

ASSEMBLY, No. 1499

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1996

By Assemblywoman HECK

1 AN ACT concerning discrimination on the basis of genetic testing,
2 amending N.J.S.17B:30-12 and amending and supplementing
3 P.L.1945, c.169.

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

7
8 1. (New section) This act shall be known as and may be cited as
9 the "Law Against Genetic Discrimination."

10
11 2. (New section) The Legislature finds and declares:

12 a. The DNA molecule contains information about an individual's
13 probable medical future. This information is written in a code that is
14 rapidly being broken.

15 b. Genetic information is uniquely private and personal information
16 that should not be collected, retained or disclosed without the
17 individual's authorization.

18 c. The improper collection, retention or disclosure of genetic
19 information can lead to significant harm to the individual, including
20 stigmatization and discrimination in areas such as employment,
21 education, health care and insurance.

22 d. An analysis of an individual's DNA provides information not
23 only about an individual, but also about the individual's parents,
24 siblings and children, thereby impacting family privacy, including
25 reproductive decisions.

26 e. Current legal protections for medical information, tissue samples
27 and DNA samples are inadequate to protect genetic privacy.

28 f. Laws for the collection, storage and use of identifiable DNA
29 samples and private genetic information obtained from those samples
30 are needed both to protect individual privacy and to permit legitimate
31 genetic research.

32 g. Progress in mapping the genes that cause breast cancer and
33 other diseases has far outpaced the development of a legal and ethical
34 context in which genetic information can be properly evaluated.

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 h. Effective tests to determine the presence of genes that cause
2 breast cancer and other diseases carry with them the devastating
3 potential for discrimination against carriers of these genes.

4
5 3. N.J.S.17B:30-12 is amended to read as follows:

6 17B:30-12 a. No person shall discriminate against any person or
7 group of persons because of race, creed, color, national origin or
8 ancestry of such person or group of persons in the issuance,
9 withholding, extension or renewal of any policy of life or health
10 insurance or annuity or in the fixing of the rates, terms or conditions
11 therefor, or in the issuance or acceptance of any application therefor.

12 b. No person shall use any form of policy of life or health insurance
13 or contract of annuity which expresses, directly or indirectly, any
14 limitation, or discrimination as to race, creed, color, national origin or
15 ancestry or any intent to make any such limitation or discrimination.

16 c. No person shall make or permit any unfair discrimination
17 between individuals of the same class and equal expectation of life in
18 the rates charged for any policy of life insurance or contract of annuity
19 or in the dividends or other benefits payable thereon, or in any other
20 of the terms and conditions of such policy of life insurance or contract
21 of annuity.

22 d. No person shall make or permit any unfair discrimination
23 between individuals of the same class and of essentially the same
24 hazard in the amount of premium, policy fees, or rates charged for any
25 policy or contract of health insurance or in the benefits payable
26 thereunder, or in any of the terms or conditions of such policy or
27 contract, or in any other manner whatever.

28 e. No person shall discriminate against any person on the basis of
29 genetic information in the issuance, withholding, extension or renewal
30 of any policy of life or health insurance or annuity or in the fixing of
31 the rates, terms or conditions therefor, or in the issuance or acceptance
32 of any application therefor.

33 As used in this subsection:

34 "Genetic characteristic" means any gene or chromosome, or
35 alteration thereof, that is scientifically or medically believed to cause
36 a disease, disorder or syndrome, or to be associated with statistically
37 increased risk of development of a disease, disorder or syndrome.

38 "Genetic information" means the information about an individual or
39 family obtained from a genetic test or an individual's DNA sample.

40 "Genetic test" means a test for determining the presence or absence
41 of genetic characteristics in an individual, including tests of nucleic
42 acids such as DNA, RNA and mitochondrial DNA, chromosomes or
43 proteins in order to diagnose a genetic characteristic.

44 f. Nothing contained in this section shall be construed to require
45 any agent or company to take or receive the application for insurance
46 or annuity of any person or to issue a policy of insurance or contract

1 of annuity to any person.

2 (cf: N.J.S.17B:30-12)

3

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

6 5. As used in this act, unless a different meaning clearly appears
7 from the context:

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

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

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

19 d. "Unlawful employment practice" and "unlawful discrimination"
20 include only those unlawful practices and acts specified in section 11
21 of this act.

22 e. "Employer" includes all persons as defined in subsection a. of
23 this section unless otherwise specifically exempt under another section
24 of this act, and includes the State, any political or civil subdivision
25 thereof, and all public officers, agencies, boards or bodies.

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

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

35 h. "Division" means the "Division on Civil Rights" created by this
36 act.

37 i. "Attorney General" means the Attorney General of the State of
38 New Jersey or his representative or designee.

39 j. "Commission" means the Commission on Civil Rights created by
40 this act.

41 k. "Director" means the Director of the Division on Civil Rights.

