



AN ACT GENERALLY REVISING WARRANT REQUIREMENTS FOR DNA SEARCH RESULTS; REQUIRING A WARRANT FOR A SEARCH FROM A CONSUMER DNA DATABASE; REQUIRING A WARRANT FOR A FAMILIAL DNA SEARCH OR SEARCH RESULTS FROM PARTIAL MATCHING FROM THE STATE DNA IDENTIFICATION INDEX OR A CONSUMER DNA DATABASE; AND PROVIDING DEFINITIONS.

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

Section 1. Consumer DNA database searches -- familial DNA searches -- warrant required. (1)

A government entity may not obtain DNA search results from a consumer DNA database:

- (a) without a search warrant issued by a court on a finding of probable cause; or
- (b) unless the consumer whose information is sought previously waived the consumer's right to

privacy in the information.

(2) A government entity may not obtain familial DNA search results or search results from partial matching from the DNA identification index or a consumer DNA database without a search warrant issued by a court on a finding of probable cause.

(3) For the purposes of this section, the following definitions apply:

(a) "Consumer DNA database" means a database maintained by a private entity that provides direct-to-consumer genetic testing services.

(b) "DNA identification index" has the same meaning provided in 44-6-101.

(c) "Familial DNA search" means a search performed of a government or consumer DNA database using specialized software to detect and statistically rank a list of potential candidates in the DNA database who may be a close biological relative to the unknown individual contributing the evidence DNA profile. The specialized software search may be combined with lineage testing to help confirm or refute biological relatedness.

(d) "Lineage testing" means additional genetic testing used to help confirm or refute biological relatedness between the known individual in a DNA database and the unknown individual contributing the evidence DNA profile. Examples of additional genetic testing include but are not limited to:

(i) Y-STR analysis to examine STR patterns specific to the Y-chromosome used to determine paternally derived relatedness among DNA profiles;

(ii) mtDNA analysis to examine cell mitochondria used to determine maternally derived relatedness; or

(iii) single nucleotide polymorphism genotyping to generate results related to a person's ancestry and genetic predisposition to health-related topics.

(e) "Partial matching" means a moderate stringency search of a DNA database using routine search parameters that results in one or more partial matches between single-source and nondegraded DNA profiles that share at least one allele at each locus, indicating a potential familial relationship between the known individual in the DNA database and the unknown individual contributing the evidence DNA profile.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 44, chapter 6, part 1, and the provisions of Title 44, chapter 6, part 1, apply to [section 1].

- END -

I hereby certify that the within bill,
HB 602, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 602

INTRODUCED BY M. STROMSWOLD, C. KNUDSEN

AN ACT GENERALLY REVISING WARRANT REQUIREMENTS FOR DNA SEARCH RESULTS; REQUIRING A WARRANT FOR A SEARCH FROM A CONSUMER DNA DATABASE; REQUIRING A WARRANT FOR A FAMILIAL DNA SEARCH OR SEARCH RESULTS FROM PARTIAL MATCHING FROM THE STATE DNA IDENTIFICATION INDEX OR A CONSUMER DNA DATABASE; AND PROVIDING DEFINITIONS.