

ASSEMBLY COMMITTEE SUBSTITUTE FOR
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ASSEMBLY, Nos. 1499 and 1411

STATE OF NEW JERSEY

ADOPTED MAY 30, 1996

**Sponsored by Assemblywoman HECK, Assemblymen DORIA,
DiGAETANO and ROMA**

1 AN ACT concerning genetic testing and privacy and medical
2 underwriting, amending N.J.S.17B:30-12, amending and
3 supplementing P.L.1945, c.169 and supplementing Titles 17 and 26
4 of the Revised Statutes and Title 17B of the New Jersey Statutes.
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. Sections 1 through 10 of this act shall be known and may be
10 cited as the "Genetic Privacy Act."
11

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

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

16 b. Genetic information is personal information that should not be
17 collected, retained or disclosed without 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
29 samples and private genetic information obtained from those samples
30 are needed both to protect individual privacy and to permit legitimate

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

Matter underlined thus is new matter.

1 genetic research.

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

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

8

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

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

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

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

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

33 e. (1) No person shall discriminate against any individual on the
34 basis of genetic information or the refusal to submit to a genetic test
35 or make available the results of a genetic test to the person in the
36 issuance, withholding, extension or renewal of any hospital confinement
37 or other supplemental limited benefit health or credit life or credit
38 accident insurance coverage, as defined by regulation of the
39 commissioner, or in the fixing of the rates, terms or conditions
40 therefor, or in the issuance or acceptance of any application therefor.

41 (2) As used in this subsection and subsection f. of this section:

42 "Genetic characteristic" means any inherited gene or chromosome,
43 or alteration thereof, that is scientifically or medically believed to
44 predispose an individual to a disease, disorder or syndrome, or to be
45 associated with a statistically significant increased risk of development
46 of a disease, disorder or syndrome.

1 "Genetic information" means the information about genes, gene
2 products or inherited characteristics that may derive from an individual
3 or family member.

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

9 f. No person shall make or permit any unfair discrimination against
10 an individual in the application of the results of a genetic test or
11 genetic information in the underwriting of or determining insurability
12 for a policy of life insurance, an annuity or disability income insurance
13 contract. If the commissioner has reason to believe that such unfair
14 discrimination has occurred, including that application of the results
15 of a genetic test is not reasonably related to anticipated claim
16 experience, and that a proceeding by the commissioner would be in the
17 interest of the public, the commissioner shall, in accordance with the
18 provisions of N.J.S.17B:30-1 et seq., issue and serve upon the insurer
19 a statement of the charges. Upon a determination that the practice or
20 act of the insurer is in conflict with the provisions of this subsection,
21 the commissioner shall issue an order requiring the insurer to cease
22 and desist from engaging in the practice or act and may order payment
23 of a penalty consistent with the provisions of N.J.S.17B:30-1 et seq.

24 If, in the issuance, withholding, extension or renewal of any policy
25 of life insurance, an annuity or disability income insurance contract, an
26 insurer will use the results of a genetic test in compliance with this
27 subsection, the insurer shall notify the individual who is the subject of
28 the genetic test that such a test shall be required and shall obtain the
29 individual's written informed consent for the test prior to the
30 administration of the test, in accordance with the requirements of
31 P.L.1985, c.179 (C.17:23A-1 et seq.). The insurer shall also provide
32 that the physician or other health care professional designated by the
33 individual shall promptly receive a copy of the results of the test and,
34 if required, an interpretation of the test results by a qualified
35 professional, and that the individual shall state in writing whether the
36 individual elects to be informed of the results of the test.

37 g. Nothing contained in this section shall be construed to require
38 any agent or company to take or receive the application for insurance
39 or annuity of any person or to issue a policy of insurance or contract
40 of annuity to any person.

