

SENATE, No. 3143

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)

SYNOPSIS

Concerns unlawful discrimination and harassment.

CURRENT VERSION OF TEXT

As introduced.

WITHDRAWN



1 AN ACT concerning unlawful discrimination and harassment,
2 supplementing P.L.1945, c.169, and revising various parts of the
3 statutory law.

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

7
8 1. (New section) Mandatory workplace policies on unlawful
9 discrimination and harassment, including sexual harassment and
10 retaliation.

11 a. For purposes of this section, the terms “discrimination” and
12 “harassment” refer to unlawful discrimination or harassment of an
13 individual because of any characteristic of the individual protected
14 by subsection a. of section 11 of P.L.1945, c.169 (C.10:5-12), and
15 “retaliation” refers to any action taken against an individual in
16 violation of the provisions of subsection d. of section 11 of
17 P.L.1945, c.169 (C.10:5-12).

18 b. Within one year of the date of enactment of P.L. , c.
19 (C.) (pending before the Legislature as this bill), all employers
20 shall adopt a written nondiscrimination policy that establishes
21 policies and procedures concerning unlawful discrimination and
22 harassment, including sexual harassment, in the workplace which is
23 applicable to all employees in their interactions with each other and
24 with vendors, suppliers, customers, clients, invitees, and patrons,
25 and which shall include, at a minimum, the following:

26 (1) a statement that unlawful discrimination or harassment in the
27 workplace will not be tolerated, and that sanctions will be enforced
28 against individuals engaging in unlawful discrimination or
29 harassment and against supervisory and managerial personnel who
30 knowingly allow such behavior to continue;

31 (2) a definition of unlawful discrimination and unlawful
32 harassment in employment;

33 (3) examples of discriminatory and harassing behaviors
34 prohibited by the policy;

35 (4) a description of the process for filing internal complaints
36 about discrimination or harassment and the complete contact
37 information of the person or persons to whom complaints should be
38 made;

39 (5) directions as to how to contact the division if a person
40 believes their rights were violated;

41 (6) the statute of limitations periods applicable to filing a claim
42 of unlawful discrimination and harassment under P.L.1945, c.169
43 (C.10:5-1 et seq.);

44 (7) a prohibition on retaliation against those who disclose,
45 report, participate in an investigation of, or otherwise challenge
46 discrimination or harassment;

47 (8) examples of retaliatory behaviors prohibited by the policy;

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 (9) a description of potential consequences for violating the
2 policy; and
- 3 (10) a statement of the employer's commitment to conducting
4 prompt, thorough, and impartial investigations of complaints of
5 such discrimination, harassment, or retaliation.
- 6 c. All employers shall disseminate the policy required in
7 subsection b. of this section at least once annually to all employees,
8 and to each employee:
- 9 (1) at the beginning of employment;
- 10 (2) who complains internally about a violation of the policy, at
11 the time the complaint is made;
- 12 (3) who is interviewed by the employer or the employer's
13 designee in connection with any investigation of any complaint
14 about a violation of the policy, prior to or at the time of the
15 interview; and
- 16 (4) whenever any updates to the policy are made.
- 17 d. All employers shall review the policy at least annually to
18 ensure that it complies with this section and other applicable laws
19 and regulations.
- 20 e. All employers shall make the policy available in English,
21 Spanish and any language spoken by an employee who does not
22 speak English as the employee's primary language and who has a
23 limited ability or no ability to read, speak, write, or understand
24 English.
- 25 f. In addition to the requirements in subsections b., c., d., and
26 e. of this section, employers with 50 or more employees shall:
- 27 (1) in addition to the content requirements outlined in
28 subsection b. of this section, customize their policy to their specific
29 workplace and industry by, at a minimum, including:
- 30 (a) multiple channels through which an employee may report
31 unlawful discrimination or harassment; and
- 32 (b) a general description of the process by which the employer
33 will conduct prompt, thorough, and impartial investigations and
34 respond to complaints regarding such discrimination or harassment.
- 35 (2) In addition to the dissemination requirements outlined in
36 subsection c. of this section:
- 37 (a) post the policy in a prominent location on the employer's
38 website, provided, however, that nothing in this subsection shall
39 require an employer to create or maintain a website for the sole
40 purpose of posting the policy thereon; and
- 41 (b) disseminate the policy to any employee upon that
42 employee's promotion.
- 43 (3) In addition to the translation requirements outlined in
44 subsection e. of this section, translate the nondiscrimination policy
45 required by subsection b. of this section into any language
46 identified by an employee as their primary language, if the
47 employee does not speak English as their primary language and has

1 a limited ability or no ability to read, speak, write, or understand
2 English.

3 g. Any person who employs an individual to perform domestic
4 work in their private residence or in the private residence of a
5 family member shall, at the time of hire and at least once annually,
6 provide to the individual a printed copy of materials regarding
7 unlawful discrimination and harassment made available by the
8 division.

9 h. For purposes of this section, an employer has 50 or more
10 employees if the employer employs 50 or more employees, whether
11 employed in New Jersey or not, for each work day during each of
12 20 or more calendar workweeks in the then current or immediately
13 preceding calendar year.

14 i. Notwithstanding any other provision of P.L.1945, c.169
15 (C.10:5-1 et seq.), nothing in this section shall be construed to
16 permit a private person to file a complaint with the division or
17 initiate an action in superior court alleging a violation of
18 P.L.1945, c.169 (C.10:5-1 et seq.) because of any failure to comply
19 with the provisions of this section. However, the Attorney General
20 or the director may enforce violations of this section and may
21 pursue any penalty or remedy available under P.L.1945, c.169
22 (C.10:5-1 et seq.) in doing so. An employer's compliance with this
23 section shall not, in and of itself, protect the employer from liability
24 under this act.

25
26 2. (New section) Mandatory workplace training on unlawful
27 discrimination and harassment, including sexual harassment.

28 a. For purposes of this section, the terms "discrimination" and
29 "harassment" refer to unlawful discrimination or harassment against
30 an individual because of any characteristic of the individual
31 protected by subsection a. of section 11 of P.L.1945, c.169 (C.10:5-
32 12), and "retaliation" refers to any action taken against an
33 individual in violation of the provisions of subsection d. of section
34 11 of P.L.1945, c.169 (C.10:5-12).

35 b. Beginning one year from the effective date of P.L. , c.
36 (C.) (pending before the Legislature as this bill), all employers
37 shall provide interactive training to all employees other than those
38 employees covered by subsection c. of this section on the
39 nondiscrimination policy required by section 1 of P.L. , c.
40 (C.) (pending before the Legislature as this bill), regarding the
41 prevention of unlawful discrimination and harassment, including
42 sexual harassment, in the workplace. The training shall be provided
43 to all new employees within 90 days of initial hire, and to all
44 employees at least once every two years. The training shall include,
45 at minimum:

46 (1) A statement that unlawful discrimination or harassment in
47 the workplace will not be tolerated, and that sanctions will be

1 enforced against individuals engaging in discrimination or
2 harassment and against supervisory and managerial personnel who
3 knowingly or negligently allow the discrimination or harassment to
4 continue;

5 (2) A definition of unlawful discrimination and unlawful
6 harassment in employment;

7 (3) Examples of discriminatory and harassing behaviors
8 prohibited by the nondiscrimination policy adopted by the employer
9 pursuant to section 1 of P.L. , c. (C.) (pending before
10 the Legislature as this bill);

11 (4) A description of the process for filing internal complaints
12 about discrimination or harassment;

13 (5) Directions as to how to contact the division if a person
14 believes their rights were violated;

15 (6) A description of the prohibition on retaliation against those
16 who disclose, report, participate in an investigation of, or otherwise
17 challenge discrimination or harassment;

18 (7) Examples of retaliatory behaviors prohibited by the
19 nondiscrimination policy adopted by the employer pursuant to
20 section 1 of P.L. , c. (C.) (pending before the
21 Legislature as this bill); and

22 (8) Information concerning bystander intervention.

23 c. Beginning one year from the effective date of P.L. , c.
24 (C.) (pending before the Legislature as this bill), all employers
25 shall provide interactive training to all supervisory employees
26 regarding the prevention of unlawful discrimination and harassment
27 in the workplace at least once every two years and shall provide
28 such training to all new supervisory employees within 90 days of
29 initial hire or promotion. The training shall include, at minimum:

30 (1) the topics required by paragraphs (1) through (8) of
31 subsection b. of this section;

32 (2) the specific responsibilities of a supervisor regarding the
33 prevention of discrimination and harassment;

34 (3) the specific responsibilities of a supervisor regarding the
35 prohibitions against retaliation; and

36 (4) measures and corrective actions supervisors may take to
37 appropriately address complaints and instances of discrimination,
38 harassment, and retaliation.

