

## State laws pertaining to surreptitious DNA testing

### South Dakota

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

Yes, law prohibits performing health-related predictive genetic test without consent.

*Code section(s) analyzed*

SD Codified Laws §§ 58-1-24, 58-1-25, 34-14-21, 34-14-22

*How genetic testing is defined*

"Genetic test" is "a test of human DNA, RNA, chromosomes, or genes performed in order to identify the presence or absence of an inherited variation, alteration, or mutation which is associated with predisposition to disease, illness, impairment, or other disorder." "Predictive genetic test" is "a genetic test performed for the purpose of predicting the future probability that the person tested will develop a genetically related disease or disability."

*Is DNA defined as property or as confidential?*

No.

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

No person may order or perform a predictive genetic test without first obtaining the written, informed consent of the person to be tested.

*Exceptions*

For purposes of criminal investigations or court order.

*Penalties*

No penalties found.

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

The law would prohibit health-related predictive genetic testing without consent but would not otherwise prohibit surreptitious genetic testing.