



House Judiciary Reported Substitute for HB265

A BILL

TO BE ENTITLED

AN ACT

Relating to genetic material; to create the crimes of unlawful use of DNA in the first, second, and third degree; to provide criminal penalties for violations; and to provide exceptions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this act, the following terms have the following meanings:

(1) DNA. Deoxyribonucleic acid.

(2) DNA SAMPLE. Any human biological specimen from which DNA can be extracted or the DNA extracted from a specimen.

(3) EXPRESS CONSENT. Authorization by the person whose DNA is to be extracted or analyzed or that person's legal guardian or authorized representative.

(4) GENETIC DATA. The same meaning as provided in Section 8-43-2, Code of Alabama 1975.

(5) GENETIC TESTING. The same meaning as in Section 8-43-2, Code of Alabama 1975.

(b) (1) For the purposes of this act, a person may not provide express consent unless he or she has received a clear

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and prominent disclosure regarding the manner of collection, use, retention, or disclosure of a DNA sample or genetic data for a specific purpose. A person may provide express consent by any affirmative action demonstrating an intentional decision.

(2) A single provision of express consent may authorize every instance of a specified purpose or use.

Section 2. (a) Except as provided in Section 6, a person commits the crime of unlawful use of DNA in the first degree if he or she intentionally and without express consent sells or otherwise transfers another individual's DNA sample or genetic data to a third party, regardless of whether the original DNA sample was originally collected, retained, or analyzed with express consent.

(b) Unlawful use of DNA in the first degree is a Class C felony.

Section 3. (a) Except as provided in Section 6, a person commits the crime of unlawful use of DNA in the second degree if he or she intentionally and without express consent:

(1) Submits another individual's DNA sample for genetic testing;

(2) Conducts or procures the conducting of genetic testing of another individual's DNA; or

(3) Except as provided in subsection (b), discloses another individual's genetic data to a third party.

(b) A person who discloses another person's genetic data that was previously voluntarily disclosed by the person whose DNA was tested, the person's legal guardian, or the



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person's authorized representative does not violate this section.

(c) Unlawful use of DNA in the second degree is a Class D felony.

Section 4. (a) Except as provided in Section 6, a person commits the crime of unlawful use of DNA in the third degree if he or she intentionally and without express consent:

(1) Collects or retains another individual's DNA sample with the intent to perform a DNA analysis; or

(2) Collects or retains another individual's DNA sample or genetic information by accessing a computer system either without authorization to access the computer system or exceeding his or her authorized access to the computer system.

(b) Unlawful use of DNA in the third degree is a Class A misdemeanor.

Section 5. Each instance of collection or retention, submission or analysis, or disclosure in violation of this act constitutes a separate violation.

Section 6. This act does not apply to any of the following uses of a DNA sample or genetic information:

(1) By law enforcement for any law enforcement purpose.

(2) To comply with a subpoena, summons, other lawful court order, or federal law.

(3) Pursuant to Article 2, Chapter 18 of Title 36, Code of Alabama 1975.

(4) By a genetic testing company that complies with Chapter 43 of Title 8, Code of Alabama 1975.

(5) By a covered entity or business associate, as those



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terms are defined in 45 C.F.R. Parts 160 and 164.

(6) The use of de-identified DNA or genetic data.

(7) The collection, use, or retention of DNA or genetic data for noncommercial purposes, including for research and instruction, by a public or private institution of higher education, or any entity owned or operated by a public or private institution of higher education.

Section 7. This act shall become effective on October 1, 2026.