

10:5-5

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 205

NJSA: 10:5-5 (Clarifies provisions of "Law Against Discrimination" concerning persons with an autism spectrum disorder)

BILL NO: A4226 (Substituted for S3056)

SPONSOR(S) Roberts and Others

DATE INTRODUCED: November 23, 2009

COMMITTEE: **ASSEMBLY:** Health and Senior Services

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** December 7, 2009

SENATE: January 11, 2010

DATE OF APPROVAL: January 15, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Original version of bill enacted)

A4226

SPONSOR'S STATEMENT: (Begins on page 9 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S3056

SPONSOR'S STATEMENT: (Begins on page 9 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: Yes

974.90 M549, 2009

Addressing the need of adults with autism spectrum disorder: recommendations for a plan of action for the state of New Jersey. New Jersey Adult with Autism Task Force. Trenton, NJ. New Jersey Department of Human Services 2009. <http://www.njstatelib.org/digit/m549/m5492009.pdf>

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"New state law targets autism discrimination," The Record, 1-16-10.
"Discrimination laws now include autism," The Star-Ledger, 1-16-10, p. 20.

LAW/RWH

ASSEMBLY, No. 4226

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED NOVEMBER 23, 2009

Sponsored by:

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Assemblywoman L. GRACE SPENCER

District 29 (Essex and Union)

Assemblywoman JOAN M. VOSS

District 38 (Bergen)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

**Assemblywomen Evans, Greenstein, Assemblyman Prieto,
Assemblywoman Wagner, Assemblymen Conners, Conaway, Scalera,
Chivukula, Diegnan, Senators Vitale, T.Kean, Weinberg, Baroni and Ruiz**

SYNOPSIS

Clarifies provisions of "Law Against Discrimination" concerning persons with an autism spectrum disorder.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning the rights of persons with an autism spectrum
2 disorder and amending P.L.1945, c.169.

3

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

6

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

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

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

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

45 n. The term "real property" includes real estate, lands,
46 tenements and hereditaments, corporeal and incorporeal, and
47 leaseholds, provided, however, that, except as to publicly assisted
48 housing accommodations, the provisions of this act shall not apply

1 to the rental: (1) of a single apartment or flat in a two-family
2 dwelling, the other occupancy unit of which is occupied by the
3 owner as a residence; or (2) of a room or rooms to another person or
4 persons by the owner or occupant of a one-family dwelling
5 occupied by the owner or occupant as a residence at the time of
6 such rental. Nothing herein contained shall be construed to bar any
7 religious or denominational institution or organization, or any
8 organization operated for charitable or educational purposes, which
9 is operated, supervised or controlled by or in connection with a
10 religious organization, in the sale, lease or rental of real property,
11 from limiting admission to or giving preference to persons of the
12 same religion or denomination or from making such selection as is
13 calculated by such organization to promote the religious principles
14 for which it is established or maintained. Nor does any provision
15 under this act regarding discrimination on the basis of familial
16 status apply with respect to housing for older persons.

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

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

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

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

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

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

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

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

47 v. "Public facility" means any place of public accommodation
48 and any street, highway, sidewalk, walkway, public building, and

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

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

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

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

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

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

18 oo. "Genetic information" means the information about genes,
19 gene products or inherited characteristics that may derive from an
20 individual or family member.

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

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

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

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

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

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

43 (cf: P.L.2007, c.325, s.1)

44

45 2. This act shall take effect immediately.

STATEMENT

1

2

3 The purpose of this bill is to clarify the provisions of the “Law
4 Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.),
5 concerning its prohibition of discrimination against a person with a
6 disability, including a developmental disability. The law prohibits
7 discrimination in housing, employment, and access to public
8 accommodations generally.

9 The bill specifies that the term, “developmental disability,” as
10 referenced in the definition of “disability” in subsection q. of
11 section 5 of P.L.1945, c.169 (C.10:5-5), includes “autism spectrum
12 disorders.”

13 This bill is based upon a recommendation included in the
14 October 2009 report of the Adults with Autism Task Force.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4226

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 2009

The Assembly Health and Senior Services Committee reports favorably Assembly Bill No. 4226.

This bill is intended to clarify the provisions of the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.), concerning its prohibition of discrimination against a person with a disability, including a developmental disability. The law prohibits discrimination in housing, employment, and access to public accommodations generally.

The bill specifies that the term, “developmental disability,” as referenced in the definition of “disability” in subsection q. of section 5 of P.L.1945, c.169 (C.10:5-5), includes “autism spectrum disorders.”

This bill is based upon a recommendation included in the October 2009 report of the Adults with Autism Task Force.

SENATE, No. 3056

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED NOVEMBER 23, 2009

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:

Senators Weinberg, Baroni and Ruiz

SYNOPSIS

Clarifies provisions of “Law Against Discrimination” concerning persons with an autism spectrum disorder.

