

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 598

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE GENETIC TESTING PRIVACY ACT; AMENDING SECTION 39-8303, IDAHO
2 CODE, TO PROVIDE A CERTAIN EXCEPTION REGARDING DNA ANALYSIS AND TO MAKE
3 TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-
4 FECTIVE DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 39-8303, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 39-8303. RESTRICTIONS ON EMPLOYERS. (1) Except as provided in subsec-
10 tions (2) and (3) of this section, an employer shall not, in connection with a
11 hiring, promotion, retention or other related decision:

12 (a) Access or otherwise take into consideration private genetic infor-
13 mation about an individual;

14 (b) Request or require an individual to consent to a release for the
15 purpose of accessing private genetic information about the individual;

16 (c) Request or require an individual or his blood relative to submit to
17 a genetic test; or

18 (d) Inquire into the fact that an individual or his blood relative has
19 taken or refused to take a genetic test.

20 (2) (a) Notwithstanding the provisions of subsection (1) of this sec-
21 tion, an employer may seek an order compelling the disclosure of pri-
22 vate genetic information held by an individual or third party pursuant
23 to subsection (2) (b) of this section in connection with:

24 (i) An employment-related judicial or administrative proceeding
25 in which the individual has placed his health at issue; or

26 (ii) An employment-related decision in which the employer has
27 a reasonable basis to believe that the individual's health con-
28 dition poses a real and unjustifiable safety risk requiring the
29 change or denial of an assignment.

30 (b) (i) An order compelling the disclosure of private genetic in-
31 formation pursuant to this subsection ~~(2)~~ may ~~only~~ be entered only
32 upon a finding that:

33 (A) Other ways of obtaining the private information are not
34 available or would not be effective; and

35 (B) There is a compelling need for the private genetic in-
36 formation ~~which~~ that substantially outweighs the potential
37 harm to the privacy interests of the individual.

38 (ii) An order compelling the disclosure of private genetic infor-
39 mation pursuant to this subsection ~~(2)~~ shall:

40 (A) Limit disclosure to those parts of the record containing
41 information essential to fulfill the objective of the order;

1 (B) Limit disclosure to those persons whose need for the in-
2 formation is the basis of the order; and

3 (C) Include such other measures as may be necessary to limit
4 disclosure for the protection of the individual.

5 (3) An employer who conducts DNA analysis for law enforcement purposes
6 as a forensic laboratory or for the purposes of human remains identification
7 may request or require genetic information of its employees or contractors
8 but only to the extent that such genetic information is used for analysis of
9 DNA identification markers for quality control to detect sample contamina-
10 tion.

11 SECTION 2. An emergency existing therefor, which emergency is hereby
12 declared to exist, this act shall be in full force and effect on and after
13 July 1, 2022.