

STAND. COM. REP. NO.

2065

Honolulu, Hawaii

FEB 04 2022

RE: S.B. No. 2032
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 2032
entitled:

"A BILL FOR AN ACT RELATING TO GENETIC INFORMATION PRIVACY,"

begs leave to report as follows:

The purpose and intent of this measure is to establish the
Hawaii Genetic Information Privacy Act (Privacy Act), which:

- (1) Requires direct-to-consumer genetic testing companies to
adhere to certain requirements pertaining to its
collection, use, and disclosure of genetic data;
- (2) Establishes fines for violations of the Privacy Act;
- (3) Allows the Executive Director of the Office of Consumer
Protection, by and through the Attorney General, to
bring civil action against violators on behalf of the
State or consumers for injunctions, collection of civil
penalties, and recovery damages; and
- (4) Allows the State to recover the costs of suit and
reasonable attorneys' fees for violations of the Privacy
Act.

Your Committee received testimony in support of this measure
from the Department of Commerce and Consumer Affairs.



Your Committee finds that the number of companies offering direct-to-consumer genetic tests, such as ancestry tests, at-home genetic tests, and genealogy tests, has been growing. These direct-to-consumer genetic tests provide consumers with direct access to their genetic information without the involvement of health care providers and health plans. The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) established national standards to protect an individual's medical records and other personal health information, including genetic information. However, HIPAA applies only to health plans, health care clearinghouses, and certain health care providers; it does not apply to direct-to-consumer genetic testing companies. Currently, Hawaii law does not provide adequate guidelines for the use of genetic data collected by companies outside of the protective ambit of state and federal health privacy laws. This measure fills this gap by creating the Hawaii Genetic Information Privacy Act.

Your Committee acknowledges the testimony of the Department of Commerce and Consumer Affairs, which notes that the penalty and enforcement provisions of the Privacy Act can be better accomplished by incorporating the already existing penalty and enforcement provisions in statute.

Therefore, your Committee has amended this measure by:

- (1) Deleting sections five and six of the Privacy Act and replacing them with a new provision that deems any violation of the Privacy Act to be an unfair or deceptive act or practice in the conduct of any trade or commerce within the meaning of section 480-2, Hawaii Revised Statutes; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2032, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2032, S.D. 1, and



be referred to your Committees on Commerce and Consumer Protection and Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Health,



JARRETT KEOHOKALOLE, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Health
HTH

Bill / Resolution No.:* SB 2032	Committee Referral: HTH, CPN/JDC	Date: 1-31-2022
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The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
MORIWAKI, Sharon Y.	✓			
SAN BUENAVENTURA, Joy A.	✓			
FEVELLA, Kurt	✓			
TOTAL	5	-	-	-

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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*Only one measure per Record of Votes