

P.L. 2009, CHAPTER 205, *approved January 15, 2010*
Assembly, No. 4226

1 **AN ACT** concerning the rights of persons with an autism spectrum
2 disorder and amending P.L.1945, c.169.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
8 as follows:

9 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a
10 different meaning clearly appears from the context:

11 a. "Person" includes one or more individuals, partnerships,
12 associations, organizations, labor organizations, corporations, legal
13 representatives, trustees, trustees in bankruptcy, receivers, and
14 fiduciaries.

15 b. "Employment agency" includes any person undertaking to
16 procure employees or opportunities for others to work.

17 c. "Labor organization" includes any organization which exists
18 and is constituted for the purpose, in whole or in part, of collective
19 bargaining, or of dealing with employers concerning grievances,
20 terms or conditions of employment, or of other mutual aid or
21 protection in connection with employment.

22 d. "Unlawful employment practice" and "unlawful
23 discrimination" include only those unlawful practices and acts
24 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

25 e. "Employer" includes all persons as defined in subsection a.
26 of this section unless otherwise specifically exempt under another
27 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,
28 any political or civil subdivision thereof, and all public officers,
29 agencies, boards or bodies.

30 f. "Employee" does not include any individual employed in the
31 domestic service of any person.

32 g. "Liability for service in the Armed Forces of the United
33 States" means subject to being ordered as an individual or member
34 of an organized unit into active service in the Armed Forces of the
35 United States by reason of membership in the National Guard, naval
36 militia or a reserve component of the Armed Forces of the United
37 States, or subject to being inducted into such armed forces through
38 a system of national selective service.

39 h. "Division" means the "Division on Civil Rights" created by
40 P.L.1945, c.169 (C.10:5-1 et seq.).

41 i. "Attorney General" means the Attorney General of the State
42 of New Jersey or his representative or designee.

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

Matter underlined thus is new matter.

- 1 j. "Commission" means the Commission on Civil Rights
2 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 3 k. "Director" means the Director of the Division on Civil
4 Rights.
- 5 l. "A place of public accommodation" shall include, but not be
6 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
7 summer camp, day camp, or resort camp, whether for entertainment
8 of transient guests or accommodation of those seeking health,
9 recreation or rest; any producer, manufacturer, wholesaler,
10 distributor, retail shop, store, establishment, or concession dealing
11 with goods or services of any kind; any restaurant, eating house, or
12 place where food is sold for consumption on the premises; any
13 place maintained for the sale of ice cream, ice and fruit preparations
14 or their derivatives, soda water or confections, or where any
15 beverages of any kind are retailed for consumption on the premises;
16 any garage, any public conveyance operated on land or water, or in
17 the air, any stations and terminals thereof; any bathhouse,
18 boardwalk, or seashore accommodation; any auditorium, meeting
19 place, or hall; any theatre, motion-picture house, music hall, roof
20 garden, skating rink, swimming pool, amusement and recreation
21 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
22 pool parlor, or other place of amusement; any comfort station; any
23 dispensary, clinic or hospital; any public library; any kindergarten,
24 primary and secondary school, trade or business school, high
25 school, academy, college and university, or any educational
26 institution under the supervision of the State Board of Education, or
27 the Commissioner of Education of the State of New Jersey.
28 Nothing herein contained shall be construed to include or to apply
29 to any institution, bona fide club, or place of accommodation, which
30 is in its nature distinctly private; nor shall anything herein contained
31 apply to any educational facility operated or maintained by a bona
32 fide religious or sectarian institution, and the right of a natural
33 parent or one in loco parentis to direct the education and upbringing
34 of a child under his control is hereby affirmed; nor shall anything
35 herein contained be construed to bar any private secondary or post
36 secondary school from using in good faith criteria other than race,
37 creed, color, national origin, ancestry, gender identity or expression
38 or affectional or sexual orientation in the admission of students.
- 39 m. "A publicly assisted housing accommodation" shall include
40 all housing built with public funds or public assistance pursuant to
41 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
42 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
43 c.184, and all housing financed in whole or in part by a loan,
44 whether or not secured by a mortgage, the repayment of which is
45 guaranteed or insured by the federal government or any agency
46 thereof.
- 47 n. The term "real property" includes real estate, lands,
48 tenements and hereditaments, corporeal and incorporeal, and

