

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 539

STATE OF NEW JERSEY
216th LEGISLATURE

ADOPTED JUNE 5, 2014

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Co-Sponsored by:

Senator Gordon

SYNOPSIS

The “New Jersey Intern Protection Act”; provides legal protections and remedies for persons engaged in internships with employers.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Labor Committee.



(Sponsorship Updated As Of: 6/24/2014)

1 AN ACT providing protections and remedies for persons engaged in
2 internships with employers, designated the “New Jersey Intern
3 Protection Act,” and amending the titles and bodies of various
4 parts of the statutory law.

5

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

8

9 1. The title of P.L.2001, c.385 is amended to read as follows:

10 AN ACT imposing liability on employers who discharge or
11 discriminate against employees or interns for displaying the
12 American flag, and supplementing P.L.1945, c.169 (C.10:5-1 et
13 seq.).

14 (cf: P.L.2001, c.385, title)

15

16 2. The title of P.L.1986, c.105 is amended to read as follows:

17 AN ACT **[to protect employees from]** concerning retaliatory
18 **[action]** actions by employers and supplementing Title 34 of the
19 Revised Statutes.

20 (cf: P.L.1986, c.105, title)

21

22 3. The title of P.L.2006, c.53 is amended to read as follows:

23 AN ACT concerning employer communications **[to employees]**
24 about religious and political matters, and supplementing Title 34
25 of the Revised Statutes.

26 (cf: P.L.2006, c.53, title)

27

28 4. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to read
29 as follows:

30 3. The Legislature finds and declares that practices of
31 discrimination against any of its inhabitants, because of race, creed,
32 color, national origin, ancestry, age, sex, gender identity or
33 expression, affectional or sexual orientation, marital status, familial
34 status, liability for service in the Armed Forces of the United States,
35 disability or nationality, are matters of concern to the government
36 of the State, and that such discrimination threatens not only the
37 rights and proper privileges of the inhabitants of the State but
38 menaces the institutions and foundation of a free democratic State;
39 provided, however, that nothing in this expression of policy
40 prevents the making of legitimate distinctions between citizens and
41 aliens when required by federal law or otherwise necessary to
42 promote the national interest.

43 The Legislature further declares its opposition to such practices
44 of discrimination when directed against any person by reason of the
45 race, creed, color, national origin, ancestry, age, sex, gender

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

Matter underlined thus is new matter.

1 identity or expression, affectional or sexual orientation, marital
2 status, liability for service in the Armed Forces of the United States,
3 disability or nationality of that person or that person's spouse,
4 partners, members, stockholders, directors, officers, managers,
5 superintendents, agents, employees, interns, business associates,
6 suppliers, or customers, in order that the economic prosperity and
7 general welfare of the inhabitants of the State may be protected and
8 ensured.

9 The Legislature further finds that because of discrimination,
10 people suffer personal hardships, and the State suffers a grievous
11 harm. The personal hardships include: economic loss; time loss;
12 physical and emotional stress; and in some cases severe emotional
13 trauma, illness, homelessness or other irreparable harm resulting
14 from the strain of employment or employer internship
15 controversies; relocation, search and moving difficulties; anxiety
16 caused by lack of information, uncertainty, and resultant planning
17 difficulty; career, education, family and social disruption; and
18 adjustment problems, which particularly impact on those protected
19 by this act. Such harms have, under the common law, given rise to
20 legal remedies, including compensatory and punitive damages. The
21 Legislature intends that such damages be available to all persons
22 protected by this act and that this act shall be liberally construed in
23 combination with other protections available under the laws of this
24 State.

25 (cf: P.L.2006, c.100, s.2)

26

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

29 4. All persons shall have the opportunity to obtain employment
30 or internships with an employer, and to obtain all the
31 accommodations, advantages, facilities, and privileges of any place
32 of public accommodation, publicly assisted housing
33 accommodation, and other real property without discrimination
34 because of race, creed, color, national origin, ancestry, age, marital
35 status, affectional or sexual orientation, familial status, disability,
36 nationality, sex, gender identity or expression or source of lawful
37 income used for rental or mortgage payments, subject only to
38 conditions and limitations applicable alike to all persons. This
39 opportunity is recognized as and declared to be a civil right.

40 (cf: P.L.2006, c.100, s.3)

41

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

44 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a
45 different meaning clearly appears from the context:

46 a. "Person" includes one or more individuals, partnerships,
47 associations, organizations, labor organizations, corporations, legal

- 1 representatives, trustees, trustees in bankruptcy, receivers, and
2 fiduciaries.
- 3 b. "Employment agency" includes any person undertaking to
4 procure employees or opportunities for others to work.
- 5 c. "Labor organization" includes any organization which exists
6 and is constituted for the purpose, in whole or in part, of collective
7 bargaining, or of dealing with employers concerning grievances,
8 terms or conditions of employment, or of other mutual aid or
9 protection in connection with employment.
- 10 d. "Unlawful employment practice" and "unlawful
11 discrimination" include only those unlawful practices and acts
12 specified in section 11 of P.L.1945, c.169 (C.10:5-12).
- 13 e. "Employer" includes all persons as defined in subsection a.
14 of this section unless otherwise specifically exempt under another
15 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,
16 any political or civil subdivision thereof, and all public officers,
17 agencies, boards or bodies.
- 18 f. (1) "Employee" does not include any individual employed in
19 the domestic service of any person.
- 20 (2) "Intern" means an individual who performs services for an
21 employer on a temporary basis whose work: (a) provides training or
22 supplements training given in an educational environment such that
23 the employability of the individual performing the work may be
24 enhanced; (b) provides experience for the benefit of the individual
25 performing the work; and (c) is performed under the supervision of
26 existing staff. The term "intern" shall include individuals without
27 regard to whether the employer pays them a salary or wage.
- 28 g. "Liability for service in the Armed Forces of the United
29 States" means subject to being ordered as an individual or member
30 of an organized unit into active service in the Armed Forces of the
31 United States by reason of membership in the National Guard, naval
32 militia or a reserve component of the Armed Forces of the United
33 States, or subject to being inducted into such armed forces through
34 a system of national selective service.
- 35 h. "Division" means the "Division on Civil Rights" created by
36 P.L.1945, c.169 (C.10:5-1 et seq.).
- 37 i. "Attorney General" means the Attorney General of the State
38 of New Jersey or his representative or designee.
- 39 j. "Commission" means the Commission on Civil Rights
40 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 41 k. "Director" means the Director of the Division on Civil
42 Rights.
- 43 l. "A place of public accommodation" shall include, but not be
44 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
45 summer camp, day camp, or resort camp, whether for entertainment
46 of transient guests or accommodation of those seeking health,
47 recreation or rest; any producer, manufacturer, wholesaler,

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

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

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

1 religious or denominational institution or organization, or any
2 organization operated for charitable or educational purposes, which
3 is operated, supervised or controlled by or in connection with a
4 religious organization, in the sale, lease or rental of real property,
5 from limiting admission to or giving preference to persons of the
6 same religion or denomination or from making such selection as is
7 calculated by such organization to promote the religious principles
8 for which it is established or maintained. Nor does any provision
9 under **[this act]** P.L.1945, c.169 (C.10:5-1 et seq.) regarding
10 discrimination on the basis of familial status apply with respect to
11 housing for older persons.

