



Reprinted  
January 30, 2024

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## SENATE BILL No. 284

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DIGEST OF SB 284 (Updated January 29, 2024 2:38 pm - DI 119)

**Citations Affected:** IC 22-9; IC 24-4.

**Synopsis:** Consumer genetic testing providers. Provides that a person may not discriminate against an individual on the basis of the individual's solicitation and use of consumer genetic testing services or on the basis of the results of genetic testing performed by a provider of consumer genetic testing services (provider). Requires a provider to disclose specified information to an individual who submits biological material to the provider for genetic testing. Prohibits a provider that performs, or causes to be performed, genetic testing on an individual's biological material from: (1) taking specified actions with regard to: (A) the biological material; or (B) data resulting from genetic testing performed on the biological material; unless the provider has solicited and received the individual's consent to the action; or (2) providing data, other than deidentified data, resulting from genetic testing performed on the individual's biological material to: (A) an insurer; (B) a business that provides information or data to insurers for the purposes of underwriting or rating of risks; or (C) the individual's employer. Imposes requirements on a provider with respect to: (1) controlling access to an individual's biological material and data; (2) complying with the individual's revocation of consent with regard to the individual's biological material and data; and (3) marketing or  
(Continued next page)

**Effective:** July 1, 2024.

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**Hunley, Johnson T, Buchanan,  
Koch, Vinzant**

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January 16, 2024, read first time and referred to Committee on Commerce and Technology.  
January 25, 2024, amended, reported favorably — Do Pass.  
January 29, 2024, read second time, amended, ordered engrossed.

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SB 284—LS 6900/DI 119



Digest Continued

advertising sent to the individual as a result of the individual's solicitation and use of the provider's genetic testing services or use of a website or other remote or virtual service associated with the provider's genetic testing services. Provides that a provider may not charge a fee for the provision of biological material or data resulting from genetic testing performed on biological material: (1) to a law enforcement agency on the basis of a search warrant; or (2) as required by a court order; that is more than the provider's actual cost of providing the material or data. Provides for enforcement of the bill's provisions by the attorney general.

**SB 284—LS 6900/DI 119**



Reprinted  
January 30, 2024

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

## SENATE BILL No. 284

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A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 22-9-14 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2024]:  
4 **Chapter 14. Genetic Discrimination**  
5 **Sec. 1. The definitions in IC 24-4-24 apply throughout this**  
6 **chapter.**  
7 **Sec. 2. A person may not discriminate against an individual on**  
8 **the basis of the individual's solicitation and use of consumer**  
9 **genetic testing services or on the basis of the results of genetic**  
10 **testing performed by a consumer genetic testing provider,**  
11 **including by discriminating against the individual in any of the**  
12 **following ways:**  
13 (1) Denying the individual access to the person's goods or  
14 services.  
15 (2) Charging the individual a different rate for the person's

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1 goods or services.

2 (3) Suggesting that the individual will be subject to any of the  
3 measures described in subdivisions (1) through (2).

4 SECTION 2. IC 24-4-24 IS ADDED TO THE INDIANA CODE AS  
5 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
6 1, 2024]:

7 **Chapter 24. Consumer Genetic Testing Providers**

8 **Sec. 1. (a) As used in this chapter, "consumer genetic testing"**  
9 **means a service in which a person:**

10 (1) provides an individual with a means of submitting a  
11 sample of the individual's biological material directly to the  
12 person;

13 (2) performs, or causes to be performed, genetic testing on the  
14 submitted biological material; and

15 (3) returns the results of the genetic testing directly to the  
16 individual.

17 (b) The term does not include genetic testing:

18 (1) of biological material of a patient of a health care provider  
19 (as defined in IC 16-18-2-163(a)), the collection and testing of  
20 which is:

21 (A) performed at the request or direction of the health care  
22 provider for the purpose of the diagnosis, cure, mitigation,  
23 treatment, or prevention of a physical or mental illness,  
24 injury, disease, disorder, or disability; and

25 (B) subject to the Health Insurance Portability and  
26 Accountability Act (HIPAA) (P.L. 104-191);

27 (2) performed as required by a court order;

28 (3) performed for purposes of a law enforcement investigation  
29 at the request or direction of a law enforcement agency;

30 (4) performed at the request or direction of a coroner or  
31 medical examiner for purposes of investigating the cause of an  
32 individual's death; or

33 (5) performed for purposes of research (as defined in 45 CFR  
34 164.501) that is subject to:

35 (A) 21 CFR Parts 50 and 56; or

36 (B) 45 CFR Part 46.

