

**CS FOR SENATE BILL NO. 190(STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

**BY THE SENATE STATE AFFAIRS COMMITTEE**

**Offered: 3/12/10**

**Referred: Judiciary**

**Sponsor(s): SENATORS WIELECHOWSKI, Ellis**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to biometric information."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 18.13.010 is amended to read:

4 **Sec. 18.13.010. Biometric information** [GENETIC TESTING]. (a) Except as  
5 provided in (b) of this section,

6 (1) a person may not collect a DNA sample **or other biometric**  
7 **information** from a person, perform a DNA analysis on a sample, retain a DNA  
8 sample **or other biometric information, retain** [OR] the results of a DNA analysis,  
9 or disclose the results of a DNA analysis **or other biometric information** unless the  
10 person has first obtained the informed, **willing,** and written consent of the person, or  
11 the person's legal guardian or authorized representative, for the collection, analysis,  
12 retention, or disclosure;

13 (2) a DNA sample **or other biometric information** and the results of  
14 a DNA analysis performed on the sample are the exclusive property of the person  
15 sampled, [OR] analyzed, **or from whom the biometric information was taken.**

1 (b) The prohibitions of (a) of this section do not apply to DNA samples  
2 collected, other biometric information collected, and DNA analyses conducted

3 (1) under AS 44.41.035 or comparable provisions of another  
4 jurisdiction;

5 (2) for a law enforcement purpose, including the identification of  
6 perpetrators and the investigation of crimes and the identification of missing or  
7 unidentified persons or deceased individuals;

8 (3) for determining paternity;

9 (4) to screen newborns as required by state or federal law;

10 (5) for the purpose of emergency medical treatment; or

11 (6) for the collection of fingerprints when specifically provided for  
12 by state statute.

13 (c) A general authorization for the release of medical records or medical  
14 information may not be construed as the [INFORMED AND WRITTEN] consent  
15 required by this section. The Department of Health and Social Services may by  
16 regulation adopt a uniform [INFORMED AND WRITTEN] consent form to assist  
17 persons in meeting the requirements of this section. A person using that uniform  
18 [INFORMED AND WRITTEN] consent form is exempt from civil or criminal  
19 liability for actions taken under the uniform consent form. A person may revoke or  
20 amend their [INFORMED AND WRITTEN] consent at any time.

21 \* **Sec. 2.** AS 18.13.020 is amended to read:

22 **Sec. 18.13.020. Private right of action.** A person may bring a civil action  
23 against a person who collects a DNA sample or other biometric information from  
24 the person, performs a DNA analysis on a sample, retains a DNA sample or other  
25 biometric information, retains the results of a DNA analysis, or discloses the results  
26 of a DNA analysis or other biometric information in violation of this chapter. In  
27 addition to the actual damages suffered by the person, a person violating this chapter  
28 shall be liable to the person for damages in the amount of \$5,000 or, if the violation  
29 resulted in profit or monetary gain to the violator, \$100,000.

30 \* **Sec. 3.** AS 18.13.030(a) is amended to read:

31 (a) A person who is not a governmental entity commits the crime of

1 unlawful DNA collection, analysis, retention, or disclosure if the person **who is not a**  
2 **governmental entity** knowingly collects a DNA sample from a person, performs a  
3 DNA analysis on a sample, retains a DNA sample or the results of a DNA analysis, or  
4 discloses the results of a DNA analysis in violation of this chapter.

5 \* **Sec. 4.** AS 18.13.100 is amended by adding new paragraphs to read:

6 (4) "biometric information" means information that is based on  
7 fingerprints, hand geometry, voice recognition, facial recognition, iris scan, retinal  
8 scan, or DNA;

9 (5) "governmental entity" means a state agency, a municipality, and an  
10 agency of a municipality; in this paragraph, "state agency" means an agency of the  
11 executive, judicial, or legislative branch of state government;

12 (6) "person" has the meaning given in AS 01.10.060, and includes a  
13 governmental entity.