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

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

1 salary and commission, or otherwise to sell real estate, or any parts
2 thereof, in lots or other parcels.

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

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

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

31 t. "Guide or service dog trainer" means any person who is
32 employed by an organization generally recognized by agencies
33 involved in the rehabilitation of persons with disabilities as
34 reputable and competent to provide dogs with training, and who is
35 actually involved in the training process.

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

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

- 1 w. "Deaf person" means any person whose hearing is so
2 severely impaired that the person is unable to hear and understand
3 normal conversational speech through the unaided ear alone, and
4 who must depend primarily on a supportive device or visual
5 communication such as writing, lip reading, sign language, and
6 gestures.
- 7 x. "Atypical hereditary cellular or blood trait" means sickle cell
8 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
9 fibrosis trait.
- 10 y. "Sickle cell trait" means the condition wherein the major
11 natural hemoglobin components present in the blood of the
12 individual are hemoglobin A (normal) and hemoglobin S (sickle
13 hemoglobin) as defined by standard chemical and physical analytic
14 techniques, including electrophoresis; and the proportion of
15 hemoglobin A is greater than the proportion of hemoglobin S or one
16 natural parent of the individual is shown to have only normal
17 hemoglobin components (hemoglobin A, hemoglobin A2,
18 hemoglobin F) in the normal proportions by standard chemical and
19 physical analytic tests.
- 20 z. "Hemoglobin C trait" means the condition wherein the major
21 natural hemoglobin components present in the blood of the
22 individual are hemoglobin A (normal) and hemoglobin C as defined
23 by standard chemical and physical analytic techniques, including
24 electrophoresis; and the proportion of hemoglobin A is greater than
25 the proportion of hemoglobin C or one natural parent of the
26 individual is shown to have only normal hemoglobin components
27 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
28 proportions by standard chemical and physical analytic tests.
- 29 aa. "Thalassemia trait" means the presence of the thalassemia
30 gene which in combination with another similar gene results in the
31 chronic hereditary disease Cooley's anemia.
- 32 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
33 which in combination with another similar gene results in the
34 chronic hereditary disease Tay-Sachs.
- 35 cc. "Cystic fibrosis trait" means the presence of the cystic
36 fibrosis gene which in combination with another similar gene
37 results in the chronic hereditary disease cystic fibrosis.
- 38 dd. "Service dog" means any dog individually trained to the
39 requirements of a person with a disability including, but not limited
40 to minimal protection work, rescue work, pulling a wheelchair or
41 retrieving dropped items. This term shall include a "seizure dog"
42 trained to alert or otherwise assist persons subject to epilepsy or
43 other seizure disorders.
- 44 ee. "Qualified Medicaid applicant" means an individual who is a
45 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

- 1 ff. "AIDS" means acquired **[immune deficiency]**
2 immunodeficiency syndrome as defined by the Centers for Disease
3 Control and Prevention of the United States Public Health Service.
- 4 gg. "HIV infection" means infection with the human
5 immunodeficiency virus or any other related virus identified as a
6 probable causative agent of AIDS.
- 7 hh. "Affectional or sexual orientation" means male or female
8 heterosexuality, homosexuality or bisexuality by inclination,
9 practice, identity or expression, having a history thereof or being
10 perceived, presumed or identified by others as having such an
11 orientation.
- 12 ii. "Heterosexuality" means affectional, emotional or physical
13 attraction or behavior which is primarily directed towards persons
14 of the other gender.
- 15 jj. "Homosexuality" means affectional, emotional or physical
16 attraction or behavior which is primarily directed towards persons
17 of the same gender.
- 18 kk. "Bisexuality" means affectional, emotional or physical
19 attraction or behavior which is directed towards persons of either
20 gender.
- 21 ll. "Familial status" means being the natural parent of a child,
22 the adoptive parent of a child, the resource family parent of a child,
23 having a "parent and child relationship" with a child as defined by
24 State law, or having sole or joint legal or physical custody, care,
25 guardianship, or visitation with a child, or any person who is
26 pregnant or is in the process of securing legal custody of any
27 individual who has not attained the age of 18 years.
- 28 mm. "Housing for older persons" means housing:
- 29 (1) provided under any State program that the Attorney General
30 determines is specifically designed and operated to assist elderly
31 persons (as defined in the State program); or provided under any
32 federal program that the United States Department of Housing and
33 Urban Development determines is specifically designed and
34 operated to assist elderly persons (as defined in the federal
35 program); or
- 36 (2) intended for, and solely occupied by persons 62 years of age
37 or older; or
- 38 (3) intended and operated for occupancy by at least one person
39 55 years of age or older per unit. In determining whether housing
40 qualifies as housing for older persons under this subsection, the
41 Attorney General shall adopt regulations which require at least the
42 following factors:
- 43 (a) the existence of significant facilities and services
44 specifically designed to meet the physical or social needs of older
45 persons, or if the provision of such facilities and services is not
46 practicable, that such housing is necessary to provide important
47 housing opportunities for older persons; and