39 d. All employers shall keep a record of their employees'
40 completion of all trainings required by subsections b. and c. of this
41 section. The records may be electronic. Employers shall maintain
42 the records for at least four years and make the records available for
43 division inspection upon request.

44 e. All employers shall review the trainings required by
45 subsections b. and c. of this section at least annually to ensure that
46 they comply with this section and with other applicable laws and
47 regulations.

1 f. All employers shall make the trainings required by
2 subsections b. and c. of this section available:

3 (1) in English; and

4 (2) in any language spoken by an employee who does not speak
5 English as their primary language and who has a limited ability or
6 no ability to read, speak, write, or understand English.

7 g. Employers with 50 or more employees shall provide the
8 trainings required by subsections b. and c. of this section in a live,
9 in-person setting where participants can ask questions. The
10 employers shall also provide interpretation at the trainings required
11 by subsections b. and c. of this section for any employee who does
12 not speak English as their primary language and has a limited
13 ability or no ability to read, speak, write, or understand English.

14 h. For purposes of this section, an employer has 50 or more
15 employees if the employer employs 50 or more employees, whether
16 employed in New Jersey or not, for each work day during each of
17 20 or more calendar workweeks in the then current or immediately
18 preceding calendar year.

19 i. For purposes of this section, “interactive training” means
20 that the training shall be participatory. However, except where
21 explicitly required herein, “interactive training” shall not be
22 required to be live or facilitated by an in-person instructor in order
23 to satisfy the provisions of this section.

24 j. The training required by this section is intended to establish
25 a minimum threshold. An employer may provide longer, more
26 frequent, or more elaborate training regarding workplace
27 harassment or other forms of unlawful discrimination.

28 k. Notwithstanding any other provision of P.L.1945, c.169
29 (C.10:5-1 et seq.), nothing in this section shall be construed to
30 permit a private person to file a complaint with the division or
31 initiate an action in superior court alleging a violation of
32 P.L.1945, c.169 (C.10:5-1 et seq.), because of any failure to comply
33 with the provisions of this section. However, the Attorney General
34 or the director may enforce violations of this section and may
35 pursue any penalty or remedy available under P.L.1945, c.169
36 (C.10:5-1 et seq.), in doing so. An employer’s compliance with this
37 section shall not, in and of itself, protect the employer from liability
38 for unlawful discrimination or harassment under this act.

39

40 3. (New section) Mandatory reporting on unlawful
41 employment discrimination and harassment, including sexual
42 harassment.

43 a. For purposes of this section, the terms “discrimination” and
44 “harassment” refer to unlawful discrimination or harassment against
45 an individual because of any characteristic of the individual
46 protected by subsection a. of section 11 of P.L.1945, c.169 (C.10:5-
47 12), and “retaliation” refers to any action taken against an

1 individual in violation of the provisions of subsection d. of section
2 11 of P.L.1945, c.169 (C.10:5-12).

3 b. Beginning one year after the date of enactment of
4 P.L. , c. (C.) (pending before the Legislature as this bill),
5 employers with 50 or more employees shall be required to collect
6 and annually report to the division the following data on complaints
7 received regarding unlawful workplace discrimination, harassment,
8 including sexual harassment, or retaliation, using the form created
9 and made available on the division's website pursuant to subsection
10 e. of this section for that purpose:

11 (1) the total number of complaints filed;
12 (2) the number of complaints filed that were found by the
13 employer to be substantiated;
14 (3) the number of complaints filed that were found by the
15 employer to be unsubstantiated; and
16 (4) the number of complaints filed whose resolution is still
17 pending.

18 c. The data submitted for each of the categories in subsection
19 b. of this section shall be broken down by how many of those
20 complaints involved allegations of unlawful discrimination,
21 harassment, or retaliation, as well as by the protected class or
22 classes that the complainant alleged.

23 d. Employers shall be required to maintain any records related
24 to the complaints reported to the division pursuant to subsections b.
25 and c. of this section for at least four years. Employers shall make
26 the records available for division inspection upon request.

27 e. The division shall, within six months of the date of
28 enactment of P.L. , c. (C.) (pending before the
29 Legislature as this bill), create a form to be used by employers
30 when submitting the data required to be reported under subsections
31 b. and c. of this section. The division shall make the form available
32 at no cost on its website.

33 f. For purposes of this section, an employer has 50 or more
34 employees if such employer employs 50 or more employees,
35 whether employed in New Jersey or not, for each work day during
36 each of 20 or more calendar workweeks in the then current or
37 immediately preceding calendar year.

38 g. Notwithstanding any other provision of P.L.1945, c.169
39 (C.10:5-1 et seq.), nothing in this section shall be construed to
40 permit a private person to file a complaint with the division or
41 initiate an action in superior court alleging a violation of
42 P.L.1945, c.169 (C.10:5-1 et seq.) because of any failure to comply
43 with the provisions of this section. However, the Attorney General
44 or the director may enforce violations of this section and may
45 pursue any penalty or remedy available under P.L.1945, c. 169
46 (C.10:5-1 et seq.), in doing so. An employer's compliance with this
47 section, or use of materials provided for herein, shall not, in and of

1 itself, protect the employer from liability for unlawful
2 discrimination or harassment under this act.

3

4 4. (New section) P.L.1945, c.169 (C.10:5-1 et seq.) shall be
5 construed to prohibit unlawful discrimination and other unlawful
6 practices against not only an individual who is a member of a
7 protected class, as described in P.L.1945, c.169 (C.10:5-1 et seq.),
8 but also against an individual who is:

9 a. Perceived to be a member of a protected class;

10 b. Associated with an individual who is a member of or is
11 perceived to be a member of a protected class;

12 c. A member of a protected class who is in transition to being a
13 member of another protected class; or

14 d. A member of one protected class who is in transition from
15 one state in that protected class to another state within that or
16 another protected class.

17

18 5. Section 1 of P.L.1938, c.295 (C.10:3-1) is amended to read
19 as follows:

20 1. In the selection of persons for employment in the service of
21 the State, or of any county or municipality thereof, no appointing
22 officer shall discriminate against any such applicant because such
23 applicant has attained the age of at least 40 years, at the time of said
24 application for employment. Any provisions of law, executive
25 order, rule or regulation to the contrary notwithstanding, no person
26 other than a justice of the Supreme Court or a judge of the Superior
27 Court pursuant to Article VI, Section VI, paragraph 3 of the
28 Constitution of the State of New Jersey, or a judge of the Tax
29 Court, or a judge of the Office of Administrative Law or a judge of
30 the Division of Workers' Compensation, or a member of the
31 Division of State Police, employed in the service of the State, or of
32 any county or municipality thereof, or a member of a police or fire
33 department employed in the service of the State or of any county or
34 municipality thereof, shall be required to retire upon the attainment
35 of a particular age unless the public employer can show that [the
36 retirement age bears a manifest relationship to the employment in
37 question or that] the person in the service of the State, or of any
38 county or municipality thereof, is unable to adequately perform the
39 person's duties. A contract of tenure or similar arrangement
40 providing for tenure shall not bar a public employer from showing
41 that [a retirement age bears a manifest relationship to the
42 employment in question or that] the person in the service of the
43 State, or of any county or municipality thereof, is unable to
44 adequately perform the person's duties. A person in the employ of
45 the State, or of any county or municipality thereof, who is required
46 to retire upon the attainment of a particular age in violation of this
47 section shall be entitled to reinstatement with back pay and interest,

1 and any remedy available for violations of P.L.1945, c.169 (C.10:5-
2 1 et seq.).

3 (cf: P.L.1999, c.380, s.15)

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

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

9 a. “Person” includes one or more individuals, partnerships,
10 associations, organizations, labor organizations, corporations, legal
11 representatives, trustees, trustees in bankruptcy, receivers, and
12 fiduciaries.

13 b. “Employment agency” includes any person undertaking to
14 procure employees or opportunities for others to work.

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

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

23 e. “Employer” includes all persons as defined in subsection a.
24 of this section unless otherwise specifically exempt under another
25 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,
26 any political or civil subdivision thereof, and all public officers,
27 agencies, boards, or bodies; and, in the employment of any
28 individual to perform domestic work, includes any person who
29 employs the individual to perform domestic work in the person’s
30 private residence, who employs an individual to perform domestic
31 work in the private residence of a family member of the person, or
32 who is 18 years of age or older and resides in a private residence in
33 which an individual performs domestic work.

34 f. “Employee” **【does not include any individual employed in**
35 **the domestic service of any person】** includes all individuals
36 employed by an employer, without regard to whether the individual,
37 including an intern or independent contractor, performs services in
38 exchange for a salary or wage, and regardless of whether the
39 individual owns shares of stocks in the employer; provided,
40 however, that nothing in this subsection shall be construed to alter
41 the definition of employee under any other law or regulation other
42 than for purposes of P.L.1945, c.169 (C.10:5-1 et seq.).