37 **Sec. 2. As used in this chapter, "consumer genetic testing  
38 provider" or "provider" means a person that, in the ordinary  
39 course of the person's business:**

40 (1) offers consumer genetic testing; or

41 (2) collects, uses, or analyzes genetic data that:

42 (A) results from a consumer genetic testing product or



1                   service; and  
 2                   (B) is provided to the person by a consumer;  
 3 in exchange for consideration.

4           **Sec. 3. As used in this chapter, "deidentified data" means data**  
 5 **that cannot reasonably be used to infer information about, or**  
 6 **otherwise be linked to, an identifiable consumer and that:**

7           (1) is subject to:  
 8           (A) administrative and technical measures to ensure that  
 9           the data cannot be associated with a particular consumer;  
 10           (B) public commitment by the holder of the data to:  
 11           (i) maintain and use the data in deidentified form; and  
 12           (ii) not attempt to reidentify the data; and  
 13           (C) legally enforceable contractual obligations that  
 14           prohibit any recipients of the data from attempting to  
 15           reidentify the data; or  
 16           (2) meets requirements for deidentification of the data set  
 17           forth in 45 CFR 164.514.

18           **Sec. 4. As used in this chapter, "DNA" has the meaning set forth**  
 19 **in IC 10-13-6-2.**

20           **Sec. 5. As used in this chapter, "genetic data" means any data,**  
 21 **regardless of format, that:**

22           (1) results from the analysis of an individual's biological  
 23           material, including analysis of:  
 24           (A) the complete DNA;  
 25           (B) regions of the DNA;  
 26           (C) chromosomes;  
 27           (D) genes; or  
 28           (E) gene products; and  
 29           (2) concerns an individual's genetic characteristics.

30           **The term does not include deidentified data.**

31           **Sec. 6. As used in this chapter, "genetic testing" means analysis**  
 32 **of genetic data.**

33           **Sec. 7. As used in this chapter, "insurer" has the meaning set**  
 34 **forth in IC 27-1-2-3.**

35           **Sec. 8. (a) A consumer genetic testing provider may not**  
 36 **perform, or cause to be performed, genetic testing on an**  
 37 **individual's biological material unless the provider has provided**  
 38 **the individual with a written disclosure of the provider's privacy**  
 39 **policy, including the provider's policies and procedures regarding**  
 40 **the provider's collection, maintenance, security, retention, and use**  
 41 **of both biological material sent to the provider and data resulting**  
 42 **from genetic testing performed on the biological material.**



1           **(b) The disclosure under subsection (a) must include complete**  
 2 **information regarding the following:**

3           **(1) The identity of any third party that may perform genetic**  
 4 **testing on biological material sent to the third party by the**  
 5 **provider.**

6           **(2) The manner in which:**

7               **(A) biological material sent to the provider; and**

8               **(B) data resulting from genetic testing performed on**  
 9 **biological material sent to the provider;**

10 **is stored, transferred, and secured.**

11 **(3) Any:**

12               **(A) testing or analysis that the provider performs, or**  
 13 **causes to be performed on; or**

14               **(B) other purpose for which the provider uses;**

15 **biological material sent by an individual to the provider that**  
 16 **is in addition to the genetic testing requested by the**  
 17 **individual.**

18 **(4) The:**

19               **(A) identity of any third party to which the provider**  
 20 **provides access to:**

21                   **(i) biological material sent to the provider; or**

22                   **(ii) data resulting from genetic testing performed on**  
 23 **biological material sent to the provider; and**

24               **(B) purpose for which the third party uses the biological**  
 25 **material or data.**

26 **(c) A consumer genetic testing provider shall:**

27           **(1) publish the disclosure described in subsection (a) on the**  
 28 **provider's website; and**

29           **(2) include on the provider's website prominent directions and**  
 30 **hyperlinks to the location of the disclosure on the provider's**  
 31 **website.**

32 **Sec. 9. (a) A consumer genetic testing provider that performs,**  
 33 **or causes to be performed, genetic testing on an individual's**  
 34 **biological material may not take any of the following actions unless**  
 35 **the provider has solicited and received the individual's freely given,**  
 36 **specific, informed, and unambiguous consent to the action:**

37           **(1) Perform, or cause to be performed, any testing or analysis**  
 38 **of the individual's biological material that is not requested by**  
 39 **the individual except as required to comply with state and**  
 40 **federal law.**

41           **(2) Use the individual's biological material for any use other**  
 42 **than the genetic testing requested by the individual.**