1 leaseholds, provided, however, that, except as to publicly assisted
2 housing accommodations, the provisions of this act shall not apply
3 to the rental: (1) of a single apartment or flat in a two-family
4 dwelling, the other occupancy unit of which is occupied by the
5 owner as a residence; or (2) of a room or rooms to another person or
6 persons by the owner or occupant of a one-family dwelling
7 occupied by the owner or occupant as a residence at the time of
8 such rental. Nothing herein contained shall be construed to bar any
9 religious or denominational institution or organization, or any
10 organization operated for charitable or educational purposes, which
11 is operated, supervised or controlled by or in connection with a
12 religious organization, in the sale, lease or rental of real property,
13 from limiting admission to or giving preference to persons of the
14 same religion or denomination or from making such selection as is
15 calculated by such organization to promote the religious principles
16 for which it is established or maintained. Nor does any provision
17 under this act regarding discrimination on the basis of familial
18 status apply with respect to housing for older persons.

19 o. "Real estate broker" includes a person, firm or corporation
20 who, for a fee, commission or other valuable consideration, or by
21 reason of promise or reasonable expectation thereof, lists for sale,
22 sells, exchanges, buys or rents, or offers or attempts to negotiate a
23 sale, exchange, purchase, or rental of real estate or an interest
24 therein, or collects or offers or attempts to collect rent for the use of
25 real estate, or solicits for prospective purchasers or assists or directs
26 in the procuring of prospects or the negotiation or closing of any
27 transaction which does or is contemplated to result in the sale,
28 exchange, leasing, renting or auctioning of any real estate, or
29 negotiates, or offers or attempts or agrees to negotiate a loan
30 secured or to be secured by mortgage or other encumbrance upon or
31 transfer of any real estate for others; or any person who, for
32 pecuniary gain or expectation of pecuniary gain conducts a public
33 or private competitive sale of lands or any interest in lands. In the
34 sale of lots, the term "real estate broker" shall also include any
35 person, partnership, association or corporation employed by or on
36 behalf of the owner or owners of lots or other parcels of real estate,
37 at a stated salary, or upon a commission, or upon a salary and
38 commission or otherwise, to sell such real estate, or any parts
39 thereof, in lots or other parcels, and who shall sell or exchange, or
40 offer or attempt or agree to negotiate the sale or exchange, of any
41 such lot or parcel of real estate.

42 p. "Real estate salesperson" includes any person who, for
43 compensation, valuable consideration or commission, or other thing
44 of value, or by reason of a promise or reasonable expectation
45 thereof, is employed by and operates under the supervision of a
46 licensed real estate broker to sell or offer to sell, buy or offer to buy
47 or negotiate the purchase, sale or exchange of real estate, or offers
48 or attempts to negotiate a loan secured or to be secured by a

1 mortgage or other encumbrance upon or transfer of real estate, or to
2 lease or rent, or offer to lease or rent any real estate for others, or to
3 collect rents for the use of real estate, or to solicit for prospective
4 purchasers or lessees of real estate, or who is employed by a
5 licensed real estate broker to sell or offer to sell lots or other parcels
6 of real estate, at a stated salary, or upon a commission, or upon a
7 salary and commission, or otherwise to sell real estate, or any parts
8 thereof, in lots or other parcels.

9 q. "Disability" means physical disability, infirmity,
10 malformation or disfigurement which is caused by bodily injury,
11 birth defect or illness including epilepsy and other seizure
12 disorders, and which shall include, but not be limited to, any degree
13 of paralysis, amputation, lack of physical coordination, blindness or
14 visual impediment, deafness or hearing impediment, muteness or
15 speech impediment or physical reliance on a service or guide dog,
16 wheelchair, or other remedial appliance or device, or any mental,
17 psychological or developmental disability, including autism
18 spectrum disorders, resulting from anatomical, psychological,
19 physiological or neurological conditions which prevents the normal
20 exercise of any bodily or mental functions or is demonstrable,
21 medically or psychologically, by accepted clinical or laboratory
22 diagnostic techniques. Disability shall also mean AIDS or HIV
23 infection.

24 r. "Blind person" means any individual whose central visual
25 acuity does not exceed 20/200 in the better eye with correcting lens
26 or whose visual acuity is better than 20/200 if accompanied by a
27 limit to the field of vision in the better eye to such a degree that its
28 widest diameter subtends an angle of no greater than 20 degrees.

