

SENATE, No. 3945

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 13, 2019

Sponsored by:

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District 34 (Essex and Passaic)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Senators Singleton, Rice, Ruiz, Cruz-Perez and Gopal

SYNOPSIS

Prohibits discrimination on basis of hair under “Law Against Discrimination.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning discrimination based on hair texture and style
2 and amending P.L.1945, c.169.

3

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

6

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

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

11 a. "Person" includes one or more individuals, partnerships,
12 associations, organizations, labor organizations, corporations, legal
13 representatives, trustees, trustees in bankruptcy, receivers, and
14 fiduciaries.

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

17 c. "Labor organization" includes any organization which exists
18 and is constituted for the purpose, in whole or in part, of collective
19 bargaining, or of dealing with employers concerning grievances,
20 terms or conditions of employment, or of other mutual aid or
21 protection in connection with employment.

22 d. "Unlawful employment practice" and "unlawful
23 discrimination" include only those unlawful practices and acts
24 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

25 e. "Employer" includes all persons as defined in subsection a.
26 of this section unless otherwise specifically exempt under another
27 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,
28 any political or civil subdivision thereof, and all public officers,
29 agencies, boards, or bodies.

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

32 g. "Liability for service in the Armed Forces of the United
33 States" means subject to being ordered as an individual or member
34 of an organized unit into active service in the Armed Forces of the
35 United States by reason of membership in the National Guard, naval
36 militia or a reserve component of the Armed Forces of the United
37 States, or subject to being inducted into such armed forces through
38 a system of national selective service.

39 h. "Division" means the "Division on Civil Rights" created by
40 P.L.1945, c.169 (C.10:5-1 et seq.).

41 i. "Attorney General" means the Attorney General of the State
42 of New Jersey or the Attorney General's representative or designee.

43 j. "Commission" means the Commission on Civil Rights
44 created by P.L.1945, c.169 (C.10:5-1 et seq.).

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

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

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

46 n. The term "real property" includes real estate, lands,
47 tenements and hereditaments, corporeal and incorporeal, and
48 leaseholds, provided, however, that, except as to publicly assisted

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

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

41 p. "Real estate salesperson" includes any person who, for
42 compensation, valuable consideration or commission, or other thing
43 of value, or by reason of a promise or reasonable expectation
44 thereof, is employed by and operates under the supervision of a
45 licensed real estate broker to sell or offer to sell, buy or offer to buy
46 or negotiate the purchase, sale, or exchange of real estate, or offers
47 or attempts to negotiate a loan secured or to be secured by a
48 mortgage or other encumbrance upon or transfer of real estate, or to

1 lease or rent, or offer to lease or rent any real estate for others, or to
2 collect rents for the use of real estate, or to solicit for prospective
3 purchasers or lessees of real estate, or who is employed by a
4 licensed real estate broker to sell or offer to sell lots or other parcels
5 of real estate, at a stated salary, or upon a commission, or upon a
6 salary and commission, or otherwise to sell real estate, or any parts
7 thereof, in lots or other parcels.

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

23 r. "Blind person" or "person who is blind" means any
24 individual whose central visual acuity does not exceed 20/200 in the
25 better eye with correcting lens or whose visual acuity is better than
26 20/200 if accompanied by a limit to the field of vision in the better
27 eye to such a degree that its widest diameter subtends an angle of
28 no greater than 20 degrees.

29 s. "Guide dog" means a dog used to assist persons who are
30 deaf, or which is fitted with a special harness so as to be suitable as
31 an aid to the mobility of a person who is blind, and is used by a
32 person who is blind and has satisfactorily completed a specific
33 course of training in the use of such a dog, and has been trained by
34 an organization generally recognized by agencies involved in the
35 rehabilitation of persons with disabilities, including, but not limited
36 to, those persons who are blind or deaf, as reputable and competent
37 to provide dogs with training of this type.

38 t. "Guide or service dog trainer" means any person who is
39 employed by an organization generally recognized by agencies
40 involved in the rehabilitation of persons with disabilities, including,
41 but not limited to, those persons who are blind, have visual
42 impairments, or are deaf or have hearing impairments, as reputable
43 and competent to provide dogs with training, as defined in this
44 section, and who is actually involved in the training process.

45 u. "Housing accommodation" means any publicly assisted
46 housing accommodation or any real property, or portion thereof,
47 which is used or occupied, or is intended, arranged, or designed to
48 be used or occupied, as the home, residence, or sleeping place of

1 one or more persons, but shall not include any single family
2 residence the occupants of which rent, lease, or furnish for
3 compensation not more than one room therein.

4 v. "Public facility" means any place of public accommodation
5 and any street, highway, sidewalk, walkway, public building, and
6 any other place or structure to which the general public is regularly,
7 normally, or customarily permitted or invited.

8 w. "Deaf person" or "person who is deaf" means any person
9 whose hearing is so severely impaired that the person is unable to
10 hear and understand conversational speech through the unaided ear
11 alone, and who must depend primarily on an assistive listening
12 device or visual communication such as writing, lip reading, sign
13 language, and gestures.

