

SENATE, No. 3779

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED MARCH 5, 2026

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

Prohibits workplace discrimination based on menstruation, perimenopause, and menopause.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/5/2026)

1 AN ACT concerning workplace discrimination based on
2 menstruation, perimenopause, and menopause and amending
3 P.L.1945, c.169.

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

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

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

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

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

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

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

26 e. "Employer" includes all persons as defined in subsection a. of
27 this section and "hiring entities" as defined by section 2 of P.L.2023,
28 c.262 (C.34:11-70), unless otherwise specifically exempt under
29 another section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes
30 the State, any political or civil subdivision thereof, and all public
31 officers, agencies, boards, or bodies.

32 f. (Deleted by amendment, P.L.2023, c.262)

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

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

42 i. "Attorney General" means the Attorney General of the State
43 of New Jersey or the Attorney General's representative or designee.

44 j. "Commission" means the Commission on Civil Rights created
45 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 Rights.
- 2 l. "A place of public accommodation" shall include, but not be
3 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
4 camp, day camp, or resort camp, whether for entertainment of
5 transient guests or accommodation of those seeking health,
6 recreation, or rest; any producer, manufacturer, wholesaler,
7 distributor, retail shop, store, establishment, or concession dealing
8 with goods or services of any kind; any restaurant, eating house, or
9 place where food is sold for consumption on the premises; any place
10 maintained for the sale of ice cream, ice and fruit preparations or their
11 derivatives, soda water or confections, or where any beverages of any
12 kind are retailed for consumption on the premises; any garage, any
13 public conveyance operated on land or water or in the air or any
14 stations and terminals thereof; any bathhouse, boardwalk, or seashore
15 accommodation; any auditorium, meeting place, or hall; any theatre,
16 motion-picture house, music hall, roof garden, skating rink,
17 swimming pool, amusement and recreation park, fair, bowling alley,
18 gymnasium, shooting gallery, billiard and pool parlor, or other place
19 of amusement; any comfort station; any dispensary, clinic, or
20 hospital; any public library; and any kindergarten, primary and
21 secondary school, trade or business school, high school, academy,
22 college and university, or any educational institution under the
23 supervision of the State Board of Education or the Commissioner of
24 Education of the State of New Jersey. Nothing herein contained shall
25 be construed to include or to apply to any institution, bona fide club,
26 or place of accommodation, which is in its nature distinctly private;
27 nor shall anything herein contained apply to any educational facility
28 operated or maintained by a bona fide religious or sectarian
29 institution, and the right of a natural parent or one in loco parentis to
30 direct the education and upbringing of a child under his control is
31 hereby affirmed; nor shall anything herein contained be construed to
32 bar any private secondary or post-secondary school from using in
33 good faith criteria other than race, creed, color, national origin,
34 ancestry, gender identity, or expression or affectional or sexual
35 orientation in the admission of students.
- 36 m. "A publicly assisted housing accommodation" shall include
37 all housing built with public funds or public assistance pursuant to
38 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
39 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
40 and all housing financed in whole or in part by a loan, whether or not
41 secured by a mortgage, the repayment of which is guaranteed or
42 insured by the federal government or any agency thereof.
- 43 n. The term "real property" includes real estate, lands, tenements
44 and hereditaments, corporeal and incorporeal, and leaseholds,
45 provided, however, that, except as to publicly assisted housing
46 accommodations, the provisions of this act shall not apply to the
47 rental: (1) of a single apartment or flat in a two-family dwelling, the
48 other occupancy unit of which is occupied by the owner as a

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

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

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

1 broker to sell or offer to sell lots or other parcels of real estate, at a
2 stated salary, or upon a commission, or upon a salary and
3 commission, or otherwise to sell real estate, or any parts thereof, in
4 lots or other parcels.

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

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

26 s. "Guide dog" means a dog used to assist persons who are deaf,
27 or which is fitted with a special harness so as to be suitable as an aid
28 to the mobility of a person who is blind, and is used by a person who
29 is blind and has satisfactorily completed a specific course of training
30 in the use of such a dog, and has been trained by an organization
31 generally recognized by agencies involved in the rehabilitation of
32 persons with disabilities, including, but not limited to, those persons
33 who are blind or deaf, as reputable and competent to provide dogs
34 with training of 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, including,
38 but not limited to, those persons who are blind, have visual
39 impairments, or are deaf or have hearing impairments, as reputable
40 and competent to provide dogs with training, as defined in this
41 section, and who is actually involved in the training process.