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

42
43 4. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
44 follows:

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

- 1 a. "Person" includes one or more individuals, partnerships,
2 associations, organizations, labor organizations, corporations, legal
3 representatives, trustees, trustees in bankruptcy, receivers, and
4 fiduciaries.
- 5 b. "Employment agency" includes any person undertaking to
6 procure employees or opportunities for others to work.
- 7 c. "Labor organization" includes any organization which exists and
8 is constituted for the purpose, in whole or in part, of collective
9 bargaining, or of dealing with employers concerning grievances, terms
10 or conditions of employment, or of other mutual aid or protection in
11 connection with employment.
- 12 d. "Unlawful employment practice" and "unlawful discrimination"
13 include only those unlawful practices and acts specified in section 11
14 of this act.
- 15 e. "Employer" includes all persons as defined in subsection a. of
16 this section unless otherwise specifically exempt under another section
17 of this act, and includes the State, any political or civil subdivision
18 thereof, and all public officers, agencies, boards or bodies.
- 19 f. "Employee" does not include any individual employed in the
20 domestic service of any person.
- 21 g. "Liability for service in the Armed Forces of the United States"
22 means subject to being ordered as an individual or member of an
23 organized unit into active service in the Armed Forces of the United
24 States by reason of membership in the National Guard, naval militia or
25 a reserve component of the Armed Forces of the United States, or
26 subject to being inducted into such armed forces through a system of
27 national selective service.
- 28 h. "Division" means the "Division on Civil Rights" created by this
29 act.
- 30 i. "Attorney General" means the Attorney General of the State of
31 New Jersey or his representative or designee.
- 32 j. "Commission" means the Commission on Civil Rights created by
33 this act.
- 34 k. "Director" means the Director of the Division on Civil Rights.
- 35 l. "A place of public accommodation" shall include, but not be
36 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
37 camp, day camp, or resort camp, whether for entertainment of
38 transient guests or accommodation of those seeking health, recreation
39 or rest; any producer, manufacturer, wholesaler, distributor, retail
40 shop, store, establishment, or concession dealing with goods or
41 services of any kind; any restaurant, eating house, or place where food
42 is sold for consumption on the premises; any place maintained for the
43 sale of ice cream, ice and fruit preparations or their derivatives, soda
44 water or confections, or where any beverages of any kind are retailed
45 for consumption on the premises; any garage, any public conveyance
46 operated on land or water, or in the air, any stations and terminals

1 thereof; any bathhouse, boardwalk, or seashore accommodation; any
2 auditorium, meeting place, or hall; any theatre, motion-picture house,
3 music hall, roof garden, skating rink, swimming pool, amusement and
4 recreation park, fair, bowling alley, gymnasium, shooting gallery,
5 billiard and pool parlor, or other place of amusement; any comfort
6 station; any dispensary, clinic or hospital; any public library; any
7 kindergarten, primary and secondary school, trade or business school,
8 high school, academy, college and university, or any educational
9 institution under the supervision of the State Board of Education, or
10 the Commissioner of Education of the State of New Jersey. Nothing
11 herein contained shall be construed to include or to apply to any
12 institution, bona fide club, or place of accommodation, which is in its
13 nature distinctly private; nor shall anything herein contained apply to
14 any educational facility operated or maintained by a bona fide religious
15 or sectarian institution, and the right of a natural parent or one in loco
16 parentis to direct the education and upbringing of a child under his
17 control is hereby affirmed; nor shall anything herein contained be
18 construed to bar any private secondary or post secondary school from
19 using in good faith criteria other than race, creed, color, national
20 origin, ancestry or affectional or sexual orientation in the admission of
21 students.

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

29 n. The term "real property" includes real estate, lands, tenements
30 and hereditaments, corporeal and incorporeal, and leaseholds,
31 provided, however, that, except as to publicly assisted housing
32 accommodations, the provisions of this act shall not apply to the
33 rental: (1) of a single apartment or flat in a two-family dwelling, the
34 other occupancy unit of which is occupied by the owner as a residence
35 or the household of the owner's family at the time of such rental; or (2)
36 of a room or rooms to another person or persons by the owner or
37 occupant of a one-family dwelling occupied by the owner or occupant
38 as a residence or the household of the owner's or occupant's family at
39 the time of such rental. Nothing herein contained shall be construed
40 to bar any religious or denominational institution or organization, or
41 any organization operated for charitable or educational purposes,
42 which is operated, supervised or controlled by or in connection with
43 a religious organization, in the sale, lease or rental of real property,
44 from limiting admission to or giving preference to persons of the same
45 religion or denomination or from making such selection as is
46 calculated by such organization to promote the religious principles for

1 which it is established or maintained. Nor does any provision under
2 this act regarding discrimination on the basis of familial status apply
3 with respect to housing for older persons.

