

**ASSEMBLY, No. 1379**

**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

**Sponsored by:**

**Assemblyman JOSEPH V. DORIA, JR.**

**District 31 (Hudson)**

**SYNOPSIS**

Makes the cloning of a human being a crime of the first degree and provides that an individual's genetic information is the property of the individual.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A1379 DORIA

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1 AN ACT concerning genetic material and information, supplementing  
2 Title 2C of the New Jersey Statutes and amending P.L.1996, c.126.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) A person who knowingly engages or assists,  
8 directly or indirectly, in the cloning of a human being is guilty of a  
9 crime of the first degree.

10 As used in this act, "cloning of a human being" means the  
11 replication of a human individual by cultivating a cell with genetic  
12 material through the egg, embryo, fetal and newborn stages into a new  
13 human individual.

14  
15 2. Section 7 of P.L.1996, c.126 (C.10:5-46) is amended to read as  
16 follows:

17 7. a. An individual's genetic information is the property of the  
18 individual.

19 No person shall retain an individual's genetic information without  
20 first obtaining authorization under the informed consent requirement  
21 of section 6 of P.L.1996, c.126 (C.10:5-45) from the individual or the  
22 individual's representative, unless:

23 (1) Retention is necessary for the purposes of a criminal or death  
24 investigation or a criminal or juvenile proceeding;

25 (2) Retention is necessary to determine paternity in accordance  
26 with the provisions of section 11 of P.L.1983, c.17 (C.9:17-48);

27 (3) Retention is authorized by order of a court of competent  
28 jurisdiction;

29 (4) Retention is made pursuant to the provisions of the "DNA  
30 Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17  
31 et seq.); or

32 (5) Retention of information is for anonymous research where the  
33 identity of the subject will not be released.

34 b. The DNA sample of an individual from which genetic  
35 information has been obtained shall be destroyed promptly upon the  
36 specific request of that individual or the individual's representative,  
37 unless:

38 (1) Retention is necessary for the purposes of a criminal or death  
39 investigation or a criminal or juvenile proceeding; or

40 (2) Retention is authorized by order of a court of competent  
41 jurisdiction.

42 c. A DNA sample from an individual who is the subject of a  
43 research project shall be destroyed promptly upon completion of the

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 project or withdrawal of the individual from the project, whichever  
2 occurs first, unless the individual or the individual's representative  
3 directs otherwise by informed consent.

4 d. A DNA sample from an individual for insurance or employment  
5 purposes shall be destroyed promptly after the purpose for which the  
6 sample was obtained has been accomplished unless retention is  
7 authorized by order of a court of competent jurisdiction.

8 e. An individual or an individual's representative, promptly upon  
9 request, may inspect, request correction of and obtain genetic  
10 information from the records of the individual unless the individual  
11 directs otherwise by informed consent pursuant to section 6 of  
12 P.L.1996, c.126 (C.10:5-45); except that, in the case of a policy of life  
13 insurance or a disability income insurance contract, the provisions of  
14 P.L.1985, c.179 (C.17:23A-1 et seq.) shall apply.

15 f. This section applies only to genetic information that can be  
16 identified as belonging to an individual or family. This section does  
17 not apply to any law, contract or other arrangement that determines a  
18 person's rights to compensation relating to substances or information  
19 derived from an individual's DNA sample.

20 (cf: P.L.1996, c.126, s.7)

21

22 3. Section 9 of P.L.1996, c.126 (C.10:5-48) is amended to read as  
23 follows:

24 9. a. A person who [requires or requests that] performs genetic  
25 testing [be done] or receives records, results or findings of genetic  
26 testing shall provide the person tested with notice that the test was  
27 performed [and] or that the [records, results or findings were]  
28 information was received unless otherwise directed by informed  
29 consent pursuant to section 6 of P.L.1996, c.126 (C.10:5-45). The  
30 notice shall state that the information may not be disclosed to any  
31 person without the written consent of the person tested, unless  
32 disclosure is made pursuant to one of the exceptions provided for in  
33 section 8 of P.L.1996, c.126 (C. 10:5-47).

34 b. The Commissioner of Health and Senior Services, in  
35 consultation with the Commissioner of Banking and Insurance, shall  
36 promulgate regulations pursuant to the provisions of the  
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
38 governing procedures for obtaining informed written consent pursuant  
39 to P.L.1996, c.126, [except where the procedures for obtaining  
40 informed written consent already are governed by national standards  
41 for informed consent as designated by the Commissioner of Health and  
42 Senior Services by regulation, which may include, but need not be  
43 limited to, guidelines from the Office of Protection for Research Risk,  
44 the Food and Drug Administration or other appropriate federal  
45 agencies] which shall include a description of the test to be performed,  
46 including its purpose, potential uses, and limitations, the meaning of

1 its results, procedures for notifying the applicant of the results, and the  
2 right to confidential treatment of the results.

3 c. The provisions of this section shall not apply to newborn  
4 screening requirements established by State or federal law.

5 (cf: P.L.1996, c.126, s.9)

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7 4. This act shall take effect immediately.

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10 STATEMENT

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12 This bill makes the cloning of a human being a crime of the first  
13 degree in New Jersey, which is punishable by a fine of up to \$100,000  
14 or a term of imprisonment of from 10 to 20 years, or both. The bill  
15 complements and goes beyond the actions taken by President Clinton  
16 on March 4, 1997 to impose a ban on the use of federal money for  
17 cloning humans and to request a voluntary moratorium on such  
18 activity by researchers supported by private money, at least until the  
19 issuance of a report on the legal and ethical implications of cloning  
20 humans by the National Bioethics Advisory Commission which the  
21 President has requested. These actions are in the aftermath of recent  
22 reports that scientists in Scotland had cloned a sheep and in the state  
23 of Oregon had cloned two rhesus monkeys, which raises profound and  
24 disturbing questions about the potential for cloning humans and the  
25 ramifications of this reproductive technology.

26 In addition, this bill amends the "Genetic Privacy Act," P.L.1996,  
27 c.126 (C.10:5-43 et al.) to provide that an individual's genetic  
28 information is the property of the individual. The bill also amends  
29 section 9 of P.L.1996, c.126 (C.10:5-48) to apply its provisions  
30 concerning notification to the subject of a genetic test of test results  
31 to the person who performs the test (i.e., a clinical laboratory), rather  
32 than a person who requires or requests that genetic testing be done  
33 (i.e., an insurance carrier).