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

- 1 v. "Public facility" means any place of public accommodation
2 and any street, highway, sidewalk, walkway, public building, and any
3 other place or structure to which the general public is regularly,
4 normally, or customarily permitted or invited.
- 5 w. "Deaf person" or "person who is deaf" means any person
6 whose hearing is so severely impaired that the person is unable to
7 hear and understand conversational speech through the unaided ear
8 alone, and who must depend primarily on an assistive listening
9 device or visual communication such as writing, lip reading, sign
10 language, and gestures.
- 11 x. "Atypical hereditary cellular or blood trait" means sickle cell
12 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
13 fibrosis trait.
- 14 y. "Sickle cell trait" means the condition wherein the major
15 natural hemoglobin components present in the blood of the individual
16 are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin)
17 as defined by standard chemical and physical analytic techniques,
18 including electrophoresis; and the proportion of hemoglobin A is
19 greater than the proportion of hemoglobin S or one natural parent of
20 the individual is shown to have only normal hemoglobin components
21 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
22 proportions by standard chemical and physical analytic tests.
- 23 z. "Hemoglobin C trait" means the condition wherein the major
24 natural hemoglobin components present in the blood of the individual
25 are hemoglobin A (normal) and hemoglobin C as defined by standard
26 chemical and physical analytic techniques, including electrophoresis;
27 and the proportion of hemoglobin A is greater than the proportion of
28 hemoglobin C or one natural parent of the individual is shown to have
29 only normal hemoglobin components (hemoglobin A, hemoglobin
30 A2, hemoglobin F) in normal proportions by standard chemical and
31 physical analytic tests.
- 32 aa. "Thalassemia trait" means the presence of the thalassemia
33 gene which in combination with another similar gene results in the
34 chronic hereditary disease Cooley's anemia.
- 35 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
36 which in combination with another similar gene results in the chronic
37 hereditary disease Tay-Sachs.
- 38 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
39 gene which in combination with another similar gene results in the
40 chronic hereditary disease cystic fibrosis.
- 41 dd. "Service dog" means any dog individually trained to the
42 requirements of a person with a disability including, but not limited
43 to minimal protection work, rescue work, pulling a wheelchair or
44 retrieving dropped items. This term shall include a "seizure dog"
45 trained to alert or otherwise assist persons with epilepsy or other
46 seizure disorders.
- 47 ee. "Qualified Medicaid applicant" means an individual who is a
48 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 of
14 the other gender.
- 15 jj. "Homosexuality" means affectional, emotional, or physical
16 attraction or behavior which is primarily directed towards persons of
17 the same gender.
- 18 kk. "Bisexuality" means affectional, emotional, or physical
19 attraction or behavior which is directed towards persons of multiple
20 genders.
- 21 ll. "Familial status" means being the natural parent of a child, the
22 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 pregnant
26 or is in the process of securing legal custody of any individual who
27 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 persons
31 who are elderly (as defined in the State program); or provided under
32 any federal program that the United States Department of Housing
33 and Urban Development determines is specifically designed and
34 operated to assist persons who are elderly (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 55
39 years of age or older per unit. In determining whether housing
40 qualifies as housing for older persons under this paragraph, the
41 Attorney General shall adopt regulations which require at least the
42 following factors:
- 43 (a) the existence of significant facilities and services specifically
44 designed to meet the physical or social needs of older persons, or if
45 the provision of such facilities and services is not practicable, that
46 such housing is necessary to provide important housing opportunities
47 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 increased
17 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 birth.

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

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

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

42 vv. "Race" is inclusive of traits historically associated with race,
43 including, but not limited to, hair texture, hair types, and protective
44 hairstyles.

45 ww. "Protective hairstyles" includes, but is not limited to, such
46 hairstyles as braids, locks, and twists.

47 xx. "Family member" means a child, parent, parent-in-law,
48 sibling, grandparent, grandchild, spouse, partner in a civil union

1 couple, domestic partner, or any other individual related by blood to
2 the person, and any other individual that the person shows to have a
3 close association with the person which is the equivalent of a family
4 relationship.

5 yy. “Menopause” means the permanent end of a menstrual cycle,
6 diagnosed by a licensed medical provider after 12 consecutive
7 months without a menstrual period.