- 1 (b) that at least 80 percent of the units are occupied by at least
2 one person 55 years of age or older per unit; and
- 3 (c) the publication of, and adherence to, policies and procedures
4 which demonstrate an intent by the owner or manager to provide
5 housing for persons 55 years of age or older.
- 6 Housing shall not fail to meet the requirements for housing for
7 older persons by reason of: persons residing in such housing as of
8 September 13, 1988 not meeting the age requirements of this
9 subsection, provided that new occupants of such housing meet the
10 age requirements of this subsection; or unoccupied units, provided
11 that such units are reserved for occupancy by persons who meet the
12 age requirements of this subsection.
- 13 nn. "Genetic characteristic" means any inherited gene or
14 chromosome, or alteration thereof, that is scientifically or medically
15 believed to predispose an individual to a disease, disorder or
16 syndrome, or to be associated with a statistically significant
17 increased risk of development of a disease, disorder or syndrome.
- 18 oo. "Genetic information" means the information about genes,
19 gene products or inherited characteristics that may derive from an
20 individual or family member.
- 21 pp. "Genetic test" means a test for determining the presence or
22 absence of an inherited genetic characteristic in an individual,
23 including tests of nucleic acids such as DNA, RNA and
24 mitochondrial DNA, chromosomes or proteins in order to identify a
25 predisposing genetic characteristic.
- 26 qq. "Domestic partnership" means a domestic partnership
27 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).
- 28 rr. "Gender identity or expression" means having or being
29 perceived as having a gender related identity or expression whether
30 or not stereotypically associated with a person's assigned sex at
31 birth.
- 32 ss. "Civil **Union** union" means a legally recognized union of
33 two eligible individuals established pursuant to R.S.37:1-1 et seq.
34 and P.L.2006, c.103 (C.37:1-28 et al.).
- 35 tt. "Premium wages" means additional remuneration for night,
36 weekend or holiday work, or for standby or irregular duty.
- 37 uu. "Premium benefit" means an employment benefit, such as
38 seniority, group life insurance, health insurance, disability
39 insurance, sick leave, annual leave, or an educational or pension
40 benefit that is greater than the employment benefit due the
41 employee for an equivalent period of work performed during the
42 regular work schedule of the employee.
43 (cf: P.L.2009, c.205, s.1)
- 44
- 45 7. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
46 read as follows:

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

3 a. For an employer, because of the race, creed, color, national
4 origin, ancestry, age, marital status, civil union status, domestic
5 partnership status, affectional or sexual orientation, genetic
6 information, pregnancy, sex, gender identity or expression,
7 disability or atypical hereditary cellular or blood trait of any
8 individual, or because of the liability for service in the Armed
9 Forces of the United States or the nationality of any individual, or
10 because of the refusal to submit to a genetic test or make available
11 the results of a genetic test to an employer, to refuse to hire, **[or]**
12 employ, or engage as an intern, or to bar or to discharge or require
13 to retire, unless justified by lawful considerations other than age,
14 from employment or internship such individual or to discriminate
15 against such individual in compensation or in terms, conditions or
16 privileges of employment or internship; provided, however, it shall
17 not be an unlawful employment practice to refuse to accept for
18 employment or internship an applicant who has received a notice of
19 induction or orders to report for active duty in the armed forces;
20 provided further that nothing herein contained shall be construed to
21 bar an employer from refusing to accept for employment or
22 internship any person on the basis of sex in those certain
23 circumstances where sex is a bona fide occupational qualification,
24 reasonably necessary to the normal operation of the particular
25 business or enterprise; provided further that nothing herein
26 contained shall be construed to bar an employer from refusing to
27 accept for employment or internship or to promote any person over
28 70 years of age; provided further that it shall not be an unlawful
29 employment practice for a club exclusively social or fraternal to use
30 club membership as a uniform qualification for employment or
31 internship, or for a religious association or organization to utilize
32 religious affiliation as a uniform qualification in the employment or
33 internship of clergy, religious teachers or other **[employees]**
34 individuals engaged in the religious activities of the association or
35 organization, or in following the tenets of its religion in establishing
36 and utilizing criteria for employment of an employee or for the
37 internship of an intern; provided further, that it shall not be an
38 unlawful employment practice to require the retirement of any
39 employee who, for the two-year period immediately before
40 retirement, is employed in a bona fide executive or a high policy-
41 making position, if that employee is entitled to an immediate non-
42 forfeitable annual retirement benefit from a pension, profit sharing,
43 savings or deferred retirement plan, or any combination of those
44 plans, of the employer of that employee which equals in the
45 aggregate at least \$27,000.00; and provided further that an
46 employer may restrict employment or internships to citizens of the

1 United States where such restriction is required by federal law or is
2 otherwise necessary to protect the national interest.

3 The provisions of subsections a. and b. of section 57 of
4 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of
5 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
6 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

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

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

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

43 d. For any person to take reprisals against any person because
44 that person has opposed any practices or acts forbidden under **[**this
45 act**]** P.L.1945, c.169 (C.10:5-1 et seq.) or because that person has
46 filed a complaint, testified or assisted in any proceeding under this
47 act or to coerce, intimidate, threaten or interfere with any person in

1 the exercise or enjoyment of, or on account of that person having
2 aided or encouraged any other person in the exercise or enjoyment
3 of, any right granted or protected by **【this act】** P.L.1945, c.169
4 (C.10:5-1 et seq.).

5 e. For any person, whether an employer or an employee or not,
6 to aid, abet, incite, compel or coerce the doing of any of the acts
7 forbidden under **【this act】** P.L.1945, c.169 (C.10:5-1 et seq.), or to
8 attempt to do so.

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

1 (2) Notwithstanding the definition of "a place of public
2 accommodation" as set forth in subsection l. of section 5 of
3 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
4 manager, superintendent, agent, or employee of any private club or
5 association to directly or indirectly refuse, withhold from or deny to
6 any individual who has been accepted as a club member and has
7 contracted for or is otherwise entitled to full club membership any
8 of the accommodations, advantages, facilities or privileges thereof,
9 or to discriminate against any member in the furnishing thereof on
10 account of the race, creed, color, national origin, ancestry, marital
11 status, civil union status, domestic partnership status, pregnancy,
12 sex, gender identity, or expression, affectional or sexual orientation,
13 disability or nationality of such person.

14 In addition to the penalties otherwise provided for a violation of
15 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)
16 of subsection f. of this section is the holder of an alcoholic beverage
17 license issued under the provisions of R.S.33:1-12 for that private
18 club or association, the matter shall be referred to the Director of
19 the Division of Alcoholic Beverage Control who shall impose an
20 appropriate penalty in accordance with the procedures set forth in
21 R.S.33:1-31.