43 g. “Liability for service in the Armed Forces of the United
44 States” means subject to being ordered as an individual or member
45 of an organized unit into active service in the Armed Forces of the
46 United States by reason of membership in the National Guard, naval
47 militia or a reserve component of the Armed Forces of the United

- 1 States, or subject to being inducted into such armed forces through
2 a system of national selective service.
- 3 h. "Division" means the "Division on Civil Rights" created by
4 P.L.1945, c.169 (C.10:5-1 et seq.).
- 5 i. "Attorney General" means the Attorney General of the State
6 of New Jersey or the Attorney General's representative or designee.
- 7 j. "Commission" means the Commission on Civil Rights
8 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 9 k. "Director" means the Director of the Division on Civil
10 Rights.
- 11 l. "A place of public accommodation" shall include, but not be
12 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
13 summer camp, day camp, or resort camp, whether for entertainment
14 of transient guests or accommodation of those seeking health,
15 recreation, or rest; any producer, manufacturer, wholesaler,
16 distributor, retail shop, store, establishment, or concession dealing
17 with goods or services of any kind; any restaurant, eating house, or
18 place where food is sold for consumption on the premises; any
19 place maintained for the sale of ice cream, ice and fruit preparations
20 or their derivatives, soda water or confections, or where any
21 beverages of any kind are retailed for consumption on the premises;
22 any garage, any public conveyance operated on land or water or in
23 the air or any stations and terminals thereof; any bathhouse,
24 boardwalk, or seashore accommodation; any auditorium, meeting
25 place, or hall; any theatre, motion-picture house, music hall, roof
26 garden, skating rink, swimming pool, amusement and recreation
27 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
28 pool parlor, or other place of amusement; any comfort station; any
29 dispensary, clinic, or hospital; any public library; and any
30 kindergarten, primary and secondary school, trade or business
31 school, high school, academy, college and university, or any
32 educational institution under the supervision of the State Board of
33 Education or the Commissioner of Education of the State of New
34 Jersey. Nothing herein contained shall be construed to include or to
35 apply to any institution, bona fide club, or place of accommodation,
36 which is in its nature distinctly private; nor shall anything herein
37 contained apply to any educational facility operated or maintained
38 by a bona fide religious or sectarian institution, and the right of a
39 natural parent or one in loco parentis to direct the education and
40 upbringing of a child under his is hereby affirmed; nor shall
41 anything herein contained be construed to bar any private secondary
42 or post-secondary school from using in good faith criteria other than
43 race, creed, color, national origin, ancestry, gender identity or
44 expression or affectional or sexual orientation in the admission of
45 students.
- 46 m. "A publicly assisted housing accommodation" shall include
47 all housing built with public funds or public assistance pursuant to

1 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
2 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
3 c.184, and all housing financed in whole or in part by a loan,
4 whether or not secured by a mortgage, the repayment of which is
5 guaranteed or insured by the federal government or any agency
6 thereof.

7 n. The term “real property” includes real estate, lands,
8 tenements and hereditaments, corporeal and incorporeal, and
9 leaseholds, provided, however, that, except as to publicly assisted
10 housing accommodations, the provisions of this act shall not apply
11 to the rental: (1) of a single apartment or flat in a two-family
12 dwelling, the other occupancy unit of which is occupied by the
13 owner as a residence; or (2) of a room or rooms to another person or
14 persons by the owner or occupant of a one-family dwelling
15 occupied by the owner or occupant as a residence at the time of
16 such rental. Nothing herein contained shall be construed to bar any
17 religious or denominational institution or organization, or any
18 organization operated for charitable or educational purposes, which
19 is operated, supervised, or controlled by or in connection with a
20 religious organization, in the sale, lease, or rental of real property,
21 from limiting admission to or giving preference to persons of the
22 same religion or denomination or from making such selection as is
23 calculated by such organization to promote the religious principles
24 for which it is established or maintained. Nor does any provision
25 under this act regarding discrimination on the basis of familial
26 status apply with respect to housing for older persons.

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

1 offer or attempt or agree to negotiate the sale or exchange, of any
2 such lot or parcel of real estate.

3 p. “Real estate salesperson” includes any person who, for
4 compensation, valuable consideration or commission, or other thing
5 of value, or by reason of a promise or reasonable expectation
6 thereof, is employed by and operates under the supervision of a
7 licensed real estate broker to sell or offer to sell, buy or offer to buy
8 or negotiate the purchase, sale, or exchange of real estate, or offers
9 or attempts to negotiate a loan secured or to be secured by a
10 mortgage or other encumbrance upon or transfer of real estate, or to
11 lease or rent, or offer to lease or rent any real estate for others, or to
12 collect rents for the use of real estate, or to solicit for prospective
13 purchasers or lessees of real estate, or who is employed by a
14 licensed real estate broker to sell or offer to sell lots or other parcels
15 of real estate, at a stated salary, or upon a commission, or upon a
16 salary and commission, or otherwise to sell real estate, or any parts
17 thereof, in lots or other parcels.

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

33 r. “Blind person” or “person who is blind” means any
34 individual whose central visual acuity does not exceed 20/200 in the
35 better eye with correcting lens or whose visual acuity is better than
36 20/200 if accompanied by a limit to the field of vision in the better
37 eye to such a degree that its widest diameter subtends an angle of
38 no greater than 20 degrees.

39 s. “Guide dog” means a dog used to assist persons who are
40 deaf, or which is fitted with a special harness so as to be suitable as
41 an aid to the mobility of a person who is blind, and is used by a
42 person who is blind and has satisfactorily completed a specific
43 course of training in the use of such a dog, and has been trained by
44 an organization generally recognized by agencies involved in the
45 rehabilitation of persons with disabilities, including, but not limited
46 to, those persons who are blind or deaf, as reputable and competent
47 to provide dogs with training of this type.

- 1 t. “Guide or service dog trainer” means any person who is
2 employed by an organization generally recognized by agencies
3 involved in the rehabilitation of persons with disabilities, including,
4 but not limited to, those persons who are blind, have visual
5 impairments, or are deaf or have hearing impairments, as reputable
6 and competent to provide dogs with training, as defined in this
7 section, and who is actually involved in the training process.
- 8 u. “Housing accommodation” means any publicly assisted
9 housing accommodation or any real property, or portion thereof,
10 which is used or occupied, or is intended, arranged, or designed to
11 be used or occupied, as the home, residence, or sleeping place of
12 one or more persons, but shall not include any single family
13 residence the occupants of which rent, lease, or furnish for
14 compensation not more than one room therein.
- 15 v. “Public facility” means any place of public accommodation
16 and any street, highway, sidewalk, walkway, public building, and
17 any other place or structure to which the general public is regularly,
18 normally, or customarily permitted or invited, and includes access
19 to public services.
- 20 w. “Deaf person” or “person who is deaf” means any person
21 whose hearing is so severely impaired that the person is unable to
22 hear and understand conversational speech through the unaided ear
23 alone, and who must depend primarily on an assistive listening
24 device or visual communication such as writing, lip reading, sign
25 language, and gestures.
- 26 x. “Atypical hereditary cellular or blood trait” means sickle cell
27 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
28 fibrosis trait.
- 29 y. “Sickle cell trait” means the condition wherein the major
30 natural hemoglobin components present in the blood of the
31 individual are hemoglobin A (normal) and hemoglobin S (sickle
32 hemoglobin) as defined by standard chemical and physical analytic
33 techniques, including electrophoresis; and the proportion of
34 hemoglobin A is greater than the proportion of hemoglobin S or one
35 natural parent of the individual is shown to have only normal
36 hemoglobin components (hemoglobin A, hemoglobin A2,
37 hemoglobin F) in the normal proportions by standard chemical and
38 physical analytic tests.
- 39 z. “Hemoglobin C trait” means the condition wherein the major
40 natural hemoglobin components present in the blood of the
41 individual are hemoglobin A (normal) and hemoglobin C as defined
42 by standard chemical and physical analytic techniques, including
43 electrophoresis; and the proportion of hemoglobin A is greater than
44 the proportion of hemoglobin C or one natural parent of the
45 individual is shown to have only normal hemoglobin components
46 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
47 proportions by standard chemical and physical analytic tests.