8 zz. “Perimenopause” means the transitional period leading to
9 menopause, marked by fluctuating hormone levels and changes in
10 menstrual cycles.

11 (cf: P.L.2023, c.262, s.3)

12

13 2. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read
14 as follows:

15 11. It shall be an unlawful employment practice, or, as the case
16 may be, an unlawful discrimination:

17 a. For an employer, because of the race, creed, color, national
18 origin, ancestry, age, marital status, civil union status, domestic
19 partnership status, affectional or sexual orientation, genetic
20 information, pregnancy or breastfeeding, sex, gender identity or
21 expression, disability or atypical hereditary cellular or blood trait of
22 any individual, or because of the liability for service in the Armed
23 Forces of the United States or the nationality of any individual, or
24 because of the refusal to submit to a genetic test or make available
25 the results of a genetic test to an employer, or because of
26 menstruation, perimenopause, or menopause, if the symptoms of
27 menstruation, perimenopause, or menopause substantially interfere
28 with an employee’s ability to perform one or more job functions, to
29 refuse to hire or employ or to bar or to discharge or require to retire,
30 unless justified by lawful considerations other than age, from
31 employment such individual or to discriminate against such
32 individual in compensation or in terms, conditions or privileges of
33 employment; provided, however, it shall not be an unlawful
34 employment practice to refuse to accept for employment an applicant
35 who has received a notice of induction or orders to report for active
36 duty in the armed forces; provided further that nothing herein
37 contained shall be construed to bar an employer from refusing to
38 accept for employment any person on the basis of sex in those certain
39 circumstances where sex is a bona fide occupational qualification,
40 reasonably necessary to the normal operation of the particular
41 business or enterprise; provided further that it shall not be an
42 unlawful employment practice for a club exclusively social or
43 fraternal to use club membership as a uniform qualification for
44 employment, or for a religious association or organization to utilize
45 religious affiliation as a uniform qualification in the employment of
46 clergy, religious teachers or other employees engaged in the religious
47 activities of the association or organization, or in following the tenets
48 of its religion in establishing and utilizing criteria for employment of

1 an employee; provided further, that it shall not be an unlawful
2 employment practice to require the retirement of any employee who,
3 for the two-year period immediately before retirement, is employed
4 in a bona fide executive or a high policy-making position, if that
5 employee is entitled to an immediate non-forfeitable annual
6 retirement benefit from a pension, profit sharing, savings or deferred
7 retirement plan, or any combination of those plans, of the employer
8 of that employee which equals in the aggregate at least \$27,000.00;
9 and provided further that an employer may restrict employment to
10 citizens of the United States where such restriction is required by
11 federal law or is otherwise necessary to protect the national interest.

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

16 For the purposes of this subsection, a "bona fide executive" is a
17 top level employee who exercises substantial executive authority
18 over a significant number of employees and a large volume of
19 business. A "high policy-making position" is a position in which a
20 person plays a significant role in developing policy and in
21 recommending the implementation thereof.

22 For the purposes of this subsection, an unlawful employment
23 practice occurs, with respect to discrimination in compensation or in
24 the financial terms or conditions of employment, each occasion that
25 an individual is affected by application of a discriminatory
26 compensation decision or other practice, including, but not limited
27 to, each occasion that wages, benefits, or other compensation are
28 paid, resulting in whole or in part from the decision or other practice.

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

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

45 b. For a labor organization, because of the race, creed, color,
46 national origin, ancestry, age, marital status, civil union status,
47 domestic partnership status, affectional or sexual orientation, gender
48 identity or expression, disability, pregnancy or breastfeeding, or sex

1 of any individual, or because of the liability for service in the Armed
2 Forces of the United States or nationality of any individual, or
3 because of menstruation, perimenopause, or menopause, if the
4 symptoms of menstruation, perimenopause, or menopause
5 substantially interfere with an employee's ability to perform one or
6 more job functions, to exclude or to expel from its membership such
7 individual or to discriminate in any way against any of its members,
8 against any applicant for, or individual included in, any apprentice or
9 other training program or against any employer or any individual
10 employed by an employer; provided, however, that nothing herein
11 contained shall be construed to bar a labor organization from
12 excluding from its apprentice or other training programs any person
13 on the basis of sex in those certain circumstances where sex is a bona
14 fide occupational qualification reasonably necessary to the normal
15 operation of the particular apprentice or other training program.