22 g. For any person, including but not limited to, any owner,
23 lessee, sublessee, assignee or managing agent of, or other person
24 having the right of ownership or possession of or the right to sell,
25 rent, lease, assign, or sublease any real property or part or portion
26 thereof, or any agent or employee of any of these:

27 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
28 to deny to or withhold from any person or group of persons any real
29 property or part or portion thereof because of race, creed, color,
30 national origin, ancestry, marital status, civil union status, domestic
31 partnership status, pregnancy, sex, gender identity or expression,
32 affectional or sexual orientation, familial status, disability,
33 nationality, or source of lawful income used for rental or mortgage
34 payments;

35 (2) To discriminate against any person or group of persons
36 because of race, creed, color, national origin, ancestry, marital
37 status, civil union status, domestic partnership status, pregnancy,
38 sex, gender identity or expression, affectional or sexual orientation,
39 familial status, disability, nationality or source of lawful income
40 used for rental or mortgage payments in the terms, conditions or
41 privileges of the sale, rental or lease of any real property or part or
42 portion thereof or in the furnishing of facilities or services in
43 connection therewith;

44 (3) To print, publish, circulate, issue, display, post or mail, or
45 cause to be printed, published, circulated, issued, displayed, posted
46 or mailed any statement, advertisement, publication or sign, or to
47 use any form of application for the purchase, rental, lease,

1 assignment or sublease of any real property or part or portion
2 thereof, or to make any record or inquiry in connection with the
3 prospective purchase, rental, lease, assignment, or sublease of any
4 real property, or part or portion thereof which expresses, directly or
5 indirectly, any limitation, specification or discrimination as to race,
6 creed, color, national origin, ancestry, marital status, civil union
7 status, domestic partnership status, pregnancy, sex, gender identity,
8 or expression, affectional or sexual orientation, familial status,
9 disability, nationality, or source of lawful income used for rental or
10 mortgage payments, or any intent to make any such limitation,
11 specification or discrimination, and the production of any such
12 statement, advertisement, publicity, sign, form of application,
13 record, or inquiry purporting to be made by any such person shall
14 be presumptive evidence in any action that the same was authorized
15 by such person; provided, however, that nothing contained in this
16 subsection shall be construed to bar any person from refusing to
17 sell, rent, lease, assign or sublease or from advertising or recording
18 a qualification as to sex for any room, apartment, flat in a dwelling
19 or residential facility which is planned exclusively for and occupied
20 by individuals of one sex to any individual of the exclusively
21 opposite sex on the basis of sex provided individuals shall be
22 qualified based on their gender identity or expression;

23 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
24 to deny to or withhold from any person or group of persons any real
25 property or part or portion thereof because of the source of any
26 lawful income received by the person or the source of any lawful
27 rent payment to be paid for the real property; or

28 (5) To refuse to rent or lease any real property to another person
29 because that person's family includes children under 18 years of
30 age, or to make an agreement, rental or lease of any real property
31 which provides that the agreement, rental or lease shall be rendered
32 null and void upon the birth of a child. This paragraph shall not
33 apply to housing for older persons as defined in subsection mm. of
34 section 5 of P.L.1945, c.169 (C.10:5-5).

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

37 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
38 sale, rental, lease, assignment, or sublease any real property or part
39 or portion thereof to any person or group of persons or to refuse to
40 negotiate for the sale, rental, lease, assignment, or sublease of any
41 real property or part or portion thereof to any person or group of
42 persons because of race, creed, color, national origin, ancestry,
43 marital status, civil union status, domestic partnership status,
44 familial status, pregnancy, sex, gender identity or expression,
45 affectional or sexual orientation, disability, nationality, or source of
46 lawful income used for rental or mortgage payments, or to represent
47 that any real property or portion thereof is not available for

1 inspection, sale, rental, lease, assignment, or sublease when in fact
2 it is so available, or otherwise to deny or withhold any real property
3 or any part or portion of facilities thereof to or from any person or
4 group of persons because of race, creed, color, national origin,
5 ancestry, marital status, civil union status, domestic partnership
6 status, familial status, pregnancy, sex, gender identity or expression,
7 affectional or sexual orientation, disability or nationality;

8 (2) To discriminate against any person because of race, creed,
9 color, national origin, ancestry, marital status, civil union status,
10 domestic partnership status, familial status, pregnancy, sex, gender
11 identity or expression, affectional or sexual orientation, disability,
12 nationality, or source of lawful income used for rental or mortgage
13 payments in the terms, conditions or privileges of the sale, rental,
14 lease, assignment or sublease of any real property or part or portion
15 thereof or in the furnishing of facilities or services in connection
16 therewith;

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

43 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
44 to deny to or withhold from any person or group of persons any real
45 property or part or portion thereof because of the source of any
46 lawful income received by the person or the source of any lawful
47 rent payment to be paid for the real property; or

1 (5) To refuse to rent or lease any real property to another person
2 because that person's family includes children under 18 years of
3 age, or to make an agreement, rental or lease of any real property
4 which provides that the agreement, rental or lease shall be rendered
5 null and void upon the birth of a child. This paragraph shall not
6 apply to housing for older persons as defined in subsection mm. of
7 section 5 of P.L.1945, c.169 (C.10:5-5).

8 i. For any person, bank, banking organization, mortgage
9 company, insurance company or other financial institution, lender
10 or credit institution involved in the making or purchasing of any
11 loan or extension of credit, for whatever purpose, whether secured
12 by residential real estate or not, including but not limited to
13 financial assistance for the purchase, acquisition, construction,
14 rehabilitation, repair or maintenance of any real property or part or
15 portion thereof or any agent or employee thereof:

16 (1) To discriminate against any person or group of persons
17 because of race, creed, color, national origin, ancestry, marital
18 status, civil union status, domestic partnership status, pregnancy,
19 sex, gender identity or expression, affectional or sexual orientation,
20 disability, familial status or nationality, in the granting,
21 withholding, extending, modifying, renewing, or purchasing, or in
22 the fixing of the rates, terms, conditions or provisions of any such
23 loan, extension of credit or financial assistance or purchase thereof
24 or in the extension of services in connection therewith;

25 (2) To use any form of application for such loan, extension of
26 credit or financial assistance or to make record or inquiry in
27 connection with applications for any such loan, extension of credit
28 or financial assistance which expresses, directly or indirectly, any
29 limitation, specification or discrimination as to race, creed, color,
30 national origin, ancestry, marital status, civil union status, domestic
31 partnership status, pregnancy, sex, gender identity or expression,
32 affectional or sexual orientation, disability, familial status or
33 nationality or any intent to make any such limitation, specification
34 or discrimination; unless otherwise required by law or regulation to
35 retain or use such information;

36 (3) (Deleted by amendment, P.L.2003, c.180).

37 (4) To discriminate against any person or group of persons
38 because of the source of any lawful income received by the person
39 or the source of any lawful rent payment to be paid for the real
40 property; or

41 (5) To discriminate against any person or group of persons
42 because that person's family includes children under 18 years of
43 age, or to make an agreement or mortgage which provides that the
44 agreement or mortgage shall be rendered null and void upon the
45 birth of a child. This paragraph shall not apply to housing for older
46 persons as defined in subsection mm. of section 5 of P.L.1945,
47 c.169 (C.10:5-5).