- 1 aa. “Thalassemia trait” means the presence of the thalassemia
2 gene which in combination with another similar gene results in the
3 chronic hereditary disease Cooley’s anemia.
- 4 bb. “Tay-Sachs trait” means the presence of the Tay-Sachs gene
5 which in combination with another similar gene results in the
6 chronic hereditary disease Tay-Sachs.
- 7 cc. “Cystic fibrosis trait” means the presence of the cystic
8 fibrosis gene which in combination with another similar gene
9 results in the chronic hereditary disease cystic fibrosis.
- 10 dd. “Service dog” means any dog individually trained to the
11 requirements of a person with a disability including, but not limited
12 to minimal protection work, rescue work, pulling a wheelchair or
13 retrieving dropped items. This term shall include a “seizure dog”
14 trained to alert or otherwise assist persons with epilepsy or other
15 seizure disorders.
- 16 ee. “Qualified Medicaid applicant” means an individual who is a
17 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 18 ff. “AIDS” means acquired immune deficiency syndrome as
19 defined by the Centers for Disease Control and Prevention of the
20 United States Public Health Service.
- 21 gg. “HIV infection” means infection with the human
22 immunodeficiency virus or any other related virus identified as a
23 probable causative agent of AIDS.
- 24 hh. “Affectional or sexual orientation” means male or female
25 heterosexuality, homosexuality, or bisexuality by inclination,
26 practice, identity, or expression, having a history thereof or being
27 perceived, presumed, or identified by others as having such an
28 orientation.
- 29 ii. “Heterosexuality” means affectional, emotional, or physical
30 attraction or behavior which is primarily directed towards persons
31 of the other gender.
- 32 jj. “Homosexuality” means affectional, emotional, or physical
33 attraction or behavior which is primarily directed towards persons
34 of the same gender.
- 35 kk. “Bisexuality” means affectional, emotional, or physical
36 attraction or behavior which is directed towards persons of either
37 gender.
- 38 ll. “Familial status” means being the natural parent of a child,
39 the adoptive parent of a child, the resource family parent of a child,
40 having a “parent and child relationship” with a child as defined by
41 State law, or having sole or joint legal or physical custody, care,
42 guardianship, or visitation with a child, or any person who is
43 pregnant or is in the process of securing legal custody of any
44 individual who has not attained the age of 18 years.
- 45 mm. “Housing for older persons” means housing:
46 (1) provided under any State program that the Attorney General
47 determines is specifically designed and operated to assist persons

1 who are elderly (as defined in the State program); or provided under
2 any federal program that the United States Department of Housing
3 and Urban Development determines is specifically designed and
4 operated to assist persons who are elderly (as defined in the federal
5 program); or

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

8 (3) intended and operated for occupancy by at least one person
9 55 years of age or older per unit. In determining whether housing
10 qualifies as housing for older persons under this paragraph, the
11 Attorney General shall adopt regulations which require at least the
12 following factors:

13 (a) the existence of significant facilities and services
14 specifically designed to meet the physical or social needs of older
15 persons, or if the provision of such facilities and services is not
16 practicable, that such housing is necessary to provide important
17 housing opportunities for older persons; and

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

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

23 Housing shall not fail to meet the requirements for housing for
24 older persons by reason of: persons residing in such housing as of
25 September 13, 1988 not meeting the age requirements of this
26 subsection, provided that new occupants of such housing meet the
27 age requirements of this subsection; or unoccupied units, provided
28 that such units are reserved for occupancy by persons who meet the
29 age requirements of this subsection.

30 nn. "Genetic characteristic" means any inherited gene or
31 chromosome, or alteration thereof, that is scientifically or medically
32 believed to predispose an individual to a disease, disorder, or
33 syndrome, or to be associated with a statistically significant
34 increased risk of development of a disease, disorder, or syndrome.

35 oo. "Genetic information" means the information about genes,
36 gene products, or inherited characteristics that may derive from an
37 individual or family member.

38 pp. "Genetic test" means a test for determining the presence or
39 absence of an inherited genetic characteristic in an individual,
40 including tests of nucleic acids such as DNA, RNA, and
41 mitochondrial DNA, chromosomes, or proteins in order to identify a
42 predisposing genetic characteristic.

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

45 rr. "Gender identity or expression" means having or being
46 perceived as having a gender related identity or expression whether
47 or not stereotypically associated with a person's assigned sex.

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

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

6 uu. "Premium benefit" means an employment benefit, such as
7 seniority, group life insurance, health insurance, disability
8 insurance, sick leave, annual leave, or an educational or pension
9 benefit that is greater than the employment benefit due the
10 employee for an equivalent period of work performed during the
11 regular work schedule of the employee.

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

15 ww. "Protective hair styles" includes, but is not limited to, such
16 hairstyles as braids, locks, and twists.

17 xx. "Family member" means a child, parent, parent-in-law,
18 sibling, grandparent, grandchild, spouse, domestic partner, or one
19 partner in a civil union couple, or any other individual related by
20 blood to the person, and any other individual that the person shows
21 to have a close association with the person which is the equivalent
22 of a family relationship.

23 yy. "Domestic work" means services related to the care of
24 persons in private residences or maintenance of private residences
25 or their premises, including, but not limited to, services performed
26 by a nanny, au pair, babysitter, house cleaner, housekeeper, maid,
27 caretaker, home care worker, cook, chef, butler, gardener, or
28 household manager; except that "domestic work" shall not include:

29 (1) services provided by a parent, grandparent, spouse, sibling,
30 child, or other immediate family member of the employer; or

31 (2) services limited to casual and occasional house- or pet-
32 sitting duties performed when members of the household are not on
33 the premises.

34 zz. "Intern" means an individual who performs services for an
35 employer on a temporary basis whose work:

36 (1) provides training or supplements training given in an
37 educational environment such that the employability of the
38 individual performing the work may be enhanced;

39 (2) provides experience for the benefit of the individual
40 performing the work; and

41 (3) is performed under the supervision of existing staff.

42 The term "intern" shall include individuals without regard to
43 whether the employer pays them a salary or wage.

44 (cf: P.L.2019, c.436, s.2)

45
46 7. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
47 read:

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

1 further that no provision of this section shall apply to decisions
2 regarding the hiring of individual for the performance of domestic
3 work.

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

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

14 For the purposes of this subsection, prior complaints of
15 harassment or unlawful discriminatory practices at the same
16 employer or relevant organization are discoverable and relevant
17 regardless of whether the individual complaining of harassment,
18 discrimination or retaliation witnessed or was aware of the prior
19 complaints.

20 For purposes of this subsection, sexual harassment or other
21 unlawful harassment shall be an unlawful discriminatory practice
22 when it subjects an individual to inferior terms, conditions or
23 privileges of employment because of the individual's membership
24 in any category protected by this subsection. The complainant need
25 not show that the harassment was severe or pervasive. The fact that
26 the individual did not make a complaint about the harassment to the
27 individual's employer or other relevant organization shall not be
28 determinative of whether the employer or organization is liable.
29 Nothing in this section shall require an employee to demonstrate the
30 existence of an individual to whom the employee's treatment is to
31 be compared. It shall be an affirmative defense to liability under
32 this subsection that the harassment does not rise above the level of
33 what a reasonable victim of discrimination of the same protected
34 category would consider petty slights or trivial inconveniences.

35 For purposes of claims regarding sexual or other unlawful
36 harassment brought by an employee who performs domestic work,
37 it shall also be an unlawful employment practice for an employer to
38 allow any family member or member of the employer's household,
39 regardless of age, to engage in sexual harassment or other unlawful
40 harassment based on any other category protected by this
41 subsection, or for an employer to keep or request to keep permanent
42 or continuing possession of the employee's passport or other
43 identifying documents.

44 For the purposes of a claim brought under this subsection
45 alleging that an employer is liable for an unlawful employment
46 practice because an employee was subjected to sexual harassment
47 or other unlawful harassment based on any other category protected

1 by this subsection, it shall not be necessary to demonstrate loss of
2 tangible job benefits to establish a violation of this subsection, nor
3 shall it be necessary for the complainant to prove that the
4 complainant's tangible productivity declined because of the
5 harassing conduct.

6 For the purposes of this subsection, an unlawful employment
7 practice occurs, with respect to discrimination in compensation or
8 in the financial terms or conditions of employment, each occasion
9 that an individual is affected by application of a discriminatory
10 compensation decision or other practice, including, but not limited
11 to, each occasion that wages, benefits, or other compensation are
12 paid, resulting in whole or in part from the decision or other
13 practice.

14 In addition to any other relief authorized by the "Law Against
15 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for
16 discrimination in compensation or in the financial terms or
17 conditions of employment, liability shall accrue and an aggrieved
18 person may obtain relief for back pay for the entire period of time,
19 except not more than six years, in which the violation with regard to
20 discrimination in compensation or in the financial terms or
21 conditions of employment has been continuous, if the violation
22 continues to occur within the statute of limitations.

23 Nothing in this subsection shall prohibit the application of the
24 doctrine of "continuing violation" or the "discovery rule" to any
25 appropriate claim as those doctrines currently exist in New Jersey
26 common law. It shall be an unlawful employment practice to
27 require employees or prospective employees to consent to a
28 shortened statute of limitations or to waive any of the protections
29 provided by the "Law Against Discrimination," P.L.1945, c.169
30 (C.10:5-1 et seq.).

