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ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 1499 and 1411

STATE OF NEW JERSEY

ADOPTED FEBRUARY 22, 1996

Sponsored by Assemblywoman HECK and Assemblymen  
DORIA, ROMA and DiGAETANO

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  
16 information that should not be collected, retained or disclosed without  
17 the 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  
27 samples and DNA samples are inadequate to protect genetic privacy.

28 f. Laws for the collection, storage and use of identifiable DNA

**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 samples and private genetic information obtained from those samples  
2 are needed both to protect individual privacy and to permit legitimate  
3 genetic research.

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

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

10

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

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

18 b. No person shall use any form of policy of life or health  
19 insurance or contract of annuity which expresses, directly or indirectly,  
20 any limitation, or discrimination as to race, creed, color, national  
21 origin or ancestry or any intent to make any such limitation or  
22 discrimination.

23 c. No person shall make or permit any unfair discrimination  
24 between individuals of the same class and equal expectation of life in  
25 the rates charged for any policy of life insurance or contract of annuity  
26 or in the dividends or other benefits payable thereon, or in any other  
27 of the terms and conditions of such policy of life insurance or contract  
28 of annuity.

29 d. No person shall make or permit any unfair discrimination  
30 between individuals of the same class and of essentially the same  
31 hazard in the amount of premium, policy fees, or rates charged for any  
32 policy or contract of health insurance or in the benefits payable  
33 thereunder, or in any of the terms or conditions of such policy or  
34 contract, or in any other manner whatever.

35 e. No person shall, on the basis of genetic information about any  
36 individual or the refusal of the individual to submit to a genetic test or  
37 make available the results of a genetic test to the person, discriminate  
38 against the individual in the issuance, withholding, extension or  
39 renewal of any policy of life or health insurance or annuity or in the  
40 fixing of the rates, terms or conditions therefor, or in the issuance or  
41 acceptance of any application therefor.

42 As used in this subsection:

43 "Genetic characteristic" means any gene or chromosome, or  
44 alteration thereof, that is scientifically or medically believed to cause  
45 a disease, disorder or syndrome, or to be associated with statistically

1 increased risk of development of a disease, disorder or syndrome.

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

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

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

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

13

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

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

18 a. "Person" includes one or more individuals, partnerships,  
19 associations, organizations, labor organizations, corporations, legal  
20 representatives, trustees, trustees in bankruptcy, receivers, and  
21 fiduciaries.

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

24 c. "Labor organization" includes any organization which exists and  
25 is constituted for the purpose, in whole or in part, of collective  
26 bargaining, or of dealing with employers concerning grievances, terms  
27 or conditions of employment, or of other mutual aid or protection in  
28 connection with employment.

29 d. "Unlawful employment practice" and "unlawful discrimination"  
30 include only those unlawful practices and acts specified in section 11  
31 of this act.

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

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

38 g. "Liability for service in the Armed Forces of the United States"  
39 means subject to being ordered as an individual or member of an  
40 organized unit into active service in the Armed Forces of the United  
41 States by reason of membership in the National Guard, naval militia or  
42 a reserve component of the Armed Forces of the United States, or  
43 subject to being inducted into such armed forces through a system of  
44 national selective service.

45 h. "Division" means the "Division on Civil Rights" created by this

1 act.

2 i. "Attorney General" means the Attorney General of the State of  
3 New Jersey or his representative or designee.

4 j. "Commission" means the Commission on Civil Rights created by  
5 this act.