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

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

41 q. "Handicapped" means suffering from physical disability,
42 infirmity, malformation or disfigurement which is caused by bodily
43 injury, birth defect or illness including epilepsy, and which shall
44 include, but not be limited to, any degree of paralysis, amputation, lack
45 of physical coordination, blindness or visual impediment, deafness or
46 hearing impediment, muteness or speech impediment or physical

1 reliance on a service or guide dog, wheelchair, or other remedial
2 appliance or device, or from any mental, psychological or
3 developmental disability resulting from anatomical, psychological,
4 physiological or neurological conditions which prevents the normal
5 exercise of any bodily or mental functions or is demonstrable,
6 medically or psychologically, by accepted clinical or laboratory
7 diagnostic techniques. Handicapped shall also mean suffering from
8 AIDS or HIV infection.

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

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

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

26 u. "Housing accommodation" means any publicly assisted housing
27 accommodation or any real property, or portion thereof, which is used
28 or occupied, or is intended, arranged, or designed to be used or
29 occupied, as the home, residence or sleeping place of one or more
30 persons, but shall not include any single family residence the occupants
31 of which rent, lease, or furnish for compensation not more than one
32 room therein.

33 v. "Public facility" means any place of public accommodation and
34 any street, highway, sidewalk, walkway, public building, and any other
35 place or structure to which the general public is regularly, normally or
36 customarily permitted or invited.

37 w. "Deaf person" means any person whose hearing is so severely
38 impaired that the person is unable to hear and understand normal
39 conversational speech through the unaided ear alone, and who must
40 depend primarily on supportive device or visual communication such
41 as writing, lip reading, sign language, and gestures.

42 x. "Atypical hereditary cellular or blood trait" means sickle cell
43 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
44 fibrosis trait.

45 y. "Sickle cell trait" means the condition wherein the major natural
46 hemoglobin components present in the blood of the individual are

1 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
2 defined by standard chemical and physical analytic techniques,
3 including electrophoresis; and the proportion of hemoglobin A is
4 greater than the proportion of hemoglobin S or one natural parent of
5 the individual is shown to have only normal hemoglobin components
6 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
7 proportions by standard chemical and physical analytic tests.

8 z. "Hemoglobin C trait" means the condition wherein the major
9 natural hemoglobin components present in the blood of the individual
10 are hemoglobin A (normal) and hemoglobin C as defined by standard
11 chemical and physical analytic techniques, including electrophoresis;
12 and the proportion of hemoglobin A is greater than the proportion of
13 hemoglobin C or one natural parent of the individual is shown to have
14 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
15 hemoglobin F) in normal proportions by standard chemical and
16 physical analytic tests.

17 aa. "Thalassemia trait" means the presence of the thalassemia gene
18 which in combination with another similar gene results in the chronic
19 hereditary disease Cooley's anemia.

20 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
21 which in combination with another similar gene results in the chronic
22 hereditary disease Tay-Sachs.

23 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
24 gene which in combination with another similar gene results in the
25 chronic hereditary disease cystic fibrosis.

26 dd. "Service dog" means any dog individually trained to a
27 handicapped person's requirements including, but not limited to
28 minimal protection work, rescue work, pulling a wheelchair or
29 retrieving dropped items.

30 ee. "Qualified Medicaid applicant" means an individual who is a
31 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

32 ff. "AIDS" means acquired immune deficiency syndrome as
33 defined by the Centers for Disease Control of the United States Public
34 Health Service.

