CHAPTER 126

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.10:5-43 Short title.
1. Sections 1 through 10 of this act shall be known and may be cited as the "Genetic Privacy Act."

C.10:5-44 Findings, declarations relative to genetic information.
2. The Legislature finds and declares:
   a. The DNA molecule contains information about an individual's probable medical future. This information is written in a code that is rapidly being broken.
   b. Genetic information is personal information that should not be collected, retained or disclosed without the individual's authorization.
   c. The improper collection, retention or disclosure of genetic information can lead to significant harm to the individual, including stigmatization and discrimination in areas such as employment, education, health care and insurance.
   d. A new test for an individual's DNA provides information not only about an individual, but also about the individual's parents, siblings and children, thereby impacting family privacy, including reproductive decisions.
   e. Current legal protections for medical information, tissue samples and DNA samples are inadequate to protect genetic privacy.
   f. Laws for the collection, storage and use of identifiable DNA samples and private genetic information obtained from these samples are needed both to protect individual privacy and to permit legitimate genetic research.
   g. Progress in mapping the genes that cause breast cancer and other diseases has far outpaced the development of a legal and ethical context in which genetic information can be properly evaluated.
   h. Effective tests to determine the presence of genes that cause breast cancer and other diseases carry with them the devastating potential for discrimination against carriers of these genes.

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

Discrimination prohibited; terms defined.
   a. No person shall discriminate against any person or group of persons because of race, creed, color, national origin or ancestry of such person or group of persons in the issuance, withholding, extension or renewal of any policy of life or health insurance or annuity or in the fixing of the rates, terms or conditions thereof, or in the issuance or acceptance of any application therefor.
   b. No person shall use any form of policy of life or health insurance or contract of annuity which expresses, directly or indirectly, any limitation, or discrimination as to race, creed, color, national origin or ancestry or any intent to make such limitation or discrimination.
   c. No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any policy of life insurance or contract of annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such policy of life insurance or contract of annuity.
   d. No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such policy or contract, or in any other manner whatever.
   e. (1) No person shall discriminate against any individual on the basis of genetic information or the refusal to submit to a genetic test or make available the results of a genetic test to the person in the issuance, withholding, extension or renewal of any hospital confinement or supplemental limited benefit insurance, as defined by regulation of the commissioner, or in the fixing of the rates, terms or conditions thereof, or in the issuance or acceptance of any application therefor.
      (2) As used in this subsection and subsection f. of this section: "Genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.
      "Genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or family member.
      "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.
      No person shall make or permit any unfair discrimination against an individual in the application of the results of a genetic test or genetic information in the issuance, withholding, extension or renewal of a policy of life insurance, including credit life insurance, an annuity, disability income insurance contract or credit accident insurance coverage. If the commissioner has reason to believe that such unfair discrimination has occurred, including that application of the results of a genetic test is not reasonably related to anticipated claim experience, and that a proceeding by the commissioner would be in the interest of the public, the commissioner shall, in accordance with the provisions of N.J.S.17B:30-1 et seq., issue and serve upon the insurer a statement of the charges. Upon a determination that the practice or act of the insurer is in conflict with the provisions of this subsection, the commissioner shall issue an order requiring the insurer to cease and desist from engaging in the practice or act and may order payment of a penalty consistent with the provisions of N.J.S.17B:30-1 et seq.
      In, the issuance, withholding, extension or renewal of any policy of life insurance, including credit life insurance, an annuity, disability income insurance contract or credit accident insurance coverage, an insurer will use the results of a genetic test in compliance with this subsection, the insurer shall notify the individual who is the subject of the genetic test to the person in the issuance, withholding, extension or renewal of any hospital confinement or supplemental limited benefit insurance, as defined by regulation of the commissioner, or in the fixing of the rates, terms or conditions thereof, or in the issuance or acceptance of any application therefor.
      If, in the issuance, withholding, extension or renewal of any policy of life insurance, including credit life insurance, an annuity, disability income insurance contract or credit accident insurance coverage, an insurer will use the results of a genetic test in compliance with this subsection, the insurer shall notify the individual who is the subject of the genetic test that such a test shall be required and shall obtain the individual's written informed consent for the test prior to the administration of the test, in accordance with the requirements of P.L.1985, c.179 (C.17:23A-1 et seq.). The insurer shall also provide that the physician or other health care professional designated by the individual shall promptly receive a copy of the results of the test and, if required, an interpretation of the test results by a qualified professional, and that the individual shall state in writing whether the individual elects to be informed of the results of the test.
      a. Nothing contained in this section shall be construed to require any agent or company to take or receive the application for insurance or annuity of any person or to issue a policy of insurance or contract of annuity to any person.