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

7 l. "A place of public accommodation" shall include, but not be  
8 limited to: any tavern, road house, hotel, motel, trailer camp, summer  
9 camp, day camp, or resort camp, whether for entertainment of  
10 transient guests or accommodation of those seeking health, recreation  
11 or rest; any producer, manufacturer, wholesaler, distributor, retail  
12 shop, store, establishment, or concession dealing with goods or  
13 services of any kind; any restaurant, eating house, or place where food  
14 is sold for consumption on the premises; any place maintained for the  
15 sale of ice cream, ice and fruit preparations or their derivatives, soda  
16 water or confections, or where any beverages of any kind are retailed  
17 for consumption on the premises; any garage, any public conveyance  
18 operated on land or water, or in the air, any stations and terminals  
19 thereof; any bathhouse, boardwalk, or seashore accommodation; any  
20 auditorium, meeting place, or hall; any theater, motion-picture house,  
21 music hall, roof garden, skating rink, swimming pool, amusement and  
22 recreation park, fair, bowling alley, gymnasium, shooting gallery,  
23 billiard and pool parlor, or other place of amusement; any comfort  
24 station; any dispensary, clinic or hospital; any public library; any  
25 kindergarten, primary and secondary school, trade or business school,  
26 high school, academy, college and university, or any educational  
27 institution under the supervision of the State Board of Education, or  
28 the Commissioner of Education of the State of New Jersey. Nothing  
29 herein contained shall be construed to include or to apply to any  
30 institution, bona fide club, or place of accommodation, which is in its  
31 nature distinctly private; nor shall anything herein contained apply to  
32 any educational facility operated or maintained by a bona fide religious  
33 or sectarian institution, and the right of a natural parent or one in loco  
34 parentis to direct the education and upbringing of a child under his  
35 control is hereby affirmed; nor shall anything herein contained be  
36 construed to bar any private secondary or post secondary school from  
37 using in good faith criteria other than race, creed, color, national  
38 origin, ancestry or affectional or sexual orientation in the admission of  
39 students.

40 m. "A publicly assisted housing accommodation" shall include all  
41 housing built with public funds or public assistance pursuant to  
42 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
43 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,  
44 and all housing financed in whole or in part by a loan, whether or not  
45 secured by a mortgage, the repayment of which is guaranteed or

1 insured by the federal government or any agency thereof.

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

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

45 p. "Real estate salesperson" includes any person who, for

1 compensation, valuable consideration or commission, or other thing of  
2 value, or by reason of a promise or reasonable expectation thereof, is  
3 employed by and operates under the supervision of a licensed real  
4 estate broker to sell or offer to sell, buy or offer to buy or negotiate  
5 the purchase, sale or exchange of real estate, or offers or attempts to  
6 negotiate a loan secured or to be secured by a mortgage or other  
7 encumbrance upon or transfer of real estate, or to lease or rent, or  
8 offer to lease or rent any real estate for others, or to collect rents for  
9 the use of real estate, or to solicit for prospective purchasers or lessees  
10 of real estate, or who is employed by a licensed real estate broker to  
11 sell or offer to sell lots or other parcels of real estate, at a stated  
12 salary, or upon a commission, or upon a salary and commission, or  
13 otherwise to sell real estate, or any parts thereof, in lots or other  
14 parcels.

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

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

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

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

- 1       u. "Housing accommodation" means any publicly assisted housing  
2 accommodation or any real property, or portion thereof, which is used  
3 or occupied, or is intended, arranged, or designed to be used or  
4 occupied, as the home, residence or sleeping place of one or more  
5 persons, but shall not include any single family residence the occupants  
6 of which rent, lease, or furnish for compensation not more than one  
7 room therein.
- 8       v. "Public facility" means any place of public accommodation and  
9 any street, highway, sidewalk, walkway, public building, and any other  
10 place or structure to which the general public is regularly, normally or  
11 customarily permitted or invited.
- 12       w. "Deaf person" means any person whose hearing is so severely  
13 impaired that the person is unable to hear and understand normal  
14 conversational speech through the unaided ear alone, and who must  
15 depend primarily on supportive device or visual communication such  
16 as writing, lip reading, sign language, and gestures.
- 17       x. "Atypical hereditary cellular or blood trait" means sickle cell  
18 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
19 fibrosis trait.
- 20       y. "Sickle cell trait" means the condition wherein the major natural  
21 hemoglobin components present in the blood of the individual are  
22 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as  
23 defined by standard chemical and physical analytic techniques,  
24 including electrophoresis; and the proportion of hemoglobin A is  
25 greater than the proportion of hemoglobin S or one natural parent of  
26 the individual is shown to have only normal hemoglobin components  
27 (hemoglobin A, hemoglobin A<sub>2</sub>, hemoglobin F) in the normal  
28 proportions by standard chemical and physical analytic tests.
- 29       z. "Hemoglobin C trait" means the condition wherein the major  
30 natural hemoglobin components present in the blood of the individual  
31 are hemoglobin A (normal) and hemoglobin C as defined by standard  
32 chemical and physical analytic techniques, including electrophoresis;  
33 and the proportion of hemoglobin A is greater than the proportion of  
34 hemoglobin C or one natural parent of the individual is shown to have  
35 only normal hemoglobin components (hemoglobin A, hemoglobin A<sub>2</sub>,  
36 hemoglobin F) in normal proportions by standard chemical and  
37 physical analytic tests.
- 38       aa. "Thalassemia trait" means the presence of the thalassemia gene  
39 which in combination with another similar gene results in the chronic  
40 hereditary disease Cooley's anemia.
- 41       bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
42 which in combination with another similar gene results in the chronic  
43 hereditary disease Tay-Sachs.
- 44       cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis  
45 gene which in combination with another similar gene results in the