16 c. For any employer or employment agency to print or circulate
17 or cause to be printed or circulated any statement, advertisement or
18 publication, or to use any form of application for employment, or to
19 make an inquiry in connection with prospective employment, which
20 expresses, directly or indirectly, any limitation, specification or
21 discrimination as to race, creed, color, national origin, ancestry, age,
22 marital status, civil union status, domestic partnership status,
23 affectional or sexual orientation, gender identity or expression,
24 disability, nationality, pregnancy or breastfeeding, or sex or liability
25 of any applicant for employment for service in the Armed Forces of
26 the United States, or because of menstruation, perimenopause, or
27 menopause, if the symptoms of menstruation, perimenopause, or
28 menopause substantially interfere with an employee's ability to
29 perform one or more job functions, or any intent to make any such
30 limitation, specification or discrimination, unless based upon a bona
31 fide occupational qualification.

32 d. For any person to take reprisals against any person because
33 that person has opposed any practices or acts forbidden under this act
34 or because that person has sought legal advice regarding rights under
35 this act, shared relevant information with legal counsel, shared
36 information with a governmental entity, or filed a complaint, testified
37 or assisted in any proceeding under this act or to coerce, intimidate,
38 threaten or interfere with any person in the exercise or enjoyment of,
39 or on account of that person having aided or encouraged any other
40 person in the exercise or enjoyment of, any right granted or protected
41 by this act.

42 e. For any person, whether an employer or an employee or not,
43 to aid, abet, incite, compel or coerce the doing of any of the acts
44 forbidden under this act, or to attempt to do so.

45 f. (1) For any owner, lessee, proprietor, manager,
46 superintendent, agent, or employee of any place of public
47 accommodation directly or indirectly to refuse, withhold from or
48 deny to any person any of the accommodations, advantages, facilities

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

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

1 sexual orientation, disability, liability for service in the Armed
2 Forces of the United States or nationality of such person.

3 In addition to the penalties otherwise provided for a violation of
4 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of
5 subsection f. of this section is the holder of an alcoholic beverage
6 license issued under the provisions of R.S.33:1-12 for that private
7 club or association, the matter shall be referred to the Director of the
8 Division of Alcoholic Beverage Control who shall impose an
9 appropriate penalty in accordance with the procedures set forth in
10 R.S.33:1-31.

11 g. For any person, including but not limited to, any owner,
12 lessee, sublessee, assignee or managing agent of, or other person
13 having the right of ownership or possession of or the right to sell,
14 rent, lease, assign, or sublease any real property or part or portion
15 thereof, or any agent or employee of any of these:

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

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

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

1 mortgage payments, or any intent to make any such limitation,
2 specification or discrimination, and the production of any such
3 statement, advertisement, publicity, sign, form of application, record,
4 or inquiry purporting to be made by any such person shall be
5 presumptive evidence in any action that the same was authorized by
6 such person; provided, however, that nothing contained in this
7 subsection shall be construed to bar any person from refusing to sell,
8 rent, lease, assign or sublease or from advertising or recording a
9 qualification as to sex for any room, apartment, flat in a dwelling or
10 residential facility which is planned exclusively for and occupied by
11 individuals of one sex to any individual of the exclusively opposite
12 sex on the basis of sex provided individuals shall be qualified based
13 on their gender identity or expression;