42 l. "A place of public accommodation" shall include, but not be
43 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
44 camp, day camp, or resort camp, whether for entertainment of
45 transient guests or accommodation of those seeking health, recreation
46 or rest; any producer, manufacturer, wholesaler, distributor, retail

1 shop, store, establishment, or concession dealing with goods or
2 services of any kind; any restaurant, eating house, or place where food
3 is sold for consumption on the premises; any place maintained for the
4 sale of ice cream, ice and fruit preparations or their derivatives, soda
5 water or confections, or where any beverages of any kind are retailed
6 for consumption on the premises; any garage, any public conveyance
7 operated on land or water, or in the air, any stations and terminals
8 thereof; any bathhouse, boardwalk, or seashore accommodation; any
9 auditorium, meeting place, or hall; any theatre, motion-picture house,
10 music hall, roof garden, skating rink, swimming pool, amusement and
11 recreation park, fair, bowling alley, gymnasium, shooting gallery,
12 billiard and pool parlor, or other place of amusement; any comfort
13 station; any dispensary, clinic or hospital; any public library; any
14 kindergarten, primary and secondary school, trade or business school,
15 high school, academy, college and university, or any educational
16 institution under the supervision of the State Board of Education, or
17 the Commissioner of Education of the State of New Jersey. Nothing
18 herein contained shall be construed to include or to apply to any
19 institution, bona fide club, or place of accommodation, which is in its
20 nature distinctly private; nor shall anything herein contained apply to
21 any educational facility operated or maintained by a bona fide religious
22 or sectarian institution, and the right of a natural parent or one in loco
23 parentis to direct the education and upbringing of a child under his
24 control is hereby affirmed; nor shall anything herein contained be
25 construed to bar any private secondary or post secondary school from
26 using in good faith criteria other than race, creed, color, national
27 origin, ancestry or affectional or sexual orientation in the admission of
28 students.

29 m. "A publicly assisted housing accommodation" shall include all
30 housing built with public funds or public assistance pursuant to
31 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
32 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
33 and all housing financed in whole or in part by a loan, whether or not
34 secured by a mortgage, the repayment of which is guaranteed or
35 insured by the federal government or any agency thereof.

36 n. The term "real property" includes real estate, lands, tenements
37 and hereditaments, corporeal and incorporeal, and leaseholds,
38 provided, however, that, except as to publicly assisted housing
39 accommodations, the provisions of this act shall not apply to the
40 rental: (1) of a single apartment or flat in a two-family dwelling, the
41 other occupancy unit of which is occupied by the owner as a residence
42 or the household of the owner's family at the time of such rental; or (2)
43 of a room or rooms to another person or persons by the owner or
44 occupant of a one-family dwelling occupied by the owner or occupant
45 as a residence or the household of the owner's or occupant's family at
46 the time of such rental. Nothing herein contained shall be construed

1 to bar any religious or denominational institution or organization, or
2 any organization operated for charitable or educational purposes,
3 which is operated, supervised or controlled by or in connection with
4 a religious organization, in the sale, lease or rental of real property,
5 from limiting admission to or giving preference to persons of the same
6 religion or denomination or from making such selection as is
7 calculated by such organization to promote the religious principles for
8 which it is established or maintained. Nor does any provision under
9 this act regarding discrimination on the basis of familial status apply
10 with respect to housing for older persons.

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

33 p. "Real estate salesperson" includes any person who, for
34 compensation, valuable consideration or commission, or other thing of
35 value, or by reason of a promise or reasonable expectation thereof, is
36 employed by and operates under the supervision of a licensed real
37 estate broker to sell or offer to sell, buy or offer to buy or negotiate
38 the purchase, sale or exchange of real estate, or offers or attempts to
39 negotiate a loan secured or to be secured by a mortgage or other
40 encumbrance upon or transfer of real estate, or to lease or rent, or
41 offer to lease or rent any real estate for others, or to collect rents for
42 the use of real estate, or to solicit for prospective purchasers or lessees
43 of real estate, or who is employed by a licensed real estate broker to
44 sell or offer to sell lots or other parcels of real estate, at a stated
45 salary, or upon a commission, or upon a salary and commission, or
46 otherwise to sell real estate, or any parts thereof, in lots or other

1 parcels.

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

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

21 s. "Guide dog" means a dog used to assist deaf persons or which
22 is fitted with a special harness so as to be suitable as an aid to the
23 mobility of a blind person, and is used by a blind person who has
24 satisfactorily completed a specific course of training in the use of such
25 a dog, and has been trained by an organization generally recognized by
26 agencies involved in the rehabilitation of the blind or deaf as reputable
27 and competent to provide dogs with training of this type.

28 t. "Guide or service dog trainer" means any person who is
29 employed by an organization generally recognized by agencies
30 involved in the rehabilitation of the blind, handicapped or deaf as
31 reputable and competent to provide dogs with training, and who is
32 actually involved in the training process.