35 gg. "HIV infection" means infection with the human
36 immunodeficiency virus or any other related virus identified as a
37 probable causative agent of AIDS.

38 hh. "Affectional or sexual orientation" means male or female
39 heterosexuality, homosexuality or bisexuality by inclination, practice,
40 identity or expression, having a history thereof or being perceived,
41 presumed or identified by others as having such an orientation.

42 ii. "Heterosexuality" means affectional, emotional or physical
43 attraction or behavior which is primarily directed towards persons of
44 the other gender.

45 jj. "Homosexuality" means affectional, emotional or physical
46 attraction or behavior which is primarily directed towards persons of

1 the same gender.

2 kk. "Bisexuality" means affectional, emotional or physical
3 attraction or behavior which is directed towards persons of either
4 gender.

5 ll. "Familial status" means being the natural parent of a child, the
6 adoptive parent of a child, the foster parent of a child, having a "parent
7 and child relationship" with a child as defined by State law, or having
8 sole or joint legal or physical custody, care, guardianship, or visitation
9 with a child, or any person who is pregnant or is in the process of
10 securing legal custody of any individual who has not attained the age
11 of 18 years.

12 mm. "Housing for older persons" means housing:

13 (1) provided under any State or federal program that the Attorney
14 General determines is specifically designed and operated to assist
15 elderly persons (as defined in the State or federal program); or

16 (2) intended for, and solely occupied by persons 62 years of age
17 or older; or

18 (3) intended and operated for occupancy by at least one person 55
19 years of age or older per unit. In determining whether housing
20 qualifies as housing for older persons under this subsection, the
21 Attorney General shall adopt regulations which require at least the
22 following factors:

23 (a) the existence of significant facilities and services specifically
24 designed to meet the physical or social needs of older persons, or if the
25 provision of such facilities and services is not practicable, that such
26 housing is necessary to provide important housing opportunities for
27 older persons; and

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

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

33 Housing shall not fail to meet the requirements for housing for
34 older persons by reason of: persons residing in such housing as of
35 March 12, 1989 not meeting the age requirements of this subsection,
36 provided that new occupants of such housing meet the age
37 requirements of this subsection; or unoccupied units, provided that
38 such units are reserved for occupancy by persons who meet the age
39 requirements of this subsection.

40 nn. "Genetic characteristic" means any inherited gene or
41 chromosome, or alteration thereof, that is scientifically or medically
42 believed to predispose an individual to a disease, disorder or
43 syndrome, or to be associated with a statistically significant increased
44 risk of development of a disease, disorder or syndrome.

45 oo. "Genetic information" means the information about genes,
46 gene products or inherited characteristics that may derive from an

1 individual or family member.

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

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

8

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

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

13 a. For an employer, because of the race, creed, color, national
14 origin, ancestry, age, marital status, affectional or sexual orientation,
15 genetic information, sex or atypical hereditary cellular or blood trait
16 of any individual, or because of the liability for service in the Armed
17 Forces of the United States or the nationality of any individual, or
18 because of the refusal to submit to a genetic test or make available the
19 results of a genetic test to an employer, to refuse to hire or employ or
20 to bar or to discharge or require to retire, unless justified by lawful
21 considerations other than age, from employment such individual or to
22 discriminate against such individual in compensation or in terms,
23 conditions or privileges of employment; provided, however, it shall not
24 be an unlawful employment practice to refuse to accept for
25 employment an applicant who has received a notice of induction or
26 orders to report for active duty in the armed forces; provided further
27 that nothing herein contained shall be construed to bar an employer
28 from refusing to accept for employment any person on the basis of sex
29 in those certain circumstances where sex is a bona fide occupational
30 qualification, reasonably necessary to the normal operation of the
31 particular business or enterprise; provided further that nothing herein
32 contained shall be construed to bar an employer from refusing to
33 accept for employment or to promote any person over 70 years of age;
34 provided further that it shall not be an unlawful employment practice
35 for a club exclusively social or fraternal to use club membership as a
36 uniform qualification for employment, or for a religious association or
37 organization to utilize religious affiliation as a uniform qualification in
38 the employment of clergy, religious teachers or other employees
39 engaged in the religious activities of the association or organization,
40 or in following the tenets of its religion in establishing and utilizing
41 criteria for employment of an employee; provided further, that it shall
42 not be an unlawful employment practice to require the retirement of
43 any employee who, for the two-year period immediately before
44 retirement, is employed in a bona fide executive or a high
45 policy-making position, if that employee is entitled to an immediate
46 non-forfeitable annual retirement benefit from a pension, profit

