

Exceptions to Acquiring Genetic Information

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Exceptions to Acquiring Genetic Information

Reference Number: MTAS-1941

It is generally unlawful for a covered entity to get genetic information. There are six exceptions to the law:

1. Inadvertent acquisitions do not violate GINA. This includes circumstances where a manager or supervisor overhears someone talking about an individual or family member's illness.
2. Obtaining genetic information as part of health services such as wellness programs offered on a voluntary basis, if certain requirements are met.
3. Family medical history acquired in the course of Family Medical Leave Act (FMLA) administration or similar leave statutes pursuant to employer policy. However, the employer may not disclose the information.
4. Genetic information acquired through commercially and publicly available resources such as newspapers and the internet as long as the employer is not seeking the information out or pursuing sources from which they are likely to acquire genetic information.
5. Genetic information may be acquired through a genetic monitoring program that monitors the biological effects of harmful substances in the workplace where monitoring is required by law or, under carefully defined conditions where the program is voluntary.
6. Genetic information may be acquired by employers who engage in DNA testing for public safety purposes or as a forensic lab for purposes of human remains identification, but the genetic information may only be used for analysis of DNA markers for quality control to detect sample contamination (i.e., police departments, FBI etc.).

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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