

## State laws pertaining to surreptitious DNA testing

### New York

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

Yes, law prohibits performing or disclosing results of a genetic test without consent.

*Code section(s) analyzed*

NY Stat. § 79-1

*How genetic testing is defined*

"Genetic test shall mean any laboratory test of human DNA, chromosomes, genes, or gene products to diagnose the presence of a genetic variation linked to a predisposition to a genetic disease or disability in the individual or the individual's offspring; such term shall also include DNA profile analysis."

*Is DNA defined as property or as confidential?*

No.

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

Any person who performs or discloses results of a genetic test without consent of the person tested.

*Exceptions*

De-identified research; by court order; newborn screening.

*Penalties*

Violation is a misdemeanor punishable by up to \$5000 or up to 90 days imprisonment.

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

The law prohibits surreptitious testing or disclosure of results. Since "DNA profile analysis" is included in the definition of a genetic test, this would apply to non-health-related testing such as ancestry and paternity.