

10:5-1

LEGISLATIVE HISTORY CHECKLIST
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(AIDS--discrimination)

NJSA: 10:5-1

LAWS OF: 1991 CHAPTER: 493

BILL NO: A3947

SPONSOR(S): Bush

DATE INTRODUCED: October 4, 1991

COMMITTEE: ASSEMBLY: Health & Human Services
SENATE: Institutions, Health & Welfare

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: January 17, 1992
SENATE: January 6, 1992

DATE OF APPROVAL: January 18, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG/pp

P.L.1991, CHAPTER 493, approved January 18, 1992

1990 Assembly No. 3947

1 **AN ACT** concerning acquired immune deficiency syndrome and
2 amending P.L.1945, c.169.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the
5 **State of New Jersey:**

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

8 5. As used in this act, unless a different meaning clearly
9 appears from the context:

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

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

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

21 d. "Unlawful employment practice" and "unlawful
22 discrimination" include only those unlawful practices and acts
23 specified in section 11 of this act.

24 e. "Employer" includes all persons as defined in subsection a.
25 of this section unless otherwise specifically exempt under another
26 section of this act, and includes the State, any political or civil
27 subdivision thereof, and all public officers, agencies, boards or
28 bodies.

29 f. "Employee" does not include any individual employed by his
30 parents, spouse or child, or in the domestic service of any person.

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

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 h. "Division" means the "Division on Civil Rights" created by
2 this act.

3 i. "Attorney General" means the Attorney General of the
4 State of New Jersey or his representative or designee.

5 j. "Commission" means the Commission on Civil Rights
6 created by this act.

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

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

44 m. "A publicly assisted housing accommodation" shall include
45 all housing built with public funds or public assistance pursuant to
46 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949,
47 c.303, P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and
48 P.L.1949, c.184, and all housing financed in whole or in part by a
49 loan, whether or not secured by a mortgage, the repayment of

1 which is guaranteed or insured by the federal government or any
2 agency thereof.

3 n. The term "real property" includes real estate, lands,
4 tenements and hereditaments, corporeal and incorporeal, and
5 leaseholds, provided, however, that, except as to publicly assisted
6 housing accommodations, the provisions of this act shall not apply
7 to the rental: (1) of a single apartment or flat in a two-family
8 dwelling, the other occupancy unit of which is occupied by the
9 owner as his residence or the household of his family at the time
10 of such rental; or (2) of a room or rooms to another person or
11 persons by the owner or occupant of a one-family dwelling
12 occupied by him as his residence or the household of his family at
13 the time of such rental. Nothing herein contained shall be
14 construed to bar any religious or denominational institution or
15 organization, or any organization operated for charitable or
16 educational purposes, which is operated, supervised or controlled
17 by or in connection with a religious organization, in the sale,
18 lease or rental of real property, from limiting admission to or
19 giving preference to persons of the same religion or denomination
20 or from making such selection as is calculated by such
21 organization to promote the religious principles for which it is
22 established or maintained.

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

47 p. "Real estate salesman" includes any person who, for
48 compensation, valuable consideration or commission, or other
49 thing of value, or by reason of a promise or reasonable

1 expectation thereof, is employed by and operates under the
2 supervision of a licensed real estate broker to sell or offer to sell,
3 buy or offer to buy or negotiate the purchase, sale or exchange of
4 real estate, or offers or attempts to negotiate a loan secured or
5 to be secured by a mortgage or other encumbrance upon or
6 transfer of real estate, or to lease or rent, or offer to lease or
7 rent any real estate for others, or to collect rents for the use of
8 real estate, or to solicit for prospective purchasers or lessees of
9 real estate, or who is employed by a licensed real estate broker
10 to sell or offer to sell lots or other parcels of real estate, at a
11 stated salary, or upon a commission, or upon a salary and
12 commission, or otherwise to sell real estate, or any parts thereof,
13 in lots or other parcels.

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

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

35 s. "Guide dog" means a dog used to assist deaf persons or
36 which fitted with a special harness so as to be suitable as an aid
37 to the mobility of a blind person, and is used by a blind person
38 who has satisfactorily completed a specific course of training in
39 the use of such a dog, and has been trained by an organization
40 generally recognized by agencies involved in the rehabilitation of
41 the blind or deaf as reputable and competent to provide dogs with
42 training of this type.

43 t. "Guide or service dog trainer" means any person who is
44 employed by an organization generally recognized by agencies
45 involved in the rehabilitation of the blind, handicapped or deaf as
46 reputable and competent to provide dogs with training, and who is
47 actually involved in the training process.

48 u. "Housing accommodation" means any publicly assisted
49 housing accommodation or any real property, or portion thereof,

1 which is used or occupied, or is intended, arranged, or designed to
2 be used or occupied, as the home, residence or sleeping place of
3 one or more persons, but shall not include any single family
4 residence the occupants of which rent, lease, or furnish for
5 compensation not more than one room therein.

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

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

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

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

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

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

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

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

47 dd. "Service dog" means any dog individually trained to a
48 handicapped person's requirements including, but not limited to,
49 minimal protection work, rescue work, pulling a wheelchair or

1 retrieving dropped items.

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

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

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

11 (cf: P.L.1986, c.8, s.1)

12 2. This act shall take effect immediately.

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15 STATEMENT

16

17 This bill amends the "Law Against Discrimination," P.L.1945,
18 c.169 (C.10:5-1 et seq.) to expand the definition of "handicapped"
19 in the law to explicitly include persons suffering from AIDS and
20 to include persons infected with HIV, the virus that is believed to
21 cause AIDS. This bill is intended to afford these persons the
22 same protection against unlawful discrimination in employment,
23 housing, public accommodations and the granting of credit as
24 other handicapped persons are provided under this law.

25
26

27 CIVIL JUSTICE

28

29 Prohibits discrimination against persons with HIV infection and
30 AIDS.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3947

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1990

The Assembly Health and Human Services Committee favorably reports Assembly Bill No. 3947.

This bill amends the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) to expand the definition of "handicapped" in the law to explicitly include persons suffering from acquired immune deficiency syndrome (AIDS) and to include persons infected with the human immunodeficiency virus (HIV), the virus that is believed to cause AIDS. This bill is intended to afford these persons the same protection against unlawful discrimination in employment, housing, public accommodations and the granting of credit as other handicapped persons are provided under P.L.1945, c.169. That law has been interpreted by the New Jersey Superior Court to include AIDS as a handicap. Poff v. Caro, 228 N.J. Super. 370 (Law Div. 1988); however, the protection of persons who are HIV positive has been less clear. This bill removes any legal ambiguity with respect to the protection of these individuals against discrimination.

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3947

STATE OF NEW JERSEY

DATED: JUNE 17, 1991

The Senate Institutions, Health and Welfare Committee favorably reports Assembly Bill No. 3947.

This bill amends the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) to expand the definition of "handicapped" in the law to explicitly include persons suffering from acquired immune deficiency syndrome (AIDS) and to include persons infected with the human immunodeficiency virus (HIV), the virus that is believed to cause AIDS.

This bill is intended to afford these persons the same protection against unlawful discrimination in employment, housing, public accommodations and the granting of credit as other handicapped persons are provided under P.L.1945, c.169. That law has been interpreted by the New Jersey Superior Court to include AIDS as a handicap in Poff v. Caro, 228 N.J. Super. 370 (Law Div. 1988); however, the protection of persons who are HIV positive has been less clear. This bill removes any legal ambiguity with respect to the protection of these individuals against discrimination.