1   HOUSE BILL NO. 602

2   INTRODUCED BY M. STROMSWOLD, C. KNUDSEN

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4   A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING WARRANT REQUIREMENTS FOR DNA

5   SEARCH RESULTS; REQUIRING A WARRANT FOR A SEARCH FROM A CONSUMER DNA DATABASE;

6   REQUIRING A WARRANT FOR A FAMILIAL DNA SEARCH OR SEARCH RESULTS FROM PARTIAL

7   MATCHING FROM THE STATE DNA IDENTIFICATION INDEX OR A CONSUMER DNA DATABASE; AND

8   PROVIDING DEFINITIONS."

9

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

11

12   NEW SECTION. **Section 1.   Consumer DNA database searches -- familial DNA searches --**

13   **warrant required.** (1) A government entity may not obtain DNA search results from a consumer DNA

14   database:

15   (A)   without a search warrant issued by a court on a finding of probable cause. ; OR

16   (B)   UNLESS THE CONSUMER WHOSE INFORMATION IS SOUGHT PREVIOUSLY WAIVED THE CONSUMER'S RIGHT

17   TO PRIVACY IN THE INFORMATION.

18   (2)   A government entity may not obtain familial DNA search results or search results from partial

19   matching from the DNA identification index or a consumer DNA database without a search warrant issued by a

20   court on a finding of probable cause.

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

22   (a)   "Consumer DNA database" means a database maintained by a private entity that provides direct-

23   to-consumer genetic testing services.

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

25   (c)   "Familial DNA search" means a search performed of a government or consumer DNA database

26   using specialized software to detect and statistically rank a list of potential candidates in the DNA database who

27   may be a close biological relative to the unknown individual contributing the evidence DNA profile. The

28   specialized software search may be combined with lineage testing to help confirm or refute biological

1   relatedness.

2   (d)   "Lineage testing" means additional genetic testing used to help confirm or refute biological

3   relatedness between the known individual in a DNA database and the unknown individual contributing the

4   evidence DNA profile. Examples of additional genetic testing include but are not limited to:

5   (i)   Y-STR analysis to examine STR patterns specific to the Y-chromosome used to determine

6   paternally derived relatedness among DNA profiles;

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

8   (iii) single nucleotide polymorphism genotyping to generate results related to a person's ancestry and

9   genetic predisposition to health-related topics.

10   (e)   "Partial matching" means a moderate stringency search of a DNA database using routine search

11   parameters that results in one or more partial matches between single-source and nondegraded DNA profiles

12   that share at least one allele at each locus, indicating a potential familial relationship between the known

13   individual in the DNA database and the unknown individual contributing the evidence DNA profile.

14

15   NEW SECTION. **Section 2.   Codification instruction.** [Section 1] is intended to be codified as an

16   integral part of Title 44, chapter 6, part 1, and the provisions of Title 44, chapter 6, part 1, apply to [section 1].

17   - END -

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