1 sharing, savings or deferred retirement plan, or any combination of
2 those plans, of the employer of that employee which equals in the
3 aggregate at least \$27,000.00; and provided further that an employer
4 may restrict employment to citizens of the United States where such
5 restriction is required by federal law or is otherwise necessary to
6 protect the national interest.

7 For the purposes of this subsection, a "bona fide executive" is a top
8 level employee who exercises substantial executive authority over a
9 significant number of employees and a large volume of business. A
10 "high policy-making position" is a position in which a person plays a
11 significant role in developing policy and in recommending the
12 implementation thereof.

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

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

38 d. For any person to take reprisals against any person because that
39 person has opposed any practices or acts forbidden under this act or
40 because that person has filed a complaint, testified or assisted in any
41 proceeding under this act or to coerce, intimidate, threaten or interfere
42 with any person in the exercise or enjoyment of, or on account of that
43 person having aided or encouraged any other person in the exercise or
44 enjoyment of, any right granted or protected by this act.

45 e. For any person, whether an employer or an employee or not, to
46 aid, abet, incite, compel or coerce the doing of any of the acts

1 forbidden under this act, or to attempt to do so.

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

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

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

44 (2) To discriminate against any person or group of persons
45 because of the race, creed, color, national origin, marital status, sex,
46 affectional or sexual orientation or familial status of such person or

1 group of persons in the terms, conditions or privileges of the sale,
2 rental or lease of any real property or part or portion thereof or in the
3 furnishing of facilities or services in connection therewith; or

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

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

28 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
29 sale, rental, lease, assignment, or sublease any real property or part or
30 portion thereof to any person or group of persons or to refuse to
31 negotiate for the sale, rental, lease, assignment, or sublease of any real
32 property or part or portion thereof to any person or group of persons
33 because of the race, creed, color, national origin, ancestry, marital
34 status, familial status, sex, affectional or sexual orientation or
35 nationality of such person or group of persons, or to represent that any
36 real property or portion thereof is not available for inspection, sale,
37 rental, lease, assignment, or sublease when in fact it is so available, or
38 otherwise to deny or withhold any real property or any part or portion
39 of facilities thereof to or from any person or group of persons because
40 of the race, creed, color, national origin, ancestry, marital status,
41 familial status, sex, affectional or sexual orientation or nationality of
42 such person or group of persons;

43 (2) To discriminate against any person because of his race, creed,
44 color, national origin, ancestry, marital status, familial status, sex or
45 affectional or sexual orientation in the terms, conditions or privileges
46 of the sale, rental, lease, assignment or sublease of any real property

1 or part or portion thereof or in the furnishing of facilities or services
2 in connection therewith; or

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

25 i. For any person, bank, banking organization, mortgage company,
26 insurance company or other financial institution, lender or credit
27 institution to whom application is made for any loan or extension of
28 credit including but not limited to an application for financial
29 assistance for the purchase, acquisition, construction, rehabilitation,
30 repair or maintenance of any real property or part or portion thereof
31 or any agent or employee thereof:

32 (1) To discriminate against any person or group of persons
33 because of the race, creed, color, national origin, ancestry, marital
34 status, sex, affectional or sexual orientation or nationality of such
35 person or group of persons or of the prospective occupants or tenants
36 of such real property or part or portion thereof, in the granting,
37 withholding, extending, modifying or renewing, or in the fixing of the
38 rates, terms, conditions or provisions of any such loan, extension of
39 credit or financial assistance or in the extension of services in
40 connection therewith; or