- 1 chronic hereditary disease cystic fibrosis.
- 2 dd. "Service dog" means any dog individually trained to a  
3 handicapped person's requirements including, but not limited to  
4 minimal protection work, rescue work, pulling a wheelchair or  
5 retrieving dropped items.
- 6 ee. "Qualified Medicaid applicant" means an individual who is a  
7 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 8 ff. "AIDS" means acquired immune deficiency syndrome as  
9 defined by the Centers for Disease Control of the United States Public  
10 Health Service.
- 11 gg. "HIV infection" means infection with the human  
12 immunodeficiency virus or any other related virus identified as a  
13 probable causative agent of AIDS.
- 14 hh. "Affectional or sexual orientation" means male or female  
15 heterosexuality, homosexuality or bisexuality by inclination, practice,  
16 identity or expression, having a history thereof or being perceived,  
17 presumed or identified by others as having such an orientation.
- 18 ii. "Heterosexuality" means affectional, emotional or physical  
19 attraction or behavior which is primarily directed towards persons of  
20 the other gender.
- 21 jj. "Homosexuality" means affectional, emotional or physical  
22 attraction or behavior which is primarily directed towards persons of  
23 the same gender.
- 24 kk. "Bisexuality" means affectional, emotional or physical  
25 attraction or behavior which is directed towards persons of either  
26 gender.
- 27 ll. "Familial status" means being the natural parent of a child, the  
28 adoptive parent of a child, the foster parent of a child, having a "parent  
29 and child relationship" with a child as defined by State law, or having  
30 sole or joint legal or physical custody, care, guardianship, or visitation  
31 with a child, or any person who is pregnant or is in the process of  
32 securing legal custody of any individual who has not attained the age  
33 of 18 years.
- 34 mm. "Housing for older persons" means housing:
- 35 (1) provided under any State or federal program that the Attorney  
36 General determines is specifically designed and operated to assist  
37 elderly persons (as defined in the State or federal 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 55  
41 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 specifically

1 designed to meet the physical or social needs of older persons, or if the  
2 provision of such facilities and services is not practicable, that such  
3 housing is necessary to provide important housing opportunities for  
4 older persons; and

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

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

10 Housing shall not fail to meet the requirements for housing for  
11 older persons by reason of: persons residing in such housing as of  
12 March 12, 1989 not meeting the age requirements of this subsection,  
13 provided that new occupants of such housing meet the age  
14 requirements of this subsection; or unoccupied units, provided that  
15 such units are reserved for occupancy by persons who meet the age  
16 requirements of this subsection.

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

21 oo. "Genetic information" means the information about an  
22 individual or family obtained from a genetic test or an individual's  
23 DNA sample.

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

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

29

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

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

34 a. For an employer, because of the race, creed, color, national  
35 origin, ancestry, age, marital status, affectional or sexual orientation,  
36 genetic information, sex or atypical hereditary cellular or blood trait  
37 of any individual, or because of the liability for service in the Armed  
38 Forces of the United States or the nationality of any individual, or  
39 because of the refusal to submit to a genetic test or make available the  
40 results of a genetic test to the employer, to refuse to hire or employ or  
41 to bar or to discharge or require to retire, unless justified by lawful  
42 considerations other than age, from employment such individual or to  
43 discriminate against such individual in compensation or in terms,  
44 conditions or privileges of employment; provided, however, it shall not  
45 be an unlawful employment practice to refuse to accept for

