



LAWS OF ALASKA

2004

Source
CSSB 217(JUD)

Chapter No.

AN ACT

Relating to genetic privacy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to genetic privacy.

2

3 * **Section 1.** AS 18 is amended by adding a new chapter to read:

4 **Chapter 13. Genetic Privacy.**

5 **Sec. 18.13.010. Genetic testing.** (a) Except as provided in (b) of this section,

6 (1) a person may not collect a DNA sample from a person, perform a
7 DNA analysis on a sample, retain a DNA sample or the results of a DNA analysis, or
8 disclose the results of a DNA analysis unless the person has first obtained the
9 informed and written consent of the person, or the person's legal guardian or
10 authorized representative, for the collection, analysis, retention, or disclosure;

11 (2) a DNA sample and the results of a DNA analysis performed on the
12 sample are the exclusive property of the person sampled or analyzed.

13 (b) The prohibitions of (a) of this section do not apply to DNA samples
14 collected and analyses conducted

15 (1) under AS 44.41.035 or comparable provisions of another

1 jurisdiction;

2 (2) for a law enforcement purpose, including the identification of
3 perpetrators and the investigation of crimes and the identification of missing or
4 unidentified persons or deceased individuals;

5 (3) for determining paternity;

6 (4) to screen newborns as required by state or federal law;

7 (5) for the purpose of emergency medical treatment.

8 (c) A general authorization for the release of medical records or medical
9 information may not be construed as the informed and written consent required by this
10 section. The Department of Health and Social Services may by regulation adopt a
11 uniform informed and written consent form to assist persons in meeting the
12 requirements of this section. A person using that uniform informed and written
13 consent is exempt from civil or criminal liability for actions taken under the consent
14 form. A person may revoke or amend their informed and written consent at any time.

15 **Sec. 18.13.020. Private right of action.** A person may bring a civil action
16 against a person who collects a DNA sample from the person, performs a DNA
17 analysis on a sample, retains a DNA sample or the results of a DNA analysis, or
18 discloses the results of a DNA analysis in violation of this chapter. In addition to the
19 actual damages suffered by the person, a person violating this chapter shall be liable to
20 the person for damages in the amount of \$5,000 or, if the violation resulted in profit or
21 monetary gain to the violator, \$100,000.

22 **Sec. 18.13.030. Criminal penalty.** (a) A person commits the crime of
23 unlawful DNA collection, analysis, retention, or disclosure if the person knowingly
24 collects a DNA sample from a person, performs a DNA analysis on a sample, retains a
25 DNA sample or the results of a DNA analysis, or discloses the results of a DNA
26 analysis in violation of this chapter.

27 (b) In this section, "knowingly" has the meaning given in AS 11.81.900.

28 (c) Unlawful DNA collection, analysis, retention, or disclosure is a class A
29 misdemeanor.

30 **Sec. 18.13.100. Definitions.** In this chapter,

31 (1) "DNA" means deoxyribonucleic acid, including mitochondrial

1 DNA, complementary DNA, and DNA derived from ribonucleic acid;

2 (2) "DNA analysis" means DNA or genetic typing and testing to
3 determine the presence or absence of genetic characteristics in an individual, including
4 tests of nucleic acids or chromosomes in order to diagnose or identify a genetic
5 characteristic; "DNA analysis" does not include a routine physical measurement, a test
6 for drugs, alcohol, cholesterol, or the human immunodeficiency virus, a chemical,
7 blood, or urine analysis, or any other diagnostic test that is widely accepted and in use
8 in clinical practice;

9 (3) "genetic characteristic" includes a gene, chromosome, or alteration
10 of a gene or chromosome that may be tested to determine the existence or risk of a
11 disease, disorder, trait, propensity, or syndrome, or to identify an individual or a blood
12 relative; "genetic characteristic" does not include family history or a genetically
13 transmitted characteristic whose existence or identity is determined other than through
14 a genetic test.

15 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 APPLICABILITY. AS 18.13, enacted by sec. 1 of this Act, applies to any collection,
18 analysis, retention, or disclosure occurring after the effective date of this Act.