1 j. For any person whose activities are included within the
2 scope of **【this act】** P.L.1945, c.169 (C.10:5-1 et seq.) to refuse to
3 post or display such notices concerning the rights or responsibilities
4 of persons affected by **【this act】** P.L.1945, c.169 (C.10:5-1 et seq.)
5 as the Attorney General may by regulation require.

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

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

40 m. For any person to:

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

1 expression, affectional or sexual orientation, marital status, civil
2 union status, domestic partnership status, disability, liability for
3 service in the Armed Forces of the United States, or nationality of
4 such other person or of such other person's spouse, partners,
5 members, stockholders, directors, officers, managers,
6 superintendents, agents, employees, interns, business associates,
7 suppliers, or customers.

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

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

21 n. For any person to aid, abet, incite, compel, coerce, or induce
22 the doing of any act forbidden by subsections l. and m. of section
23 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
24 do so. Such prohibited conduct shall include, but not be limited to:

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

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

39 o. For any multiple listing service, real estate brokers'
40 organization or other service, organization or facility related to the
41 business of selling or renting dwellings to deny any person access
42 to or membership or participation in such organization, or to
43 discriminate against such person in the terms or conditions of such
44 access, membership, or participation, on account of race, creed,
45 color, national origin, ancestry, age, marital status, civil union
46 status, domestic partnership status, familial status, pregnancy, sex,

1 gender identity or expression, affectional or sexual orientation,
2 disability or nationality.

3 p. Nothing in the provisions of this section shall affect the
4 ability of an employer to require employees and interns to adhere to
5 reasonable workplace appearance, grooming and dress standards not
6 precluded by other provisions of State or federal law, except that an
7 employer shall allow an employee or intern to appear, groom and
8 dress consistent with the employee's or intern's gender identity or
9 expression.

10 q. (1) For any employer to impose upon a person as a condition
11 of obtaining or retaining employment or internship, including
12 opportunities for promotion, advancement or transfers, any terms or
13 conditions that would require a person to violate or forego a
14 sincerely held religious practice or religious observance, including
15 but not limited to the observance of any particular day or days or
16 any portion thereof as a Sabbath or other holy day in accordance
17 with the requirements of the religion or religious belief, unless,
18 after engaging in a bona fide effort, the employer demonstrates that
19 it is unable to reasonably accommodate the employee's or intern's
20 religious observance or practice without undue hardship on the
21 conduct of the employer's business. Notwithstanding any other
22 provision of law to the contrary, an employee shall not be entitled
23 to premium wages or premium benefits for work performed during
24 hours to which those premium wages or premium benefits would
25 ordinarily be applicable, if the employee is working during those
26 hours only as an accommodation to his religious requirements.
27 Nothing in this subsection q. shall be construed as reducing:

28 (a) The number of the hours worked by the employee which are
29 counted towards the accruing of seniority, pension or other benefits;
30 or

31 (b) Any premium wages or benefits provided to an employee
32 pursuant to a collective bargaining agreement.

33 (2) For an employer to refuse to permit an employee or intern to
34 utilize leave, as provided for in this subsection q., which is solely
35 used to accommodate the employee's or intern's sincerely held
36 religious observance or practice. Except where it would cause an
37 employer to incur an undue hardship, no person shall be required to
38 remain at his place of employment or internship during any day or
39 days or portion thereof that, as a requirement of his religion, he
40 observes as his Sabbath or other holy day, including a reasonable
41 time prior and subsequent thereto for travel between his place of
42 employment or internship and his home; provided that any such
43 absence from work shall, wherever practicable in the reasonable
44 judgment of the employer, be made up by an equivalent amount of
45 time and work at some other mutually convenient time, or shall, if
46 applicable, be charged against any leave with pay ordinarily
47 granted, other than sick leave, and any such absence not so made up

1 or charged, may be treated by the employer of that person as leave
2 taken without pay.

3 (3) (a) For purposes of this subsection q., "undue hardship"
4 means an accommodation requiring unreasonable expense or
5 difficulty, unreasonable interference with the safe or efficient
6 operation of the workplace or a violation of a bona fide seniority
7 system or a violation of any provision of a bona fide collective
8 bargaining agreement.

9 (b) In determining whether the accommodation constitutes an
10 undue hardship, the factors considered shall include:

11 (i) The identifiable cost of the accommodation, including the
12 costs of loss of productivity and of retaining or hiring employees or
13 transferring employees from one facility to another, in relation to
14 the size and operating cost of the employer.

15 (ii) The number of individuals who will need the particular
16 accommodation for a sincerely held religious observance or
17 practice.

18 (iii) For an employer with multiple facilities, the degree to which
19 the geographic separateness or administrative or fiscal relationship
20 of the facilities will make the accommodation more difficult or
21 expensive.

22 (c) An accommodation shall be considered to constitute an
23 undue hardship if it will result in the inability of an employee or
24 intern to perform the essential functions of the position in which he
25 or she is employed or engaged as an intern.

26 (d) (i) The provisions of this subsection q. shall be applicable
27 only to reasonable accommodations of religious observances and
28 shall not supersede any definition of undue hardship or standards
29 for reasonable accommodation of the disabilities of employees or
30 interns.

31 (ii) This subsection q. shall not apply where the uniform
32 application of terms and conditions of attendance to employees or
33 interns is essential to prevent undue hardship to the employer. The
34 burden of proof regarding the applicability of this subparagraph (d)
35 shall be upon the employer.

36 r. For any employer to take reprisals against any employee or
37 intern for requesting from any other employee or former employee,
38 or any other intern or former intern, of the employer information
39 regarding the job title, occupational category, and rate of
40 compensation, including benefits, of any employee or former
41 employee of the employer, or the gender, race, ethnicity, military
42 status, or national origin of any employee or former employee, or
43 any intern or former intern, of the employer, regardless of whether
44 the request was responded to, if the purpose of the request for the
45 information was to assist in investigating the possibility of the
46 occurrence of, or in taking of legal action regarding, potential
47 discriminatory treatment, including if applicable, treatment

1 concerning pay, compensation, bonuses, other compensation, or
2 benefits. Nothing in this subsection shall be construed to require an
3 employee or intern to disclose such information about the employee
4 or intern herself to any other employee or former employee, or
5 intern or former intern, of the employer or to any authorized
6 representative **【of the other employee or former employee】** thereof.