1 employment an applicant who has received a notice of induction or  
2 orders to report for active duty in the armed forces; provided further  
3 that nothing herein contained shall be construed to bar an employer  
4 from refusing to accept for employment any person on the basis of sex  
5 in those certain circumstances where sex is a bona fide occupational  
6 qualification, reasonably necessary to the normal operation of the  
7 particular business or enterprise; provided further that nothing herein  
8 contained shall be construed to bar an employer from refusing to  
9 accept for employment or to promote any person over 70 years of age;  
10 provided further that it shall not be an unlawful employment practice  
11 for a club exclusively social or fraternal to use club membership as a  
12 uniform qualification for employment, or for a religious association or  
13 organization to utilize religious affiliation as a uniform qualification in  
14 the employment of clergy, religious teachers or other employees  
15 engaged in the religious activities of the association or organization,  
16 or in following the tenets of its religion in establishing and utilizing  
17 criteria for employment of an employee; provided further, that it shall  
18 not be an unlawful employment practice to require the retirement of  
19 any employee who, for the two-year period immediately before  
20 retirement, is employed in a bona fide executive or a high  
21 policy-making position, if that employee is entitled to an immediate  
22 non-forfeitable annual retirement benefit from a pension, profit  
23 sharing, savings or deferred retirement plan, or any combination of  
24 those plans, of the employer of that employee which equals in the  
25 aggregate at least \$27,000.00; and provided further that an employer  
26 may restrict employment to citizens of the United States where such  
27 restriction is required by federal law or is otherwise necessary to  
28 protect the national interest.

29 For the purposes of this subsection, a "bona fide executive" is a top  
30 level employee who exercises substantial executive authority over a  
31 significant number of employees and a large volume of business. A  
32 "high policy-making position" is a position in which a person plays a  
33 significant role in developing policy and in recommending the  
34 implementation thereof.

35 b. For a labor organization, because of the race, creed, color,  
36 national origin, ancestry, age, marital status, affectional or sexual  
37 orientation or sex of any individual, or because of the liability for  
38 service in the Armed Forces of the United States or nationality of any  
39 individual, to exclude or to expel from its membership such individual  
40 or to discriminate in any way against any of its members, against any  
41 applicant for, or individual included in, any apprentice or other training  
42 program or against any employer or any individual employed by an  
43 employer; provided, however, that nothing herein contained shall be  
44 construed to bar a labor organization from excluding from its  
45 apprentice or other training programs any person on the basis of sex

1 in those certain circumstances where sex is a bona fide occupational  
2 qualification reasonably necessary to the normal operation of the  
3 particular apprentice or other training program.

4 c. For any employer or employment agency to print or circulate or  
5 cause to be printed or circulated any statement, advertisement or  
6 publication, or to use any form of application for employment, or to  
7 make an inquiry in connection with prospective employment, which  
8 expresses, directly or indirectly, any limitation, specification or  
9 discrimination as to race, creed, color, national origin, ancestry, age,  
10 marital status, affectional or sexual orientation or sex or liability of any  
11 applicant for employment for service in the Armed Forces of the  
12 United States, or any intent to make any such limitation, specification  
13 or discrimination, unless based upon a bona fide occupational  
14 qualification.

15 d. For any person to take reprisals against any person because that  
16 person has opposed any practices or acts forbidden under this act or  
17 because that person has filed a complaint, testified or assisted in any  
18 proceeding under this act or to coerce, intimidate, threaten or interfere  
19 with any person in the exercise or enjoyment of, or on account of that  
20 person having aided or encouraged any other person in the exercise or  
21 enjoyment of, any right granted or protected by this act.

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

25 f. For any owner, lessee, proprietor, manager, superintendent,  
26 agent, or employee of any place of public accommodation directly or  
27 indirectly to refuse, withhold from or deny to any person any of the  
28 accommodations, advantages, facilities or privileges thereof, or to  
29 discriminate against any person in the furnishing thereof, or directly or  
30 indirectly to publish, circulate, issue, display, post or mail any written  
31 or printed communication, notice, or advertisement to the effect that  
32 any of the accommodations, advantages, facilities, or privileges of any  
33 such place will be refused, withheld from, or denied to any person on  
34 account of the race, creed, color, national origin, ancestry, marital  
35 status, sex, affectional or sexual orientation or nationality of such  
36 person, or that the patronage or custom thereof of any person of any  
37 particular race, creed, color, national origin, ancestry, marital status,  
38 sex, affectional or sexual orientation or nationality is unwelcome,  
39 objectionable or not acceptable, desired or solicited, and the  
40 production of any such written or printed communication, notice or  
41 advertisement, purporting to relate to any such place and to be made  
42 by any owner, lessee, proprietor, superintendent or manager thereof,  
43 shall be presumptive evidence in any action that the same was  
44 authorized by such person; provided, however, that nothing contained  
45 herein shall be construed to bar any place of public accommodation

1 which is in its nature reasonably restricted exclusively to individuals of  
2 one sex, and which shall include but not be limited to any summer  
3 camp, day camp, or resort camp, bathhouse, dressing room, swimming  
4 pool, gymnasium, comfort station, dispensary, clinic or hospital, or  
5 school or educational institution which is restricted exclusively to  
6 individuals of one sex, from refusing, withholding from or denying to  
7 any individual of the opposite sex any of the accommodations,  
8 advantages, facilities or privileges thereof on the basis of sex; provided  
9 further, that the foregoing limitation shall not apply to any restaurant  
10 as defined in R.S.33:1-1 or place where alcoholic beverages are  
11 served.