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

C.10:5-5 Definitions relative to discrimination.

5. As used in this act, unless a different meaning clearly appears from the context:
   a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, in bankruptcy, receivers, and fiduciaries.
   b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.
   c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.
   d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of this act.
   e. "Employee" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of this act, and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.
   f. "Employee" does not include any individual employed in the domestic service of any person.
   g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.
   h. "Division" means the "Division on Civil Rights" created by this act.
   i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.
j. "Commission" means the Commission on Civil Rights created by this act.

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

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp of entertainment for transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or fountains, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any station, any bathroom, any bathehouse, any bathing pool, or seashore bathing privileges; any motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey.

m. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with corrective lenses or whose visual acuity is better than 20/200 if accompanied by a limitation of the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

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

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or exchange of real estate, or is employed to rent or to negotiate a mortgage or other encumbrance upon or transfer of real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or otherwise to sell such real estate, or any parts thereof, in lots or other parts, and who shall sell or exchange, or offer or attempt to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or is employed or otherwise to negotiate a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Sickle cell trait" means the presence of the sickle cell trait, which comprises a physical or mental disability, anemia, mental retardation, epilepsy, in which a small proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportion, or a trait resulting from a physical or mental disability, anemia, mental retardation, epilepsy, in which a small proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportion, or a trait resulting from a physical or mental disability, anemia, mental retardation, epilepsy, in which a small proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportion.

r. "Sickle cell disease" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic techniques.

s. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic techniques.

t. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

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

x. "Underwear" means any clothing worn next to the body, including, but not limited to, any clothing worn beneath overgarments, pajamas, or other clothing worn next to the skin.

y. "Vale" means the value of property, whether undue or not, secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.

z. "Vale" means the value of property, whether undue or not, secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.
10. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the foster parent of a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or in the process of securing legal custody of any individual who has not attained the age of 18 years.

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

a. For any employer, lessee, lessor, lessor, manager, superintend, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post, or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of race, color, national origin, ancestry, age, marital status, affectional or sexual orientation or sex of any such person.

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

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

C.10:5-12 Unlawful employment practices, discrimination.

11. It shall be an unlawful employment practice, discrimination:

a. For any employer, lessee, lessor, manager, superintend, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post, or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of race, color, national origin, ancestry, age, marital status, affectional or sexual orientation or sex of any such person.

b. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.
(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, familial status or nationality, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex.

b. For any person, including but not limited to, no real estate broker, real estate salesperson, employee or agent thereof:

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

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

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons; or

(4) To prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsection l. and m. or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

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

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

(3) To prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

n. To refuse to sell, rent, lease, assign or sublease, or offer for sale, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation, familial status or nationality, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex.

o. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsection s. and n. or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

(1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification.

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons; or

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

(4) To use any form of application for a loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information; or

(5) To discriminate against any person because of his race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information; or

(6) To refuse to sell, rent, lease, assign or sublease, or offer for sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold facilities thereof to or from any person or group of persons because of the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual or orientation or nationality of such person or group of persons; or

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

(8) To prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

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(5) For anonymous research where the identity of the subject will not be released;
(6) Pursuant to newborn screening requirements established by State or federal law; or
(7) As authorized by federal law for the identification of persons.

b. In the case of a policy of life insurance or a disability income insurance contract, informed consent shall be obtained pursuant to the provisions of P.L.1985, c.179 (C.17:23A-1 et seq.).

C.10:5-46 Authorization to retain genetic information.

