Sponsored by:
Senator NIA H. GILL
District 34 (Essex and Passaic)

SYNOPSIS
Makes the cloning of a human being a crime of the first degree and provides that an individual’s genetic information is the property of the individual.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning genetic material and information, supplementing Title 2C of the New Jersey Statutes and amending P.L.1996, c.126.

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

1. (New section) A person who knowingly engages or assists, directly or indirectly, in the cloning of a human being is guilty of a crime of the first degree. As used in this act, “cloning of a human being” means the replication of a human individual by cultivating a cell with genetic material through the egg, embryo, fetal and newborn stages into a new human individual.

2. Section 7 of P.L.1996, c.126 (C.10:5-46) is amended to read as follows:
   a. An individual’s genetic information is the property of the individual. No person shall retain an individual’s genetic information without first obtaining authorization under the informed consent requirement of section 6 of P.L.1996, c.126 (C.10:5-45) from the individual or the individual’s representative, unless:
      1) Retention is necessary for the purposes of a criminal or death investigation or a criminal or juvenile proceeding;
      2) Retention is necessary to determine paternity in accordance with the provisions of section 11 of P.L.1983, c.17 (C.9:17-48);
      3) Retention is authorized by order of a court of competent jurisdiction;
      4) Retention is made pursuant to the provisions of the "DNA Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.); or
      5) Retention of information is for anonymous research where the identity of the subject will not be released.
   b. The DNA sample of an individual from which genetic information has been obtained shall be destroyed promptly upon the specific request of that individual or the individual’s representative, unless:
      1) Retention is necessary for the purposes of a criminal or death investigation or a criminal or juvenile proceeding; or
      2) Retention is authorized by order of a court of competent jurisdiction.
   c. A DNA sample from an individual who is the subject of a research project shall be destroyed promptly upon completion of the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.
Matter underlined thus is new matter.
project or withdrawal of the individual from the project, whichever occurs first, unless the individual or the individual's representative directs otherwise by informed consent.

d. A DNA sample from an individual for insurance or employment purposes shall be destroyed promptly after the purpose for which the sample was obtained has been accomplished unless retention is authorized by order of a court of competent jurisdiction.

e. An individual or an individual's representative, promptly upon request, may inspect, request correction of and obtain genetic information from the records of the individual unless the individual directs otherwise by informed consent pursuant to section 6 of P.L.1996, c.126 (C.10:5-45); except that, in the case of a policy of life insurance or a disability income insurance contract, the provisions of P.L.1985, c.179 (C.17:23A-1 et seq.) shall apply.

f. This section applies only to genetic information that can be identified as belonging to an individual or family. This section does not apply to any law, contract or other arrangement that determines a person's rights to compensation relating to substances or information derived from an individual's DNA sample.

(cf: P.L.1996, c.126, s.7)

3. Section 9 of P.L.1996, c.126 (C.10:5-48) is amended to read as follows:

9. a. A person who requires or requests that performs genetic testing be done or receives records, results or findings of genetic testing shall provide the person tested with notice that the test was performed [and] or that the [records, results or findings were] information was received unless otherwise directed by informed consent pursuant to section 6 of P.L.1996, c.126 (C.10:5-45). The notice shall state that the information may not be disclosed to any person without the written consent of the person tested, unless disclosure is made pursuant to one of the exceptions provided for in section 8 of P.L.1996, c.126 (C. 10:5-47).

b. The Commissioner of Health and Senior Services, in consultation with the Commissioner of Banking and Insurance, shall promulgate regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) governing procedures for obtaining informed written consent pursuant to P.L.1996, c.126, [except where the procedures for obtaining informed written consent already are governed by national standards for informed consent as designated by the Commissioner of Health and Senior Services by regulation, which may include, but need not be limited to, guidelines from the Office of Protection for Research Risk, the Food and Drug Administration or other appropriate federal agencies] which shall include a description of the test to be performed, including its purpose, potential uses, and limitations, the meaning of
its results, procedures for notifying the applicant of the results, and the
right to confidential treatment of the results.

c. The provisions of this section shall not apply to newborn
screening requirements established by State or federal law.
(cf: P.L.1996, c.126, s.9)

4. This act shall take effect immediately.

STATEMENT

This bill makes the cloning of a human being a crime of the first
degree in New Jersey, which is punishable by a fine of up to $100,000
or a term of imprisonment of from 10 to 20 years, or both. The bill
complements and goes beyond the actions taken by President Clinton
on March 4, 1997 to impose a ban on the use of federal money for
cloning humans and to request a voluntary moratorium on such
activity by researchers supported by private money, at least until the
issuance of a report on the legal and ethical implications of cloning
humans by the National Bioethics Advisory Commission which the
President has requested. These actions are in the aftermath of recent
reports that scientists in Scotland had cloned a sheep and in the state
of Oregon had cloned two rhesus monkeys, which raises profound and
disturbing questions about the potential for cloning humans and the
ramifications of this reproductive technology.

In addition, this bill amends the “Genetic Privacy Act,” P.L.1996,
c.126 (C.10:5-43 et al.) to provide that an individual's genetic
information is the property of the individual. The bill also amends
section 9 of P.L.1996, c.126 (C.10:5-48) to apply its provisions
concerning notification to the subject of a genetic test of test results
to the person who performs the test (i.e., a clinical laboratory), rather
than a person who requires or requests that genetic testing be done
(i.e., an insurance carrier).