
SENATE BILL 5284

State of Washington

57th Legislature

2001 Regular Session

By Senators Franklin, Winsley and Kohl-Welles

Read first time 01/17/2001. Referred to Committee on Human Services & Corrections.

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;

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

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

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

30 (a) In criminal matters if the deoxyribonucleic acid is obtained or
31 used during a criminal investigation, trial, appeal, or pursuant to
32 specific common law or statutory authority, or a lawfully issued court
33 order. Once a criminal conviction is final, a report that was not
34 admitted into evidence, identifying a specific person by analysis of
35 DNA obtained in the course of an investigation, shall be destroyed if
36 the person is found to be uninvolved in the commission of the criminal
37 act or acts;

38 (b) In situations where the person requires emergency medical care
39 as long as the person, or his or her representative in death cases, is

1 informed in a timely manner after the emergency that the
2 deoxyribonucleic acid was obtained;

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

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

17 (e) Pursuant to the provisions of this section, if the entity or
18 person is a health care provider or facility under chapter 70.02 RCW
19 who is acting according to the provisions of that chapter, and who is
20 subject to the provisions of chapter 7.70 RCW;

21 (f) Pursuant to provisions of this section, if the entity or person
22 obtains an individual's deoxyribonucleic acid, or computerized
23 information that provides the sequence of that individual's
24 deoxyribonucleic acid, in a form that does not identify that
25 individual;

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

31 (h) In death investigations for purposes of identifying the
32 decedent.

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

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