29 s. "Guide dog" means a dog used to assist deaf persons or
30 which is fitted with a special harness so as to be suitable as an aid to
31 the mobility of a blind person, and is used by a blind person who
32 has satisfactorily completed a specific course of training in the use
33 of such a dog, and has been trained by an organization generally
34 recognized by agencies involved in the rehabilitation of the blind or
35 deaf as reputable and competent to provide dogs with training of
36 this type.

37 t. "Guide or service dog trainer" means any person who is
38 employed by an organization generally recognized by agencies
39 involved in the rehabilitation of persons with disabilities as
40 reputable and competent to provide dogs with training, and who is
41 actually involved in the training process.

42 u. "Housing accommodation" means any publicly assisted
43 housing accommodation or any real property, or portion thereof,
44 which is used or occupied, or is intended, arranged, or designed to
45 be used or occupied, as the home, residence or sleeping place of one
46 or more persons, but shall not include any single family residence
47 the occupants of which rent, lease, or furnish for compensation not
48 more than one room therein.

- 1 v. "Public facility" means any place of public accommodation
2 and any street, highway, sidewalk, walkway, public building, and
3 any other place or structure to which the general public is regularly,
4 normally or customarily permitted or invited.
- 5 w. "Deaf person" means any person whose hearing is so
6 severely impaired that the person is unable to hear and understand
7 normal conversational speech through the unaided ear alone, and
8 who must depend primarily on a supportive device or visual
9 communication such as writing, lip reading, sign language, and
10 gestures.
- 11 x. "Atypical hereditary cellular or blood trait" means sickle cell
12 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
13 fibrosis trait.
- 14 y. "Sickle cell trait" means the condition wherein the major
15 natural hemoglobin components present in the blood of the
16 individual are hemoglobin A (normal) and hemoglobin S (sickle
17 hemoglobin) as defined by standard chemical and physical analytic
18 techniques, including electrophoresis; and the proportion of
19 hemoglobin A is greater than the proportion of hemoglobin S or one
20 natural parent of the individual is shown to have only normal
21 hemoglobin components (hemoglobin A, hemoglobin A2,
22 hemoglobin F) in the normal proportions by standard chemical and
23 physical analytic tests.
- 24 z. "Hemoglobin C trait" means the condition wherein the major
25 natural hemoglobin components present in the blood of the
26 individual are hemoglobin A (normal) and hemoglobin C as defined
27 by standard chemical and physical analytic techniques, including
28 electrophoresis; and the proportion of hemoglobin A is greater than
29 the proportion of hemoglobin C or one natural parent of the
30 individual is shown to have only normal hemoglobin components
31 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
32 proportions by standard chemical and physical analytic tests.
- 33 aa. "Thalassemia trait" means the presence of the thalassemia
34 gene which in combination with another similar gene results in the
35 chronic hereditary disease Cooley's anemia.
- 36 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
37 which in combination with another similar gene results in the
38 chronic hereditary disease Tay-Sachs.
- 39 cc. "Cystic fibrosis trait" means the presence of the cystic
40 fibrosis gene which in combination with another similar gene
41 results in the chronic hereditary disease cystic fibrosis.
- 42 dd. "Service dog" means any dog individually trained to the
43 requirements of a person with a disability including, but not limited
44 to minimal protection work, rescue work, pulling a wheelchair or
45 retrieving dropped items. This term shall include a "seizure dog"
46 trained to alert or otherwise assist persons subject to epilepsy or
47 other seizure disorders.

