

State laws pertaining to surreptitious DNA testing

Illinois

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

Yes, no person may disclose results of health-related genetic test except to persons specifically enumerated in the statute.

Code section(s) analyzed

IL Stat. §§ 410 513/10 /15 /22 /30 /35 /40 /45

How genetic testing is defined

"Genetic testing means a test of a person's genes, 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 illness, disease, impairment, or other disorders, whether physical or mental, or (iii) demonstrate genetic or chromosomal damage due to environmental factors."

Is DNA defined as property or as confidential?

"Genetic testing and information derived from genetic testing is confidential and privileged and may be released only to the individual tested and to persons specifically authorized" by the individual.

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

No person may disclose or be compelled to disclose the identity of any person upon whom a genetic test is performed or the results of a genetic test in a manner that permits identification of the subject of the test except to persons specifically enumerated in the statute. Also note that an insurer may not seek genetic information for use in connection with accident and health insurance, and may not use information derived from genetic testing for a non-therapeutic purpose.

Exceptions

A police officer may disclose for identification purposes information derived from legally obtained sample to law enforcement authorities conducting investigation or prosecution. The law does not restrict ordering of paternity testing by a court or family services department as part of a proceeding.

Penalties

Private right of action by "any person" aggrieved by violation of statute. \$1000 or actual damages for negligent disclosure; \$5000 or actual damages for intentional or reckless disclosure.

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

Law would prohibit disclosure of health-related genetic test results except as authorized by statute. Non-health-related testing not covered by the law.