- 1           **(3) Provide access by a third party to:**  
 2           **(A) the individual's biological material; or**  
 3           **(B) data, other than deidentified data, resulting from**  
 4           **genetic testing performed on the individual's biological**  
 5           **material.**  
 6           **(4) Retain the individual's biological material for more than**  
 7           **thirty (30) days after the performance of the genetic testing**  
 8           **requested by the individual, except as required to comply with**  
 9           **state or federal law.**  
 10          **(5) Retain data, other than deidentified data, resulting from**  
 11          **genetic testing performed on the individual's biological**  
 12          **material for more than thirty (30) days after the completion**  
 13          **of the service:**  
 14               **(A) except as required to comply with state and federal**  
 15               **law; and**  
 16               **(B) provided the individual is empowered to revoke any**  
 17               **necessary consent to the service at any time.**  
 18          **(6) Disseminate advertising or marketing communications to**  
 19          **the individual based on the individual's genetic testing results.**  
 20          **(7) Provide information regarding the individual's:**  
 21               **(A) solicitation and use of the provider's genetic testing**  
 22               **services; or**  
 23               **(B) use of the provider's:**  
 24                    **(i) website; or**  
 25                    **(ii) other remote or virtual services;**  
 26               **associated with the provider's genetic testing services;**  
 27               **to a third party to enable the third party to disseminate**  
 28               **advertising or marketing communications to the individual.**  
 29          **(b) A provider's solicitation of an individual's consent to an**  
 30          **action described in subsection (a) must:**  
 31               **(1) describe the action in terms that are sufficiently clear and**  
 32               **concise as to be reasonably understandable by a person of**  
 33               **ordinary intelligence; and**  
 34               **(2) solicit the individual's consent to the action separately**  
 35               **from a solicitation of the individual's consent to any other**  
 36               **action described in subsection (a).**  
 37          **(c) Consent to an action under subsection (a) is not freely given,**  
 38          **specific, informed, and unambiguous if the consent is provided by**  
 39          **any of the following means:**  
 40               **(1) The individual's inaction.**  
 41               **(2) The individual's acceptance of:**  
 42                    **(A) general or broad terms of service; or**



- 1           **(B) any other document requiring agreement by an**  
 2           **individual using the provider's services;**  
 3           **containing information unrelated to the action under**  
 4           **subsection (a).**  
 5           **(3) The individual closing, muting, pausing, or hovering a**  
 6           **computer cursor over a piece of content.**  
 7           **(4) The individual's communication of consent through an**  
 8           **Internet user interface that is designed or manipulated with**  
 9           **the substantial effect of subverting or impairing user**  
 10           **autonomy, decision making, or choice.**
- 11           **Sec. 10. (a) A consumer genetic testing provider that performs,**  
 12           **or causes to be performed, genetic testing on an individual's**  
 13           **biological material shall do the following:**
- 14           **(1) Implement commercially reasonable security measures to**  
 15           **protect:**
- 16                   **(A) the individual's biological material; and**  
 17                   **(B) data resulting from genetic testing performed on the**  
 18                   **individual's biological material;**  
 19           **from unauthorized access, destruction, use, modification, or**  
 20           **disclosure.**
- 21           **(2) Allow the individual access to any data resulting from**  
 22           **genetic testing performed on the individual's biological**  
 23           **material.**
- 24           **(3) Provide the following:**
- 25                   **(A) A procedure by which the individual can revoke any**  
 26                   **consent provided by the individual under section 9 of this**  
 27                   **chapter. The procedure must enable the individual to**  
 28                   **communicate the revocation:**
- 29                           **(i) directly to the provider; and**  
 30                           **(ii) through one (1) or more means, at least one (1) of**  
 31                           **which must be the primary means by which the provider**  
 32                           **communicates with the individual.**
- 33                   **(B) Both:**
- 34                           **(i) notice of the existence of; and**  
 35                           **(ii) instructions regarding the use of;**  
 36                   **the procedure under clause (A) that are sufficiently clear**  
 37                   **and concise as to be reasonably understandable by a**  
 38                   **person of ordinary intelligence.**
- 39           **(4) Comply with a revocation of consent by the individual not**  
 40           **later than thirty (30) days after the individual communicates**  
 41           **the revocation to the provider, including by:**  
 42                   **(A) destroying the individual's biological material not later**