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

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

22 (2) To discriminate against any person or group of persons  
23 because of the race, creed, color, national origin, marital status, sex,  
24 affectional or sexual orientation or familial status of such person or  
25 group of persons in the terms, conditions or privileges of the sale,  
26 rental or lease of any real property or part or portion thereof or in the  
27 furnishing of facilities or services in connection therewith; or

28 (3) To print, publish, circulate, issue, display, post or mail, or  
29 cause to be printed, published, circulated, issued, displayed, posted or  
30 mailed any statement, advertisement, publication or sign, or to use any  
31 form of application for the purchase, rental, lease, assignment or  
32 sublease of any real property or part or portion thereof, or to make  
33 any record or inquiry in connection with the prospective purchase,  
34 rental, lease, assignment, or sublease of any real property, or part or  
35 portion thereof which expresses, directly or indirectly, any limitation,  
36 specification or discrimination as to race, creed, color, national origin,  
37 ancestry, marital status, sex, affectional or sexual orientation, familial  
38 status or nationality, or any intent to make any such limitation,  
39 specification or discrimination, and the production of any such  
40 statement, advertisement, publicity, sign, form of application, record,  
41 or inquiry purporting to be made by any such person shall be  
42 presumptive evidence in any action that the same was authorized by  
43 such person; provided, however, that nothing contained in this  
44 subsection shall be construed to bar any person from refusing to sell,  
45 rent, lease, assign or sublease or from advertising or recording a

1 qualification as to sex for any room, apartment, flat in a dwelling or  
2 residential facility which is planned exclusively for and occupied by  
3 individuals of one sex to any individual of the exclusively opposite sex  
4 on the basis of sex.

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

7 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
8 sale, rental, lease, assignment, or sublease any real property or part or  
9 portion thereof to any person or group of persons or to refuse to  
10 negotiate for the sale, rental, lease, assignment, or sublease of any real  
11 property or part or portion thereof to any person or group of persons  
12 because of the race, creed, color, national origin, ancestry, marital  
13 status, familial status, sex, affectional or sexual orientation or  
14 nationality of such person or group of persons, or to represent that any  
15 real property or portion thereof is not available for inspection, sale,  
16 rental, lease, assignment, or sublease when in fact it is so available, or  
17 otherwise to deny or withhold any real property or any part or portion  
18 of facilities thereof to or from any person or group of persons because  
19 of the race, creed, color, national origin, ancestry, marital status,  
20 familial status, sex, affectional or sexual orientation or nationality of  
21 such person or group of persons;

22 (2) To discriminate against any person because of his race, creed,  
23 color, national origin, ancestry, marital status, familial status, sex or  
24 affectional or sexual orientation in the terms, conditions or privileges  
25 of the sale, rental, lease, assignment or sublease of any real property  
26 or part or portion thereof or in the furnishing of facilities or services  
27 in connection therewith; or

28 (3) To print, publish, circulate, issue, display, post, or mail, or  
29 cause to be printed, published, circulated, issued, displayed, posted or  
30 mailed any statement, advertisement, publication or sign, or to use any  
31 form of application for the purchase, rental, lease, assignment, or  
32 sublease of any real property or part or portion thereof or to make any  
33 record or inquiry in connection with the prospective purchase, rental,  
34 lease, assignment, or sublease of any real property or part or portion  
35 thereof which expresses, directly or indirectly, any limitation,  
36 specification or discrimination as to race, creed, color, national origin,  
37 ancestry, marital status, familial status, sex, affectional or sexual  
38 orientation or nationality or any intent to make any such limitation,  
39 specification or discrimination, and the production of any such  
40 statement, advertisement, publicity, sign, form of application, record,  
41 or inquiry purporting to be made by any such person shall be  
42 presumptive evidence in any action that the same was authorized by  
43 such person; provided, however, that nothing contained in this  
44 subsection h., shall be construed to bar any person from refusing to  
45 sell, rent, lease, assign or sublease or from advertising or recording a

1 qualification as to sex for any room, apartment, flat in a dwelling or  
2 residential facility which is planned exclusively for and occupied  
3 exclusively by individuals of one sex to any individual of the opposite  
4 sex on the basis of sex.