7 s. For an employer to treat, for employment-related or
8 internship-related purposes, a woman employee or intern that the
9 employer knows, or should know, is affected by pregnancy in a
10 manner less favorable than the treatment of other persons not
11 affected by pregnancy but similar in their ability or inability to
12 work. In addition, an employer of an employee or intern who is a
13 woman affected by pregnancy shall make available to the employee
14 or intern reasonable accommodation in the workplace, such as
15 bathroom breaks, breaks for increased water intake, periodic rest,
16 assistance with manual labor, job restructuring or modified work
17 schedules, and temporary transfers to less strenuous or hazardous
18 work, for needs related to the pregnancy when the employee or
19 intern, based on the advice of her physician, requests the
20 accommodation, unless the employer can demonstrate that
21 providing the accommodation would be an undue hardship on the
22 business operations of the employer. The employer shall not in any
23 way penalize the employee or intern in terms, conditions or
24 privileges of employment or internship for requesting or using the
25 accommodation. Workplace accommodation provided pursuant to
26 this subsection and paid or unpaid leave provided to an employee or
27 intern affected by pregnancy shall not be provided in a manner less
28 favorable than accommodations or leave provided to other
29 employees or interns not affected by pregnancy but similar in their
30 ability or inability to work. This subsection shall not be construed
31 as otherwise increasing or decreasing any employee's or intern's
32 rights under law to paid or unpaid leave in connection with
33 pregnancy.

34 For the purposes of this section "pregnancy" means pregnancy,
35 childbirth, or medical conditions related to pregnancy or childbirth,
36 including recovery from childbirth.

37 For the purposes of this subsection, in determining whether an
38 accommodation would impose undue hardship on the operation of
39 an employer's business, the factors to be considered include: the
40 overall size of the employer's business with respect to the number
41 of employees and interns, number and type of facilities, and size of
42 budget; the type of the employer's operations, including the
43 composition and structure of the employer's workforce; the nature
44 and cost of the accommodation needed, taking into consideration
45 the availability of tax credits, tax deductions, and outside funding;
46 and the extent to which the accommodation would involve waiver

1 of an essential requirement of a job as opposed to a tangential or
2 non-business necessity requirement.
3 (cf: P.L. 2013, c.220, s.2.)
4

5 8. Section 1 of P.L.2001, c.385 (C.10:5-12.6) is amended to
6 read as follows:

7 1. No employer, public or private, shall discharge or
8 discriminate against an employee or intern in compensation or in
9 terms, conditions or privileges of employment or internship for
10 displaying the American flag on the employee's or intern's person
11 or work station, provided the display does not substantially and
12 materially interfere with the employee's or intern's job duties. An
13 employer who discharges or discriminates against an employee or
14 intern as described in this section shall be liable to the employee or
15 intern for damages caused by the discharge or discrimination,
16 including punitive damages, and for reasonable attorney's fees as
17 part of the costs of any action for damages. If the court determines
18 that the action for damages was brought without substantial
19 justification, the court may award costs and reasonable attorney's
20 fees to the employer.

21 (cf: P.L.2001, c.385, s.1)
22

23 9. Section 1 of P.L.1986, c.105 (C.34:19-1) is amended to read
24 as follows:

25 1. This act shall be known and may be cited as the
26 "Conscientious Employee and Intern Protection Act."

27 (cf: P.L.1986, c.105, s.1)
28

29 10. Section 2 of P.L.1986, c.105 (C.34:19-2) is amended to read
30 as follows:

31 2. As used in **[this act]** P.L.1986, c.105 (C.34:19-1 et seq.):

32 a. "Employer" means any individual, partnership, association,
33 corporation or any person or group of persons acting directly or
34 indirectly on behalf of or in the interest of an employer with the
35 employer's consent and shall include all branches of State
36 Government, or the several counties and municipalities thereof, or
37 any other political subdivision of the State, or a school district, or
38 any special district, or any authority, commission, or board or any
39 other agency or instrumentality thereof.

40 b. (1) "Employee" means any individual who performs services
41 for and under the control and direction of an employer for wages or
42 other remuneration.

43 (2) "Intern" means an individual who performs services for an
44 employer on a temporary basis whose work: (a) provides training or
45 supplements training given in an educational environment such that
46 the employability of the individual performing the work may be
47 enhanced; (b) provides experience for the benefit of the individual

1 performing the work; and (c) is performed under the supervision of
2 existing staff. The term "intern" shall include individuals without
3 regard to whether the employer pays them a salary or wage.

4 c. "Public body" means:

5 (1) the United States Congress, and State legislature, or any
6 popularly-elected local governmental body, or any member or
7 employee thereof;

8 (2) any federal, State, or local judiciary, or any member or
9 employee thereof, or any grand or petit jury;

10 (3) any federal, State, or local regulatory, administrative, or
11 public agency or authority, or instrumentality thereof;

12 (4) any federal, State, or local law enforcement agency,
13 prosecutorial office, or police or peace officer;

14 (5) any federal, State or local department of an executive branch
15 of government; or

16 (6) any division, board, bureau, office, committee or
17 commission of any of the public bodies described in the above
18 paragraphs of this subsection.

19 d. "Supervisor" means any individual with an employer's
20 organization who has the authority to direct and control the work
21 performance of the affected employee or intern, who has authority
22 to take corrective action regarding the violation of the law, rule or
23 regulation of which the employee or intern complains, or who has
24 been designated by the employer on the notice required under
25 section 7 of **[this act]** P.L.1986, c.105 (C.34:19-1 et seq.).

26 e. "Retaliatory action" means the discharge, suspension or
27 demotion of an employee or intern, or other adverse employment
28 action taken against an employee or intern in the terms and
29 conditions of the employment or internship.

30 f. "Improper quality of patient care" means, with respect to
31 patient care, any practice, procedure, action or failure to act of an
32 employer that is a health care provider which violates any law or
33 any rule, regulation or declaratory ruling adopted pursuant to law,
34 or any professional code of ethics.

