

---

**SUBSTITUTE SENATE BILL 5284**

---

**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Winsley and Kohl-Welles)

READ FIRST TIME 02/26/01.

1 AN ACT Relating to informed consent in the use of DNA; and adding  
2 a new chapter to Title 7 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) Any entity, including any person,  
5 isolating a person's deoxyribonucleic acid in a form that identifies an  
6 individual person for purposes of genetic testing must have the  
7 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 explaining whether the deoxyribonucleic acid and the  
20 individual sequence can be expunged or removed from the entity that  
21 obtained it and the method to do it;
- 22 (k) The exclusion of any exculpatory provisions from liability  
23 against the entity obtaining the deoxyribonucleic acid and individual  
24 sequence; and
- 25 (l) A disclosure that providing deoxyribonucleic acid and an  
26 individual sequence is voluntary.
- 27 (3) A person's informed consent is not required:
- 28 (a) In criminal matters if the deoxyribonucleic acid is obtained or  
29 used during a criminal investigation, trial, appeal, or pursuant to  
30 specific common law or statutory authority, or a lawfully issued court  
31 order. Once a criminal conviction is final, a report that was not  
32 admitted into evidence, identifying a specific person by analysis of  
33 DNA obtained in the course of an investigation, shall be destroyed if  
34 the person is found to be uninvolved in the commission of the criminal  
35 act or acts;
- 36 (b) In situations where the person requires emergency medical care  
37 as long as the person, or his or her representative in death cases, is  
38 informed in a timely manner after the emergency that the  
39 deoxyribonucleic acid was obtained;

1 (c) In situations where a person's bodily fluids are obtained  
2 without consent pursuant to specific statutory requirement mandating  
3 testing;

4 (d) In situations where the individual is deceased and the entity  
5 requesting the deoxyribonucleic acid establishes in a court of law that  
6 obtaining individually identifiable deoxyribonucleic acid for genetic  
7 testing purposes benefits public health, safety, and welfare, and  
8 outweighs the harm to individual privacy interests, or the person  
9 requesting the deoxyribonucleic acid is a next of kin requesting the  
10 deoxyribonucleic acid for purposes of health care or other purpose that  
11 outweighs the harm to the individual's privacy interests, or the entity  
12 requesting the deoxyribonucleic acid has been authorized by an  
13 institutional review board to use the deoxyribonucleic acid pursuant to  
14 an approved protocol;

15 (e) Pursuant to the provisions of this section, if the entity or  
16 person is a health care provider or facility under chapter 70.02 RCW or  
17 the federal health insurance portability and accountability act privacy  
18 rules who is acting according to the provisions of that chapter or  
19 federal law, and who is subject to the provisions of chapter 7.70 RCW  
20 and the federal health insurance portability and accountability act  
21 privacy rules;

22 (f) Pursuant to provisions of this section, if the entity or person  
23 obtains an individual's deoxyribonucleic acid, or computerized  
24 information that provides the sequence of that individual's  
25 deoxyribonucleic acid, in a form that does not identify that individual  
26 or there is no reasonable basis to believe the information can be used  
27 to identify an individual;

28 (g) Pursuant to provisions of this section, if the entity or person  
29 who obtains deoxyribonucleic acid, or computerized information that  
30 provides the sequence of that deoxyribonucleic acid, is acting  
31 according to the provisions of an institutional review board  
32 established under federal law;

33 (h) In death investigations for purposes of identifying the  
34 decedent;

35 (i) In matters of parentage proceedings under chapter 26.26 RCW.  
36 A DNA specimen or report of an individual's specimen shall not be  
37 released or disclosed for any purpose other than is relevant to the  
38 parentage proceeding without a court order or informed consent of the  
39 individual who furnished the specimen; and

1 (j) Where the division of child support has issued an order for  
2 genetic testing pursuant to RCW 74.20.360. A DNA specimen or report of  
3 an individual's specimen shall not be released or disclosed for any  
4 purpose not relevant to the division of child support's order without  
5 a court order or the informed consent of the individual who furnished  
6 the specimen.

7 NEW SECTION. **Sec. 2.** Section 1 of this act constitutes a new  
8 chapter in Title 7 RCW.

--- END ---