

REFERENCE TITLE: genetic testing; private property

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
Second Regular Session  
2020

# HB 2881

Introduced by  
Representatives Roberts: Blackman, Carroll, Finchem, Thorpe

AN ACT

AMENDING SECTION 12-2802, ARIZONA REVISED STATUTES; RELATING TO GENETIC TESTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-2802, Arizona Revised Statutes, is amended to  
3 read:

4 12-2802. Confidentiality of genetic testing results:  
5 disclosure

6 A. Except as otherwise provided in this article, genetic testing  
7 and information derived from genetic testing are confidential and  
8 considered privileged to the person tested and shall be released only as  
9 authorized by state or federal law, including the health insurance  
10 portability and accountability act privacy standards (45 Code of Federal  
11 Regulations part 160 and part 164, subpart E), or to:

12 1. The person tested.

13 2. Any person who is specifically authorized in writing by the  
14 person tested or by that person's health care decision maker to receive  
15 this information.

16 3. The health care decision maker of the person tested.

17 4. A researcher for medical research or public health purposes only  
18 if the research is conducted pursuant to applicable federal or state laws  
19 and regulations governing clinical and biological research or if the  
20 identity of the individual providing the sample is not disclosed to the  
21 person collecting and conducting the research.

22 5. A third person if approved by a human subjects review committee  
23 or a human ethics committee, with respect to persons who are subject to an  
24 Arizona cancer registry.

25 6. A health care provider who is providing care to the person  
26 tested and an agent or employee of the health care provider.

27 7. A health care provider that procures, processes, distributes or  
28 uses:

29 (a) A human body part from a deceased person with respect to  
30 medical information regarding that person.

31 (b) Semen or ova for the purpose of artificial insemination.

32 8. A health care provider to conduct utilization review, peer  
33 review and quality assurance pursuant to section 36-441, 36-445, 36-2402  
34 or 36-2917.

35 9. The authorized agent of a federal, state or county health  
36 department to conduct activities specifically authorized pursuant to the  
37 laws of this state for the birth defects registry, children's  
38 rehabilitative services, newborn screening and sickle cell diagnosis and  
39 treatment programs and chronic, environmentally provoked and infectious  
40 disease programs.

41 10. To obtain legal advice, the legal representative of a health  
42 care provider or clinical laboratory that is in possession of the medical  
43 record.

1           B. A pathologist who is licensed pursuant to title 32, chapter 13  
2 or 17 may order and perform genetic testing for a patient and receive the  
3 results of that testing.

4           C. A person shall not disclose or be compelled to disclose the  
5 identity of any person on whom a genetic test is performed or the results  
6 of a genetic test in a manner that allows identification of the person  
7 tested except to the persons specified in the circumstances set forth in  
8 subsection A of this section.

9           D. If genetic testing information is subpoenaed, a health care  
10 provider shall respond pursuant to section 12-2294.01, subsection E. In  
11 determining whether to order production of the genetic testing  
12 information, the court shall take all steps necessary to prevent the  
13 disclosure or dissemination of that information.

14           E. Except as provided in this section, chapter 13, article 7.1 of  
15 this title does not apply to genetic testing information that is contained  
16 within a patient's medical record.

17           F. Following the death of a person who had genetic testing  
18 performed, the release of the testing information is governed by section  
19 12-2294, subsection D, except that the person may deny, release or limit  
20 release of the genetic testing results by adopting a provision in a  
21 testamentary document.

22           G. Except as specifically provided in this article, a person to  
23 whom test results have been disclosed pursuant to this article, other than  
24 the person tested, shall not disclose the test results to any other  
25 person.

26           H. A health care provider and the provider's agents and employees  
27 that act in good faith and that comply with this article are not subject  
28 to civil liability. The good faith of a health care provider that  
29 complies with this article is presumed. The presumption may be rebutted  
30 by a preponderance of the evidence.

31           I. This article does not limit the effect of title 20 provisions  
32 governing the confidentiality and use of genetic testing information.

33           J. EXCEPT AS OTHERWISE SPECIFICALLY AUTHORIZED OR REQUIRED BY THIS  
34 STATE OR BY FEDERAL LAW, GENETIC TESTING AND THE INFORMATION DERIVED FROM  
35 GENETIC TESTING, WHETHER IN THE POSSESSION OF A PUBLIC OR PRIVATE ENTITY,  
36 ARE THE EXCLUSIVE PRIVATE PROPERTY OF THE PERSON TESTED.