35 (cf: P.L.1997, c.98, s.1)

36
37 11. Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read
38 as follows:

39 3. An employer shall not take any retaliatory action against an
40 employee or intern because the employee or intern does any of the
41 following:

42 a. Discloses, or threatens to disclose to a supervisor or to a
43 public body an activity, policy or practice of the employer, or
44 another employer, with whom there is a business relationship, that
45 the employee or intern reasonably believes:

46 (1) is in violation of a law, or a rule or regulation promulgated
47 pursuant to law, including any violation involving deception of, or

1 misrepresentation to, any shareholder, investor, client, patient,
2 customer, employee, former employee, intern, former intern, retiree
3 or pensioner of the employer or any governmental entity, or, in the
4 case of an employee or intern who is a licensed or certified health
5 care professional, reasonably believes constitutes improper quality
6 of patient care; or

7 (2) is fraudulent or criminal, including any activity, policy or
8 practice of deception or misrepresentation which the employee or
9 intern reasonably believes may defraud any shareholder, investor,
10 client, patient, customer, employee, former employee, intern,
11 former intern, retiree or pensioner of the employer or any
12 governmental entity;

13 b. Provides information to, or testifies before, any public body
14 conducting an investigation, hearing or inquiry into any violation of
15 law, or a rule or regulation promulgated pursuant to law by the
16 employer, or another employer, with whom there is a business
17 relationship, including any violation involving deception of, or
18 misrepresentation to, any shareholder, investor, client, patient,
19 customer, employee, former employee, intern, former intern, retiree
20 or pensioner of the employer or any governmental entity, or, in the
21 case of an employee or intern who is a licensed or certified health
22 care professional, provides information to, or testifies before, any
23 public body conducting an investigation, hearing or inquiry into the
24 quality of patient care; or

25 c. Objects to, or refuses to participate in any activity, policy or
26 practice which the employee or intern reasonably believes:

27 (1) is in violation of a law, or a rule or regulation promulgated
28 pursuant to law, including any violation involving deception of, or
29 misrepresentation to, any shareholder, investor, client, patient,
30 customer, employee, former employee, intern, former intern, retiree
31 or pensioner of the employer or any governmental entity, or, if the
32 employee or intern is a licensed or certified health care
33 professional, constitutes improper quality of patient care;

34 (2) is fraudulent or criminal, including any activity, policy or
35 practice of deception or misrepresentation which the employee or
36 intern reasonably believes may defraud any shareholder, investor,
37 client, patient, customer, employee, former employee, intern,
38 former intern, retiree or pensioner of the employer or any
39 governmental entity; or

40 (3) is incompatible with a clear mandate of public policy
41 concerning the public health, safety or welfare or protection of the
42 environment.

43 (cf: P.L.2005, c.329, s.1)

44

45 12. Section 4 of P.L.1986, c.105 (C.34:19-4) is amended to read
46 as follows:

1 4. The protection against retaliatory action provided by **[this**
2 **act]** P.L.1986, c.105 (C.34:19-1 et seq.) pertaining to disclosure to
3 a public body shall not apply to an employee or intern who makes a
4 disclosure to a public body unless the employee or intern has
5 brought the activity, policy or practice in violation of a law, or a
6 rule or regulation promulgated pursuant to law to the attention of a
7 supervisor of the employee or intern by written notice and has
8 afforded the employer a reasonable opportunity to correct the
9 activity, policy or practice. Disclosure shall not be required where
10 the employee or intern is reasonably certain that the activity, policy
11 or practice is known to one or more supervisors of the employer or
12 where the employee or intern reasonably fears physical harm as a
13 result of the disclosure provided, however, that the situation is
14 emergency in nature.

15 (cf: P.L.1986, c.105, s.4)

16

17 13. Section 5 of P.L.1986, c.105 (C.34:19-5) is amended to read
18 as follows:

19 5. Upon a violation of any of the provisions of **[this act]**
20 P.L.1986, c.105 (C.34:19-1 et seq.), an aggrieved employee or
21 former employee, or intern or former intern may, within one year,
22 institute a civil action in a court of competent jurisdiction. Upon
23 the application of any party, a jury trial shall be directed to try the
24 validity of any claim under **[this act]** P.L.1986, c.105 (C.34:19-1 et
25 seq.) specified in the suit. All remedies available in common law
26 tort actions shall be available to prevailing plaintiffs. These
27 remedies are in addition to any legal or equitable relief provided by
28 **[this act]** P.L.1986, c.105 (C.34:19-1 et seq.) or any other statute.
29 The court shall also order, where appropriate and to the fullest
30 extent possible:

31 a. An injunction to restrain any violation of **[this act]**
32 P.L.1986, c.105 (C.34:19-1 et seq.) which is continuing at the time
33 that the court issues its order;

34 b. The reinstatement of the employee or intern to the same
35 position held before the retaliatory action, or to an equivalent
36 position;

37 c. The reinstatement of full fringe benefits and seniority rights;

38 d. The compensation for all lost wages, benefits and other
39 remuneration; and

40 e. The payment by the employer of reasonable costs, and
41 attorney's fees.

42 In addition, the court or jury may order: the assessment of a civil
43 fine of not more than \$10,000 for the first violation of **[this act]**
44 P.L.1986, c.105 (C.34:19-1 et seq.) and not more than \$20,000 for
45 each subsequent violation, which shall be paid to the State
46 Treasurer for deposit in the General Fund; punitive damages; or
47 both a civil fine and punitive damages. In determining the amount

1 of punitive damages, the court or jury shall consider not only the
2 amount of compensatory damages awarded to the employee or
3 intern, but also the amount of all damages caused to shareholders,
4 investors, clients, patients, customers, employees, former
5 employees, interns, former interns, retirees or pensioners of the
6 employer, or to the public or any governmental entity, by the
7 activities, policies or practices of the employer which the employee
8 or intern disclosed, threatened to disclose, provided testimony
9 regarding, objected to, or refused to participate in.

10 (cf: P.L.2005, c.329, s.2)

11

12 14. Section 6 of P.L.1986, c.105 (C.34:19-6) is amended to read
13 as follows:

14 6. A court, upon notice of motion in accordance with the Rules
15 Governing the Courts of the State of New Jersey, may also order
16 that reasonable attorneys' fees and court costs be awarded to an
17 employer if the court determines that an action brought by an
18 employee or intern under **[this act]** P.L.1986, c.105 (C.34:19-1 et
19 seq.) was without basis in law or in fact. However, an employee or
20 intern shall not be assessed attorneys' fees under this section if, after
21 exercising reasonable and diligent efforts after filing a suit, the
22 employee or intern files a voluntary dismissal concerning the
23 employer, within a reasonable time after determining that the
24 employer would not be found to be liable for damages.

25 (cf: P.L.1986, c.105, s. 6)

26

27 15. Section 7 of P.L.1986, c.105 (C.34:19-7) is amended to read
28 as follows:

29 7. An employer shall conspicuously display, **[and]** annually
30 distribute to all employees, and distribute to all interns at the time
31 of their initial engagement in an internship, written or electronic
32 notices of its employees' and interns' protections, obligations, rights
33 and procedures under **[this act]** P.L.1986, c.105 (C.34:19-1 et seq.),
34 and use other appropriate means to keep its employees and interns
35 so informed. Each notice posted or distributed pursuant to this
36 section shall be in English, Spanish and at the employer's
37 discretion, any other language spoken by the majority of the
38 employer's employees and interns. The notice shall include the
39 name of the person or persons the employer has designated to
40 receive written notifications pursuant to section 4 of **[this act]**
41 P.L.1986, c.105 (C.34:19-1-4). The Commissioner of Labor and
42 Workforce Development shall make available to employers a text of
43 a notice fulfilling the requirements of this section and provide
44 copies of the notice suitable for display and distribution to any
45 employers who request the copies, charging them as much as is
46 needed to pay the costs of the department. The commissioner shall

1 also provide notices printed in a language other than English and
2 Spanish, at the request of the employer.