33 u. "Housing accommodation" means any publicly assisted housing
34 accommodation or any real property, or portion thereof, which is used
35 or occupied, or is intended, arranged, or designed to be used or
36 occupied, as the home, residence or sleeping place of one or more
37 persons, but shall not include any single family residence the occupants
38 of which rent, lease, or furnish for compensation not more than one
39 room therein.

40 v. "Public facility" means any place of public accommodation and
41 any street, highway, sidewalk, walkway, public building, and any other
42 place or structure to which the general public is regularly, normally or
43 customarily permitted or invited.

44 w. "Deaf person" means any person whose hearing is so severely
45 impaired that the person is unable to hear and understand normal
46 conversational speech through the unaided ear alone, and who must

- 1 depend primarily on supportive device or visual communication such
2 as writing, lip reading, sign language, and gestures.
- 3 x. "Atypical hereditary cellular or blood trait" means sickle cell
4 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
5 fibrosis trait.
- 6 y. "Sickle cell trait" means the condition wherein the major natural
7 hemoglobin components present in the blood of the individual are
8 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
9 defined by standard chemical and physical analytic techniques,
10 including electrophoresis; and the proportion of hemoglobin A is
11 greater than the proportion of hemoglobin S or one natural parent of
12 the individual is shown to have only normal hemoglobin components
13 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
14 proportions by standard chemical and physical analytic tests.
- 15 z. "Hemoglobin C trait" means the condition wherein the major
16 natural hemoglobin components present in the blood of the individual
17 are hemoglobin A (normal) and hemoglobin C as defined by standard
18 chemical and physical analytic techniques, including electrophoresis;
19 and the proportion of hemoglobin A is greater than the proportion of
20 hemoglobin C or one natural parent of the individual is shown to have
21 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
22 hemoglobin F) in normal proportions by standard chemical and
23 physical analytic tests.
- 24 aa. "Thalassemia trait" means the presence of the thalassemia gene
25 which in combination with another similar gene results in the chronic
26 hereditary disease Cooley's anemia.
- 27 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
28 which in combination with another similar gene results in the chronic
29 hereditary disease Tay-Sachs.
- 30 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
31 gene which in combination with another similar gene results in the
32 chronic hereditary disease cystic fibrosis.
- 33 dd. "Service dog" means any dog individually trained to a
34 handicapped person's requirements including, but not limited to
35 minimal protection work, rescue work, pulling a wheelchair or
36 retrieving dropped items.
- 37 ee. "Qualified Medicaid applicant" means an individual who is a
38 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 39 ff. "AIDS" means acquired immune deficiency syndrome as defined
40 by the Centers for Disease Control of the United States Public Health
41 Service.
- 42 gg. "HIV infection" means infection with the human
43 immunodeficiency virus or any other related virus identified as a
44 probable causative agent of AIDS.
- 45 hh. "Affectional or sexual orientation" means male or female
46 heterosexuality, homosexuality or bisexuality by inclination, practice,

- 1 identity or expression, having a history thereof or being perceived,
2 presumed or identified by others as having such an orientation.
- 3 ii. "Heterosexuality" means affectional, emotional or physical
4 attraction or behavior which is primarily directed towards persons of
5 the other gender.
- 6 jj. "Homosexuality" means affectional, emotional or physical
7 attraction or behavior which is primarily directed towards persons of
8 the same gender.
- 9 kk. "Bisexuality" means affectional, emotional or physical
10 attraction or behavior which is directed towards persons of either
11 gender.
- 12 ll. "Familial status" means being the natural parent of a child, the
13 adoptive parent of a child, the foster parent of a child, having a "parent
14 and child relationship" with a child as defined by State law, or having
15 sole or joint legal or physical custody, care, guardianship, or visitation
16 with a child, or any person who is pregnant or is in the process of
17 securing legal custody of any individual who has not attained the age
18 of 18 years.
- 19 mm. "Housing for older persons" means housing:
- 20 (1) provided under any State or federal program that the Attorney
21 General determines is specifically designed and operated to assist
22 elderly persons (as defined in the State or federal program); or
- 23 (2) intended for, and solely occupied by persons 62 years of age or
24 older; or
- 25 (3) intended and operated for occupancy by at least one person 55
26 years of age or older per unit. In determining whether housing
27 qualifies as housing for older persons under this subsection, the
28 Attorney General shall adopt regulations which require at least the
29 following factors:
- 30 (a) the existence of significant facilities and services specifically
31 designed to meet the physical or social needs of older persons, or if the
32 provision of such facilities and services is not practicable, that such
33 housing is necessary to provide important housing opportunities for
34 older persons; and
- 35 (b) that at least 80 percent of the units are occupied by at least one
36 person 55 years of age or older per unit; and
- 37 (c) the publication of, and adherence to, policies and procedures
38 which demonstrate an intent by the owner or manager to provide
39 housing for persons 55 years of age or older.
- 40 Housing shall not fail to meet the requirements for housing for
41 older persons by reason of: persons residing in such housing as of
42 March 12, 1989 not meeting the age requirements of this subsection,
43 provided that new occupants of such housing meet the age
44 requirements of this subsection; or unoccupied units, provided that
45 such units are reserved for occupancy by persons who meet the age
46 requirements of this subsection.

