

SENATE BILL NO. 410

INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE MONTANA GENOMIC SECURITY ACT; PROHIBITING MEDICAL AND RESEARCH FACILITIES IN THE STATE FROM USING A GENETIC SEQUENCER OR GENETIC SEQUENCING SOFTWARE PRODUCED BY A FOREIGN ADVERSARY; PROVIDING REIMBURSEMENT TO FACILITIES THAT REPLACE A SEQUENCER OR SOFTWARE PRODUCED BY A FOREIGN ADVERSARY; PROHIBITING STORAGE OF GENETIC SEQUENCING DATA OF MONTANANS OUTSIDE OF THE UNITED STATES; REQUIRING WRITTEN CONSENT OF AN INDIVIDUAL TO REMOTELY ACCESS THEIR GENETIC SEQUENCING DATA THAT IS NOT OPEN DATA; PROVIDING GENETIC INFORMATION STORAGE REQUIREMENTS FOR FACILITIES; PROVIDING PENALTIES; AND PROVIDING DEFINITIONS."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 7] may be cited as the "Montana Genomic Security Act".

NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through 7] is to ensure that blacklisted adversary military companies do not gain access to American genetic information.

NEW SECTION. Section 3. Legislative intent. (1) It is the intent of the legislature that:

(a) the state oppose the collection and analysis of genetic information for military and surveillance purposes by the People's Republic of China; and

(b) the state support sanctions imposed by the United States department of commerce and the United States department of defense on companies engaged in the collection and analysis of genetic information for use by the military and surveillance state of the People's Republic of China.

1 **NEW SECTION. Section 4. Definitions.** As used in [sections 1 through 7], the following definitions

2 apply:

3 (1) "Company" means:

4 (a) a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture,
5 limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary,
6 majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to
7 make a profit; or

8 (b) a nonprofit organization.

9 (2) "Domiciled" means:

10 (a) the country in which a company is registered and headquartered;

11 (b) where the company's affairs are primarily completed, or

12 (c) where the majority of ownership share is held.

13 (3) "Foreign adversary" means the nations specified in 15 CFR 791.4 as of January 1, 2025.

14 (4) "Genetic sequencer" means a device or platform used to conduct genetic sequencing,
15 resequencing, isolation, or other genetic research.

16 (5) "Genetic sequencing" means any method to determine the identity and order of nucleotide
17 bases in the human genome.

18 (6) "Genome" means DNA (deoxyribonucleic acid) or RNA (ribonucleic acid) found in human cells.

19 (7) "Medical facility" means a facility for the delivery of health services that:

20 (a) receives state funding, including interagency pass-through appropriations from the federal
21 government;

22 (b) is registered with the state to provide health care services in the state; or

23 (c) conducts research or testing on, with, or relating to genetic sequencing of the human genome.

24 (8) "Operational and research software" means computer programs used for the operation, control,
25 analysis, or other necessary functions of genetic sequencing or genetic sequencers.

26 (9) "Research facility" means a facility that conducts research on, with, or relating to genetic
27 sequencing or the human genome.

28 (10) "Software" means a program or routine, or a set of one or more programs or routines, that are

1 used or intended for use to cause one or more computers or pieces of computer-related peripheral equipment,
2 or any combination of these, to perform a task or set of tasks as it relates to genetic sequencing or genetic
3 sequencers.

4
5 **NEW SECTION. Section 5. Prohibition on certain genetic sequencers and genetic sequencing**
6 **technologies.** (1) For conducting genetic sequencing, no medical facility or research facility in the state may
7 utilize genetic sequencers or any operational or research software used for genetic sequencing that are
8 produced in or by a foreign adversary, a state-owned enterprise of a foreign adversary, a company domiciled
9 within a foreign adversary, or an owned or controlled subsidiary or affiliate of a company domiciled within a
10 foreign adversary.

11 (2) Any genetic sequencers and operational and research software used for genetic sequencers or
12 genetic sequencing devices that are prohibited under subsection (1) must be removed and replaced with
13 genetic sequencers and operational and research software used for genetic sequencers or genetic sequencing
14 that do not violate the prohibition under subsection (1).

15 (3) A medical facility or research facility in the state may request a reimbursement for the cost of
16 replacement of the equipment and software prohibited under subsection (1) from the state treasurer, provided
17 the request includes purchase orders that were executed at least 90 days prior to [the effective date of this act].

18
19 **NEW SECTION. Section 6. Requirements on storage of genetic information.** (1) Storage of all
20 genetic sequencing data from the state must be restricted to the geographic location of the United States. Other
21 than open data, genetic sequencing data from the state may not be remotely accessed from outside the United
22 States unless approved in writing by the individuals whose data would be accessed.

23 (2) Medical facilities, research institutions, and other companies and entities storing genetic
24 sequencing data, including through contracts with third-party data storage companies, shall ensure the security
25 of genetic sequencing data using reasonable encryption methods, restrictions on access, and other
26 cybersecurity best practices.

27
28 **NEW SECTION. Section 7. Requirement of certification of compliance -- penalties for**

1 **noncompliance -- powers of attorney general.** (1) (a) Each medical facility and research institution covered
2 under [sections 1 through 7] shall provide legal documentation from an attorney to the attorney general by
3 [December 31 following the effective date of this act], and annually thereafter, certifying that the facility or
4 institution is in compliance with [sections 5 and 6].

5 (b) Failure to provide documentation by the deadline constitutes perjury.

6 (2) (a) A medical facility or research institution that violates the provisions of [section 5] shall be
7 fined \$10,000 for each violation, enforceable from the first day of the first full fiscal year after [the effective date
8 of this act].

9 (b) For the purposes of this subsection (2), "violation" means each unique instance of an
10 individual's genome having undergone genetic sequencing or analysis using prohibited genetic sequencers or
11 prohibited operational and research software used for genetic sequencers or genetic sequencing.

12 (3) An entity that knowingly violates the provisions of [section 6] by storing genetic sequencing
13 data outside of the United States shall be fined \$10,000 for each violation, enforceable beginning the first day of
14 the first full fiscal year after [the effective date of this act].

15 (4) (a) A person may notify the attorney general of a violation or a potential violation of [sections 1
16 through 7]. If that person is an employee of the entity accused of a violation, the person must be afforded all the
17 protections of a whistleblower pursuant to 30-10-1111.

18 (b) If a person is a patient or research subject of an entity found guilty of a violation of [section 5]
19 or [section 6] and that person's genetic information was used in the violation, that person is entitled to recover
20 damages of not less than \$5,000 for each unique use of the person's genomic information.

21 (5) The attorney general has the authority to investigate allegations of violations of [sections 1
22 through 7].

23
24 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 7] are intended to be
25 codified as a new part in Title 30, chapter 23, and the provisions of Title 30, chapter 23, apply to [sections 1
26 through 7].

27
28 NEW SECTION. **Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are

- 1 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
- 2 the part remains in effect in all valid applications that are severable from the invalid applications.

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