

# SENATE BILL No. 33

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-9-14; IC 24-4-24.

**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)  
(Continued next page)

**Effective:** July 1, 2025.

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## Hunley

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January 8, 2025, read first time and referred to Committee on Commerce and Technology.

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## Digest Continued

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 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.



First Regular Session of the 124th General Assembly (2025)

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 2024 Regular Session of the General Assembly.

# SENATE BILL No. 33



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, 2025]:

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**  
16 **goods or services.**



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

3           SECTION 2. IC 24-4-24 IS ADDED TO THE INDIANA CODE AS  
 4           A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 5           1, 2025]:

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

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

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

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

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

16           **(b) The term does not include genetic testing:**

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

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

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

26           **(2) performed as required by a court order;**

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

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

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

34           **(A) 21 CFR 50 and 21 CFR 56; or**

35           **(B) 45 CFR 46.**

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

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

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

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



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

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

6           **(1) is subject to:**

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

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

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

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

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

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

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

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

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

23           **(A) the complete DNA;**

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

25           **(C) chromosomes;**

26           **(D) genes; or**

27           **(E) gene products; and**

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

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

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

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

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

42           **(b) The disclosure under subsection (a) must include complete**



- 1 information regarding the following:
- 2 (1) The identity of any third party that may perform genetic
- 3 testing on biological material sent to the third party by the
- 4 provider.
- 5 (2) The manner in which:
- 6 (A) biological material sent to the provider; and
- 7 (B) data resulting from genetic testing performed on
- 8 biological material sent to the provider;
- 9 is stored, transferred, and secured.
- 10 (3) Any:
- 11 (A) testing or analysis that the provider performs or causes
- 12 to be performed on; or
- 13 (B) other purpose for which the provider uses;
- 14 biological material sent by an individual to the provider that
- 15 is in addition to the genetic testing requested by the
- 16 individual.
- 17 (4) The:
- 18 (A) identity of any third party to which the provider
- 19 provides access to:
- 20 (i) biological material sent to the provider; or
- 21 (ii) data resulting from genetic testing performed on
- 22 biological material sent to the provider; and
- 23 (B) purpose for which the third party uses the biological
- 24 material or data.
- 25 (c) A consumer genetic testing provider shall:
- 26 (1) publish the disclosure described in subsection (a) on the
- 27 provider's website; and
- 28 (2) include on the provider's website prominent directions and
- 29 hyperlinks to the location of the disclosure on the provider's
- 30 website.
- 31 **Sec. 9. (a) A consumer genetic testing provider that performs,**
- 32 **or causes to be performed, genetic testing on an individual's**
- 33 **biological material may not take any of the following actions unless**
- 34 **the provider has solicited and received the individual's freely given,**
- 35 **specific, informed, and unambiguous consent to the action:**
- 36 (1) Perform, or cause to be performed, any testing or analysis
- 37 of the individual's biological material that is not requested by
- 38 the individual except as required to comply with state and
- 39 federal law.
- 40 (2) Use the individual's biological material for any use other
- 41 than the genetic testing requested by the individual.
- 42 (3) Subject to section 10(b) of this chapter, provide access by



1 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 except as required to comply with state and  
14 federal law.

15 (6) Disseminate advertising or marketing communications to  
16 the individual based on the individual's genetic testing results.

17 (7) Provide information regarding the individual's:

18 (A) solicitation and use of the provider's genetic testing  
19 services; or

20 (B) use of the provider's:

21 (i) website; or

22 (ii) other remote or virtual services;

23 associated with the provider's genetic testing services;

24 to a third party to enable the third party to disseminate  
25 advertising or marketing communications to the individual.

26 (b) A provider's solicitation of an individual's consent to an  
27 action described in subsection (a) must:

28 (1) describe the action in terms that are sufficiently clear and  
29 concise as to be reasonably understandable by a person of  
30 ordinary intelligence; and

31 (2) solicit the individual's consent to the action separately  
32 from a solicitation of the individual's consent to any other  
33 action described in subsection (a).

34 (c) Consent to an action under subsection (a) is not freely given,  
35 specific, informed, and unambiguous if the consent is provided by  
36 any of the following means:

37 (1) The individual's inaction.

38 (2) The individual's acceptance of:

39 (A) general or broad terms of service; or

40 (B) any other document requiring agreement by an  
41 individual using the provider's services;

42 containing information unrelated to the action under



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



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



1 providing third parties with access to the data under section 9(a)(3)  
2 of this chapter.

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

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

8 (2) as required by a court order;

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

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

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

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

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

26 (1) cures the alleged violation; and

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

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

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

32 the attorney general shall not initiate an action against the  
33 provider.

34 (e) If a provider:

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

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

39 the attorney general may initiate an action against the provider  
40 under subsection (b).

41 (f) Nothing in this section may be construed as providing the  
42 basis for a private right of action for violations of this chapter or



1      **any other law.**