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

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

27 z. "Hemoglobin C trait" means the condition wherein the major
28 natural hemoglobin components present in the blood of the
29 individual are hemoglobin A (normal) and hemoglobin C as defined
30 by standard chemical and physical analytic techniques, including
31 electrophoresis; and the proportion of hemoglobin A is greater than
32 the proportion of hemoglobin C or one natural parent of the
33 individual is shown to have only normal hemoglobin components
34 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
35 proportions by standard chemical and physical analytic tests.

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

39 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
40 which in combination with another similar gene results in the
41 chronic hereditary disease Tay-Sachs.

42 cc. "Cystic fibrosis trait" means the presence of the cystic
43 fibrosis gene which in combination with another similar gene
44 results in the chronic hereditary disease cystic fibrosis.

45 dd. "Service dog" means any dog individually trained to the
46 requirements of a person with a disability including, but not limited
47 to minimal protection work, rescue work, pulling a wheelchair or
48 retrieving dropped items. This term shall include a "seizure dog"

1 trained to alert or otherwise assist persons with epilepsy or other
2 seizure disorders.

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

5 ff. "AIDS" means acquired immune deficiency syndrome as
6 defined by the Centers for Disease Control and Prevention of the
7 United States Public Health Service.

8 gg. "HIV infection" means infection with the human
9 immunodeficiency virus or any other related virus identified as a
10 probable causative agent of AIDS.

11 hh. "Affectional or sexual orientation" means male or female
12 heterosexuality, homosexuality, or bisexuality by inclination,
13 practice, identity, or expression, having a history thereof or being
14 perceived, presumed, or identified by others as having such an
15 orientation.

16 ii. "Heterosexuality" means affectional, emotional, or physical
17 attraction or behavior which is primarily directed towards persons
18 of the other gender.

19 jj. "Homosexuality" means affectional, emotional, or physical
20 attraction or behavior which is primarily directed towards persons
21 of the same gender.

22 kk. "Bisexuality" means affectional, emotional, or physical
23 attraction or behavior which is directed towards persons of either
24 gender.

25 ll. "Familial status" means being the natural parent of a child,
26 the adoptive parent of a child, the resource family parent of a child,
27 having a "parent and child relationship" with a child as defined by
28 State law, or having sole or joint legal or physical custody, care,
29 guardianship, or visitation with a child, or any person who is
30 pregnant or is in the process of securing legal custody of any
31 individual who has not attained the age of 18 years.

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

33 (1) provided under any State program that the Attorney General
34 determines is specifically designed and operated to assist persons
35 who are elderly (as defined in the State program); or provided under
36 any federal program that the United States Department of Housing
37 and Urban Development determines is specifically designed and
38 operated to assist persons who are elderly (as defined in the federal
39 program); or

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

42 (3) intended and operated for occupancy by at least one person
43 55 years of age or older per unit. In determining whether housing
44 qualifies as housing for older persons under this paragraph, the
45 Attorney General shall adopt regulations which require at least the
46 following factors:

47 (a) the existence of significant facilities and services
48 specifically designed to meet the physical or social needs of older

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

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

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

9 Housing shall not fail to meet the requirements for housing for
10 older persons by reason of: persons residing in such housing as of
11 September 13, 1988 not meeting the age requirements of this
12 subsection, provided that new occupants of such housing meet the
13 age requirements of this subsection; or unoccupied units, provided
14 that such units are reserved for occupancy by persons who meet the
15 age requirements of this subsection.

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

21 oo. "Genetic information" means the information about genes,
22 gene products, or inherited characteristics that may derive from an
23 individual or family member.

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

29 qq. "Domestic partnership" means a domestic partnership
30 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

31 rr. "Gender identity or expression" means having or being
32 perceived as having a gender related identity or expression whether
33 or not stereotypically associated with a person's assigned sex at
34 birth.

35 ss. "Civil Union" means a legally recognized union of two
36 eligible individuals established pursuant to R.S.37:1-1 et seq. and
37 P.L.2006, c.103 (C.37:1-28 et al.).

38 tt. "Premium wages" means additional remuneration for night,
39 weekend, or holiday work, or for standby or irregular duty.

40 uu. "Premium benefit" means an employment benefit, such as
41 seniority, group life insurance, health insurance, disability
42 insurance, sick leave, annual leave, or an educational or pension
43 benefit that is greater than the employment benefit due the
44 employee for an equivalent period of work performed during the
45 regular work schedule of the employee.

46 vv. "Race" is inclusive of traits historically associated with race,
47 including, but not limited to, hair texture, hair type, and protective
48 hairstyles.

1 ww. “Protective hair styles” includes, but is not limited to, such
2 hairstyles as braids, locks, and twists.

3 (cf: P.L.2017, c.131, s.8)

4

5 2. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill prohibits discrimination on the basis of hair style, type,
11 or texture under the “Law Against Discrimination” (LAD),
12 P.L.1945, c.169 (C.10:5-1 et seq.).

13 Specifically, the bill amends the LAD so that the term “race”
14 includes “traits historically associated with race, including, but not
15 limited to, hair texture, hair type, and protective hairstyles.” Under
16 the bill, the term “protective hair styles” includes, but is not limited
17 to, hairstyles such as braids, locks, and twists.

18 This bill is modeled after pending California Bill SB No. 188,
19 which, if enacted, would amend the California Fair Employment
20 and Housing Act by making the term “race” inclusive of hair
21 texture and protective hair styles historically associated with race.