

# PROTECTION AGAINST GENETIC DISCRIMINATION

## TEXAS LABOR CODE CHAPTER 21.402



Texas Labor Code Chapter 21 protects employees from discrimination based on their genetic information. It is information obtained from or based on a scientific or medical determination of a genetic characteristic in an individual, or derived from the results of a family health history or genetic test performed on an individual.

The state law is very similar to federal law under the Genetic Information Nondiscrimination Act (“GINA”). There is one major difference: with limited exceptions, it is prohibited for an employer to request, require, purchase, or otherwise acquire genetic information of an employee without the employee’s prior consent under GINA, yet not under Tex. Lab. Code Ch. 21.

### ENFORCEMENT

Because of a) an individual’s genetic information or b) refusal to submit to a genetic test\*,

- an employer may not refuse to hire, discharge, or reduce compensation or other terms, conditions or privileges of employment;
- a labor organization may not exclude or expel someone from membership;
- an employment agency may not classify, refer, or fail to refer someone for employment; and
- an employer, labor organization or employment agency may not limit, segregate, or classify someone to deprive them of employment opportunities or otherwise adversely affect them.

\*A genetic test does not include a blood test, cholesterol test, urine test, or other physical test used for a purpose other than determining a genetic or chromosomal variation, composition, or alteration in an individual.

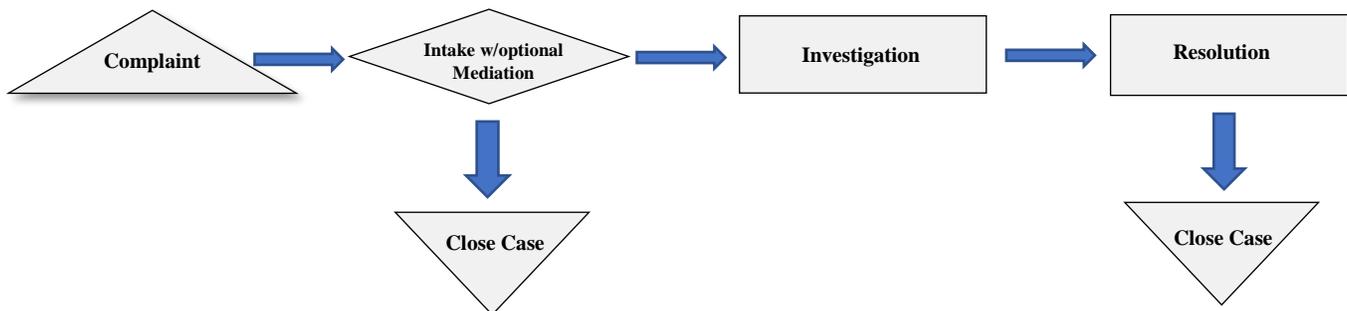
A person injured by an unlawful employment practice under Tex. Lab. Code §21.402 due to genetic information discrimination, may file a complaint with the Texas Workforce Commission Civil Rights Division (TWCCRD). The complaint must be in writing, made under oath, and state:

- The date, place, circumstances, etc., of the violation; and
- Sufficient contact information of the employer.

### EMPLOYEE RESPONSIBILITIES AND BEST PRACTICES

- Do not participate in genetic testing if it is not for an authorized purpose.
- Make sure you are fully informed before authorizing a third party to release genetic information.

### CHAPTER 21 COMPLAINT PROCESS



The TWCCRD Discrimination Complaint form is located at: <http://www.twc.state.tx.us/files/partners/employment-discrimination-complaint-twc.pdf>

Employers may contact TWCCRD with questions about complying with Tex. Lab. Code Ch. 21 via email at: [CRDTraining@twc.state.tx.us](mailto:CRDTraining@twc.state.tx.us).