

By: Kolkhorst

S.B. No. 2086

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 3. PROPERTY RIGHT IN DNA

Sec. 3.001. DEFINITIONS. In this chapter:

(1) "DNA" means deoxyribonucleic acid.

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

(3) "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.

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

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

(B) is performed to identify a genetic characteristic.

(5) "RNA" means ribonucleic acid.

Sec. 3.002. PROPERTY RIGHT ESTABLISHED. (a) Subject to

1 Subsection (b), an individual has an exclusive property right in  
2 the individual's unique DNA. A person may not, without the  
3 informed, written consent of the individual or the individual's  
4 legal guardian or authorized representative:

5 (1) collect a DNA sample from an individual;

6 (2) perform a genetic test on an individual's DNA  
7 sample;

8 (3) retain an individual's DNA sample; or

9 (4) alter or modify an individual's DNA.

10 (b) Notwithstanding Subsection (a), this chapter does not  
11 apply to a DNA sample collected for:

12 (1) the purpose of emergency medical treatment;

13 (2) the purpose of determining paternity;

14 (3) law enforcement purposes, including the  
15 identification of a perpetrator, the investigation of a crime, or  
16 the identification of a missing, unidentified, or deceased person;  
17 or

18 (4) any other similar use under the laws of this state  
19 or another jurisdiction.

20 Sec. 3.003. CIVIL PENALTY; INJUNCTION. (a) A person who  
21 violates Section 3.002 is liable to the state for a civil penalty  
22 not to exceed the amount of any profits that are attributable to the  
23 violation. The amount of profits under this subsection may be  
24 established by showing the gross revenue attributable to the  
25 unauthorized use minus any expenses that the person who committed  
26 the unauthorized use may prove.

27 (b) Subject to Subsection (a), the amount of a civil penalty

1 under this section shall be based on:

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

4 (2) the economic harm caused by the violation;

5 (3) the history of previous violations;

6 (4) the amount necessary to deter a future violation;

7 (5) efforts to correct the violation; and

8 (6) any other matter that justice may require.

9 (c) If it appears that a person has violated Section 3.002,  
10 the attorney general may institute an action for a civil penalty,  
11 injunctive relief, or both.

12 (d) The attorney general may recover reasonable attorney's  
13 fees and expenses and court costs incurred in recovering a civil  
14 penalty or obtaining injunctive relief under this section.

15 Sec. 3.004. CRIMINAL PENALTY. A person commits an offense  
16 if the person, with criminal negligence, violates Section 3.002.  
17 An offense under this section is a Class A misdemeanor.

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

21 SECTION 3. This Act takes effect September 1, 2023.