

REFERENCE TITLE: genetic testing; private property

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)

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.