5 i. For any person, bank, banking organization, mortgage company,  
6 insurance company or other financial institution, lender or credit  
7 institution to whom application is made for any loan or extension of  
8 credit including but not limited to an application for financial  
9 assistance for the purchase, acquisition, construction, rehabilitation,  
10 repair or maintenance of any real property or part or portion thereof  
11 or any agent or employee thereof:

12 (1) To discriminate against any person or group of persons  
13 because of the race, creed, color, national origin, ancestry, marital  
14 status, sex, affectional or sexual orientation or nationality of such  
15 person or group of persons or of the prospective occupants or tenants  
16 of such real property or part or portion thereof, in the granting,  
17 withholding, extending, modifying or renewing, or in the fixing of the  
18 rates, terms, conditions or provisions of any such loan, extension of  
19 credit or financial assistance or in the extension of services in  
20 connection therewith; or

21 (2) To use any form of application for such loan, extension of  
22 credit or financial assistance or to make record or inquiry in  
23 connection with applications for any such loan, extension of credit or  
24 financial assistance which expresses, directly or indirectly, any  
25 limitation, specification or discrimination as to race, creed, color,  
26 national origin, ancestry, marital status, sex, affectional or sexual  
27 orientation or nationality or any intent to make any such limitation,  
28 specification or discrimination; unless otherwise required by law or  
29 regulation to retain or use such information; or

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

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

37 k. For any real estate broker, real estate salesperson or employee  
38 or agent thereof or any other individual, corporation, partnership, or  
39 organization, for the purpose of inducing a transaction for the sale or  
40 rental of real property from which transaction such person or any of  
41 its members may benefit financially, to represent that a change has  
42 occurred or will or may occur in the composition with respect to race,  
43 creed, color, national origin, ancestry, marital status, familial status,  
44 sex, affectional or sexual orientation or nationality of the owners or  
45 occupants in the block, neighborhood or area in which the real

1 property is located, and to represent, directly or indirectly, that this  
2 change will or may result in undesirable consequences in the block,  
3 neighborhood or area in which the real property is located, including,  
4 but not limited to the lowering of property values, an increase in  
5 criminal or anti-social behavior, or a decline in the quality of schools  
6 or other facilities.

7 1. For any person to refuse to buy from, sell to, lease from or to,  
8 license, contract with, or trade with, provide goods, services or  
9 information to, or otherwise do business with any other person on the  
10 basis of the race, creed, color, national origin, ancestry, age, sex,  
11 affectional or sexual orientation, marital status, liability for service in  
12 the Armed Forces of the United States, or nationality of such other  
13 person or of such other person's spouse, partners, members,  
14 stockholders, directors, officers, managers, superintendents, agents,  
15 employees, business associates, suppliers, or customers. This  
16 subsection shall not prohibit refusals or other actions (1) pertaining to  
17 employee-employer collective bargaining, labor disputes, or unfair  
18 labor practices, or (2) made or taken in connection with a protest of  
19 unlawful discrimination or unlawful employment practices.

20 m. For any person to:

21 (1) Grant or accept any letter of credit or other document which  
22 evidences the transfer of funds or credit, or enter into any contract for  
23 the exchange of goods or services, where the letter of credit, contract,  
24 or other document contains any provisions requiring any person to  
25 discriminate against or to certify that he, she or it has not dealt with  
26 any other person on the basis of the race, creed, color, national origin,  
27 ancestry, age, sex, affectional or sexual orientation, marital status,  
28 liability for service in the Armed Forces of the United States, or  
29 nationality of such other person or of such other person's spouse,  
30 partners, members, stockholders, directors, officers, managers,  
31 superintendents, agents, employees, business associates, suppliers, or  
32 customers.

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

38 The provisions of this subsection shall not apply to any letter of  
39 credit, contract, or other document which contains any provision  
40 pertaining to employee-employer collective bargaining, a labor dispute  
41 or an unfair labor practice, or made in connection with the protest of  
42 unlawful discrimination or an unlawful employment practice, if the  
43 other provisions of such letter of credit, contract, or other document  
44 do not otherwise violate the provisions of this subsection.

