

**House Judiciary Reported Substitute for HB265**

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5 A BILL

6 TO BE ENTITLED

7 AN ACT

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

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 (1) DNA. Deoxyribonucleic acid.

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

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

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

25 (5) GENETIC TESTING. The same meaning as in Section
26 8-43-2, Code of Alabama 1975.

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

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

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

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

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

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

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

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

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

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

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57 person's authorized representative does not violate this
58 section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

92 Section 7. This act shall become effective on October
93 1, 2026.