

Protection of Genetic Information – Know The Laws Of Your Province



Outside the federal jurisdiction, protections against genetic discrimination are practically nonexistent.

When it comes to legal protections for genetic information, Canada lags behind the US, Western Europe and other industrialized countries. In 2017, the federal government enacted a law called the *Genetic Non-Discrimination Act* (GNDA) making it a criminal offence for a person to require a person to undergo genetic testing or disclose the results of previous tests as a condition to entering into a contract with them. Although this could be interpreted as applying to employment contracts, the federal government felt it necessary to add bans on genetic testing by employers to extend the protections to the workplace. It also added bans on genetic discrimination to the federal human rights laws.

While the GNDA applies in all parts of the country, no province or territory has yet added protections against genetic discrimination to their own employment or human rights laws. A few jurisdictions have also added restrictions on collection, use and disclosure of genetic information to their health information privacy laws. Here's a summary of the current state of genetic information protection laws in each part of Canada.

Genetic Information Protections Across Canada

Federal

Federal

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: Employers can't make applicants or employees undergo genetic testing, disclose previous genetic tests, consent to use or disclosure of their genetic test

results or commit reprisals against individuals for refusing for any of the above (*Canada Labour Code*, Division XV.3)

Genetic Discrimination: Human rights law ban on employment discrimination includes discrimination on basis of genetic characteristics (*Canadian Human Rights Act*, Sec. 3)

Collection & Disclosure of Genetic Information: No restrictions

Alberta

Alberta

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: (1) Restrictions on government collection, use and disclosure of an individual's "personal information" include genetic information, fingerprints, other biometric information, blood type or inheritable characteristics (*Freedom of Information and Protection of Privacy Act*, Sec. 1(n)(v)); and (2) No private sector restrictions

British Columbia

British Columbia

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: No restrictions

Manitoba

Manitoba

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: (1) Limits on **government** collection, use and disclosure of individuals' "personal health information" include genetic information (*Freedom of Information and Privacy Act*, Sec. 1(1)(b)); and (2) No private sector restrictions

New Brunswick

New Brunswick

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: (1) Limits on **government** collection, use and disclosure of individuals' "personal health information" include genetic information (*Personal Health Information and Privacy Act*, Sec. 1); and (2) No private sector restrictions

Newfoundland

Newfoundland

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: No restrictions

Nova Scotia

Nova Scotia

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: No restrictions

Ontario

Ontario

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: No restrictions

Prince Edward Island

Prince Edward Island

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: (1) Restrictions on **private sector** collection, use and disclosure of individuals' "personal health information" include genetic information (*Health Information Act*, Sec. 1(t))—note: Act doesn't apply to workplace); and (2) Restrictions on **government** collection, use and disclosure of individuals' "personal health information" include genetic information, fingerprints, other biometric information, blood type or inheritable characteristics (*Freedom of Information and Protection of Privacy Act*, Sec. 1)

Quebec

Quebec

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: No restrictions

Saskatchewan

Saskatchewan

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: No restrictions

Northwest Territories & Nunavut

Northwest Territories & Nunavut

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: No restrictions

Yukon

Yukon

Criminal Law: Criminal offence to make a person undergo genetic testing, disclose previous genetic tests or consent to use or disclosure of their genetic test results as a condition for entering into a contract with them (*Genetic Non-Discrimination Act*)

Employment Law: No restrictions

Genetic Discrimination: No restrictions

Collection & Disclosure of Genetic Information: (1) Restrictions on **private sector** collection, use and disclosure of individuals' "health information" include genetic information (*Health Information Privacy & Management Act*, Sec. 2)—note: Act doesn't apply to the workplace)—note Act doesn't apply to workplace); and (2) Restrictions on **government** collection, use and disclosure of individuals' "personal information" include skin colour, fingerprints, blood type or any other genetic characteristic or biometric information(*Access to Information and Protection of Privacy Act*, Sec. 1)