1 nn. "Genetic characteristic" means any gene or chromosome, or
2 alteration thereof, that is scientifically or medically believed to cause
3 a disease, disorder or syndrome, or to be associated with statistically
4 increased risk of development of a disease, disorder or syndrome.

5 oo. "Genetic information" means the information about an
6 individual or family obtained from a genetic test or an individual's
7 DNA sample.

8 pp. "Genetic test" means a test for determining the presence or
9 absence of genetic characteristics in an individual, including tests of
10 nucleic acids such as DNA, RNA and mitochondrial DNA,
11 chromosomes or proteins in order to diagnose a genetic characteristic.

12 (cf: P.L.1992, c.146, s.4)

13
14 5. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read
15 as follows:

16 11. It shall be an unlawful employment practice, or, as the case
17 may be, an unlawful discrimination:

18 a. For an employer, because of the race, creed, color, national
19 origin, ancestry, age, marital status, affectional or sexual orientation,
20 genetic information, sex or atypical hereditary cellular or blood trait
21 of any individual, or because of the liability for service in the Armed
22 Forces of the United States or the nationality of any individual, or
23 because of the refusal to submit to a genetic test, to refuse to hire or
24 employ or to bar or to discharge or require to retire, unless justified by
25 lawful considerations other than age, from employment such individual
26 or to discriminate against such individual in compensation or in terms,
27 conditions or privileges of employment; provided, however, it shall not
28 be an unlawful employment practice to refuse to accept for
29 employment an applicant who has received a notice of induction or
30 orders to report for active duty in the armed forces; provided further
31 that nothing herein contained shall be construed to bar an employer
32 from refusing to accept for employment any person on the basis of sex
33 in those certain circumstances where sex is a bona fide occupational
34 qualification, reasonably necessary to the normal operation of the
35 particular business or enterprise; provided further that nothing herein
36 contained shall bar an employer from requiring an employee or
37 prospective employee to submit to a genetic test which complies with
38 the provisions of sections 6 through 9 of P.L. , c. (C.)(pending
39 before the Legislature as this bill) in order to determine a bona fide
40 occupational qualification; provided further that nothing herein
41 contained shall be construed to bar an employer from refusing to
42 accept for employment or to promote any person over 70 years of age;
43 provided further that it shall not be an unlawful employment practice
44 for a club exclusively social or fraternal to use club membership as a
45 uniform qualification for employment, or for a religious association or
46 organization to utilize religious affiliation as a uniform qualification in

1 the employment of clergy, religious teachers or other employees
2 engaged in the religious activities of the association or organization,
3 or in following the tenets of its religion in establishing and utilizing
4 criteria for employment of an employee; provided further, that it shall
5 not be an unlawful employment practice to require the retirement of
6 any employee who, for the two-year period immediately before
7 retirement, is employed in a bona fide executive or a high
8 policy-making position, if that employee is entitled to an immediate
9 non-forfeitable annual retirement benefit from a pension, profit
10 sharing, savings or deferred retirement plan, or any combination of
11 those plans, of the employer of that employee which equals in the
12 aggregate at least \$27,000.00; and provided further that an employer
13 may restrict employment to citizens of the United States where such
14 restriction is required by federal law or is otherwise necessary to
15 protect the national interest.

16 For the purposes of this subsection, a "bona fide executive" is a top
17 level employee who exercises substantial executive authority over a
18 significant number of employees and a large volume of business. A
19 "high policy-making position" is a position in which a person plays a
20 significant role in developing policy and in recommending the
21 implementation thereof.

22 b. For a labor organization, because of the race, creed, color,
23 national origin, ancestry, age, marital status, affectional or sexual
24 orientation or sex of any individual, or because of the liability for
25 service in the Armed Forces of the United States or nationality of any
26 individual, to exclude or to expel from its membership such individual
27 or to discriminate in any way against any of its members, against any
28 applicant for, or individual included in, any apprentice or other training
29 program or against any employer or any individual employed by an
30 employer; provided, however, that nothing herein contained shall be
31 construed to bar a labor organization from excluding from its
32 apprentice or other training programs any person on the basis of sex
33 in those certain circumstances where sex is a bona fide occupational
34 qualification reasonably necessary to the normal operation of the
35 particular apprentice or other training program.

