**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING LAWS RELATED TO PRIVACY; AMENDING SECTIONS 30-14-2820 AND 30-23-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

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

Section 1. Section 30-14-2820, MCA, is amended to read:

"**30-14-2820. Civil penalty injunction.** (1) A violation of this part is a violation of Title 30, chapter 14, parts 1 and 2.

(2) A person who violates the provisions of this part ~~following the 30-day period described in 30-14-2817(3)~~ is liable for a civil penalty in an amount not to exceed $7,500 for each violation.

(3) The attorney general may bring an action in the name of this state to:

(a) recover a civil penalty under this section;

(b) restrain or enjoin the person from violating this part; or

(c) recover the civil penalty and seek injunctive relief.

(4) The attorney general may recover reasonable attorney fees and other reasonable expenses incurred in investigating and bringing an action under this section.

(5) The attorney general shall deposit a civil penalty collected under this section in a special revenue account to the credit of the department pursuant to 30-14-143."

Section 2. Section 30-23-102, MCA, is amended to read:

"**30-23-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Biological sample" means any human material known to contain DNA, including tissue, blood,

urine, or saliva.

(2) "Consumer" means an individual who is a resident of this state.

(3) "DNA" means deoxyribonucleic acid.

(4) "Entity" means a partnership, corporation, association, or public or private organization of any character that:

(a) offers consumer genetic testing products or services directly to a consumer; or

(b) collects, uses, or analyzes genetic and/or neural data.

(5) "Express consent" means a consumer's affirmative response to a clear, meaningful, and prominent notice regarding the collection, use, or disclosure of genetic data for a specific purpose.

(6) (a) "Genetic data" means any data, regardless of format, concerning a consumer's genetic characteristics.

(b) The term includes but is not limited to:

(i) raw sequence data that result from sequencing all or a portion of a consumer's extracted DNA;

(ii) genotypic and phenotypic information obtained from analyzing a consumer's raw sequence data; and

(iii) self-reported health information regarding a consumer's health conditions that the consumer provides to an entity that the entity:

(A) uses for scientific research or product development; and

(B) analyzes in connection with the consumer's raw sequence data.

(7) "Genetic testing" means:

(a) a laboratory test of a consumer's complete DNA, regions of DNA, chromosomes, genes, or gene products to determine the presence of genetic characteristics of a consumer; or

(b) an interpretation of a consumer's genetic data.

(8) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

(9) "Neurotechnology" means devices capable of recording, interpreting, or altering the response of an individual's central or peripheral nervous system to its internal or external environment and includes

mental augmentation, which means improving human cognition and behavior through direct recording or manipulation of neural activity by neurotechnology.

(10) (a) "Neurotechnology data" means information that is captured by neurotechnologies, is generated by measuring the activity of an individual's central or peripheral nervous systems, or is data associated with neural activity, which means the activity of neurons or glial cells in the central or peripheral nervous system, and that is not nonneural information.

(b) The term does not include nonneural information, which means information about the downstream physical effects of neural activity, including by not limited to pupil dilation, motor activity, and breathing rate.

(11) "Person" means an individual, partnership, corporation, association, business, business trust, or legal representative of an organization.

(12) "Processor" means a person that processes genetic data on behalf of an entity pursuant to a contract between the entity and the processor that prohibits the processor from retaining, using, or disclosing the genetic data, or any information regarding the identity of the consumer, including whether that consumer has solicited or received genetic testing, as applicable, for any purpose other than for the specific purpose of performing the services specified in the contract.

(13) "Third party" means a person other than the consumer, entity, or processor."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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