

## State laws pertaining to surreptitious DNA testing

### Louisiana

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

Yes, disclosure of prenatal or postnatal genetic tests without consent prohibited.

*Code section(s) analyzed*

LA Rev. Stat. §§ 22:213.7, 23:302, 40:1299.6

*How genetic testing is defined*

(1) §§ 22:213.7: "Genetic test means any test for determining the presence or absence of genetic characteristics in an individual, including tests of nucleic acids, such as DNA, RNA, and mitochondrial DNA, chromosomes, or proteins in order to diagnose or identify a genetic characteristic."; "Genetic characteristic means any gene or chromosome, or alteration thereof, that is scientifically or medically believed to cause a disease, disorder, or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder, or syndrome." (2) §§ 23:302 "Genetic test' means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition." NOTE THESE DEFINITIONS ARE FOUND IN SECTION OF LAW DEALING WITH GENETIC DISCRIMINATION IN EMPLOYMENT/INSURANCE.

*Is DNA defined as property or as confidential?*

"With the exception of genetic tests specifically mandated to be reported by law, the results of any prenatal or postnatal genetic tests shall be confidential medical information and shall be excluded from reporting requirements. The results of such genetic tests shall become part of the medical record of the person tested and shall be confidential unless express written consent to their release is granted by the person tested." Note that this provision is found in the law dealing with newborn screening.

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

Law prohibits disclosure of prenatal or postnatal health-related genetic tests without consent.

*Exceptions*

For purposes of criminal investigation or prosecution; to determine paternity; to identify deceased individuals; de-identified research; newborn screening; "for the purposes of child protection investigations or neglect proceedings."

*Penalties*

Private right of action for damages, attorney fees, and court fees.

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

Law would prohibit unauthorized disclosure of health-related prenatal and postnatal tests only.