31 b. For a labor organization, because of the race, creed, color,
32 national origin, ancestry, age, marital status, civil union status,
33 domestic partnership status, affectional or sexual orientation,
34 gender identity or expression, disability, pregnancy or
35 breastfeeding, or sex of any individual, or because of the liability
36 for service in the Armed Forces of the United States or nationality
37 of any individual, to exclude or to expel from its membership such
38 individual or to discriminate in any way against any of its members,
39 against any applicant for, or individual included in, any apprentice
40 or other training program or against any employer or any individual
41 employed by an employer; provided, however, that nothing herein
42 contained shall be construed to bar a labor organization from
43 excluding from its apprentice or other training programs any person
44 on the basis of sex in those certain circumstances where sex is a
45 bona fide occupational qualification reasonably necessary to the
46 normal operation of the particular apprentice or other training
47 program.

1 c. For any employer or employment agency to print or circulate
2 or cause to be printed or circulated any statement, advertisement or
3 publication, or to use any form of application for employment, or to
4 make an inquiry in connection with prospective employment, which
5 expresses, directly or indirectly, any limitation, specification or
6 discrimination as to race, creed, color, national origin, ancestry,
7 age, marital status, civil union status, domestic partnership status,
8 affectional or sexual orientation, gender identity or expression,
9 disability, nationality, pregnancy or breastfeeding, or sex or liability
10 of any applicant for employment for service in the Armed Forces of
11 the United States, or any intent to make any such limitation,
12 specification or discrimination, unless based upon a bona fide
13 occupational qualification.

14 d. For any person to take reprisals against any person because
15 that person has opposed any practices or acts forbidden under this
16 act or because that person has sought legal advice regarding rights
17 under this act, shared relevant information with legal counsel,
18 shared information with a governmental entity, or filed a complaint,
19 testified or assisted in any proceeding under this act or to coerce,
20 intimidate, threaten or interfere with any person in the exercise or
21 enjoyment of, or on account of that person having aided or
22 encouraged any other person in the exercise or enjoyment of, any
23 right granted or protected by this act. Nothing in this subsection
24 shall prohibit an employee from applying this subsection to
25 retaliatory actions on the part of the employer, regardless of the
26 length of time between the protected action of the employee and the
27 retaliation, provided the retaliation is directly connected to the
28 protected action of the employee.

29 e. For any person, whether an employer or an employee or not,
30 including a co-employee, supervisor, customer, vendor, landlord,
31 subordinate, or any other category of person, to engage in,
32 participate in, aid, abet, incite, compel or coerce the doing of any of
33 the acts forbidden under this act, or to attempt to do so, or to subject
34 an employee to sexual harassment or other unlawful harassment,
35 discrimination, or retaliation.

36 f. (1) For any owner, lessee, proprietor, manager,
37 superintendent, agent, or employee of any place of public
38 accommodation directly or indirectly to refuse, withhold from or
39 deny to any person any of the accommodations, advantages,
40 facilities or privileges thereof, or to discriminate against any person
41 in the furnishing thereof, or to subject any individual to sexual
42 harassment or other unlawful harassment, or directly or indirectly to
43 publish, circulate, issue, display, post or mail any written or printed
44 communication, notice, or advertisement to the effect that any of
45 the accommodations, advantages, facilities, or privileges of any
46 such place will be refused, withheld from, or denied to any person
47 on account of the race, creed, color, national origin, ancestry,

1 marital status, civil union status, domestic partnership status,
2 pregnancy or breastfeeding, sex, gender identity or expression,
3 affectional or sexual orientation, disability, liability for service in
4 the Armed Forces of the United States or nationality of such person,
5 or that the patronage or custom thereof of any person of any
6 particular race, creed, color, national origin, ancestry, marital status,
7 civil union status, domestic partnership status, pregnancy or
8 breastfeeding status, sex, gender identity or expression, affectional
9 or sexual orientation, disability, liability for service in the Armed
10 Forces of the United States or nationality is unwelcome,
11 objectionable or not acceptable, desired or solicited, and the
12 production of any such written or printed communication, notice or
13 advertisement, purporting to relate to any such place and to be made
14 by any owner, lessee, proprietor, superintendent or manager thereof,
15 shall be presumptive evidence in any action that the same was
16 authorized by such person; provided, however, that nothing
17 contained herein shall be construed to bar any place of public
18 accommodation which is in its nature reasonably restricted
19 exclusively to individuals of one sex, and which shall include but
20 not be limited to any summer camp, day camp, or resort camp,
21 bathhouse, dressing room, swimming pool, gymnasium, comfort
22 station, dispensary, clinic or hospital, or school or educational
23 institution which is restricted exclusively to individuals of one sex,
24 provided individuals shall be admitted based on their gender
25 identity or expression, from refusing, withholding from or denying
26 to any individual of the opposite sex any of the accommodations,
27 advantages, facilities or privileges thereof on the basis of sex;
28 provided further, that the foregoing limitation shall not apply to any
29 restaurant as defined in R.S.33:1-1 or place where alcoholic
30 beverages are served.

31 (2) Notwithstanding the definition of "a place of public
32 accommodation" as set forth in subsection l. of section 5 of
33 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
34 manager, superintendent, agent, or employee of any private club or
35 association to directly or indirectly refuse, withhold from or deny to
36 any individual who has been accepted as a club member and has
37 contracted for or is otherwise entitled to full club membership any
38 of the accommodations, advantages, facilities or privileges thereof,
39 or to discriminate against any member in the furnishing thereof on
40 account of the race, creed, color, national origin, ancestry, marital
41 status, civil union status, domestic partnership status, pregnancy or
42 breastfeeding, sex, gender identity, or expression, affectional or
43 sexual orientation, disability, liability for service in the Armed
44 Forces of the United States or nationality of such person.

45 In addition to the penalties otherwise provided for a violation of
46 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)
47 of subsection f. of this section is the holder of an alcoholic beverage

1 license issued under the provisions of R.S.33:1-12 for that private
2 club or association, the matter shall be referred to the Director of
3 the Division of Alcoholic Beverage Control who shall impose an
4 appropriate penalty in accordance with the procedures set forth in
5 R.S.33:1-31.

6 g. For any person, including but not limited to, any owner,
7 lessee, sublessee, assignee or managing agent of, or other person
8 having the right of ownership or possession of or the right to sell,
9 rent, lease, assign, or sublease any real property or part or portion
10 thereof, or any agent or employee of any of these:

11 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
12 to deny to or withhold from any person or group of persons any real
13 property or part or portion thereof because of race, creed, color,
14 national origin, ancestry, marital status, civil union status, domestic
15 partnership status, pregnancy or breastfeeding, sex, gender identity
16 or expression, affectional or sexual orientation, familial status,
17 disability, liability for service in the Armed Forces of the United
18 States, nationality, or source of lawful income used for rental or
19 mortgage payments;

20 (2) To discriminate against any person or group of persons
21 because of race, creed, color, national origin, ancestry, marital
22 status, civil union status, domestic partnership status, pregnancy or
23 breastfeeding, sex, gender identity or expression, affectional or
24 sexual orientation, familial status, disability, liability for service in
25 the Armed Forces of the United States, nationality or source of
26 lawful income used for rental or mortgage payments in the terms,
27 conditions or privileges of the sale, rental or lease of any real
28 property or part or portion thereof or in the furnishing of facilities
29 or services in connection therewith;

30 (3) To print, publish, circulate, issue, display, post or mail, or
31 cause to be printed, published, circulated, issued, displayed, posted
32 or mailed any statement, advertisement, publication or sign, or to
33 use any form of application for the purchase, rental, lease,
34 assignment or sublease of any real property or part or portion
35 thereof, or to make any record or inquiry in connection with the
36 prospective purchase, rental, lease, assignment, or sublease of any
37 real property, or part or portion thereof which expresses, directly or
38 indirectly, any limitation, specification or discrimination as to race,
39 creed, color, national origin, ancestry, marital status, civil union
40 status, domestic partnership status, pregnancy or breastfeeding, sex,
41 gender identity, or expression, affectional or sexual orientation,
42 familial status, disability, liability for service in the Armed Forces
43 of the United States, nationality, or source of lawful income used
44 for rental or mortgage payments, or any intent to make any such
45 limitation, specification or discrimination, and the production of
46 any such statement, advertisement, publicity, sign, form of
47 application, record, or inquiry purporting to be made by any such

1 person shall be presumptive evidence in any action that the same
2 was authorized by such person; provided, however, that nothing
3 contained in this subsection shall be construed to bar any person
4 from refusing to sell, rent, lease, assign or sublease or from
5 advertising or recording a qualification as to sex for any room,
6 apartment, flat in a dwelling or residential facility which is planned
7 exclusively for and occupied by individuals of one sex to any
8 individual of the exclusively opposite sex on the basis of sex
9 provided individuals shall be qualified based on their gender
10 identity or expression;

11 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
12 to deny to or withhold from any person or group of persons any real
13 property or part or portion thereof because of the source of any
14 lawful income received by the person or the source of any lawful
15 rent payment to be paid for the real property; **[or]**

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

23 (6) To subject any individual to sexual harassment or other
24 unlawful harassment.