36 c. For any employer or employment agency to print or circulate or
37 cause to be printed or circulated any statement, advertisement or
38 publication, or to use any form of application for employment, or to
39 make an inquiry in connection with prospective employment, which
40 expresses, directly or indirectly, any limitation, specification or
41 discrimination as to race, creed, color, national origin, ancestry, age,
42 marital status, affectional or sexual orientation or sex or liability of any
43 applicant for employment for service in the Armed Forces of the
44 United States, or any intent to make any such limitation, specification
45 or discrimination, unless based upon a bona fide occupational
46 qualification.

1 d. For any person to take reprisals against any person because that
2 person has opposed any practices or acts forbidden under this act or
3 because that person has filed a complaint, testified or assisted in any
4 proceeding under this act or to coerce, intimidate, threaten or interfere
5 with any person in the exercise or enjoyment of, or on account of that
6 person having aided or encouraged any other person in the exercise or
7 enjoyment of, any right granted or protected by this act.

8 e. For any person, whether an employer or an employee or not, to
9 aid, abet, incite, compel or coerce the doing of any of the acts
10 forbidden under this act, or to attempt to do so.

11 f. For any owner, lessee, proprietor, manager, superintendent,
12 agent, or employee of any place of public accommodation directly or
13 indirectly to refuse, withhold from or deny to any person any of the
14 accommodations, advantages, facilities or privileges thereof, or to
15 discriminate against any person in the furnishing thereof, or directly or
16 indirectly to publish, circulate, issue, display, post or mail any written
17 or printed communication, notice, or advertisement to the effect that
18 any of the accommodations, advantages, facilities, or privileges of any
19 such place will be refused, withheld from, or denied to any person on
20 account of the race, creed, color, national origin, ancestry, marital
21 status, sex, affectional or sexual orientation or nationality of such
22 person, or that the patronage or custom thereof of any person of any
23 particular race, creed, color, national origin, ancestry, marital status,
24 sex, affectional or sexual orientation or nationality is unwelcome,
25 objectionable or not acceptable, desired or solicited, and the
26 production of any such written or printed communication, notice or
27 advertisement, purporting to relate to any such place and to be made
28 by any owner, lessee, proprietor, superintendent or manager thereof,
29 shall be presumptive evidence in any action that the same was
30 authorized by such person; provided, however, that nothing contained
31 herein shall be construed to bar any place of public accommodation
32 which is in its nature reasonably restricted exclusively to individuals of
33 one sex, and which shall include but not be limited to any summer
34 camp, day camp, or resort camp, bathhouse, dressing room, swimming
35 pool, gymnasium, comfort station, dispensary, clinic or hospital, or
36 school or educational institution which is restricted exclusively to
37 individuals of one sex, from refusing, withholding from or denying to
38 any individual of the opposite sex any of the accommodations,
39 advantages, facilities or privileges thereof on the basis of sex; provided
40 further, that the foregoing limitation shall not apply to any restaurant
41 as defined in R.S.33:1-1 or place where alcoholic beverages are
42 served.

43 g. For the owner, lessee, sublessee, assignee or managing agent of,
44 or other person having the right of ownership or possession of or the
45 right to sell, rent, lease, assign, or sublease any real property or part
46 or portion thereof, or any agent or employee of any of these:

1 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
2 to deny to or withhold from any person or group of persons any real
3 property or part or portion thereof because of the race, creed, color,
4 national origin, ancestry, marital status, affectional or sexual
5 orientation, familial status or nationality of such person or group of
6 persons;

7 (2) To discriminate against any person or group of persons because
8 of the race, creed, color, national origin, marital status, sex, affectional
9 or sexual orientation or familial status of such person or group of
10 persons in the terms, conditions or privileges of the sale, rental or
11 lease of any real property or part or portion thereof or in the
12 furnishing of facilities or services in connection therewith; or

13 (3) To print, publish, circulate, issue, display, post or mail, or
14 cause to be printed, published, circulated, issued, displayed, posted or
15 mailed any statement, advertisement, publication or sign, or to use any
16 form of application for the purchase, rental, lease, assignment or
17 sublease of any real property or part or portion thereof, or to make
18 any record or inquiry in connection with the prospective purchase,
19 rental, lease, assignment, or sublease of any real property, or part or
20 portion thereof which expresses, directly or indirectly, any limitation,
21 specification or discrimination as to race, creed, color, national origin,
22 ancestry, marital status, sex, affectional or sexual orientation, familial
23 status or nationality, or any intent to make any such limitation,
24 specification or discrimination, and the production of any such
25 statement, advertisement, publicity, sign, form of application, record,
26 or inquiry purporting to be made by any such person shall be
27 presumptive evidence in any action that the same was authorized by
28 such person; provided, however, that nothing contained in this
29 subsection shall be construed to bar any person from refusing to sell,
30 rent, lease, assign or sublease or from advertising or recording a
31 qualification as to sex for any room, apartment, flat in a dwelling or
32 residential facility which is planned exclusively for and occupied by
33 individuals of one sex to any individual of the exclusively opposite sex
34 on the basis of sex.

