

ASSEMBLY, No. 2849

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1997

By Assemblywoman GILL and Assemblyman DORIA

1 **AN ACT** concerning genetic material and information, supplementing
2 Title 2C of the New Jersey Statutes and amending P.L.1996, c.126.
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4 **BE IT ENACTED** by the *Senate and General Assembly of the State*
5 *of New Jersey*:

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

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

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

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

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

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

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

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

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

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

34 b. The DNA sample of an individual from which genetic

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 information has been obtained shall be destroyed promptly upon the
2 specific request of that individual or the individual's representative,
3 unless:

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

6 (2) Retention is authorized by order of a court of competent
7 jurisdiction.

8 c. A DNA sample from an individual who is the subject of a
9 research project shall be destroyed promptly upon completion of the
10 project or withdrawal of the individual from the project, whichever
11 occurs first, unless the individual or the individual's representative
12 directs otherwise by informed consent.

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

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

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

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

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

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

43 b. The Commissioner of Health and Senior Services, in
44 consultation with the Commissioner of Banking and Insurance, shall
45 promulgate regulations pursuant to the provisions of the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)

1 governing procedures for obtaining informed written consent pursuant
2 to P.L.1996, c.126, [except where the procedures for obtaining
3 informed written consent already are governed by national standards
4 for informed consent as designated by the Commissioner of Health and
5 Senior Services by regulation, which may include, but need not be
6 limited to, guidelines from the Office of Protection for Research Risk,
7 the Food and Drug Administration or other appropriate federal
8 agencies] which shall include a description of the test to be performed,
including its purpose, potential uses, and limitations, the meaning of
9 its results, procedures for notifying the applicant of the results, and the
10 right to confidential treatment of the results.

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

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

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16 4. This act shall take effect immediately.

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STATEMENT

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

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

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