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

27 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
28 sale, rental, lease, assignment, or sublease any real property or part
29 or portion thereof to any person or group of persons or to refuse to
30 negotiate for the sale, rental, lease, assignment, or sublease of any
31 real property or part or portion thereof to any person or group of
32 persons because of race, creed, color, national origin, ancestry,
33 marital status, civil union status, domestic partnership status,
34 familial status, pregnancy or breastfeeding, sex, gender identity or
35 expression, affectional or sexual orientation, liability for service in
36 the Armed Forces of the United States, disability, nationality, or
37 source of lawful income used for rental or mortgage payments, or to
38 represent that any real property or portion thereof is not available
39 for inspection, sale, rental, lease, assignment, or sublease when in
40 fact it is so available, or otherwise to deny or withhold any real
41 property or any part or portion of facilities thereof to or from any
42 person or group of persons because of race, creed, color, national
43 origin, ancestry, marital status, civil union status, domestic
44 partnership status, familial status, pregnancy or breastfeeding, sex,
45 gender identity or expression, affectional or sexual orientation,
46 disability, liability for service in the Armed Forces of the United
47 States, or nationality;

1 (2) To discriminate against any person because of race, creed,
2 color, national origin, ancestry, marital status, civil union status,
3 domestic partnership status, familial status, pregnancy or
4 breastfeeding, sex, gender identity or expression, affectional or
5 sexual orientation, disability, liability for service in the Armed
6 Forces of the United States, nationality, or source of lawful income
7 used for rental or mortgage payments in the terms, conditions or
8 privileges of the sale, rental, lease, assignment or sublease of any
9 real property or part or portion thereof or in the furnishing of
10 facilities or services in connection therewith;

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

39 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
40 to deny to or withhold from any person or group of persons any real
41 property or part or portion thereof because of the source of any
42 lawful income received by the person or the source of any lawful
43 rent payment to be paid for the real property; **【or】**

44 (5) To refuse to rent or lease any real property to another person
45 because that person's family includes children under 18 years of
46 age, or to make an agreement, rental or lease of any real property
47 which provides that the agreement, rental or lease shall be rendered

1 null and void upon the birth of a child. This paragraph shall not
2 apply to housing for older persons as defined in subsection mm. of
3 section 5 of P.L.1945, c.169 (C.10:5-5); or

4 (6) To subject any individual to sexual harassment or other
5 unlawful harassment.

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

14 (1) To discriminate against any person or group of persons
15 because of race, creed, color, national origin, ancestry, marital
16 status, civil union status, domestic partnership status, pregnancy or
17 breastfeeding, sex, gender identity or expression, affectional or
18 sexual orientation, disability, liability for service in the Armed
19 Forces of the United States, familial status or nationality, in the
20 granting, withholding, extending, modifying, renewing, or
21 purchasing, or in the fixing of the rates, terms, conditions or
22 provisions of any such loan, extension of credit or financial
23 assistance or purchase thereof or in the extension of services in
24 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 or breastfeeding, sex, gender identity
32 or expression, affectional or sexual orientation, disability, liability
33 for service in the Armed Forces of the United States, familial status
34 or nationality or any intent to make any such limitation,
35 specification or discrimination; unless otherwise required by law or
36 regulation to retain or use such information;

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

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

42 (5) To discriminate against any person or group of persons
43 because that person's family includes children under 18 years of
44 age, or to make an agreement or mortgage which provides that the
45 agreement or mortgage shall be rendered null and void upon the
46 birth of a child. This paragraph shall not apply to housing for older

1 persons as defined in subsection mm. of section 5 of
2 P.L.1945, c.169 (C.10:5-5).

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

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

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

43 m. For any person to:

44 (1) Grant or accept any letter of credit or other document which
45 evidences the transfer of funds or credit, or enter into any contract
46 for the exchange of goods or services, where the letter of credit,
47 contract, or other document contains any provisions requiring any

1 person to discriminate against or to certify that he, she or it has not
2 dealt with any other person on the basis of the race, creed, color,
3 national origin, ancestry, age, pregnancy or breastfeeding, sex,
4 gender identity or expression, affectional or sexual orientation,
5 marital status, civil union status, domestic partnership status,
6 disability, liability for service in the Armed Forces of the United
7 States, or nationality of such other person or of such other person's
8 family members, partners, members, stockholders, directors,
9 officers, managers, superintendents, agents, employees, business
10 associates, suppliers, or customers.

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

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

24 n. For any person to aid, abet, incite, compel, coerce, or induce
25 the doing of any act forbidden by subsections l. and m. of section
26 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
27 do so. Such prohibited conduct shall include, but not be limited to:

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

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

42 o. For any multiple listing service, real estate brokers'
43 organization or other service, organization or facility related to the
44 business of selling or renting dwellings to deny any person access
45 to or membership or participation in such organization, or to
46 discriminate against such person in the terms or conditions of such
47 access, membership, or participation, on account of race, creed,

1 color, national origin, ancestry, age, marital status, civil union
2 status, domestic partnership status, familial status, pregnancy or
3 breastfeeding, sex, gender identity or expression, affectional or
4 sexual orientation, disability, liability for service in the Armed
5 Forces of the United States or nationality.

6 p. Nothing in the provisions of this section shall affect the
7 ability of an employer to require employees to adhere to reasonable
8 workplace appearance, grooming and dress standards which do not
9 impose requirements on individuals who are members of a protected
10 class not imposed on individuals not members of the protected class
11 or otherwise have the effect of discriminating against members of a
12 protected class, and are not precluded by other provisions of State
13 or federal law, **【except】** provided further that an employer shall
14 allow an employee to appear, groom and dress consistent with the
15 employee's gender identity or expression.

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

34 (a) The number of the hours worked by the employee which are
35 counted towards the accruing of seniority, pension or other benefits;
36 or

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

39 (2) For an employer to refuse to permit an employee to utilize
40 leave, as provided for in this subsection q., which is solely used to
41 accommodate the employee's sincerely held religious observance or
42 practice. Except where it would cause an employer to incur an
43 undue hardship, no person shall be required to remain at **【his】** the
44 person's place of employment during any day or days or portion
45 thereof that, as a requirement of **【his】** the person's religion, **【his】**
46 the person observes as **【his】** the person's Sabbath or other holy day,
47 including a reasonable time prior and subsequent thereto for travel

1 between **his** the person's place of employment and **his** the
2 person's home; provided that any such absence from work shall,
3 wherever practicable in the reasonable judgment of the employer,
4 be made up by an equivalent amount of time and work at some
5 other mutually convenient time, or shall be charged against any
6 leave with pay ordinarily granted, other than sick leave, and any
7 such absence not so made up or charged, may be treated by the
8 employer of that person as leave taken without pay.

9 (3) (a) For purposes of this subsection q., "undue hardship"
10 means an accommodation requiring unreasonable expense or
11 difficulty, unreasonable interference with the safe or efficient
12 operation of the workplace or a violation of a bona fide seniority
13 system or a violation of any provision of a bona fide collective
14 bargaining agreement.

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

17 (i) The identifiable cost of the accommodation, including the
18 costs of loss of productivity and of retaining or hiring employees or
19 transferring employees from one facility to another, in relation to
20 the size and operating cost of the employer.

21 (ii) The number of individuals who will need the particular
22 accommodation for a sincerely held religious observance or
23 practice.

24 (iii) For an employer with multiple facilities, the degree to
25 which the geographic separateness or administrative or fiscal
26 relationship of the facilities will make the accommodation more
27 difficult or expensive.

28 (c) An accommodation shall be considered to constitute an
29 undue hardship if it will result in the inability of an employee to
30 perform the essential functions of the position in which **he or she**
31 the employee is employed.

32 (d) (i) The provisions of this subsection q. shall be applicable
33 only to reasonable accommodations of religious observances and
34 shall not supersede any definition of undue hardship or standards
35 for reasonable accommodation of the disabilities of employees.

36 (ii) This subsection q. shall not apply where the uniform
37 application of terms and conditions of attendance to employees is
38 essential to prevent undue hardship to the employer. The burden of
39 proof regarding the applicability of this subparagraph (d) shall be
40 upon the employer.