35 h. For any person, including but not limited to, any real estate
36 broker, real estate salesperson, or employee or agent thereof:

37 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
38 sale, rental, lease, assignment, or sublease any real property or part or
39 portion thereof to any person or group of persons or to refuse to
40 negotiate for the sale, rental, lease, assignment, or sublease of any real
41 property or part or portion thereof to any person or group of persons
42 because of the race, creed, color, national origin, ancestry, marital
43 status, familial status, sex, affectional or sexual orientation or
44 nationality of such person or group of persons, or to represent that any
45 real property or portion thereof is not available for inspection, sale,
46 rental, lease, assignment, or sublease when in fact it is so available, or

1 otherwise to deny or withhold any real property or any part or portion
2 of facilities thereof to or from any person or group of persons because
3 of the race, creed, color, national origin, ancestry, marital status,
4 familial status, sex, affectional or sexual orientation or nationality of
5 such person or group of persons;

6 (2) To discriminate against any person because of his race, creed,
7 color, national origin, ancestry, marital status, familial status, sex or
8 affectional or sexual orientation in the terms, conditions or privileges
9 of the sale, rental, lease, assignment or sublease of any real property
10 or part or portion thereof or in the furnishing of facilities or services
11 in connection therewith; or

12 (3) To print, publish, circulate, issue, display, post, or mail, or
13 cause to be printed, published, circulated, issued, displayed, posted or
14 mailed any statement, advertisement, publication or sign, or to use any
15 form of application for the purchase, rental, lease, assignment, or
16 sublease of any real property or part or portion thereof or to make any
17 record or inquiry in connection with the prospective purchase, rental,
18 lease, assignment, or sublease of any real property or part or portion
19 thereof which expresses, directly or indirectly, any limitation,
20 specification or discrimination as to race, creed, color, national origin,
21 ancestry, marital status, familial status, sex, affectional or sexual
22 orientation or nationality or any intent to make any such limitation,
23 specification or discrimination, and the production of any such
24 statement, advertisement, publicity, sign, form of application, record,
25 or inquiry purporting to be made by any such person shall be
26 presumptive evidence in any action that the same was authorized by
27 such person; provided, however, that nothing contained in this
28 subsection h., shall be construed to bar any person from refusing to
29 sell, rent, lease, assign or sublease or from advertising or recording a
30 qualification as to sex for any room, apartment, flat in a dwelling or
31 residential facility which is planned exclusively for and occupied
32 exclusively by individuals of one sex to any individual of the opposite
33 sex on the basis of sex.

34 i. For any person, bank, banking organization, mortgage company,
35 insurance company or other financial institution, lender or credit
36 institution to whom application is made for any loan or extension of
37 credit including but not limited to an application for financial
38 assistance for the purchase, acquisition, construction, rehabilitation,
39 repair or maintenance of any real property or part or portion thereof
40 or any agent or employee thereof:

41 (1) To discriminate against any person or group of persons because
42 of the race, creed, color, national origin, ancestry, marital status, sex,
43 affectional or sexual orientation or nationality of such person or group
44 of persons or of the prospective occupants or tenants of such real
45 property or part or portion thereof, in the granting, withholding,
46 extending, modifying or renewing, or in the fixing of the rates, terms,

1 conditions or provisions of any such loan, extension of credit or
2 financial assistance or in the extension of services in connection
3 therewith; or

4 (2) To use any form of application for such loan, extension of
5 credit or financial assistance or to make record or inquiry in
6 connection with applications for any such loan, extension of credit or
7 financial assistance which expresses, directly or indirectly, any
8 limitation, specification or discrimination as to race, creed, color,
9 national origin, ancestry, marital status, sex, affectional or sexual
10 orientation or nationality or any intent to make any such limitation,
11 specification or discrimination; unless otherwise required by law or
12 regulation to retain or use such information; or

13 (3) To discriminate on the basis of familial status in any manner
14 described in paragraph (1) or (2) of this subsection with respect to any
15 real property.

16 j. For any person whose activities are included within the scope of
17 this act to refuse to post or display such notices concerning the rights
18 or responsibilities of persons affected by this act as the Attorney
19 General may by regulation require.

20 k. For any real estate broker, real estate salesperson or employee
21 or agent thereof or any other individual, corporation, partnership, or
22 organization, for the purpose of inducing a transaction for the sale or
23 rental of real property from which transaction such person or any of
24 its members may benefit financially, to represent that a change has
25 occurred or will or may occur in the composition with respect to race,
26 creed, color, national origin, ancestry, marital status, familial status,
27 sex, affectional or sexual orientation or nationality of the owners or
28 occupants in the block, neighborhood or area in which the real
29 property is located, and to represent, directly or indirectly, that this
30 change will or may result in undesirable consequences in the block,
31 neighborhood or area in which the real property is located, including,
32 but not limited to the lowering of property values, an increase in
33 criminal or anti-social behavior, or a decline in the quality of schools
34 or other facilities.

