

By: Kolkhorst, et al.
(Harris Davila)

S.B. No. 315

Substitute the following for S.B. No. 315:

By: Button

C.S.S.B. No. 315

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

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

- (1) collect a DNA sample from an individual;
- (2) perform a genetic test on an individual's DNA sample;
- (3) retain an individual's DNA sample;
- (4) alter or modify an individual's DNA;
- (5) sell or otherwise transfer to another person an individual's DNA sample; or
- (6) make available or allow to be made available to another person an individual's DNA sample.

(b) Notwithstanding Subsection (a), this chapter does not apply:

- (1) to a DNA sample collected or received for:
 - (A) the purpose of medical diagnosis and treatment;
 - (B) the purpose of determining paternity;
 - (C) law enforcement purposes, including the identification of a perpetrator, the investigation of a crime, or the identification of a missing, unidentified, or deceased person;
 - (D) medical examiner purposes, including the performance of an inquest to determine the cause or circumstance of death under Article 49.25, Code of Criminal Procedure;
 - (E) research, as defined by 45 C.F.R. Section 164.501, that is conducted in accordance with:

1 (i) the federal policy for the protection
2 of human subjects (45 C.F.R. Part 46);

3 (ii) the good clinical practice guidelines
4 issued by the International Council for Harmonisation of Technical
5 Requirements for Pharmaceuticals for Human Use (ICH); or

6 (iii) the United States Food and Drug
7 Administration policy for the protection of human subjects (21
8 C.F.R. Parts 50 and 56);

9 (F) use, analysis, storage, or transfer by an
10 institution of higher education or a private or independent
11 institution of higher education, as those terms are defined by
12 Section 61.003, Education Code; or

13 (G) any other similar use under the laws of this
14 state or another jurisdiction; or

15 (2) to an entity that:

16 (A) is a covered entity or business associate, as
17 defined by 45 C.F.R. Part 160, subject to the privacy, security, and
18 breach notification rules under the Health Insurance Portability
19 and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.);

20 (B) offers genetic testing products or services
21 through a health care provider; or

22 (C) is a health care provider.

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

1 unauthorized use minus any expenses that the person who committed
2 the unauthorized use may prove.

3 (b) Subject to Subsection (a), the amount of a civil penalty
4 under this section shall be based on:

5 (1) the seriousness of the violation, including the
6 nature, circumstances, extent, and gravity of the violation;

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

8 (3) the history of previous violations;

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

10 (5) efforts to correct the violation; and

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

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

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

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

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

24 SECTION 3. This Act takes effect September 1, 2025.