

**26-45-103 Restrictions on employers.**

- (1) Except as provided in Subsection (2), an employer, as defined in Section 34A-2-103, may not in connection with a hiring, promotion, retention, or other related decision:
- (a) access or otherwise take into consideration private genetic information about an individual;
  - (b) request or require an individual to consent to a release for the purpose of accessing private genetic information about the individual;
  - (c) request or require an individual or his blood relative to submit to a genetic test; and
  - (d) inquire into or otherwise take into consideration the fact that an individual or his blood relative has taken or refused to take a genetic test.
- (2)
- (a) Notwithstanding Subsection (1), an employer may seek an order compelling the disclosure of private genetic information held by an individual or third party pursuant to Subsection (2)(b) in connection with:
    - (i) an employment-related judicial or administrative proceeding in which the individual has placed his health at issue; or
    - (ii) an employment-related decision in which the employer has a reasonable basis to believe that the individual's health condition poses a real and unjustifiable safety risk requiring the change or denial of an assignment.
  - (b)
    - (i) An order compelling the disclosure of private genetic information pursuant to this Subsection (2) may only be entered upon a finding that:
      - (A) other ways of obtaining the private information are not available or would not be effective; and
      - (B) there is a compelling need for the private genetic information which substantially outweighs the potential harm to the privacy interests of the individual.
    - (ii) An order compelling the disclosure of private genetic information pursuant to this Subsection (2) shall:
      - (A) limit disclosure to those parts of the record containing information essential to fulfill the objective of the order;
      - (B) limit disclosure to those persons whose need for the information is the basis of the order; and
      - (C) include such other measures as may be necessary to limit disclosure for the protection of the individual.

Enacted by Chapter 120, 2002 General Session