

SENATE, No. 542

STATE OF NEW JERSEY
210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

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.



1 AN ACT concerning genetic material and information, supplementing
2 Title 2C of the New Jersey Statutes and amending P.L.1996, c.126.

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

6
7 1. (New section) A person who knowingly engages or assists,
8 directly or indirectly, in the cloning of a human being is guilty of a
9 crime of the first degree.

10 As used in this act, "cloning of a human being" means the
11 replication of a human individual by cultivating a cell with genetic
12 material through the egg, embryo, fetal and newborn stages into a new
13 human individual.

14
15 2. Section 7 of P.L.1996, c.126 (C.10:5-46) is amended to read as
16 follows:

17 7. a. An individual's genetic information is the property of the
18 individual.

19 No person shall retain an individual's genetic information without
20 first obtaining authorization under the informed consent requirement
21 of section 6 of P.L.1996, c.126 (C.10:5-45) from the individual or the
22 individual's representative, unless:

23 (1) Retention is necessary for the purposes of a criminal or death
24 investigation or a criminal or juvenile proceeding;

25 (2) Retention is necessary to determine paternity in accordance
26 with the provisions of section 11 of P.L.1983, c.17 (C.9:17-48);

27 (3) Retention is authorized by order of a court of competent
28 jurisdiction;

29 (4) Retention is made pursuant to the provisions of the "DNA
30 Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17
31 et seq.); or

32 (5) Retention of information is for anonymous research where the
33 identity of the subject will not be released.

34 b. The DNA sample of an individual from which genetic
35 information has been obtained shall be destroyed promptly upon the
36 specific request of that individual or the individual's representative,
37 unless:

38 (1) Retention is necessary for the purposes of a criminal or death
39 investigation or a criminal or juvenile proceeding; or

40 (2) Retention is authorized by order of a court of competent
41 jurisdiction.

42 c. A DNA sample from an individual who is the subject of a
43 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.

1 project or withdrawal of the individual from the project, whichever
2 occurs first, unless the individual or the individual's representative
3 directs otherwise by informed consent.

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

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

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

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

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

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

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

1 its results, procedures for notifying the applicant of the results, and the
2 right to confidential treatment of the results.

3 c. The provisions of this section shall not apply to newborn
4 screening requirements established by State or federal law.

5 (cf: P.L.1996, c.126, s.9)

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7 4. This act shall take effect immediately.

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10 STATEMENT

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

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