State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

HB 2069

Introduced by  
Representatives Roberts: Fillmore

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

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

    12-2802. Confidentiality of genetic testing results; disclosure

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

   1. The person tested.
   2. Any person who is specifically authorized in writing by the
      person tested or by that person's health care decision maker to receive
      this information.
   3. The health care decision maker of the person tested.
   4. A researcher for medical research or public health purposes only
      if the research is conducted pursuant to applicable federal or state laws
      and regulations governing clinical and biological research or if the
      identity of the individual providing the sample is not disclosed to the
      person collecting and conducting the research.
   5. A third person if approved by a human subjects review committee
      or a human ethics committee, with respect to persons who are subject to an
      Arizona cancer registry.
   6. A health care provider who is providing care to the person
      tested and an agent or employee of the health care provider.
   7. A health care provider that procures, processes, distributes or
      uses:
      (a) A human body part from a deceased person with respect to
      medical information regarding that person.
      (b) Semen or ova for the purpose of artificial insemination.
   8. A health care provider to conduct utilization review, peer
      review and quality assurance pursuant to section 36-441, 36-445, 36-2402
      or 36-2917.
   9. The authorized agent of a federal, state or county health
      department to conduct activities specifically authorized pursuant to the
      laws of this state for the birth defects registry, children's
      rehabilitative services, newborn screening and sickle cell diagnosis and
      treatment programs and chronic, environmentally provoked and infectious
      disease programs.
   10. To obtain legal advice, the legal representative of a health
      care provider or clinical laboratory that is in possession of the medical
      record.
B. A pathologist who is licensed pursuant to title 32, chapter 13 or 17 may order and perform genetic testing for a patient and receive the results of that testing.

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

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

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

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

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

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

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

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