41 r. For any employer to take reprisals against any employee for
42 requesting from, discussing with, or disclosing to, any other
43 employee or former employee of the employer, a lawyer from
44 whom the employee seeks legal advice, or any government agency
45 information regarding the job title, occupational category, and rate
46 of compensation, including benefits, of the employee or any other
47 employee or former employee of the employer, or the gender, race,

1 ethnicity, military status, or national origin of the employee or any
2 other employee or former employee of the employer, regardless of
3 whether the request was responded to, or to require, as a condition
4 of employment, any employee or prospective employee to sign a
5 waiver, or to otherwise require an employee or prospective
6 employee to agree, not to make those requests or disclosures.
7 Nothing in this subsection shall be construed to require an
8 employee to disclose such information about the employee herself
9 to any other employee or former employee of the employer or to
10 any authorized representative of the other employee or former
11 employee.

12 s. For an employer to treat, for employment-related purposes, a
13 woman employee that the employer knows, or should know, is
14 affected by pregnancy or breastfeeding in a manner less favorable
15 than the treatment of other persons not affected by pregnancy or
16 breastfeeding but similar in their ability or inability to work. In
17 addition, an employer of an employee who is a woman affected by
18 pregnancy shall make available to the employee reasonable
19 accommodation in the workplace, such as bathroom breaks, breaks
20 for increased water intake, periodic rest, assistance with manual
21 labor, job restructuring or modified work schedules, and temporary
22 transfers to less strenuous or hazardous work, for needs related to
23 the pregnancy when the employee, based on the advice of her
24 physician, requests the accommodation, and, in the case of a
25 employee breast feeding her infant child, the accommodation shall
26 include reasonable break time each day to the employee and a
27 suitable room or other location with privacy, other than a toilet stall,
28 in close proximity to the work area for the employee to express
29 breast milk for the child, unless the employer can demonstrate that
30 providing the accommodation would be an undue hardship on the
31 business operations of the employer. The employer shall not in any
32 way penalize the employee in terms, conditions or privileges of
33 employment for requesting or using the accommodation. Workplace
34 accommodation provided pursuant to this subsection and paid or
35 unpaid leave provided to an employee affected by pregnancy or
36 breastfeeding shall not be provided in a manner less favorable than
37 accommodations or leave provided to other employees not affected
38 by pregnancy or breastfeeding but similar in their ability or inability
39 to work. This subsection shall not be construed as otherwise
40 increasing or decreasing any employee's rights under law to paid or
41 unpaid leave in connection with pregnancy or breastfeeding.

42 For the purposes of this section "pregnancy or breastfeeding"
43 means pregnancy, childbirth, and breast feeding or expressing milk
44 for breastfeeding, or medical conditions related to pregnancy,
45 childbirth, or breastfeeding, including recovery from childbirth.

46 For the purposes of this subsection, in determining whether an
47 accommodation would impose undue hardship on the operation of

1 an employer's business, the factors to be considered include: the
2 overall size of the employer's business with respect to the number
3 of employees, number and type of facilities, and size of budget; the
4 type of the employer's operations, including the composition and
5 structure of the employer's workforce; the nature and cost of the
6 accommodation needed, taking into consideration the availability of
7 tax credits, tax deductions, and outside funding; and the extent to
8 which the accommodation would involve waiver of an essential
9 requirement of a job as opposed to a tangential or non-business
10 necessity requirement.

11 t. For an employer to pay any of its employees who is a
12 member of a protected class at a rate of compensation, including
13 benefits, which is less than the rate paid by the employer to
14 employees who are not members of the protected class for
15 substantially similar work, when viewed as a composite of skill,
16 effort and responsibility. An employer who is paying a rate of
17 compensation in violation of this subsection shall not reduce the
18 rate of compensation of any employee in order to comply with this
19 subsection. An employer may pay a different rate of compensation
20 only if the employer demonstrates that the differential is made
21 pursuant to a seniority system, a merit system, or the employer
22 demonstrates:

23 (1) That the differential is based on one or more legitimate, bona
24 fide factors other than the characteristics of members of the
25 protected class, such as training, education or experience, or the
26 quantity or quality of production;

27 (2) That the factor or factors are not based on, and do not
28 perpetuate, a differential in compensation based on sex or any other
29 characteristic of members of a protected class;

30 (3) That each of the factors is applied reasonably;

31 (4) That one or more of the factors account for the entire wage
32 differential; and

33 (5) That the factors are job-related with respect to the position
34 in question and based on a legitimate business necessity. A factor
35 based on business necessity shall not apply if it is demonstrated that
36 there are alternative business practices that would serve the same
37 business purpose without producing the wage differential.

38 Comparisons of wage rates shall be based on wage rates in all of
39 an employer's operations or facilities. For the purposes of this
40 subsection, "member of a protected class" means an employee who
41 has one or more characteristics, including race, creed, color,
42 national origin, nationality, ancestry, age, marital status, civil union
43 status, domestic partnership status, affectional or sexual orientation,
44 genetic information, pregnancy, sex, gender identity or expression,
45 disability or atypical hereditary cellular or blood trait of any
46 individual, or liability for service in the armed forces, for which
47 subsection a. of this section prohibits an employer from refusing to

1 hire or employ or barring or discharging or requiring to retire from
2 employment or discriminating against the individual in
3 compensation or in terms, conditions or privileges of employment.

4 Nothing in this subsection shall be interpreted to preclude
5 employers from engaging interns in unpaid positions or paying
6 interns at a different rate than other staff, provided, however, that if
7 an employer provides compensation to interns, the employer shall
8 not provide compensation to interns who are members of a
9 protected class at a rate less than interns who are not members of
10 the protected class for substantially similar work, when viewed as a
11 composite of skill, effort and responsibility.

12 u. This section shall be liberally construed for the
13 accomplishment of the remedial purposes of P.L.1945, c.169
14 (C.10:5-1 et seq.). The construction of similar laws in federal
15 courts or other jurisdictions shall not be used to limit the
16 availability of remedies under P.L.1945, c.169 (C.10:5-1 et seq.),
17 the purpose of which is to maximize deterrence of discriminatory,
18 harassing and retaliatory conduct.

19 (cf: P.L.2019, c.436, s.3)

20
21 8. Section 1 of P.L.2019, c.39 (C.10:5-12.7) is amended to read
22 as follows:

23 1. a. A provision in any employment contract, including any
24 contract for the performance of domestic work, that waives any
25 substantive or procedural right or remedy relating to a claim of
26 discrimination, retaliation, or harassment shall be deemed against
27 public policy and unenforceable.

28 b. No right or remedy under the “Law Against Discrimination,”
29 P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute or case law
30 shall be prospectively waived.

31 c. This section shall not apply to the terms of any collective
32 bargaining agreement between an employer and the collective
33 bargaining representative of the employees.

34 (cf: P.L.2019, c.39, s.1)

35
36 9. Section 5 of P.L.2019, c.39 (C.10:5-12.11) is amended to
37 read as follows:

38 5. Any person claiming to be aggrieved by a violation of
39 P.L.2019, c.39 (C.10:5-12.7 et seq.) may initiate suit in Superior
40 Court. An action pursuant to this section shall be commenced
41 within **[two]** ~~three~~ years **[next]** after the cause of any such action
42 shall have accrued, or after the person became aware of the
43 violation. All remedies available in common law tort actions shall
44 be available to prevailing plaintiffs. These remedies are in addition
45 to any provided by P.L.2019, c.39 (C.10:5-12.7 et seq.) or any other
46 statute. A prevailing plaintiff shall be awarded reasonable

1 **【attorney】** attorney's fees and costs, and punitive damages may be
2 awarded by the jury.

3 (cf: P.L.2019, c.39, s.5)

4
5 10. Section 12 of P.L.1945, c.169 (C.10:5-13) is amended to
6 read as follows:

7 12. a. (1) Any person claiming to be aggrieved by an unlawful
8 employment practice or an unlawful discrimination may, personally
9 or by an attorney-at-law, make, sign, and file with the division a
10 verified complaint in writing which shall state the name and address
11 of the person, employer, labor organization, employment agency,
12 owner, lessee, proprietor, manager, superintendent, or agent alleged
13 to have committed the unlawful employment practice or unlawful
14 discrimination complained of and which shall set forth the
15 particulars thereof and shall contain such other information as may
16 be required by the division. The complaint shall be filed with the
17 division or in any municipal office pursuant to P.L.1945, c.169
18 (C.10:5-1 et seq.) within one year after the occurrence of, or within
19 one year after the person became aware of, an alleged unlawful
20 employment practice or unlawful discrimination based on any other
21 category protected by P.L.1945, c.169 (C.10:5-1 et seq.). Upon
22 receipt of the complaint, the division shall notify the complainant
23 on a form promulgated by the director of the division and approved
24 by the Attorney General of the complainant's rights under
25 P.L.1945, c.169 (C.10:5-1 et seq.), including the right to file a
26 complaint in the Superior Court to be heard before a jury; of the
27 jurisdictional limitations of the division; and any other provisions of
28 P.L.1945, c.169 (C.10:5-1 et seq.), without interpretation, that may
29 apply to the complaint. The Commissioner of Labor and Workforce
30 Development, the Attorney General, the director, or the
31 Commissioner of Education may, in like manner, make, sign, and
32 file such complaint. Any employer whose employees, or some of
33 them, refuse, or threaten to refuse to cooperate with the provisions
34 of P.L.1945, c.169 (C.10:5-1 et seq.), may file with the division a
35 verified complaint asking for assistance by conciliation or other
36 remedial action. The division shall issue a notice of right to sue at
37 the time the division closes an investigation, except that a
38 complainant may request such notice and the termination of an
39 investigation at any time.

