

State laws pertaining to surreptitious DNA testing

Alaska

Does the law restrict the collection or analysis of DNA or disclosure of results of analysis?

Yes, the law restricts sample collection, DNA analysis, and disclosure of results without consent.

Code section(s) analyzed

AK Stat. §§18.13.010,18.13.020,18.13.030,18.13.100

How genetic testing is defined

"DNA analysis means DNA or genetic typing and testing to determine the presence or absence of genetic characteristics in an individual, including tests of nucleic acids or chromosomes in order to diagnose or identify a genetic characteristic."

Is DNA defined as property or as confidential?

Yes. "A DNA sample and the results of a DNA analysis performed on the sample are the exclusive property of the person sampled or analyzed."

To whom does the law apply and what does it prohibit/restrict?

Any person who collects a DNA sample, performs DNA analysis, or discloses the results of a DNA analysis without consent of the person tested.

Exceptions

Law enforcement activities, including identification of perpetrators, investigation of crime, and identification of missing or deceased persons; paternity determination; newborn screening; emergency medical treatment.

Penalties

Class A misdemeanor. Person unlawfully tested may bring civil action for monetary damages and penalties.

Would state law prohibit surreptitious genetic testing, in particular for purposes of paternity, ancestry, and identity?

The law would clearly prohibit surreptitious ancestry testing. Whether and under what circumstances the law would prohibit surreptitious paternity and/or identity testing depends on the intended scope of the exceptions provided in the law. The law enforcement and paternity exceptions are not limited to those acting in an official law enforcement or judicial context. It is therefore possible that a private person conducting surreptitious paternity testing or investigating unlawful conduct of another might claim that the exceptions apply. Also note that DNA is defined as property so laws of general applicability may prohibit surreptitious testing.