3 The requirement that an employer **【annually】** distribute to all
4 employees and interns written notices of the protections,
5 obligations, rights and procedures provided to the employees and
6 interns by the provisions of P.L.1986, c.105 (C.34:19-1 et seq.)
7 shall not apply to any employer who has less than 10 employees and
8 interns.

9 (cf: P.L.2004, c.148, s.1)

10

11 16. Section 8 of P.L.1986, c.105 (C.34:19-8) is amended to read
12 as follows:

13 8. Nothing in **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.)
14 shall be deemed to diminish the rights, privileges, or remedies of
15 any employee or intern under any other federal or State law or
16 regulation or under any collective bargaining agreement or
17 employment contract; except that the institution of an action in
18 accordance with **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.) shall
19 be deemed a waiver of the rights and remedies available under any
20 other contract, collective bargaining agreement, State law, rule or
21 regulation or under the common law.

22 (cf: P.L.1986, c.105, s.8)

23

24 17. Section 1 of P.L.2006, c.53 (C.34:19-9) is amended to read
25 as follows:

26 1. For the purposes of **【this act】** P.L.2006, c.53 (C.34:19-9 et
27 seq.):

28 "Employer" means a person engaged in business who has
29 employees or interns, including the State and any political
30 subdivision or other instrumentality of the State.

31 "Employee" means any person engaged in service to an employer
32 for wages, salary or other compensation.

33 "Intern" means an intern as defined in paragraph (2) of
34 subsection b. of section 2 of P.L.1986, c.105 (C.34:19-2).

35 "Political matters" include political party affiliation and
36 decisions to join or not join or participate in any lawful political,
37 social, or community organization or activity.

38 (cf: P.L.2006, c.53, s.1)

39

40 18. Section 2 of P.L.2006, c.53 (C.34:19-10) is amended to read
41 as follows:

42 2. No employer or employer's agent, representative or designee
43 may, except as provided in section 3 of **【this act】** P.L.2006, c.53
44 (C.34:19-11), require its employees or interns to attend an
45 employer-sponsored meeting or participate in any communications
46 with the employer or its agents or representatives, the purpose of

1 which is to communicate the employer's opinion about religious or
2 political matters.

3 **【This act】** P.L.2006, c.53 (C.34:19-9 et seq.) shall not be
4 construed as prohibiting an employer from permitting its employees
5 or interns to voluntarily attend employer-sponsored meetings or
6 providing other communications to the employees or interns, if the
7 employer notifies the employees or interns that they may refuse to
8 attend the meetings or accept the communications without penalty.
9 (cf: P.L.2006, c.53, s.2)

10

11 19. Section 3 of P.L.2006, c.53 (C.34:19-11) is amended to read
12 as follows:

13 3. a. An employer or its agent, representative or designee may
14 communicate to employees and interns information about religious
15 or political matters that the employer is required by law to
16 communicate, but only to the extent required by law.

17 b. Nothing in **【this act】** P.L.2006, c.53 (C.34:19-9 et seq.) shall
18 prohibit:

19 (1) A religious organization from requiring its employees or
20 interns to attend an employer-sponsored meeting or to participate in
21 any communications with the employer or its agents or
22 representatives, the purpose of which is to communicate the
23 employer's religious beliefs, practices or tenets;

24 (2) A political organization or party from requiring its
25 employees or interns to attend an employer-sponsored meeting or to
26 participate in any communications with the employer or its agents
27 or representatives, the purpose of which is to communicate the
28 employer's political tenets or purposes; or

29 (3) An educational institution from requiring a student or
30 instructor to attend lectures on political or religious matters that are
31 part of the regular course work at the institution.

32 (cf: P.L.2006, c.53, s.3)

33

34 20. Section 4 of P.L.2006, c.53 (C.34:19-12) is amended to read
35 as follows:

36 4. No employer or employer's agent, representative or designee
37 shall discharge, discipline or otherwise penalize or threaten to
38 discharge, discipline or otherwise penalize any employee or intern
39 because the employee or intern, or a person acting on behalf of the
40 employee or intern, makes a good faith report, verbally or in
41 writing, of a violation or suspected violation of **【this act】** P.L.2006,
42 c.53 (C.34:19-9 et seq.).

43 (cf: P.L.2006, c.53, s.4)

44

45 21. Section 5 of P.L.2006, c.53 (C.34:19-13) is amended to read
46 as follows:

1 5. Any aggrieved employee or intern may enforce the
2 provisions of **【this act】** P.L.2006, c.53 (C.34:19-9 et seq.) by means
3 of a civil action brought no later than ninety days after the date of
4 the alleged violation in a court of competent jurisdiction. The court
5 shall award a prevailing employee or intern all appropriate relief,
6 including any of the following which are applicable to the violation:

7 a. A restraining order against any continuing violation;

8 b. The reinstatement of the employee or intern to the
9 employee's or intern's former position or an equivalent position and
10 the reestablishment of any employee benefits and seniority rights;

11 c. The payment of any lost wages, benefits or other
12 remuneration; and

13 d. The payment of reasonable attorneys' fees and costs of the
14 action.

15 In addition, the court may award the prevailing employee or
16 intern punitive damages not greater than treble damages, or an
17 assessment of a civil fine of not more than \$1,000 for a first
18 violation of **【the act】** P.L.2006, c.53 (C.34:19-9 et seq.) and not
19 more than \$5,000 for each subsequent violation, which shall be paid
20 to the State Treasurer for deposit in the General Fund.

21 (cf: P.L.2006, c.53, s.5)

22
23 22. Section 6 of P.L.2006, c.53 (C.34:19-14) is amended to read
24 as follows:

25 6. Nothing in **【this act】** P.L.2006, c.53 (C.34:19-9 et seq.) shall
26 be construed to limit an employee's or intern's right to bring a
27 common law tort cause of action against an employer, including an
28 action for wrongful termination, or to diminish or impair the rights
29 of a person under any collective bargaining agreement.

30 (cf: P.L.2006, c.53, s.6)

31
32 23. This act shall take effect on the first day of the third month
33 next following enactment, and apply to any violation against an
34 intern occurring on or after the effective date.