

## State laws pertaining to surreptitious DNA testing

### Texas

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

Yes, law restricts disclosure of health-related test results and release of a specimen obtained for parentage determination.

*Code section(s) analyzed*

TX Ins. Code §§ 546.001 to 546.003, 546.051 to 546.054, 546.101 to 546.104, 546.151, 546.152, TX Lab. Code §§ 21.402, 21.403, 21.4031 TX Fam. Code (2003) §§ 160.102, 160.511, TX Occ. Code § 58.102

*How genetic testing is defined*

"Genetic test means a presymptomatic laboratory test of an individual's genes, gene products, or chromosomes that: (A) analyzes the individual's DNA, RNA, proteins, or chromosomes; and (B) is performed to identify any genetic variation, composition, or alteration that is associated with the individual's having a predisposition for: (i) developing a clinically recognized disease, disorder, or syndrome; or (ii) being a carrier of a clinically recognized disease, disorder, or syndrome." "Genetic testing" means an analysis of an individual's genetic markers to exclude or identify a man as the father of a child or a woman as the mother of a child.

*Is DNA defined as property or as confidential?*

Genetic information is confidential and privileged regardless of the source of the information.

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

A person or entity that discloses genetic information about an individual after receipt without authorization from that individual; a person who intentionally releases an identifiable specimen of another person for any purpose not relevant to a parentage proceeding and without a court order or the written permission of the person who furnished the specimen.

*Exceptions*

If authorized under criminal law; by court order; to establish paternity in accordance with law; of decedent for medical diagnosis of relatives; for actuarial or research studies if individual could not be identified and materials destroyed as soon as reasonably practicable.

*Penalties*

Violation will result in a cease and desist order and may be subject to an administrative penalty. Violation of parentage provision is Class A misdemeanor.

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

Law prohibits disclosure of health-related information without consent. Law prohibits release of a specimen obtained for a parentage proceeding for any unauthorized purpose. Law does not otherwise prohibit surreptitious testing.