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

(1) Retention is necessary for the purposes of a criminal or death investigation or a criminal or juvenile proceeding;
(2) Retention is necessary to determine paternity in accordance with the provisions of section 11 of P.L.1983, c.17 (C.9:17-48);
(3) Retention is authorized by order of a court of competent jurisdiction;
(4) Retention is made pursuant to the provisions of the "DNA Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.); or
(5) Retention of information is for the identity of the research where the identity of the subject will not be released.

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

(1) Retention is necessary for the purposes of a criminal or death investigation or a criminal or juvenile proceeding; or
(2) Retention is authorized by order of a court of competent jurisdiction.

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

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

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

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

C.10:5-47 Conditions for disclosure of genetic information.

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

(1) Disclosure is necessary for the purposes of a criminal or death investigation or a criminal or juvenile proceeding;
(2) Disclosure is necessary to determine paternity in accordance with the provisions of section 11 of P.L.1983, c.17 (C.9:17-48);
(3) Disclosure is authorized by order of a court of competent jurisdiction;
(5) Disclosure is authorized by the tested individual or the tested individual's representative by signing a consent which complies with the requirements of the Department of Health and Senior Services;
(6) Disclosure is for the purpose of furnishing genetic information relating to a decedent for medical diagnosis of blood relatives of the decedent;
(7) Disclosure is for the purpose of identifying bodies;
(8) Disclosure is pursuant to newborn screening requirements established by State or federal law;
(9) Disclosure is authorized by federal law for the identification of persons;
or
(10) Disclosure is by an insurer pursuant to the requirements of P.L.1985, c.179 (C.17:23A-1 et seq.).

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

C.10:5-48 Notice to persons receiving genetic testing.

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

b. The Commissioner of Health and Senior Services, in consultation with the Commissioner of Banking and Insurance, shall promulgate regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) governing procedures for obtaining informed written consent pursuant to P.L.1996, c.126, except where the procedures for obtaining informed written consent already are governed by national standards for informed consent as designated by the Commissioner of Health and Senior Services by regulation, which may include, but need not be limited to, guidelines from the Office of Protection for Research Risk, the Food and Drug Administration or other appropriate federal agencies.

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

C.10:5-49 Violations, penalties for unlawful disclosure of genetic information.

10. a. Any person violating the provisions of sections 6 through 9, inclusive, of P.L.1996, c.126 (C.10:5-45) shall be a disorderly person and shall be punished by a fine of $1,000, a prison term of six months, or both.

b. Any person who willfully discloses an individual's genetic information to any third party in violation of P.L.1996, c.126 shall be punished by a fine of $5,000, a prison term of one year, or both.

c. Any person who discloses an individual's genetic information in violation of P.L.1996, c.126, shall be liable to the individual for all actual damages, including damages for economic, bodily, or emotional harm which is proximately caused by the disclosure.

C.17:48-6.18 Hospital service corporation contract, exclusion, rates, terms based on genetic information prohibited.

6. Every individual or group hospital service corporation contract providing hospital or medical expense benefits that is delivered, issued, executed or renewed in this State pursuant to P.L.1938, c.174 (C.17:23A-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act shall not exclude any person or eligible dependent and shall not establish any rates or terms therefor on the basis of any genetic characteristic. For the purposes of this section, "genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with statistically increased risk of development of a disease, disorder or syndrome.

C.17:48E-15.2 Health service corporation contract, exclusion, rates, terms based on genetic information prohibited.
13. Every individual or group health service corporation contract providing hospital or medical expense benefits that is delivered, issued, executed or renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act shall not exclude any person or eligible dependent and shall not establish any rates or terms therefor on the basis of an actual or expected health condition or on the basis of any genetic characteristic. For the purposes of this section, "genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with statistically increased risk of development of a disease, disorder or syndrome.

C.17B:26-3.2 Individual health insurance policy, exclusion, rates, terms based on genetic information prohibited.

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

C.17B:27-36.2 Group health insurance, policy, exclusion, rates, terms based on genetic information prohibited.

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

C.26:2J-15.1 Health care services contract, exclusion, rates, terms based on genetic information prohibited.

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

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

Approved November 19, 1996.