COALITION FOR GENETIC DATA PROTECTION

February 4, 2021

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East
11 Bladen Street
Annapolis, MD 21401

Dear Chair Smith:

SENATE BILL 187 – CRIMINAL PROCEDURE – FORENSIC GENETIC GENEALOGICAL DNA ANALYSIS, SEARCHING, REGULATION AND OVERSIGHT

TESTIMONY IN SUPPORT WITH AMENDMENTS

The Coalition for Genetic Data Protection (CGDP) serves to provide a unified and proactive voice to advance policies that ensure the privacy and security of an individual's genetic data and enable responsible innovation. Consumer genetic testing can empower consumers to take a proactive role in their health, **wellness**, ethnicity, and origin in unprecedented ways – and millions of consumers have taken advantage of these opportunities. At the same time, genetic data provides unprecedented opportunities for the research community to better understand the role genetics play in our health and well-being as a human population. While we recognize the significant opportunities genetic testing and research present, we also support and advocate for reasonable and uniform privacy regulation that will ensure the responsible and ethical handling of every consumer's genetic data.

Senate Bill 187 (SB187), as introduced, establishes that certain forensic genetic genealogical DNA analysis and searches may not be initiated without a valid, designated legal process and lays out a framework for the use of commercially gathered genetic information for forensic purposes. Keeping with the intent of SB187, CGDP and its members have already implemented best practices around the privacy and protection of the genetic data they gather, including requiring a valid legal process for the disclosure of genetic data to law enforcement and full transparency around that disclosure. Therefore, CDGP is supportive of SB187 with amendments.

CGDP's proposed amendments (attached) would apply SB187 only to direct-to-consumer genetic service companies that participate in forensic genealogy searches and, therefore, permit the forensic searches that SB187 seeks to regulate. Under the proposed amendments, an organization that does **not** engage in or permit forensic searches of the genetic data it gathers would not be subject to the additional regulatory requirements created by the legislation. This has the benefit of incentivizing companies that gather and maintain genetic information to be strong stewards of that private information, particularly in regard to its use for forensic purposes.

Additionally, CGDP urges the adoption of amendments to SB187 that strike state licensure requirements by the Office of Healthcare Quality (OHCQ) for laboratories conducting SNP or other sequencing-base testing, so long as those laboratories are already certified under the Clinical Laboratory Improvement Amendments (CLIA). While SB187 seeks to answer the question of "if and when commercially-gathered genetic data should be accessed by law enforcement for forensic purposes", it does not question the underlying science of genetic research or laboratories performing genetic services, which are already highly regulated. The addition of another certification or licensure process for labs that are already CLIA-certified is redundant and unnecessary for the intent of the legislation and would create a new administrative burden for the both the labs and the regulatory body, in this case the OHCQ.

CGDP

The CGDP thanks Senate Sydnor for his willingness to work with CGDP, its members and all stakeholders on this legislation and urges a favorable committee report on SB187 with the proposed amendments.

Sincerely,

Eric Heath
Chief Privacy Officer
Ancestry

Jacquie Haggarty
VP, Deputy General Counsel & Privacy Officer
23andMe

Steve Haro
Executive Director
Coalition for Genetic Data Protection

cc: