

# HB3130



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3130

by Rep. Allen Skillicorn

### SYNOPSIS AS INTRODUCED:

410 ILCS 513/10

Amends the Genetic Information Privacy Act. Includes direct-to-consumer commercial genetic testing in the definition of "genetic testing". Effective immediately.

LRB101 07826 CPF 52878 b

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Genetic Information Privacy Act is amended  
5 by changing Section 10 as follows:

6 (410 ILCS 513/10)

7 Sec. 10. Definitions. As used in this Act:

8 "Authority" means the Illinois Health Information Exchange  
9 Authority established pursuant to the Illinois Health  
10 Information Exchange and Technology Act.

11 "Business associate" has the meaning ascribed to it under  
12 HIPAA, as specified in 45 CFR 160.103.

13 "Covered entity" has the meaning ascribed to it under  
14 HIPAA, as specified in 45 CFR 160.103.

15 "De-identified information" means health information that  
16 is not individually identifiable as described under HIPAA, as  
17 specified in 45 CFR 164.514(b).

18 "Disclosure" has the meaning ascribed to it under HIPAA, as  
19 specified in 45 CFR 160.103.

20 "Employer" means the State of Illinois, any unit of local  
21 government, and any board, commission, department,  
22 institution, or school district, any party to a public  
23 contract, any joint apprenticeship or training committee

1 within the State, and every other person employing employees  
2 within the State.

3 "Employment agency" means both public and private  
4 employment agencies and any person, labor organization, or  
5 labor union having a hiring hall or hiring office regularly  
6 undertaking, with or without compensation, to procure  
7 opportunities to work, or to procure, recruit, refer, or place  
8 employees.

9 "Family member" means, with respect to an individual, (i)  
10 the spouse of the individual; (ii) a dependent child of the  
11 individual, including a child who is born to or placed for  
12 adoption with the individual; (iii) any other person qualifying  
13 as a covered dependent under a managed care plan; and (iv) all  
14 other individuals related by blood or law to the individual or  
15 the spouse or child described in subsections (i) through (iii)  
16 of this definition.

17 "Genetic information" has the meaning ascribed to it under  
18 HIPAA, as specified in 45 CFR 160.103.

19 "Genetic monitoring" means the periodic examination of  
20 employees to evaluate acquired modifications to their genetic  
21 material, such as chromosomal damage or evidence of increased  
22 occurrence of mutations that may have developed in the course  
23 of employment due to exposure to toxic substances in the  
24 workplace in order to identify, evaluate, and respond to  
25 effects of or control adverse environmental exposures in the  
26 workplace.

1 "Genetic services" has the meaning ascribed to it under  
2 HIPAA, as specified in 45 CFR 160.103.

3 "Genetic testing" and "genetic test" have the meaning  
4 ascribed to "genetic test" under HIPAA, as specified in 45 CFR  
5 160.103. "Genetic testing" includes direct-to-consumer  
6 commercial genetic testing.

7 "Health care operations" has the meaning ascribed to it  
8 under HIPAA, as specified in 45 CFR 164.501.

9 "Health care professional" means (i) a licensed physician,  
10 (ii) a licensed physician assistant, (iii) a licensed advanced  
11 practice registered nurse, (iv) a licensed dentist, (v) a  
12 licensed podiatrist, (vi) a licensed genetic counselor, or  
13 (vii) an individual certified to provide genetic testing by a  
14 state or local public health department.

15 "Health care provider" has the meaning ascribed to it under  
16 HIPAA, as specified in 45 CFR 160.103.

17 "Health facility" means a hospital, blood bank, blood  
18 center, sperm bank, or other health care institution, including  
19 any "health facility" as that term is defined in the Illinois  
20 Finance Authority Act.

21 "Health information exchange" or "HIE" means a health  
22 information exchange or health information organization that  
23 exchanges health information electronically that (i) is  
24 established pursuant to the Illinois Health Information  
25 Exchange and Technology Act, or any subsequent amendments  
26 thereto, and any administrative rules promulgated thereunder;

1 (ii) has established a data sharing arrangement with the  
2 Authority; or (iii) as of August 16, 2013, was designated by  
3 the Authority Board as a member of, or was represented on, the  
4 Authority Board's Regional Health Information Exchange  
5 Workgroup; provided that such designation shall not require the  
6 establishment of a data sharing arrangement or other  
7 participation with the Illinois Health Information Exchange or  
8 the payment of any fee. In certain circumstances, in accordance  
9 with HIPAA, an HIE will be a business associate.

