

By: Turner of Collin

H.B. No. 3582

A BILL TO BE ENTITLED

AN ACT

relating to a property right in certain genetic information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subtitle I, Title 2, Health and Safety Code, is amended to read as follows:

SUBTITLE I. MEDICAL RECORDS AND GENETIC INFORMATION

SECTION 2. Subtitle I, Title 2, Health and Safety Code, is amended by adding Chapter 183 to read as follows:

CHAPTER 183. PROPERTY RIGHT IN CERTAIN GENETIC INFORMATION

Sec. 183.001. DEFINITIONS. In this chapter:

(1) "DNA" means deoxyribonucleic acid.

(2) "Genetic characteristic" means a scientifically or medically identifiable genetic or chromosomal variation, composition, or alteration that predisposes an individual to a disease, disorder, or syndrome.

(3) "Genetic information" means information that is:

(A) obtained from or based on a scientific or medical determination of the presence or absence in an individual of a genetic characteristic; or

(B) derived from the results of a genetic test performed on an individual.

(4) "Genetic material" means blood or another biological specimen collected to conduct a genetic test.

(5) "Genetic test" means a presymptomatic laboratory

1 test of an individual's genes, products, or chromosomes that:

2 (A) analyzes the individual's DNA, RNA,  
3 proteins, or chromosomes; and

4 (B) is performed to identify a genetic  
5 characteristic.

6 (6) "RNA" means ribonucleic acid.

7 Sec. 183.002. PROPERTY RIGHT ESTABLISHED. (a) Subject to  
8 Subsection (b), an individual has an exclusive property right in a  
9 sample of genetic material provided by the individual and in the  
10 genetic information obtained as a result of a genetic test  
11 performed on the individual's sample. A person may not, without the  
12 informed consent of the individual or the individual's legal  
13 guardian or authorized representative:

14 (1) collect a sample of genetic material from an  
15 individual;

16 (2) perform a genetic test on an individual's sample;

17 (3) retain an individual's sample or the genetic  
18 information obtained as a result of a genetic test performed on the  
19 individual's sample; or

20 (4) disclose the genetic information obtained as a  
21 result of a genetic test performed on an individual's sample.

22 (b) Notwithstanding Subsection (a) and except as provided  
23 by Section 183.003, this chapter does not apply to a sample of  
24 genetic material collected for:

25 (1) the purpose of emergency medical treatment;

26 (2) law enforcement purposes, including the DNA  
27 database under Subchapter G, Chapter 411, Government Code, the

1 identification of a perpetrator or the investigation of a crime, or  
2 identification of a missing, unidentified, or deceased person;

3 (3) the purpose of establishing paternity as  
4 authorized under a state or federal law; or

5 (4) the purpose of newborn screening, in accordance  
6 with Chapter 33.

7 (c) A person who has obtained the informed consent of an  
8 individual or the individual's legal guardian or authorized  
9 representative as required by Subsection (a) may:

10 (1) disclose the individual's genetic information as  
11 authorized by Chapter 546, Insurance Code, Chapter 21, Labor Code,  
12 or Chapter 58, Occupations Code; and

13 (2) retain a sample of the individual's genetic  
14 material as authorized by Chapter 546, Insurance Code, Chapter 21,  
15 Labor Code, or Chapter 58, Occupations Code.

16 (d) A general authorization for the release of an  
17 individual's medical records does not constitute the informed  
18 consent required by Subsection (a). An individual may revoke or  
19 amend consent given under Subsection (a) at any time.

20 Sec. 183.003. CONFIDENTIALITY. (a) A person who obtains  
21 genetic information for a purpose listed under Section 183.002(b)  
22 may not disclose the genetic information for any other purpose.

23 (b) A person who holds genetic information about an  
24 individual may not disclose or be compelled to disclose, by  
25 subpoena or otherwise, that information without the informed  
26 consent of the individual as provided by Section 183.002.

27 (c) This section applies to a redisclosure of genetic

1 information by a secondary recipient of the information after  
2 disclosure of the information by an initial recipient. A person may  
3 not redisclose genetic information without the informed consent of  
4 the individual under Section 183.002.

5 Sec. 183.004. LIABILITY FOR VIOLATION OF CHAPTER. (a) A  
6 person who violates Section 183.002 with respect to a sample of an  
7 individual's genetic material or genetic information obtained as a  
8 result of a genetic test performed on the individual's sample is  
9 liable to the individual for:

10 (1) the amount of the individual's actual damages  
11 sustained as a result of the violation; and

12 (2) the amount of any profits that are attributable to  
13 the violation.

14 (b) It is a defense to a civil action for damages under this  
15 chapter that the defendant obtained the informed consent of the  
16 individual or the individual's legal guardian or authorized  
17 representative required by Section 183.002(a).

18 Sec. 183.005. DISCRIMINATORY USE OF GENETIC INFORMATION  
19 PROHIBITED. A person who receives state or federal funding may not  
20 discriminate or retaliate against an individual on the basis of the  
21 refusal of the individual to give informed consent under this  
22 chapter.

23 SECTION 3. Section 546.051(a), Insurance Code, is amended  
24 to read as follows:

25 (a) A health benefit plan issuer that requests an applicant  
26 for coverage under the plan to submit to a genetic test in  
27 connection with the application for coverage for a purpose not

1 prohibited under Section 546.052 must:

- 2 (1) notify the applicant that the test is required;
- 3 (2) disclose to the applicant the proposed use of the  
4 test results; and
- 5 (3) obtain the applicant's [~~written~~] informed consent  
6 as provided by Chapter 183, Health and Safety Code, before the test  
7 is administered.

8 SECTION 4. Subchapter H, Chapter 21, Labor Code, is amended  
9 by adding Section 21.4015 to read as follows:

10 Sec. 21.4015. INFORMED CONSENT. An employer, labor  
11 organization, or employment agency may not obtain an individual's  
12 genetic information without the informed consent of the individual  
13 as provided by Chapter 183, Health and Safety Code.

14 SECTION 5. Subchapter B, Chapter 58, Occupations Code, is  
15 amended by adding Section 58.0515 to read as follows:

16 Sec. 58.0515. INFORMED CONSENT. A licensing authority may  
17 not obtain an individual's genetic information without the informed  
18 consent of the individual as provided by Chapter 183, Health and  
19 Safety Code.

20 SECTION 6. Chapter 183, Health and Safety Code, as added by  
21 this Act, applies only to a sample of genetic material collected or  
22 provided on or after the effective date of this Act and genetic  
23 information obtained as a result of a genetic test performed on that  
24 sample. A sample of genetic material collected or provided before  
25 the effective date of this Act and genetic information obtained as a  
26 result of a genetic test performed on that sample are governed by  
27 the law in effect immediately before that date, and that law is

1 continued in effect for that purpose.

2 SECTION 7. This Act takes effect September 1, 2015.