35 l. For any person to refuse to buy from, sell to, lease from or to,
36 license, contract with, or trade with, provide goods, services or
37 information to, or otherwise do business with any other person on the
38 basis of the race, creed, color, national origin, ancestry, age, sex,
39 affectional or sexual orientation, marital status, liability for service in
40 the Armed Forces of the United States, or nationality of such other
41 person or of such other person's spouse, partners, members,
42 stockholders, directors, officers, managers, superintendents, agents,
43 employees, business associates, suppliers, or customers. This
44 subsection shall not prohibit refusals or other actions (1) pertaining to
45 employee-employer collective bargaining, labor disputes, or unfair
46 labor practices, or (2) made or taken in connection with a protest of

1 unlawful discrimination or unlawful employment practices.

2 m. For any person to:

3 (1) Grant or accept any letter of credit or other document which
4 evidences the transfer of funds or credit, or enter into any contract for
5 the exchange of goods or services, where the letter of credit, contract,
6 or other document contains any provisions requiring any person to
7 discriminate against or to certify that he, she or it has not dealt with
8 any other person on the basis of the race, creed, color, national origin,
9 ancestry, age, sex, affectional or sexual orientation, marital status,
10 liability for service in the Armed Forces of the United States, or
11 nationality of such other person or of such other person's spouse,
12 partners, members, stockholders, directors, officers, managers,
13 superintendents, agents, employees, business associates, suppliers, or
14 customers.

15 (2) Refuse to grant or accept any letter of credit or other document
16 which evidences the transfer of funds or credit, or refuse to enter into
17 any contract for the exchange of goods or services, on the ground that
18 it does not contain such a discriminatory provision or certification.

19 The provisions of this subsection shall not apply to any letter of
20 credit, contract, or other document which contains any provision
21 pertaining to employee-employer collective bargaining, a labor dispute
22 or an unfair labor practice, or made in connection with the protest of
23 unlawful discrimination or an unlawful employment practice, if the
24 other provisions of such letter of credit, contract, or other document
25 do not otherwise violate the provisions of this subsection.

26 n. For any person to aid, abet, incite, compel, coerce, or induce the
27 doing of any act forbidden by subsections l. and m. of section 11 of
28 P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so.
29 Such prohibited conduct shall include, but not be limited to:

30 (1) Buying from, selling to, leasing from or to, licensing,
31 contracting with, trading with, providing goods, services, or
32 information to, or otherwise doing business with any person because
33 that person does, or agrees or attempts to do, any such act or any act
34 prohibited by this subsection n.; or

35 (2) Boycotting, commercially blacklisting or refusing to buy from,
36 sell to, lease from or to, license, contract with, provide goods, services
37 or information to, or otherwise do business with any person because
38 that person has not done or refuses to do any such act or any act
39 prohibited by this subsection n.; provided that this subsection n. shall
40 not prohibit refusals or other actions either pertaining to
41 employee-employer collective bargaining, labor disputes, or unfair
42 labor practices, or made or taken in connection with a protest of
43 unlawful discrimination or unlawful employment practices.

44 (cf: P.L.1992, c.146, s.9)

45

46 6. (New section) No person shall obtain genetic information from

1 an individual, or from an individual's DNA sample, without first
2 obtaining informed consent from the individual or the individual's
3 representative, except:

4 a. A State, county, municipal or federal law enforcement agency
5 for the purposes of establishing the identity of a person in the course
6 of a criminal investigation or prosecution;

7 b. To determine paternity in accordance with the provisions of
8 section 14 of P.L.1983, c.17 (C.9:17-51);

9 c. Pursuant to the provisions of the "DNA Database and Databank
10 Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.);

11 d. To determine the identity of deceased individuals;

12 e. For anonymous research where the identity of the subject will
13 not be released; or

14 f. As authorized by federal law for the identification of persons.
15

16 7. (New section) a. An individual's genetic information is the
17 property of the individual.

18 b. No person shall retain an individual's genetic information
19 without first obtaining specific authorization from the individual or the
20 individual's representative, unless:

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

23 (2) Retention is necessary to determine paternity in accordance
24 with the provisions of section 14 of P.L.1983, c.17 (C.9:17-51);

25 (3) Retention is authorized by order of a court of competent
26 jurisdiction; or

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

30 c. The DNA sample of an individual from which genetic
31 information has been obtained shall be destroyed promptly upon the
32 specific request of that individual or the individual's representative,
33 unless:

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

36 (2) Retention is authorized by order of a court of competent
37 jurisdiction.

