

PROPOSED AMENDMENT

SB 284 # 1

DIGEST

Consumer genetic testing. Provides that the definition of "consumer genetic testing provider" (provider) includes a person that collects, uses, or analyzes genetic data that: (1) results from a consumer genetic testing product or service; and (2) is provided to the person by a consumer. Adds a definition of "genetic data" and amends the definition of "genetic testing" to provide that the term means analysis of genetic data. Provides that a provider may not perform, or cause to be performed, genetic testing on an individual's biological material unless the provider has disclosed to the individual the identity of any third party that may perform genetic testing on biological material sent to the third party by the provider. Amends the bill's prohibition on a provider retaining an individual's biological material for more than 30 days without the individual's consent to provide an exception for circumstances in which retention is necessary for compliance with state or federal law. Specifies for purposes of the bill's limitation on a provider disseminating advertising or marketing communications to an individual who uses the provider's services that the limitation applies only to a provider's dissemination of advertising or marketing communications to an individual based on the individual's genetic testing results. Provides that the bill's limitation on fees a provider may charge a law enforcement agency apply only to the provision of biological material or data provided to a law enforcement agency on the basis of a search warrant. Amends the bill's enforcement provisions in conformance with the enforcement provisions of Indiana's consumer data protection law. Makes conforming amendments.

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- 1 Page 2, delete lines 37 through 40, begin a new paragraph and
2 insert:
3 **"Sec. 2. As used in this chapter, "consumer genetic testing
4 provider" or "provider" means a person that, in the ordinary
5 course of the person's business:
6 (1) offers consumer genetic testing; or
7 (2) collects, uses, or analyzes genetic data that:
8 (A) results from a consumer genetic testing product or
9 service; and
10 (B) is provided to the person by a consumer;
11 in exchange for consideration."**
12 Page 3, delete lines 13 through 21, begin a new paragraph and
13 insert:
14 **"Sec. 5. As used in this chapter, "genetic data" means any data,
15 regardless of format, that:**

- 1 **(1) results from the analysis of an individual's biological**
 2 **material, including analysis of:**
 3 **(A) the complete DNA;**
 4 **(B) regions of the DNA;**
 5 **(C) chromosomes;**
 6 **(D) genes; or**
 7 **(E) gene products; and**
 8 **(2) concerns an individual's genetic characteristics.**

9 **The term does not include deidentified data.**

10 **Sec. 6. As used in this chapter, "genetic testing" means analysis**
 11 **of genetic data."**

12 Page 3, line 22, delete "6." and insert "7."

13 Page 3, line 24, delete "7." and insert "8."

14 Page 3, delete lines 37 through 38, begin a new line block indented
 15 and insert:

16 **"(1) The identity of any third party that may perform genetic**
 17 **testing on biological material sent to the third party by the**
 18 **provider."**

19 Page 4, line 23, delete "8." and insert "9."

20 Page 4, line 41, delete "." and insert ", **except as required to**
 21 **comply with state or federal law."**

22 Page 5, line 6, after "individual" insert "**based on the individual's**
 23 **genetic testing results"**.

24 Page 5, line 37, delete "9." and insert "**10."**

25 Page 6, line 10, delete "8" and insert "**9"**.

26 Page 6, line 29, delete "8(a)(4)" and insert "**9(a)(4)"**."

27 Page 6, line 35, delete "8(a)(5)" and insert "**9(a)(5)"**."

28 Page 6, delete lines 36 through 40.

29 Page 6, line 41, delete "(6)" and insert "**(5)"**."

30 Page 7, line 4, delete "8" and insert "**9"**."

31 Page 7, line 11, delete "(7)" and insert "**(6)"**."

32 Page 7, line 35, delete "8(a)(3)" and insert "**9(a)(3)"**."

33 Page 7, line 40, delete ";" and insert "**on the basis of a search**
 34 **warrant;"**."

35 Page 8, delete lines 3 through 42, begin a new paragraph and insert:

36 **"Sec. 11. (a) The attorney general has exclusive authority to**
 37 **enforce the provisions of this chapter.**

38 **(b) The attorney general may initiate an action in the name of**
 39 **the state and may seek an injunction to restrain any violations of**
 40 **this chapter and a civil penalty not to exceed seven thousand five**

1 hundred dollars (\$7,500) for each violation under this chapter.

2 (c) The attorney general may recover reasonable expenses
3 incurred in investigating and preparing the case, including
4 attorney's fees, in any action initiated under this section.

5 (d) Before initiating an action under this section, the attorney
6 general shall provide a provider thirty (30) days written notice
7 identifying the specific provisions of this chapter that the attorney
8 general alleges have been or are being violated. If within the thirty
9 (30) day period set forth in this subsection, the provider:

10 (1) cures the alleged violation; and
11 (2) provides the attorney general an express written statement
12 that:

13 (A) the alleged violation has been cured; and
14 (B) actions have been taken to ensure no further such
15 violations will occur;

16 the attorney general shall not initiate an action against the
17 provider.

18 (e) If a provider:
19 (1) continues the alleged violation following the thirty (30) day
20 period set forth in subsection (d); or
21 (2) breaches an express written statement provided to the
22 attorney general under subsection (d)(2);

23 the attorney general may initiate an action against the provider
24 under subsection (b).

25 (f) Nothing in this section shall be construed as providing the
26 basis for a private right of action for violations of this chapter or
27 any other law."

28 Delete pages 9 through 16.
(Reference is to SB 284 as introduced.)