45 n. For any person to aid, abet, incite, compel, coerce, or induce

1 the doing of any act forbidden by subsections l. and m. of section 11  
2 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so.  
3 Such prohibited conduct shall include, but not be limited to:

4 (1) Buying from, selling to, leasing from or to, licensing,  
5 contracting with, trading with, providing goods, services, or  
6 information to, or otherwise doing business with any person because  
7 that person does, or agrees or attempts to do, any such act or any act  
8 prohibited by this subsection n.; or

9 (2) Boycotting, commercially blacklisting or refusing to buy from,  
10 sell to, lease from or to, license, contract with, provide goods, services  
11 or information to, or otherwise do business with any person because  
12 that person has not done or refuses to do any such act or any act  
13 prohibited by this subsection n.; provided that this subsection n. shall  
14 not prohibit refusals or other actions either pertaining to  
15 employee-employer collective bargaining, labor disputes, or unfair  
16 labor practices, or made or taken in connection with a protest of  
17 unlawful discrimination or unlawful employment practices.

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

19

20 6. (New section) No person shall obtain genetic information from  
21 an individual, or from an individual's DNA sample, without first  
22 obtaining informed consent from the individual or the individual's  
23 representative, except:

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

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

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

31 d. To determine the identity of deceased individuals;

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

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

35

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

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

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

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

45 (3) Retention is authorized by order of a court of competent

1 jurisdiction; or

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

5 c. The DNA sample of an individual from which genetic  
6 information has been obtained shall be destroyed promptly upon the  
7 specific request of that individual or the individual's representative,  
8 unless:

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

11 (2) Retention is authorized by order of a court of competent  
12 jurisdiction.

13 d. A DNA sample from an individual who is the subject of a  
14 research project shall be destroyed promptly upon completion of the  
15 project or withdrawal of the individual from the project, whichever  
16 occurs first, unless the individual or the individual's representative  
17 directs otherwise by informed consent.

18 e. An individual or an individual's representative, promptly upon  
19 request, may inspect, request correction of and obtain genetic  
20 information from the records of the individual.

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

26

27 8. (New section) a. Regardless of the manner of receipt or the  
28 source of genetic information, including information received from an  
29 individual, a person may not disclose or be compelled, by subpoena or  
30 any other means, to disclose the identity of an individual upon whom  
31 a genetic test has been performed or to disclose genetic information  
32 about the individual in a manner that permits identification of the  
33 individual, unless:

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

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

38 (3) Disclosure is authorized by order of a court of competent  
39 jurisdiction;

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

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

1 (6) Disclosure is for the purpose of furnishing genetic information  
2 relating to a decedent for medical diagnosis of blood relatives of the  
3 decedent;

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

5 (8) Disclosure is authorized by federal law for the identification of  
6 persons.

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

10

11 9. (New Section) a. A person that performs genetic testing or  
12 receives records, results or findings of genetic testing shall provide the  
13 person tested with notice that the test was performed or that the  
14 information was received. The notice shall state that the information  
15 may not be disclosed to any person without the written consent of the  
16 person tested, unless disclosure is made pursuant to one of the  
17 exceptions provided for in section 8 of this 1996 amendatory and  
18 supplementary act.

19 b. The Commissioner of Health shall promulgate regulations  
20 pursuant to the provisions of the "Administrative Procedure Act,"  
21 P.L.1968, c.410 (C.52:14B-1 et seq.) governing procedures for  
22 obtaining informed written consent pursuant to this act, which shall  
23 include a description of the test to be performed, including its purpose,  
24 potential uses, and limitations, the meaning of its results, procedures  
25 for notifying the applicant of the results, and the right to confidential  
26 treatment of the results.

27

28 10. (New section) a. Any person violating the provisions of this  
29 1996 amendatory and supplementary act shall be a disorderly person  
30 and shall be punished by a fine of \$1,000, a prison term of six months,  
31 or both.

32 b. Any person who willfully discloses an individual's genetic  
33 information to any third party in violation of this 1996 amendatory and  
34 supplementary act shall be punished by a fine of \$5,000, a prison term  
35 of one year, or both.

36 c. Any person who discloses an individual's genetic information in  
37 violation of this act shall be liable to the individual for all actual  
38 damages, including damages for economic, bodily, or emotional harm  
39 which is proximately caused by the disclosure.

40

41 11. This act shall take effect immediately.

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1 The "Law Against Genetic Discrimination."