

1-1 By: Kolkhorst S.B. No. 2086
1-2 (In the Senate - Filed March 9, 2023; March 21, 2023, read
1-3 first time and referred to Committee on Health & Human Services;
1-4 May 8, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 8, 2023, sent
1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Kolkhorst	X		
1-10	Perry	X		
1-11	Blanco	X		
1-12	Hall	X		
1-13	Hancock	X		
1-14	Hughes		X	
1-15	LaMantia	X		
1-16	Miles		X	
1-17	Sparks	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2086 By: Kolkhorst

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to a property right in DNA; providing injunctive relief
1-22 and a civil penalty; creating a criminal offense.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Title 1, Property Code, is amended by adding
1-25 Chapter 3 to read as follows:

1-26 CHAPTER 3. PROPERTY RIGHT IN DNA

1-27 Sec. 3.001. DEFINITIONS. In this chapter:

1-28 (1) "DNA" means deoxyribonucleic acid.

1-29 (2) "DNA sample" means a blood sample or other
1-30 biological sample or specimen provided by an individual for the
1-31 purpose of conducting DNA analysis or storage.

1-32 (3) "Genetic characteristic" means a scientifically
1-33 or medically identifiable genetic or chromosomal variation,
1-34 composition, or alteration that predisposes an individual to a
1-35 disease, disorder, or syndrome.

1-36 (4) "Genetic test" means a presymptomatic laboratory
1-37 test of an individual's genes, products, or chromosomes that:

1-38 (A) analyzes the individual's DNA, RNA,
1-39 proteins, or chromosomes; and

1-40 (B) is performed to identify a genetic
1-41 characteristic.

1-42 (5) "RNA" means ribonucleic acid.

1-43 Sec. 3.002. PROPERTY RIGHT ESTABLISHED. (a) Subject to
1-44 Subsection (b), an individual has an exclusive property right in
1-45 the individual's unique DNA. A person may not, without the
1-46 informed, written consent of the individual or the individual's
1-47 legal guardian or authorized representative:

1-48 (1) collect a DNA sample from an individual;

1-49 (2) perform a genetic test on an individual's DNA
1-50 sample;

1-51 (3) retain an individual's DNA sample;

1-52 (4) alter or modify an individual's DNA;

1-53 (5) sell or otherwise transfer to another person an
1-54 individual's DNA sample; or

1-55 (6) make available or allow to be made available to
1-56 another person an individual's DNA sample.

1-57 (b) Notwithstanding Subsection (a), this chapter does not
1-58 apply to a DNA sample collected for:

1-59 (1) the purpose of emergency medical treatment;

1-60 (2) the purpose of determining paternity;

2-1 (3) law enforcement purposes, including the
2-2 identification of a perpetrator, the investigation of a crime, or
2-3 the identification of a missing, unidentified, or deceased person;
2-4 or

2-5 (4) any other similar use under the laws of this state
2-6 or another jurisdiction.

2-7 Sec. 3.003. CIVIL PENALTY; INJUNCTION. (a) A person who
2-8 violates Section 3.002 is liable to the state for a civil penalty
2-9 not to exceed the amount of any profits that are attributable to the
2-10 violation. The amount of profits under this subsection may be
2-11 established by showing the gross revenue attributable to the
2-12 unauthorized use minus any expenses that the person who committed
2-13 the unauthorized use may prove.

2-14 (b) Subject to Subsection (a), the amount of a civil penalty
2-15 under this section shall be based on:

2-16 (1) the seriousness of the violation, including the
2-17 nature, circumstances, extent, and gravity of the violation;

2-18 (2) the economic harm caused by the violation;

2-19 (3) the history of previous violations;

2-20 (4) the amount necessary to deter a future violation;

2-21 (5) efforts to correct the violation; and

2-22 (6) any other matter that justice may require.

2-23 (c) If it appears that a person has violated Section 3.002,
2-24 the attorney general may institute an action for a civil penalty,
2-25 injunctive relief, or both.

2-26 (d) The attorney general may recover reasonable attorney's
2-27 fees and expenses and court costs incurred in recovering a civil
2-28 penalty or obtaining injunctive relief under this section.

2-29 Sec. 3.004. CRIMINAL PENALTY. A person commits an offense
2-30 if the person, with criminal negligence, violates Section 3.002.
2-31 An offense under this section is a Class A misdemeanor.

2-32 SECTION 2. Chapter 3, Property Code, as added by this Act,
2-33 does not apply to the use or retention of a DNA sample collected or
2-34 provided before the effective date of this Act.

2-35 SECTION 3. This Act takes effect September 1, 2023.

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