

## State laws pertaining to surreptitious DNA testing

### Michigan

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

Yes, law requires physician to obtain consent for pre-symptomatic or predictive genetic testing. Law prohibits disclosure of paternity test information obtained through the Paternity Act (MCL § 722.716a).

*Code section(s) analyzed*

MCL §§ 37.1201, 333.17020, 333.17520, 500.3407b, MCL § 722.716a

*How genetic testing is defined*

"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." NOTE GENETIC TESTING NOT DEFINED UNDER THE PATERNITY ACT (CHAPTER 722).

*Is DNA defined as property or as confidential?*

No.

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

A physician cannot order a pre-symptomatic or predictive genetic test without consent of the person being tested; in the case of paternity testing, a person shall not disclose information obtained from genetic paternity testing that is authorized under law, and a contracting laboratory or other entity involved with the genetic paternity testing is required to protect the confidentiality of genetic testing material except as required for a paternity determination under the law. Also note that a hospital (or other state-certified health care corporation) cannot require an individual to undergo genetic testing nor disclose whether genetic testing has been conducted on an insurance applicant, and an employer cannot directly or indirectly acquire or have access to any genetic information about prospective employees or their family members.

*Exceptions*

De-identified research use.

*Penalties*

Violation of § 722.716a (Paternity Act) is a misdemeanor punishable by a fine of not more than \$5000. A second or subsequent violation of this section is a misdemeanor punishable by imprisonment for not more than one year or a fine of not more than \$10,000, or both.

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

Law would prevent physician from ordering certain health-related genetic tests without consent. Law also restricts disclosure of paternity test results obtained through the Paternity Act (MCL § 722.716a). Law could be interpreted to prohibit laboratory from performing paternity testing unless authorized by law, but the scope of the law is unclear. Other than these restrictions, the law would not prevent surreptitious testing.