- 1 than thirty (30) days after the individual revokes the  
 2 individual's consent to the provider's retention of the  
 3 biological material under section 9(a)(4) of this chapter;  
 4 and  
 5 (B) destroying any data resulting from genetic testing  
 6 performed on the individual's biological material not later  
 7 than thirty (30) days after the individual revokes the  
 8 individual's consent to the provider's retention of the data  
 9 under section 9(a)(5) of this chapter.
- 10 (5) Provide a third party with access to the individual's  
 11 biological material, or to data resulting from genetic testing  
 12 performed on the individual's biological material, only under  
 13 contractual terms that prohibit the third party from:
- 14 (A) using the biological material or data for any use to  
 15 which the individual has not consented under section 9 of  
 16 this chapter;  
 17 (B) providing another party with access to the biological  
 18 material or data; or  
 19 (C) retaining the biological material or data longer than  
 20 the provider is authorized to retain the biological material  
 21 or data under this chapter.
- 22 (6) Ensure that:
- 23 (A) any advertising or marketing communications sent to  
 24 the individual as a result of the individual's:  
 25 (i) solicitation and use of the provider's services; or  
 26 (ii) use of the provider's website or other remote or  
 27 virtual services;  
 28 are clearly and prominently denoted as advertising or  
 29 marketing materials; and  
 30 (B) advertising or marketing communications described in  
 31 clause (A) that are sent by a third party clearly and  
 32 prominently:  
 33 (i) identify the third party; and  
 34 (ii) notify the individual that any claims made in the  
 35 advertising or marketing communications have not been  
 36 evaluated by the provider.
- 37 (b) A consumer genetic testing provider may not provide data,  
 38 other than deidentified data, resulting from genetic testing  
 39 performed on an individual's biological material to:  
 40 (1) an insurer;  
 41 (2) a person that, in the ordinary course of the person's  
 42 business, provides information or data to insurers for the



1           purposes of underwriting or rating of risks; or  
 2           (3) a person that employs the individual;  
 3 regardless of whether the individual has consented to the provider  
 4 providing third parties with access to the data under section 9(a)(3)  
 5 of this chapter.

6           (c) A consumer genetic testing provider may not charge a fee for  
 7 the provision of biological material or for the provision of data  
 8 resulting from genetic testing performed on biological material:

9           (1) to a law enforcement agency on the basis of a search  
 10 warrant; or

11           (2) as required by a court order;

12 that is more than the actual cost, not including labor costs or  
 13 overhead costs, to the consumer genetic testing provider of  
 14 providing the material or data.

15           Sec. 11. (a) The attorney general has exclusive authority to  
 16 enforce the provisions of this chapter.

17           (b) The attorney general may initiate an action in the name of  
 18 the state and may seek an injunction to restrain any violations of  
 19 this chapter and a civil penalty not to exceed seven thousand five  
 20 hundred dollars (\$7,500) for each violation under this chapter.

21           (c) The attorney general may recover reasonable expenses  
 22 incurred in investigating and preparing the case, including  
 23 attorney's fees, in any action initiated under this section.

24           (d) Before initiating an action under this section, the attorney  
 25 general shall provide a provider thirty (30) days written notice  
 26 identifying the specific provisions of this chapter that the attorney  
 27 general alleges have been or are being violated. If within the thirty  
 28 (30) day period set forth in this subsection, the provider:

29           (1) cures the alleged violation; and

30           (2) provides the attorney general an express written statement  
 31 that:

32           (A) the alleged violation has been cured; and

33           (B) actions have been taken to ensure no further such  
 34 violations will occur;

35 the attorney general shall not initiate an action against the  
 36 provider.

37           (e) If a provider:

38           (1) continues the alleged violation following the thirty (30) day  
 39 period set forth in subsection (d); or

40           (2) breaches an express written statement provided to the  
 41 attorney general under subsection (d)(2);

42 the attorney general may initiate an action against the provider



1        **under subsection (b).**  
2        **(f) Nothing in this section shall be construed as providing the**  
3        **basis for a private right of action for violations of this chapter or**  
4        **any other law.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred Senate Bill No. 284, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 37 through 40, begin a new paragraph and insert:

**"Sec. 2. As used in this chapter, "consumer genetic testing provider" or "provider" means a person that, in the ordinary course of the person's business:**

**(1) offers consumer genetic testing; or**

**(2) collects, uses, or analyzes genetic data that:**

**(A) results from a consumer genetic testing product or service; and**

**(B) is provided to the person by a consumer;**

**in exchange for consideration."**

Page 3, delete lines 13 through 21, begin a new paragraph and insert:

**"Sec. 5. As used in this chapter, "genetic data" means any data, regardless of format, that:**

**(1) results from the analysis of an individual's biological material, including analysis of:**

**(A) the complete DNA;**

**(B) regions of the DNA;**

**(C) chromosomes;**

**(D) genes; or**

**(E) gene products; and**

**(2) concerns an individual's genetic characteristics.**

**The term does not include deidentified data.**

**Sec. 6. As used in this chapter, "genetic testing" means analysis of genetic data."**

Page 3, line 22, delete "6." and insert "7."