41 (2) To use any form of application for such loan, extension of
42 credit or financial assistance or to make record or inquiry in
43 connection with applications for any such loan, extension of credit or
44 financial assistance which expresses, directly or indirectly, any
45 limitation, specification or discrimination as to race, creed, color,
46 national origin, ancestry, marital status, sex, affectional or sexual

1 orientation or nationality or any intent to make any such limitation,
2 specification or discrimination; unless otherwise required by law or
3 regulation to retain or use such information; or

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

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

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

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

39 m. For any person to:

40 (1) Grant or accept any letter of credit or other document which
41 evidences the transfer of funds or credit, or enter into any contract for
42 the exchange of goods or services, where the letter of credit, contract,
43 or other document contains any provisions requiring any person to
44 discriminate against or to certify that he, she or it has not dealt with
45 any other person on the basis of the race, creed, color, national origin,
46 ancestry, age, sex, affectional or sexual orientation, marital status,

1 liability for service in the Armed Forces of the United States, or
2 nationality of such other person or of such other person's spouse,
3 partners, members, stockholders, directors, officers, managers,
4 superintendents, agents, employees, business associates, suppliers, or
5 customers.

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

11 The provisions of this subsection shall not apply to any letter of
12 credit, contract, or other document which contains any provision
13 pertaining to employee-employer collective bargaining, a labor dispute
14 or an unfair labor practice, or made in connection with the protest of
15 unlawful discrimination or an unlawful employment practice, if the
16 other provisions of such letter of credit, contract, or other document
17 do not otherwise violate the provisions of this subsection.

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

22 (1) Buying from, selling to, leasing from or to, licensing,
23 contracting with, trading with, providing goods, services, or
24 information to, or otherwise doing business with any person because
25 that person does, or agrees or attempts to do, any such act or any act
26 prohibited by this subsection n.; or

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

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

37

38 6. (New section) No person shall obtain genetic information from
39 an individual, or from an individual's DNA sample, without first
40 obtaining informed consent from the individual or the individual's
41 representative.

42 a. The requirements of this section shall not apply to genetic
43 information obtained:

44 (1) By a State, county, municipal or federal law enforcement
45 agency for the purposes of establishing the identity of a person in the
46 course of a criminal investigation or prosecution;

- 1 (2) To determine paternity in accordance with the provisions of
2 section 11 of P.L.1983, c.17 (C.9:17-48);
- 3 (3) Pursuant to the provisions of the "DNA Database and
4 Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.);
- 5 (4) To determine the identity of deceased individuals;
- 6 (5) For anonymous research where the identity of the subject will
7 not be released;
- 8 (6) Pursuant to newborn screening requirements established by
9 State or federal law; or
- 10 (7) As authorized by federal law for the identification of persons.
- 11 b. In the case of a policy of life insurance or a disability income
12 insurance contract, informed consent shall be obtained pursuant to the
13 provisions of P.L.1985, c.179 (C.17:23A-1 et seq.).
14
- 15 7. (New section) a. An individual's genetic information is the
16 property of the individual.
- 17 b. No person shall retain an individual's genetic information
18 without first obtaining authorization from the individual or the
19 individual's representative, unless:
- 20 (1) Retention is necessary for the purposes of a criminal or death
21 investigation or a criminal or juvenile proceeding;
- 22 (2) Retention is necessary to determine paternity in accordance
23 with the provisions of section 11 of P.L.1983, c.17 (C.9:17-48);
- 24 (3) Retention is authorized by order of a court of competent
25 jurisdiction; or
- 26 (4) Retention is made pursuant to the provisions of the "DNA
27 Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17
28 et seq.).
- 29 c. The DNA sample of an individual from which genetic
30 information has been obtained shall be destroyed promptly upon the
31 specific request of that individual or the individual's representative,
32 unless:
- 33 (1) Retention is necessary for the purposes of a criminal or death
34 investigation or a criminal or juvenile proceeding; or
- 35 (2) Retention is authorized by order of a court of competent
36 jurisdiction.
- 37 d. A DNA sample from an individual who is the subject of a
38 research project shall be destroyed promptly upon completion of the
39 project or withdrawal of the individual from the project, whichever
40 occurs first, unless the individual or the individual's representative
41 directs otherwise by informed consent.
- 42 e. A DNA sample from an individual for insurance or employment
43 purposes shall be destroyed promptly after the purpose for which the
44 sample was obtained has been accomplished unless retention is
45 authorized by order of a court of competent jurisdiction.
- 46 f. An individual or an individual's representative, promptly upon