40 (2) Any complainant, including any person claiming to be
41 aggrieved by an unlawful employment practice or an unlawful
42 discrimination, the Attorney General, the director, the
43 Commissioner of Labor and Workforce Development, or the
44 Commissioner of Education, may initiate suit in Superior Court
45 under P.L.1945, c.169 (C.10:5-1 et seq.) without first filing a
46 complaint with the division or any municipal office. Filing a
47 complaint with the division shall not cause a complainant to waive

1 the complainant's right to initiate suit in Superior Court. The
2 division's finding of no probable cause shall not preclude the filing
3 of a complaint in Superior Court for a de novo trial. Any such
4 action, other than an action by the Attorney General or the director,
5 shall be commenced within three years after the cause of action
6 shall have accrued, except that this right shall be tolled while the
7 division is conducting any investigation or proceedings under this
8 subsection. The failure to file a complaint or otherwise participate
9 in a relevant process created by the employer prior to filing suit in
10 Superior Court shall not bar the complainant from filing suit or
11 receiving a full recovery. In such proceedings:

12 (a) Upon the application of any party, a jury trial shall be
13 directed to try the validity of any claim under P.L.1945, c.169
14 (C.10:5-1 et seq.) specified in the suit.

15 (b) All remedies available in common law tort actions shall be
16 available to prevailing plaintiffs, and if the Attorney General or the
17 director is a prevailing plaintiff, those remedies shall be available
18 on behalf of named or unnamed victims. If the suit seeks relief for
19 one or more unnamed members of a protected class, the Attorney
20 General or the director shall have the discretion to settle the suit on
21 such terms as the Attorney General or the director deems
22 appropriate. The injunctive relief set forth in section 16 of
23 P.L.1945, c.169 (C.10:5-17) shall also be available to prevailing
24 plaintiffs. These remedies are in addition to any other provided by
25 P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute.

26 (c) In addition to the remedies set forth in subparagraph (b) of
27 this paragraph, the Attorney General or director may seek and
28 obtain from the Superior Court penalties pursuant to section 2 of
29 P.L.1983, c.412 (C.10:5-14.1a). In the alternative, in lieu of these
30 penalties, the Attorney General or director may seek and obtain
31 punitive damages payable to the State upon a finding that the
32 provisions of P.L.1995, c.142 (C.2A:15-5.9 et al.) are satisfied.

33 Prosecution of such suit in Superior Court under P.L.1945, c.169
34 (C.10:5-1 et seq.) shall bar the filing of a complaint with the
35 division or any municipal office during the pendency of any such
36 suit.

37 (d) If a jury or court determines that an employer has committed
38 an unlawful employment practice prohibited by subsection r. or t. of
39 section 11 of P.L.1945, c.169 (C.10:5-12), the judge shall award
40 three times any monetary damages to the person or persons
41 aggrieved by the violation.

42 In accordance with existing law, the employer shall remain
43 wholly liable for damages awarded under this subsection and there
44 shall be no apportionment of damages except between co-employers
45 or successive and predecessor employers. Nothing in this
46 subsection should be construed to limit a jury or court from
47 awarding separate damages against other liable defendants. The

1 defendant shall have the burden of proving the plaintiff failed to
2 mitigate applicable damages.

3 If a jury or court determines that an employer has committed an
4 unlawful employment practice which would lead a reasonable
5 person in the same protected category to find the workplace
6 intolerable or damaging to their health or emotional wellbeing, the
7 jury or court shall determine an employee's voluntary exit from the
8 workplace to be a constructive discharge.

9 (e) Notwithstanding the provisions of section 6 of
10 P.L.1979, c.404 (C.10:5-27.1), if the Attorney General or the
11 director is a prevailing plaintiff, the court shall award reasonable
12 attorney's fees and litigation and investigation costs.

13 b. At any time after 180 days from the filing of a complaint
14 with the division, a complainant may file a request with the division
15 to present the action personally or through counsel to the Office of
16 Administrative Law. Upon such request, the director of the division
17 shall file the action with the Office of Administrative Law,
18 provided that no action may be filed with the Office of
19 Administrative Law, where the director of the division has found
20 that no probable cause exists to credit the allegations of the
21 complaint or has otherwise dismissed the complaint.

22 c. A party to an action based upon a violation of
23 P.L.1945, c.169 (C.10:5-1 et seq.) shall mail a copy of the initial
24 pleadings or claims, amended pleadings or claims, counterclaims,
25 briefs, and legal memoranda to the division at the same time as
26 filing such documents with the Office of Administrative Law or the
27 court. Upon application to the Office of Administrative Law or to
28 the court wherein the matter is pending, the division shall be
29 permitted to intervene.

30 (cf: P.L.2019, c.436, s.5)

31
32 11. Section 17 of P.L.1945, c.169 (C.10:5-18) is amended to
33 read as follows:

34 17. The Attorney General shall establish rules of practice to
35 govern, expedite and effectuate the foregoing procedure and **his**
36 the Attorney General's own actions thereunder. Any complaint filed
37 in the division or in any municipal office pursuant to this act must
38 be so filed within **180 days** one year after the alleged act of
39 discrimination or from the discovery of the alleged act of
40 discrimination.

41 (cf: P.L.1979, c.404, s.4)

42
43 12. Section 4 of P.L.1985, c.73 (C.10:5-2.2) and section 5 of
44 P.L.1985, c.73 (C.10:5-12.1) are repealed.

45
46 13. This act shall take effect of the first day of the third month
47 following enactment.

STATEMENT

This bill makes it an unlawful discrimination in violation of the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.)(“LAD”) to subject an individual, in employment, public accommodations, or housing, to sexual harassment or other unlawful harassment.

The bill extends the protections of the LAD to cover domestic workers, interns, and independent contractors.

The bill requires employers to establish written nondiscrimination workplace policies to prevent unlawful discrimination and harassment, which explain the policies, and stipulate procedures and remedies for violations.

The bill requires all employers to provide interactive training to all supervisory employees and all other employees regarding the prevention of unlawful discrimination and harassment in the workplace, and sets standards for the training and the responsibilities of supervisors under the bill. Each employer with 50 or more employees is required to provide the training in a live, in-person setting where participants can ask questions.

The bill also sets requirements for each employer with 50 or more employees regarding the collection and reporting to the division by an employer of data regarding complaints of violations of the provisions of the bill.

The bill sets standards and procedures for determining when unlawful harassment occurs. It provides that:

1. Prior complaints of harassment or unlawful discriminatory practices by the same employer or relevant organization are discoverable and relevant, whether or not the complainant witnessed or had been aware of those complaints;

2. The harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment, even if the harassment is not shown to be severe or pervasive;

3. An individual does not have to make a complaint about the harassment to the individual’s employer or other relevant organization for the employer to be liable;

4. An employee is not required to demonstrate the existence of an individual to whom the employee's treatment must be compared;

5. It is a defense against liability that the harassing conduct does not rise above the level of what a reasonable victim of discrimination would consider petty slights or trivial inconveniences.

6. It is unlawful for an employer to allow any family member or member of their household, regardless of age, to engage in sexual or other unlawful harassment, or for an employer to request or keep possession of the employee identification documents;

1 7. A complainant of unlawful harassment is not required to
2 demonstrate loss of job benefits or to prove that the complainant's
3 productivity declined because of the harassment.

4 The bill extends protections against age discrimination by:

5 1. Deleting the provisions of law permitting a governmental
6 employer to require retirement when an employee attains a
7 particular age if the employer can show "that the retirement age
8 bears a manifest relationship to the employment in question";

9 2. Deleting the provisions of the LAD that permit an employer
10 to refuse to hire a person for the sole reason of being more than 70
11 years old;

12 3. Providing that, if an employer unlawfully requires an
13 employee to retire because of age, the employee has available all of
14 the remedies provided by the LAD, instead of, as under current law,
15 being limited to filing a complaint with the Attorney General, and
16 limiting relief to reinstatement with back pay and interest; and

17 4. Repealing the law permitting institutions of higher education
18 to compel tenured employees to retire at 70 years of age.

19 Finally, the bill sets or extends the periods of time in which
20 certain actions regarding unlawful discrimination may be taken.