Page 3, line 24, delete "7." and insert "8."

Page 3, delete lines 37 through 38, begin a new line block indented and insert:

**"(1) The identity of any third party that may perform genetic testing on biological material sent to the third party by the provider."**

Page 4, line 23, delete "8." and insert "9."

Page 4, line 41, delete "." and insert ", except as required to comply with state or federal law."



Page 5, line 6, after "individual" insert **"based on the individual's genetic testing results"**.

Page 5, line 37, delete "9." and insert **"10."**

Page 6, line 10, delete "8" and insert **"9"**.

Page 6, line 29, delete "8(a)(4)" and insert **"9(a)(4)"**.

Page 6, line 35, delete "8(a)(5)" and insert **"9(a)(5)"**.

Page 6, delete lines 36 through 40.

Page 6, line 41, delete "(6)" and insert **"(5)"**.

Page 7, line 4, delete "8" and insert **"9"**.

Page 7, line 11, delete "(7)" and insert **"(6)"**.

Page 7, line 35, delete "8(a)(3)" and insert **"9(a)(3)"**.

Page 7, line 40, delete ";" and insert **"on the basis of a search warrant;"**.

Page 8, delete lines 3 through 42, begin a new paragraph and insert:

**"Sec. 11. (a) The attorney general has exclusive authority to enforce the provisions of this chapter.**

**(b) The attorney general may initiate an action in the name of the state and may seek an injunction to restrain any violations of this chapter and a civil penalty not to exceed seven thousand five hundred dollars (\$7,500) for each violation under this chapter.**

**(c) The attorney general may recover reasonable expenses incurred in investigating and preparing the case, including attorney's fees, in any action initiated under this section.**

**(d) Before initiating an action under this section, the attorney general shall provide a provider thirty (30) days written notice identifying the specific provisions of this chapter that the attorney general alleges have been or are being violated. If within the thirty (30) day period set forth in this subsection, the provider:**

**(1) cures the alleged violation; and**

**(2) provides the attorney general an express written statement that:**

**(A) the alleged violation has been cured; and**

**(B) actions have been taken to ensure no further such violations will occur;**

**the attorney general shall not initiate an action against the provider.**

**(e) If a provider:**

**(1) continues the alleged violation following the thirty (30) day period set forth in subsection (d); or**

**(2) breaches an express written statement provided to the attorney general under subsection (d)(2);**

**the attorney general may initiate an action against the provider**



under subsection (b).

**(f) Nothing in this section shall be construed as providing the basis for a private right of action for violations of this chapter or any other law."**

Delete pages 9 through 16.

and when so amended that said bill do pass.

(Reference is to SB 284 as introduced.)

BUCHANAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 284 be amended to read as follows:

Page 3, delete lines 4 through 15, begin a new paragraph and insert:

**"Sec. 3. As used in this chapter, "deidentified data" means data that cannot reasonably be used to infer information about, or otherwise be linked to, an identifiable consumer and that:**

**(1) is subject to:**

**(A) administrative and technical measures to ensure that the data cannot be associated with a particular consumer;**

**(B) public commitment by the holder of the data to:**

**(i) maintain and use the data in deidentified form; and**

**(ii) not attempt to reidentify the data; and**

**(C) legally enforceable contractual obligations that prohibit any recipients of the data from attempting to reidentify the data; or**

**(2) meets requirements for deidentification of the data set forth in 45 CFR 164.514."**

Page 3, line 35, delete "has:" and insert **"has provided the individual with"**.

Page 3, delete lines 36 through 38.

Page 3, run in lines 34 through 42.

Page 5, delete lines 11 through 15, begin a new line block indented and insert:

**"(5) Retain data, other than deidentified data, resulting from genetic testing performed on the individual's biological material for more than thirty (30) days after the completion**



**of the service:**

**(A) except as required to comply with state and federal law; and**

**(B) provided the individual is empowered to revoke any necessary consent to the service at any time."**

Page 5, line 17, after "results" insert ".

**(7) Provide"**.

Page 5, line 18, delete "or provide".

Page 5, line 19, after "provider's" insert "**genetic testing**".

Page 5, delete lines 20 through 21, begin a new line double block indented and insert:

**"(B) use of the provider's:**

**(i) website; or**

**(ii) other remote or virtual services;**

**associated with the provider's genetic testing services;".**

(Reference is to SB 284 as printed January 26, 2024.)

HUNLEY