1 request, may inspect, request correction of and obtain genetic
2 information from the records of the individual; except that, in the case
3 of a policy of life insurance or a disability income insurance contract,
4 the provisions of P.L.1985, c.179 (C.17:23A-1 et seq.) shall apply.

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

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

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

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

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

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

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

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

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

34 (8) Disclosure is pursuant to newborn screening requirements
35 established by State or federal law;

36 (9) Disclosure is authorized by federal law for the identification of
37 persons; or

38 (10) Disclosure is by an insurer pursuant to the requirements of
39 P.L.1985, c.179 (C.17:23A-1 et seq.).

40 b. The provisions of this section apply to any subsequent
41 disclosure by any person after another person has disclosed genetic
42 information or the identity of an individual upon whom a genetic test
43 has been performed.

44
45 9. (New Section) a. A person that performs genetic testing or
46 receives records, results or findings of genetic testing shall provide the

1 person tested with notice that the test was performed or that the
2 information was received. The notice shall state that the information
3 may not be disclosed to any person without the written consent of the
4 person tested, unless disclosure is made pursuant to one of the
5 exceptions provided for in section 8 of P.L. , c. (C.)(pending
6 before the Legislature as this bill).

7 b. The Commissioner of Health shall promulgate regulations
8 pursuant to the provisions of the "Administrative Procedure Act,"
9 P.L.1968, c.410 (C.52:14B-1 et seq.) governing procedures for
10 obtaining informed written consent pursuant to P.L. , c. (pending
11 before the Legislature as this bill), which shall include a description of
12 the test to be performed, including its purpose, potential uses, and
13 limitations, the meaning of its results, procedures for notifying the
14 applicant of the results, and the right to confidential treatment of the
15 results.

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

18
19 10. (New section) a. Any person violating the provisions of
20 sections 6 through 9, inclusive, of P.L. , c. (C.) (pending before
21 the Legislature as this bill) shall be a disorderly person and shall be
22 punished by a fine of \$1,000, a prison term of six months, or both.

23 b. Any person who willfully discloses an individual's genetic
24 information to any third party in violation of P.L. , c. (pending
25 before the Legislature as this bill) shall be punished by a fine of
26 \$5,000, a prison term of one year, or both.

27 c. Any person who discloses an individual's genetic information in
28 violation of P.L. , c. (pending before the Legislature as this bill),
29 shall be liable to the individual for all actual damages, including
30 damages for economic, bodily, or emotional harm which is proximately
31 caused by the disclosure.

32
33 11. (New section) Every individual or group hospital service
34 corporation contract providing hospital or medical expense benefits
35 that is delivered, issued, executed or renewed in this State pursuant to
36 P.L.1938, c.366 (C.17:48-1 et seq.) or approved for issuance or
37 renewal in this State by the Commissioner of Insurance on or after the
38 effective date of this act shall not exclude any person or eligible
39 dependent and shall not establish any rates or terms therefor on the
40 basis of an actual or expected health condition or on the basis of any
41 genetic characteristic. For the purposes of this section, "genetic
42 characteristic" means any inherited gene or chromosome, or alteration
43 thereof, that is scientifically or medically believed to predispose an
44 individual to a disease, disorder or syndrome, or to be associated with
45 statistically increased risk of development of a disease, disorder or
46 syndrome.

