A COMPANY TO PROVIDE  
6 CONSUMER INFORMATION REGARDING THE COLLECTION, USE, AND DISCLOSURE OF GENETIC  
7 DATA; PROVIDING FOR LIMITATIONS AND EXCLUSIONS; PROVIDING FOR ENFORCEMENT  
8 AUTHORITY; AND PROVIDING DEFINITIONS."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
12 NEW SECTION. Section 1. Short title. [Sections 1 through 6] may be cited as the "Genetic  
13 Information Privacy Act".

14  
15 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 6], unless the context clearly  
16 indicates otherwise, the following definitions apply:

17 (1) "Biological sample" means any human material known to contain DNA, including tissue, blood,  
18 urine, or saliva.

19 (2) (a) "Company" means an entity that:

20 (i) offers consumer genetic testing products or services directly to a consumer; or

21 (ii) collects, uses, or analyzes genetic data that resulted from a direct-to-consumer genetic testing  
22 product or service and was provided to the company by a consumer.

23 (b) The term does not include an entity when it is engaged only in collecting, using, or analyzing  
24 genetic data or biological samples in the context of research as defined in 45 CFR 164.501 conducted in  
25 accordance with the federal policy for the protection of human research subjects under 45 CFR, part 46, the  
26 good clinical practice guideline issued by the international council for harmonisation of technical requirements  
27 for pharmaceuticals for human use, or the United States food and drug administration policy for the protection

**Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Business, Labor, and Economic Affairs**

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

SB0351.001.001

1            NEW SECTION. **Section 5. Disclosure -- when prohibited -- when written consent required.** (1)

2            The disclosure of genetic data pursuant to [sections 1 through 6] must comply with all state and federal laws for  
3            the protection of privacy and security.

4            (2)        [Sections 1 through 6] may not apply to protected health information that is collected by a  
5            covered entity or business associate governed by the privacy, security, and breach notification rules issued by  
6            the:

7            (a)        United States department of health and human services, 45 CFR, parts 160 and 164,  
8            established pursuant to the federal Health Insurance Portability and Accountability Act of 1996; and

9            (b)        federal Health Information Technology for Economic and Clinical Health Act of 2009.

10           (3)        Notwithstanding any other provisions in [section 4], a company ~~may~~has the sole authority to  
11           not disclose a consumer's genetic data to any entity offering health insurance, life insurance, or long-term care  
12           insurance, or to any employer of the consumer without the consumer's written consent.

13  
14           NEW SECTION. **Section 6. Enforcement.** (1) The attorney general may enforce [sections 1 through  
15           6].

16           (2)        The attorney general may initiate a civil enforcement action against a person for violation of  
17           [sections 1 through 6].

18           (3)        In an action to enforce [sections 1 through 6], the attorney general may recover:

19           (a)        actual damages to the consumer;

20           (b)        costs;

21           (c)        reasonable attorney fees; and

22           (d)        \$2,500 for each violation of [section 4].

23

24           NEW SECTION. **Section 7. Codification instruction.** [Sections 1 through 6] are intended to be  
25           codified as an integral part of Title 30, and the provisions of Title 30 apply to [sections 1 through 6].

26

- END -