

State laws pertaining to surreptitious DNA testing

North Dakota

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

Yes, law prohibits disclosure of health-related genetic information.

Code section(s) analyzed

ND Cent. Code, §§ 12.1-13-01, 14-20-02 to 14-20-35, 23-01.3-01-23-01.3-09

How genetic testing is defined

"Genetic testing" means "an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child" "Protected health information" means "any information, including genetic information, demographic information, and fluid or tissue samples collected from an individual, diagnostic and test results... which: a. Is created or received by a health care provider, health researcher, health plan, health oversight authority, public health authority, employer, health or life insurer, school or university; and b. (1) Relates to the past, present, or future physical or mental health or condition of an individual... and (2) (a) Identifies an individual; or (b) With respect to which there is a reasonable basis to believe that the information can be used to identify an individual."

Is DNA defined as property or as confidential?

No.

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

Any person who knowingly discloses protected health information, including genetic information, except as authorized by law. An individual who knowingly releases an identifiable specimen of another individual for any purpose other than that relevant to the proceeding regarding parentage without a court order or the written permission of the individual who furnished the specimen.

Exceptions

Disclosure of protected health information permitted for specified public health purposes; for law enforcement purposes; in emergency situations; to public health authority under specified circumstances. (NOTE THIS PROVISION APPEARS TO APPLY ONLY TO PUBLIC SERVANTS).

Penalties

Unauthorized disclosure of protected health information is class A misdemeanor. Release of identifiable specimen for purpose other than determination of parentage is a Class C felony.

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

Law prohibits disclosure of health-related genetic testing information. Law also prohibits release of identifiable DNA specimen, but penalty appears to apply only to public servants. Law does not otherwise restrict surreptitious testing.