

State laws pertaining to surreptitious DNA testing

Arizona

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

Yes, DNA analysis and disclosure for health-related purposes are prohibited without written consent of person tested or subpoena.

Code section(s) analyzed

AZ Rev. Stat. §12-2801-4, §20-448.02

How genetic testing is defined

Two different definitions found. Section 12-2801 defines it as: "a test of a person's genes, genetic sequence, gene products or chromosomes for abnormalities or deficiencies, including carrier status, that (i) Are linked to physical or mental disorders or impairments. (ii) Indicate a susceptibility to any illness, disease, impairment or other disorder, whether physical or mental. (iii) Demonstrate genetic or chromosomal damage due to any environmental factor." This definition excludes paternity testing and forensic testing. Section 20-488.02(B)(2) defines genetic test as "an analysis of an individual's DNA, gene products or chromosomes that indicates a propensity for or susceptibility to illness, disease, impairment or other disorders, whether physical or mental, or that demonstrates genetic or chromosomal damage due to environmental factors, or carrier status for disease or disorder."

Is DNA defined as property or as confidential?

Defined as confidential in section 12-2802: "Except as otherwise provided in this article, genetic testing and information derived from genetic testing are confidential and considered privileged to the person tested...." Also, section 12-2804 states: "Information and records held by a state agency or a local health authority relating to genetic testing information are confidential and are exempt from the public copying and inspection requirements."

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

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

Exceptions

No exceptions found.

Penalties

No penalties found.

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

Law would prohibit any person from surreptitious DNA analysis for health-related traits and from disclosing health-related genetic test results. It would not prohibit surreptitious paternity, identity, or ancestry testing since the definition of genetic testing is limited to health-related testing.