- 1 ee. "Qualified Medicaid applicant" means an individual who is a
2 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 3 ff. "AIDS" means acquired immune deficiency syndrome as
4 defined by the Centers for Disease Control and Prevention of the
5 United States Public Health Service.
- 6 gg. "HIV infection" means infection with the human
7 immunodeficiency virus or any other related virus identified as a
8 probable causative agent of AIDS.
- 9 hh. "Affectional or sexual orientation" means male or female
10 heterosexuality, homosexuality or bisexuality by inclination,
11 practice, identity or expression, having a history thereof or being
12 perceived, presumed or identified by others as having such an
13 orientation.
- 14 ii. "Heterosexuality" means affectional, emotional or physical
15 attraction or behavior which is primarily directed towards persons
16 of the other gender.
- 17 jj. "Homosexuality" means affectional, emotional or physical
18 attraction or behavior which is primarily directed towards persons
19 of the same gender.
- 20 kk. "Bisexuality" means affectional, emotional or physical
21 attraction or behavior which is directed towards persons of either
22 gender.
- 23 ll. "Familial status" means being the natural parent of a child,
24 the adoptive parent of a child, the resource family parent of a child,
25 having a "parent and child relationship" with a child as defined by
26 State law, or having sole or joint legal or physical custody, care,
27 guardianship, or visitation with a child, or any person who is
28 pregnant or is in the process of securing legal custody of any
29 individual who has not attained the age of 18 years.
- 30 mm. "Housing for older persons" means housing:
- 31 (1) provided under any State program that the Attorney General
32 determines is specifically designed and operated to assist elderly
33 persons (as defined in the State program); or provided under any
34 federal program that the United States Department of Housing and
35 Urban Development determines is specifically designed and
36 operated to assist elderly persons (as defined in the federal
37 program); or
- 38 (2) intended for, and solely occupied by persons 62 years of age
39 or older; or
- 40 (3) intended and operated for occupancy by at least one person
41 55 years of age or older per unit. In determining whether housing
42 qualifies as housing for older persons under this subsection, the
43 Attorney General shall adopt regulations which require at least the
44 following factors:
- 45 (a) the existence of significant facilities and services
46 specifically designed to meet the physical or social needs of older
47 persons, or if the provision of such facilities and services is not

1 practicable, that such housing is necessary to provide important
2 housing opportunities for older persons; and

3 (b) that at least 80 percent of the units are occupied by at least
4 one person 55 years of age or older per unit; and

5 (c) the publication of, and adherence to, policies and procedures
6 which demonstrate an intent by the owner or manager to provide
7 housing for persons 55 years of age or older.

8 Housing shall not fail to meet the requirements for housing for
9 older persons by reason of: persons residing in such housing as of
10 September 13, 1988 not meeting the age requirements of this
11 subsection, provided that new occupants of such housing meet the
12 age requirements of this subsection; or unoccupied units, provided
13 that such units are reserved for occupancy by persons who meet the
14 age requirements of this subsection.

15 nn. "Genetic characteristic" means any inherited gene or
16 chromosome, or alteration thereof, that is scientifically or medically
17 believed to predispose an individual to a disease, disorder or
18 syndrome, or to be associated with a statistically significant
19 increased risk of development of a disease, disorder or syndrome.

20 oo. "Genetic information" means the information about genes,
21 gene products or inherited characteristics that may derive from an
22 individual or family member.

23 pp. "Genetic test" means a test for determining the presence or
24 absence of an inherited genetic characteristic in an individual,
25 including tests of nucleic acids such as DNA, RNA and
26 mitochondrial DNA, chromosomes or proteins in order to identify a
27 predisposing genetic characteristic.

28 qq. "Domestic partnership" means a domestic partnership
29 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

30 rr. "Gender identity or expression" means having or being
31 perceived as having a gender related identity or expression whether
32 or not stereotypically associated with a person's assigned sex at
33 birth.

34 ss. "Civil Union" means a legally recognized union of two
35 eligible individuals established pursuant to R.S.37:1-1 et seq. and
36 P.L.2006, c.103 (C.37:1-28 et al.).

37 tt. "Premium wages" means additional remuneration for night,
38 weekend or holiday work, or for standby or irregular duty.

39 uu. "Premium benefit" means an employment benefit, such as
40 seniority, group life insurance, health insurance, disability
41 insurance, sick leave, annual leave, or an educational or pension
42 benefit that is greater than the employment benefit due the
43 employee for an equivalent period of work performed during the
44 regular work schedule of the employee.

45 (cf: P.L.2007, c.325, s.1)

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47 2. This act shall take effect immediately.

STATEMENT

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The purpose of this bill is to clarify the provisions of the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.), concerning its prohibition of discrimination against a person with a disability, including a developmental disability. The law prohibits discrimination in housing, employment, and access to public accommodations generally.

The bill specifies that the term, “developmental disability,” as referenced in the definition of “disability” in subsection q. of section 5 of P.L.1945, c.169 (C.10:5-5), includes “autism spectrum disorders.”

This bill is based upon a recommendation included in the October 2009 report of the Adults with Autism Task Force.

Clarifies provisions of “Law Against Discrimination” concerning persons with an autism spectrum disorder.