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

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

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

28 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
29 sale, rental, lease, assignment, or sublease any real property or part
30 or portion thereof to any person or group of persons or to refuse to
31 negotiate for the sale, rental, lease, assignment, or sublease of any
32 real property or part or portion thereof to any person or group of
33 persons because of race, creed, color, national origin, ancestry,
34 marital status, civil union status, domestic partnership status, familial
35 status, pregnancy or breastfeeding, sex, gender identity or
36 expression, affectional or sexual orientation, liability for service in
37 the Armed Forces of the United States, disability, nationality, or
38 source of lawful income used for rental or mortgage payments, or to
39 represent that any real property or portion thereof is not available for
40 inspection, sale, rental, lease, assignment, or sublease when in fact it
41 is so available, or otherwise to deny or withhold any real property or
42 any part or portion of facilities thereof to or from any person or group
43 of persons because of race, creed, color, national origin, ancestry,
44 marital status, civil union status, domestic partnership status, familial
45 status, pregnancy or breastfeeding, sex, gender identity or
46 expression, affectional or sexual orientation, disability, liability for
47 service in the Armed Forces of the United 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 real
9 property or part or portion thereof or in the furnishing of facilities or
10 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 use
14 any form of application for the purchase, rental, lease, assignment, or
15 sublease of any real property or part or portion thereof or to make
16 any record or inquiry in connection with the prospective purchase,
17 rental, lease, assignment, or sublease of any real property or part or
18 portion thereof which expresses, directly or indirectly, any limitation,
19 specification or discrimination as to race, creed, color, national
20 origin, ancestry, marital status, civil union status, domestic
21 partnership status, familial status, pregnancy or breastfeeding, sex,
22 gender identity or expression, affectional or sexual orientation,
23 disability, liability for service in the Armed Forces of the United
24 States, nationality, or source of lawful income used for rental or
25 mortgage payments or any intent to make any such limitation,
26 specification or discrimination, and the production of any such
27 statement, advertisement, publicity, sign, form of application, record,
28 or inquiry purporting to be made by any such person shall be
29 presumptive evidence in any action that the same was authorized by
30 such person; provided, however, that nothing contained in this
31 subsection h., shall be construed to bar any person from refusing to
32 sell, rent, lease, assign or sublease or from advertising or recording a
33 qualification as to sex for any room, apartment, flat in a dwelling or
34 residential facility which is planned exclusively for and occupied
35 exclusively by individuals of one sex to any individual of the
36 opposite sex on the basis of sex, provided individuals shall be
37 qualified based on their gender identity or expression;

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

43 (5) To refuse to rent or lease any real property to another person
44 because that person's family includes children under 18 years of age,
45 or to make an agreement, rental or lease of any real property which
46 provides that the agreement, rental or lease shall be rendered null and
47 void upon the birth of a child. This paragraph shall not apply to

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

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

11 (1) To discriminate against any person or group of persons
12 because of race, creed, color, national origin, ancestry, marital status,
13 civil union status, domestic partnership status, pregnancy or
14 breastfeeding, sex, gender identity or expression, affectional or
15 sexual orientation, disability, liability for service in the Armed
16 Forces of the United States, familial status or nationality, in the
17 granting, withholding, extending, modifying, renewing, or
18 purchasing, or in the fixing of the rates, terms, conditions or
19 provisions of any such loan, extension of credit or financial
20 assistance or purchase thereof or in the extension of services in
21 connection therewith;

22 (2) To use any form of application for such loan, extension of
23 credit or financial assistance or to make record or inquiry in
24 connection with applications for any such loan, extension of credit or
25 financial assistance which expresses, directly or indirectly, any
26 limitation, specification or discrimination as to race, creed, color,
27 national origin, ancestry, marital status, civil union status, domestic
28 partnership status, pregnancy or breastfeeding, sex, gender identity
29 or expression, affectional or sexual orientation, disability, liability
30 for service in the Armed Forces of the United States, familial status
31 or nationality or any intent to make any such limitation, specification
32 or discrimination; unless otherwise required by law or regulation to
33 retain or use such information;

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

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

39 (5) To discriminate against any person or group of persons
40 because that person's family includes children under 18 years of age,
41 or to make an agreement or mortgage which provides that the
42 agreement or mortgage shall be rendered null and void upon the birth
43 of a child. This paragraph shall not apply to housing for older persons
44 as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-
45 5).

46 j. For any person whose activities are included within the scope
47 of this act to refuse to post or display such notices concerning the

1 rights or responsibilities of persons affected by this act as the
2 Attorney General may by regulation require.

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

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

37 m. For any person to:

38 (1) Grant or accept any letter of credit or other document which
39 evidences the transfer of funds or credit, or enter into any contract
40 for the exchange of goods or services, where the letter of credit,
41 contract, or other document contains any provisions requiring any
42 person to discriminate against or to certify that he, she or it has not
43 dealt with any other person on the basis of the race, creed, color,
44 national origin, ancestry, age, pregnancy or breastfeeding, sex,
45 gender identity or expression, affectional or sexual orientation,
46 marital status, civil union status, domestic partnership status,
47 disability, liability for service in the Armed Forces of the United
48 States, or nationality of such other person or of such other person's

1 family members, partners, members, stockholders, directors,
2 officers, managers, superintendents, agents, employees, business
3 associates, suppliers, or customers.

