

**§760.40 FS | GENETIC TESTING; DEFINITIONS; EXPRESS CONSENT REQUIRED; CONFIDENTIALITY; NOTICE OF USE OF RESULTS**

(1) As used in this section, the term:

(a) "DNA analysis" means the medical and biological examination and analysis of a person's DNA to identify the presence and composition of genes in that person's body. The term includes DNA typing and genetic testing.

(b) "DNA sample" means any human biological specimen from which DNA can be extracted or the DNA extracted from such specimen.

(c) "Exclusive property" means the right of the person whose DNA has been extracted or analyzed to exercise control over his or her DNA sample and any results of his or her DNA analysis with regard to the collection, use, retention, maintenance, disclosure, or destruction of such sample or analysis results.

(d) "Express consent" means authorization by the person whose DNA is to be extracted or analyzed, or such person's legal guardian or authorized representative, evidenced by an affirmative action demonstrating an intentional decision, after the person receives a clear and prominent disclosure regarding the manner of collection, use, retention, maintenance, or disclosure of a DNA sample or results of a DNA analysis for specified purposes. A single express consent may authorize every instance of a specified purpose or use.

(2) Except as provided in s. 817.5655, a person or entity may only perform DNA analysis with express consent. The results of such DNA analysis, whether held by a public or private entity, are the exclusive property of the person tested, are confidential, and may not be disclosed without express consent. Such information held by a public entity is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) A person who performs DNA analysis or receives records, results, or findings of DNA analysis must provide the person tested with notice that the analysis was performed or that the information was received. The notice must state that, upon the request of the person tested, the information will be made available to his or her physician. The notice must



also state whether the information was used in any decision to grant or deny any insurance, employment, mortgage, loan, credit, or educational opportunity. If the information was used in any decision that resulted in a denial, the analysis must be repeated to verify the accuracy of the first analysis, and if the first analysis is found to be inaccurate, the denial must be reviewed.

**History** - (s. 1, ch. 92-101; s. 10, ch. 93-204; s. 1, ch. 94-90; s. 420, ch. 96-406; s. 1795, ch. 97-102; s. 15, ch. 98-251; s. 7, ch. 2001-127; s. 40, ch. 2005-39; s. 3, ch. 2009-190; s. 2, ch. 2021-216)

