HB 1373 - AS AMENDED BY THE HOUSE

21Mar2018... 0740h

2018 SESSION

18-2553
01/04

HOUSE BILL ***1373***

AN ACT relative to an individual's property right in his or her DNA.

SPONSORS: Rep. Kurk, Hills. 2; Rep. Itse, Rock. 10

COMMITTEE: Judiciary

ANALYSIS

This bill declares that an individual's genetic information and DNA sample are the property of the individual.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to an individual's property right in his or her DNA.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Genetic Testing; Definition Added. Amend RSA 141-H:1 by inserting after paragraph I the following new paragraph:

I-a. "DNA sample" means any human biological specimen from which DNA was extracted, or any human biological specimen that is obtained or retained for the purpose of extracting and analyzing DNA to determine a genetic characteristic. "DNA sample" shall also include DNA extract from the specimen.

2 New Paragraph; Genetic Testing; Definition Added. Amend RSA 141-H:1 by inserting after paragraph III the following new paragraph:

III-a. "Genetic information" is the information about an individual or family obtained from a genetic test or from an individual's DNA sample.

3 New Sections; Individual's Right to Genetic Information. Amend RSA 141-H by inserting after section 2 the following new sections:

141-H:2-a Individual Right to Genetic Information. An individual has a reasonable expectation of privacy in his or her genetic information and has a property interest in his or her physical DNA sample and, except as expressly otherwise provided in statute, neither the information nor sample shall be acquired, retained, or disclosed without the written consent of the individual or his or her legal representative or, after the individual's death, his or her executor or other legal representative. If the individual is a juvenile, the juvenile and his or her parents must consent. Consent shall not be given in return for the resolution of a criminal case. This section shall not apply to abandoned property or to the identification of individuals in criminal investigations if the government has a search warrant or probable cause or has obtained the information or sample pursuant to RSA 651-C.

141-H:2-b Consent to Retain Information and Physical DNA Sample.

I. Any genetic information or physical DNA sample obtained by consent as authorized under RSA 141-H:2-a or with a warrant signed by a judge or based on probable cause, or pursuant to a judicially-recognized exception to the warrant requirement shall be retained for a specific purpose only and shall be destroyed and permanently deleted from all records once the genetic information and/or physical DNA sample has been used for the specific purpose for which consent was given.

II. This section shall not apply to the identification of individuals in criminal investigations if the government has obtained the sample pursuant to RSA 651-C.

4 Effective Date. This act shall take effect January 1, 2019.