10 "Health oversight agency" has the meaning ascribed to it  
11 under HIPAA, as specified in 45 CFR 164.501.

12 "HIPAA" means the Health Insurance Portability and  
13 Accountability Act of 1996, Public Law 104-191, as amended by  
14 the Health Information Technology for Economic and Clinical  
15 Health Act of 2009, Public Law 111-05, and any subsequent  
16 amendments thereto and any regulations promulgated thereunder.

17 "Insurer" means (i) an entity that is subject to the  
18 jurisdiction of the Director of Insurance and (ii) a managed  
19 care plan.

20 "Labor organization" includes any organization, labor  
21 union, craft union, or any voluntary unincorporated  
22 association designed to further the cause of the rights of  
23 union labor that is constituted for the purpose, in whole or in  
24 part, of collective bargaining or of dealing with employers  
25 concerning grievances, terms or conditions of employment, or  
26 apprenticeships or applications for apprenticeships, or of

1 other mutual aid or protection in connection with employment,  
2 including apprenticeships or applications for apprenticeships.

3 "Licensing agency" means a board, commission, committee,  
4 council, department, or officers, except a judicial officer, in  
5 this State or any political subdivision authorized to grant,  
6 deny, renew, revoke, suspend, annul, withdraw, or amend a  
7 license or certificate of registration.

8 "Limited data set" has the meaning ascribed to it under  
9 HIPAA, as described in 45 CFR 164.514(e)(2).

10 "Managed care plan" means a plan that establishes,  
11 operates, or maintains a network of health care providers that  
12 have entered into agreements with the plan to provide health  
13 care services to enrollees where the plan has the ultimate and  
14 direct contractual obligation to the enrollee to arrange for  
15 the provision of or pay for services through:

16 (1) organizational arrangements for ongoing quality  
17 assurance, utilization review programs, or dispute  
18 resolution; or

19 (2) financial incentives for persons enrolled in the  
20 plan to use the participating providers and procedures  
21 covered by the plan.

22 A managed care plan may be established or operated by any  
23 entity including a licensed insurance company, hospital or  
24 medical service plan, health maintenance organization, limited  
25 health service organization, preferred provider organization,  
26 third party administrator, or an employer or employee

1 organization.

2 "Minimum necessary" means HIPAA's standard for using,  
3 disclosing, and requesting protected health information found  
4 in 45 CFR 164.502(b) and 164.514(d).

5 "Nontherapeutic purpose" means a purpose that is not  
6 intended to improve or preserve the life or health of the  
7 individual whom the information concerns.

8 "Organized health care arrangement" has the meaning  
9 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

10 "Patient safety activities" has the meaning ascribed to it  
11 under 42 CFR 3.20.

12 "Payment" has the meaning ascribed to it under HIPAA, as  
13 specified in 45 CFR 164.501.

14 "Person" includes any natural person, partnership,  
15 association, joint venture, trust, governmental entity, public  
16 or private corporation, health facility, or other legal entity.

17 "Protected health information" has the meaning ascribed to  
18 it under HIPAA, as specified in 45 CFR 164.103.

19 "Research" has the meaning ascribed to it under HIPAA, as  
20 specified in 45 CFR 164.501.

21 "State agency" means an instrumentality of the State of  
22 Illinois and any instrumentality of another state which  
23 pursuant to applicable law or a written undertaking with an  
24 instrumentality of the State of Illinois is bound to protect  
25 the privacy of genetic information of Illinois persons.

26 "Treatment" has the meaning ascribed to it under HIPAA, as

1 specified in 45 CFR 164.501.

2 "Use" has the meaning ascribed to it under HIPAA, as  
3 specified in 45 CFR 160.103, where context dictates.

4 (Source: P.A. 99-173, eff. 7-29-15; 100-513, eff. 1-1-18.)

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.