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;~~ PROVIDING REGISTRATION REQUIREMENTS FOR GENETIC ~~SEQUENCERS AND GENETIC SEQUENCING TECHNOLOGIES;~~ 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~~ 6] may be cited as the "Montana Genomic Security Act".

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through ~~7~~ 6] 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.~~

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through ~~7~~ 6], the following definitions apply:

(1) "Company" means:

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

(b) a nonprofit organization.

(2) "Domiciled" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Software" means a program or routine, or a set of one or more programs or routines, that are used or intended for use to cause one or more computers or pieces of computer-related peripheral equipment, or any combination of these, to perform a task or set of tasks as it relates to genetic sequencing or genetic sequencers.

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

~~(2) Any genetic sequencers and operational and research software used for genetic sequencers or genetic sequencing devices that are prohibited under subsection (1) must be removed and replaced with genetic sequencers and operational and research software used for genetic sequencers or genetic sequencing that do not violate the prohibit ion under subsection (1).~~

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

NEW SECTION. **SECTION 4. PROHIBITION ON CERTAIN GENETIC SEQUENCERS AND GENETIC SEQUENCING TECHNOLOGIES.** (1) FOR CONDUCTING GENETIC SEQUENCING, NO MEDICAL FACILITY OR RESEARCH FACILITY IN THE STATE MAY UTILIZE GENETIC SEQUENCERS OR ANY OPERATIONAL OR RESEARCH SOFTWARE USED FOR GENETIC SEQUENCING THAT ARE PRODUCED IN OR BY A FOREIGN ADVERSARY, A STATE-OWNED ENTERPRISE OF A FOREIGN ADVERSARY, A COMPANY DOMICILED WITHIN A FOREIGN ADVERSARY, OR AN OWNED OR CONTROLLED SUBSIDIARY OR AFFILIATE OF A COMPANY DOMICILED WITHIN A FOREIGN ADVERSARY.

(2) ANY GENETIC SEQUENCERS AND OPERATIONAL AND RESEARCH SOFTWARE USED FOR GENETIC SEQUENCERS OR GENETIC SEQUENCING DEVICES THAT ARE PROHIBITED UNDER SUBSECTION (1) MUST BE REMOVED AND

REPLACED WITH GENETIC SEQUENCERS AND OPERATIONAL AND RESEARCH SOFTWARE USED FOR GENETIC SEQUENCERS OR GENETIC SEQUENCING THAT DO NOT VIOLATE THE PROHIBITION UNDER SUBSECTION (1).

NEW SECTION. ~~**SECTION 4. REGISTRATION REQUIREMENTS FOR GENETIC SEQUENCERS AND GENETIC SEQUENCING TECHNOLOGIES.** (1) A MEDICAL FACILITY OR RESEARCH FACILITY IN THE STATE UTILIZING GENETIC SEQUENCERS OR ANY OPERATIONAL OR RESEARCH SOFTWARE USED FOR GENETIC SEQUENCING SHALL COMPLETE THE CERTIFICATION REQUIREMENTS DESCRIBED IN [SECTION 6].~~

~~(2) AS PART OF THE CERTIFICATION OF COMPLIANCE, A MEDICAL FACILITY OR RESEARCH FACILITY SHALL DISCLOSE TO THE ATTORNEY GENERAL:~~

~~(A) WHERE ANY GENETIC SEQUENCERS OR ANY OPERATIONAL OR RESEARCH SOFTWARE USED FOR GENETIC SEQUENCING IS PRODUCED;~~

~~(B) WHERE THE ENTITY PRODUCING ANY GENETIC SEQUENCERS OR ANY OPERATIONAL OR RESEARCH SOFTWARE USED FOR GENETIC SEQUENCING IS DOMICILED; AND~~

~~(C) WHETHER THE ENTITY PRODUCING ANY GENETIC SEQUENCERS OR ANY OPERATIONAL OR RESEARCH SOFTWARE USED FOR GENETIC SEQUENCING IS PARTIALLY OR WHOLLY O WNED BY, CONTROLLED BY, OR AFFILIATED WITH, OR IS A SUBSIDIARY OF, A DIFFERENT ENTITY AND WHERE THE PARENT ENTITY IS DOMICILED.~~

NEW SECTION. **Section 5. Requirements on storage of genetic information.** (1) Storage of all genetic sequencing data from the state must be restricted to the geographic location of the United States. Other than open data, genetic sequencing data from the state may not be remotely accessed from outside the United States unless approved in writing by the individuals whose data would be accessed.

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

NEW SECTION. **Section 6. Requirement of certification of compliance -- penalties for noncompliance -- powers of attorney general.** (1) (a) Each medical facility and research institution covered

under [sections 1 through ~~7~~ 6] shall provide legal documentation from an attorney to the attorney general by [December 31 following the effective date of this act], and annually thereafter, certifying that the facility or institution is in compliance with [sections 4 AND 5 ~~and 6~~].

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

(2) (a) A medical facility or research institution that violates the provisions of [section ~~5~~ 4] shall be fined $10,000 for each violation, enforceable from the first day of the first full fiscal year after [the effective date of this act].

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

(3) An entity that knowingly violates the provisions of [section ~~6~~ 5] by storing genetic sequencing data outside of the United States shall be fined $10,000 for each violation, enforceable beginning the first day of the first full fiscal year after [the effective date of this act].

(4) (a) A person may notify the attorney general of a violation or a potential violation of [sections 1 through ~~7~~ 6]. If that person is an employee of the entity accused of a violation, the person must be afforded all the protections of a whistleblower pursuant to 30-10-1111.

(b) If a person is a patient or research subject of an entity found guilty of a violation of [section ~~5~~ 4] or [section ~~6~~ 5] and that person's genetic information was used in the violation, that person is entitled to recover damages of not less than $5,000 for each unique use of the person's genomic information.

(5) The attorney general has the authority to investigate allegations of violations of [sections 1 through ~~7~~ 6].

NEW SECTION. **Section 7. Codification instruction.** [Sections 1 through ~~7~~ 6] are intended to be codified as a new part in Title 30, chapter 23, and the provisions of Title 30, chapter 23, apply to [sections 1 through ~~7~~ 6].

NEW SECTION. **Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

the part remains in effect in all valid applications that are severable from the invalid applications.

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