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

9 The provisions of this subsection shall not apply to any letter of
10 credit, contract, or other document which contains any provision
11 pertaining to employee-employer collective bargaining, a labor
12 dispute or an unfair labor practice, or made in connection with the
13 protest of unlawful discrimination or an unlawful employment
14 practice, if the other provisions of such letter of credit, contract, or
15 other document do not otherwise violate the provisions of this
16 subsection.

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

21 (1) Buying from, selling to, leasing from or to, licensing,
22 contracting with, trading with, providing goods, services, or
23 information to, or otherwise doing business with any person because
24 that person does, or agrees or attempts to do, any such act or any act
25 prohibited by this subsection; or

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

35 o. For any multiple listing service, real estate brokers'
36 organization or other service, organization or facility related to the
37 business of selling or renting dwellings to deny any person access to
38 or membership or participation in such organization, or to
39 discriminate against such person in the terms or conditions of such
40 access, membership, or participation, on account of race, creed,
41 color, national origin, ancestry, age, marital status, civil union status,
42 domestic partnership status, familial status, pregnancy or
43 breastfeeding, sex, gender identity or expression, affectional or
44 sexual orientation, disability, liability for service in the Armed
45 Forces of the United States or nationality.

46 p. Nothing in the provisions of this section shall affect the ability
47 of an employer to require employees to adhere to reasonable
48 workplace appearance, grooming and dress standards not precluded

1 by other provisions of State or federal law, except that an employer
2 shall allow an employee to appear, groom and dress consistent with
3 the employee's gender identity or expression.

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

22 (a) The number of the hours worked by the employee which are
23 counted towards the accruing of seniority, pension or other benefits;
24 or

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

27 (2) For an employer to refuse to permit an employee to utilize
28 leave, as provided for in this subsection q., which is solely used to
29 accommodate the employee's sincerely held religious observance or
30 practice. Except where it would cause an employer to incur an undue
31 hardship, no person shall be required to remain at his place of
32 employment during any day or days or portion thereof that, as a
33 requirement of his religion, he observes as his Sabbath or other holy
34 day, including a reasonable time prior and subsequent thereto for
35 travel between his place of employment and his home; provided that
36 any such absence from work shall, wherever practicable in the
37 reasonable judgment of the employer, be made up by an equivalent
38 amount of time and work at some other mutually convenient time, or
39 shall be charged against any leave with pay ordinarily granted, other
40 than sick leave, and any such absence not so made up or charged,
41 may be treated by the employer of that person as leave taken without
42 pay.

43 (3) (a) For purposes of this subsection q., "undue hardship" means
44 an accommodation requiring unreasonable expense or difficulty,
45 unreasonable interference with the safe or efficient operation of the
46 workplace or a violation of a bona fide seniority system or a violation
47 of any provision of a bona fide collective bargaining agreement.

- 1 (b) In determining whether the accommodation constitutes an
2 undue hardship, the factors considered shall include:
- 3 (i) The identifiable cost of the accommodation, including the
4 costs of loss of productivity and of retaining or hiring employees or
5 transferring employees from one facility to another, in relation to the
6 size and operating cost of the employer.
- 7 (ii) The number of individuals who will need the particular
8 accommodation for a sincerely held religious observance or practice.
- 9 (iii) For an employer with multiple facilities, the degree to which
10 the geographic separateness or administrative or fiscal relationship
11 of the facilities will make the accommodation more difficult or
12 expensive.
- 13 (c) An accommodation shall be considered to constitute an undue
14 hardship if it will result in the inability of an employee to perform
15 the essential functions of the position in which he or she is employed.
- 16 (d) (i) The provisions of this subsection q. shall be applicable
17 only to reasonable accommodations of religious observances and
18 shall not supersede any definition of undue hardship or standards for
19 reasonable accommodation of the disabilities of employees.
- 20 (ii) This subsection q. shall not apply where the uniform
21 application of terms and conditions of attendance to employees is
22 essential to prevent undue hardship to the employer. The burden of
23 proof regarding the applicability of this subparagraph (d) shall be
24 upon the employer.
- 25 r. For any employer to take reprisals against any employee for
26 requesting from, discussing with, or disclosing to, any other
27 employee or former employee of the employer, a lawyer from whom
28 the employee seeks legal advice, or any government agency
29 information regarding the job title, occupational category, and rate of
30 compensation, including benefits, of the employee or any other
31 employee or former employee of the employer, or the gender, race,
32 ethnicity, military status, or national origin of the employee or any
33 other employee or former employee of the employer, regardless of
34 whether the request was responded to, or to require, as a condition of
35 employment, any employee or prospective employee to sign a
36 waiver, or to otherwise require an employee or prospective employee
37 to agree, not to make those requests or disclosures. Nothing in this
38 subsection shall be construed to require an employee to disclose such
39 information about the employee herself to any other employee or
40 former employee of the employer or to any authorized representative
41 of the other employee or former employee.
- 42 s. For an employer to treat, for employment-related purposes, a
43 woman employee that the employer knows, or should know, is
44 affected by pregnancy or breastfeeding in a manner less favorable
45 than the treatment of other persons not affected by pregnancy or
46 breastfeeding but similar in their ability or inability to work. In
47 addition, an employer of an employee who is a woman affected by
48 pregnancy shall make available to the employee reasonable