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13 representatives, trustees, trustees in bankruptcy, receivers, and
14 fiduciaries.

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

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

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

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

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

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

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

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

43 j. "Commission" means the Commission on Civil Rights
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not enacted and is intended to be omitted in the law.

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2 Rights.

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4 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
5 summer camp, day camp, or resort camp, whether for entertainment
6 of transient guests or accommodation of those seeking health,
7 recreation or rest; any producer, manufacturer, wholesaler,
8 distributor, retail shop, store, establishment, or concession dealing
9 with goods or services of any kind; any restaurant, eating house, or
10 place where food is sold for consumption on the premises; any
11 place maintained for the sale of ice cream, ice and fruit preparations
12 or their derivatives, soda water or confections, or where any
13 beverages of any kind are retailed for consumption on the premises;
14 any garage, any public conveyance operated on land or water, or in
15 the air, any stations and terminals thereof; any bathhouse,
16 boardwalk, or seashore accommodation; any auditorium, meeting
17 place, or hall; any theatre, motion-picture house, music hall, roof
18 garden, skating rink, swimming pool, amusement and recreation
19 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
20 pool parlor, or other place of amusement; any comfort station; any
21 dispensary, clinic or hospital; any public library; any kindergarten,
22 primary and secondary school, trade or business school, high
23 school, academy, college and university, or any educational
24 institution under the supervision of the State Board of Education, or
25 the Commissioner of Education of the State of New Jersey.
26 Nothing herein contained shall be construed to include or to apply
27 to any institution, bona fide club, or place of accommodation, which
28 is in its nature distinctly private; nor shall anything herein contained
29 apply to any educational facility operated or maintained by a bona
30 fide religious or sectarian institution, and the right of a natural
31 parent or one in loco parentis to direct the education and upbringing
32 of a child under his control is hereby affirmed; nor shall anything
33 herein contained be construed to bar any private secondary or post
34 secondary school from using in good faith criteria other than race,
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40 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
41 c.184, and all housing financed in whole or in part by a loan,
42 whether or not secured by a mortgage, the repayment of which is
43 guaranteed or insured by the federal government or any agency
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46 tenements and hereditaments, corporeal and incorporeal, and
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48 housing accommodations, the provisions of this act shall not apply

1 to the rental: (1) of a single apartment or flat in a two-family
2 dwelling, the other occupancy unit of which is occupied by the
3 owner as a residence; or (2) of a room or rooms to another person or
4 persons by the owner or occupant of a one-family dwelling
5 occupied by the owner or occupant as a residence at the time of
6 such rental. Nothing herein contained shall be construed to bar any
7 religious or denominational institution or organization, or any
8 organization operated for charitable or educational purposes, which
9 is operated, supervised or controlled by or in connection with a
10 religious organization, in the sale, lease or rental of real property,
11 from limiting admission to or giving preference to persons of the
12 same religion or denomination or from making such selection as is
13 calculated by such organization to promote the religious principles
14 for which it is established or maintained. Nor does any provision
15 under this act regarding discrimination on the basis of familial
16 status apply with respect to housing for older persons.

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

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

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

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

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

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

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

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

47 v. "Public facility" means any place of public accommodation
48 and any street, highway, sidewalk, walkway, public building, and

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

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

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

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

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

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

18 oo. "Genetic information" means the information about genes,
19 gene products or inherited characteristics that may derive from an
20 individual or family member.

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

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

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

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

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

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

43 (cf: P.L.2007, c.325, s.1)

44

45 2. This act shall take effect immediately.

STATEMENT

1

2

3 The purpose of this bill is to clarify the provisions of the “Law
4 Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.),
5 concerning its prohibition of discrimination against a person with a
6 disability, including a developmental disability. The law prohibits
7 discrimination in housing, employment, and access to public
8 accommodations generally.

9 The bill specifies that the term, “developmental disability,” as
10 referenced in the definition of “disability” in subsection q. of
11 section 5 of P.L.1945, c.169 (C.10:5-5), includes “autism spectrum
12 disorders.”

13 This bill is based upon a recommendation included in the
14 October 2009 report of the Adults with Autism Task Force.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 3056

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2009

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 3056.

The purpose of this bill is to clarify the provisions of the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.), concerning its prohibition of discrimination against a person with a disability, including a developmental disability. The law prohibits discrimination in housing, employment, and access to public accommodations generally.

The bill specifies that the term, “developmental disability,” as referenced in the definition of “disability” in subsection q. of section 5 of P.L.1945, c.169 (C.10:5-5), includes “autism spectrum disorders.”

This bill is based upon a recommendation included in the October 2009 report of the Adults with Autism Task Force.

This bill is identical to Assembly Bill No. 4226 (Roberts/Spencer/Voss/Vainieri Huttle/Wisniewski), which is pending before the General Assembly.