1 12. (New section) Every individual or group medical service
2 corporation contract providing hospital or medical expense benefits
3 that is delivered, issued, executed or renewed in this State pursuant to
4 P.L.1940, c.74 (C.17:48A-1 et seq.) or approved for issuance or
5 renewal in this State by the Commissioner of Insurance on or after the
6 effective date of this act shall not exclude any person or eligible
7 dependent and shall not establish any rates or terms therefor on the
8 basis of an actual or expected health condition or on the basis of any
9 genetic characteristic. For the purposes of this section, "genetic
10 characteristic" means any inherited gene or chromosome, or alteration
11 thereof, that is scientifically or medically believed to predispose an
12 individual to a disease, disorder or syndrome, or to be associated with
13 statistically increased risk of development of a disease, disorder or
14 syndrome.

15

16 13. (New section) Every individual or group health service
17 corporation contract providing hospital or medical expense benefits
18 that is delivered, issued, executed or renewed in this State pursuant to
19 P.L.1985, c.236 (C.17:48E-1 et seq.) or approved for issuance or
20 renewal in this State by the Commissioner of Insurance on or after the
21 effective date of this act shall not exclude any person or eligible
22 dependent and shall not establish any rates or terms therefor on the
23 basis of an actual or expected health condition or on the basis of any
24 genetic characteristic. For the purposes of this section, "genetic
25 characteristic" means any inherited gene or chromosome, or alteration
26 thereof, that is scientifically or medically believed to predispose an
27 individual to a disease, disorder or syndrome, or to be associated with
28 statistically increased risk of development of a disease, disorder or
29 syndrome.

30

31 14. (New section) Every individual health insurance policy
32 providing hospital and medical expense benefits that is delivered,
33 issued, executed or renewed in this State pursuant to Chapter 26 of
34 Title 17B of the New Jersey Statutes or approved for issuance or
35 renewal in this State by the Commissioner of Insurance on or after the
36 effective date of this act shall not exclude any person or eligible
37 dependent and shall not establish any rates or terms therefor on the
38 basis of an actual or expected health condition or on the basis of any
39 genetic characteristic. For the purposes of this section, "genetic
40 characteristic" means any inherited gene or chromosome, or alteration
41 thereof, that is scientifically or medically believed to predispose an
42 individual to a disease, disorder or syndrome, or to be associated with
43 statistically increased risk of development of a disease, disorder or
44 syndrome.

45

46 15. (New section) Every group health insurance policy providing

1 hospital or medical expense benefits that is delivered, issued, executed
2 or renewed in this State pursuant to Chapter 27 of Title 17B of the
3 New Jersey Statutes or approved for issuance or renewal in this State
4 by the Commissioner of Insurance on or after the effective date of this
5 act shall not exclude any person or eligible dependent and shall not
6 establish any rates or terms therefor on the basis of an actual or
7 expected health condition or on the basis of any genetic characteristic.
8 For the purposes of this section, "genetic characteristic" means any
9 inherited gene or chromosome, or alteration thereof, that is
10 scientifically or medically believed to predispose an individual to a
11 disease, disorder or syndrome, or to be associated with statistically
12 increased risk of development of a disease, disorder or syndrome.

13

14 16. (New section) Every contract for health care services that is
15 delivered, issued, executed or renewed in this State pursuant to
16 P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or
17 renewal in this State on or after the effective date of this act shall not
18 exclude any person or eligible dependent and shall not establish any
19 rates or terms therefor on the basis of an actual or expected health
20 condition or on the basis of any genetic characteristic. For the
21 purposes of this section, "genetic characteristic" means any inherited
22 gene or chromosome, or alteration thereof, that is scientifically or
23 medically believed to predispose an individual to a disease, disorder or
24 syndrome, or to be associated with statistically increased risk of
25 development of a disease, disorder or syndrome.

26

27 17. This act shall take effect immediately and the provisions of
28 sections 6 and 7 shall apply to genetic information obtained on or after
29 the effective date of this act.

30

31

32

33

34 The "Genetic Privacy Act."