38 d. A DNA sample from an individual who is the subject of a
39 research project shall be destroyed promptly upon completion of the
40 project or withdrawal of the individual from the project, whichever
41 occurs first, unless the individual or the individual's representative
42 directs otherwise by informed consent.

43 e. A DNA sample from an individual for insurance or employment
44 purposes shall be destroyed promptly after the purpose for which the
45 sample was obtained has been accomplished unless retention is
46 authorized by order of a court of competent jurisdiction.

1 f. An individual or an individual's representative, promptly upon
2 request, may inspect, request correction of and obtain genetic
3 information from the records of the individual.

4 g. This section applies only to genetic information that can be
5 identified as belonging to an individual or family. This section does
6 not apply to any law, contract or other arrangement that determines a
7 person's rights to compensation relating to substances or information
8 derived from an individual's DNA sample.

9
10 8. (New section) a. Regardless of the manner of receipt or the
11 source of genetic information, including information received from an
12 individual, a person may not disclose or be compelled, by subpoena or
13 any other means, to disclose the identity of an individual upon whom
14 a genetic test has been performed or to disclose genetic information
15 about the individual in a manner that permits identification of the
16 individual, unless:

17 (1) Disclosure is necessary for the purposes of a criminal or death
18 investigation or a criminal or juvenile proceeding;

19 (2) Disclosure is necessary to determine paternity in accordance
20 with the provisions of section 14 of P.L.1983, c.17 (C.9:17-51);

21 (3) Disclosure is authorized by order of a court of competent
22 jurisdiction;

23 (4) Disclosure is made pursuant to the provisions of the "DNA
24 Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17
25 et seq.);

26 (5) Disclosure is authorized by the tested individual or the tested
27 individual's representative by signing a consent which complies with
28 the requirements of the Department of Health;

29 (6) Disclosure is for the purpose of furnishing genetic information
30 relating to a decedent for medical diagnosis of blood relatives of the
31 decedent;

32 (7) Disclosure is for the purpose of identifying bodies; or

33 (8) Disclosure is authorized by federal law for the identification of
34 persons.

35 b. The provisions of this section apply to any redisclosure by any
36 person after another person has disclosed genetic information or the
37 identity of an individual upon whom a genetic test has been performed.

38
39 9. (New Section) a. A person that performs genetic testing or
40 receives records, results or findings of genetic testing shall provide the
41 person tested with notice that the test was performed or that the
42 information was received. The notice shall state that the information
43 may not be disclosed to any person without the written consent of the
44 person tested, unless disclosure is made pursuant to one of the
45 exceptions provided for in section 8 of this 1996 amendatory and
46 supplementary act.

1 require employees or prospective employees to submit to a genetic test
2 to determine a bona fide occupational qualification.

3 The bill prohibits life and health insurers from discriminating against
4 any person on the basis of genetic information in the issuance,
5 withholding, extension or renewal of any life or health insurance policy
6 or annuity, or in the fixing of rates, terms or conditions of a life or
7 health insurance policy, or in the issuance or acceptance of any life or
8 health insurance application.

9 The bill provides standards and procedures for obtaining, retaining
10 and disclosing genetic information. The bill prohibits any person from
11 obtaining genetic information from an individual, or from an
12 individual's DNA sample without first obtaining informed consent from
13 the individual or the individual's representative, except under certain
14 limited circumstances set forth in the bill.

15 The bill declares that an individual's genetic information is the
16 property of that individual, and prohibits any person from retaining an
17 individual's genetic information without first obtaining specific
18 authorization from the individual or the individual's representative,
19 except under certain limited circumstances set forth in the bill. The
20 bill requires that the DNA sample of an individual from which genetic
21 information has been obtained shall be destroyed promptly upon the
22 specific request of the individual, except under certain circumstances
23 and for certain purposes set forth in the bill.

24 The bill also provides that no person may disclose or be compelled
25 to disclose the identity of an individual upon whom a genetic test has
26 been performed or to disclose genetic information about the individual
27 in a manner that permits identification of the individual, except under
28 certain circumstances set forth in the bill.

29 The bill requires any person who performs genetic testing or
30 receives genetic testing records to provide the person tested with
31 notice that the test was performed or that the information was
32 received.

33 The bill also provides that any person violating its provisions shall
34 be a disorderly person and shall be punished by a fine of \$1,000, a
35 prison term of six months, or both. Any person who willfully discloses
36 an individual's genetic information to any third party in violation of the
37 bill's provisions shall be punished by a fine of \$5,000, a prison term of
38 one year, or both. Any person who discloses an individual's genetic
39 information in violation of the bill's provisions shall be liable to the
40 individual for all actual damages, including damages for economic,
41 bodily, or emotional harm which is proximately caused by the
42 disclosure.

- 1 _____
- 2
- 3 The "Law Against Genetic Discrimination."