1 accommodation in the workplace, such as bathroom breaks, breaks
2 for increased water intake, periodic rest, assistance with manual
3 labor, job restructuring or modified work schedules, and temporary
4 transfers to less strenuous or hazardous work, for needs related to the
5 pregnancy when the employee, based on the advice of her physician,
6 requests the accommodation, and, in the case of a employee breast
7 feeding her infant child, the accommodation shall include reasonable
8 break time each day to the employee and a suitable room or other
9 location with privacy, other than a toilet stall, in close proximity to
10 the work area for the employee to express breast milk for the child,
11 unless the employer can demonstrate that providing the
12 accommodation would be an undue hardship on the business
13 operations of the employer. The employer shall not in any way
14 penalize the employee in terms, conditions or privileges of
15 employment for requesting or using the accommodation. Workplace
16 accommodation provided pursuant to this subsection and paid or
17 unpaid leave provided to an employee affected by pregnancy or
18 breastfeeding shall not be provided in a manner less favorable than
19 accommodations or leave provided to other employees not affected
20 by pregnancy or breastfeeding but similar in their ability or inability
21 to work. This subsection shall not be construed as otherwise
22 increasing or decreasing any employee's rights under law to paid or
23 unpaid leave in connection with pregnancy or breastfeeding.

24 For the purposes of this section "pregnancy or breastfeeding"
25 means pregnancy, childbirth, and breast feeding or expressing milk
26 for breastfeeding, or medical conditions related to pregnancy,
27 childbirth, or breastfeeding, including recovery from childbirth.

28 For the purposes of this subsection, in determining whether an
29 accommodation would impose undue hardship on the operation of an
30 employer's business, the factors to be considered include: the overall
31 size of the employer's business with respect to the number of
32 employees, number and type of facilities, and size of budget; the type
33 of the employer's operations, including the composition and structure
34 of the employer's workforce; the nature and cost of the
35 accommodation needed, taking into consideration the availability of
36 tax credits, tax deductions, and outside funding; and the extent to
37 which the accommodation would involve waiver of an essential
38 requirement of a job as opposed to a tangential or non-business
39 necessity requirement.

40 t. For an employer to pay any of its employees who is a member
41 of a protected class at a rate of compensation, including benefits,
42 which is less than the rate paid by the employer to employees who
43 are not members of the protected class for substantially similar work,
44 when viewed as a composite of skill, effort and responsibility. An
45 employer who is paying a rate of compensation in violation of this
46 subsection shall not reduce the rate of compensation of any employee
47 in order to comply with this subsection. An employer may pay a
48 different rate of compensation only if the employer demonstrates that

1 the differential is made pursuant to a seniority system, a merit system,
2 or the employer demonstrates:

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

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

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

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

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

18 Comparisons of wage rates shall be based on wage rates in all of
19 an employer's operations or facilities. For the purposes of this
20 subsection, "member of a protected class" means an employee who
21 has one or more characteristics, including race, creed, color, national
22 origin, nationality, ancestry, age, marital status, civil union status,
23 domestic partnership status, affectional or sexual orientation, genetic
24 information, pregnancy, sex, gender identity or expression, disability
25 or atypical hereditary cellular or blood trait of any individual, or
26 liability for service in the armed forces, for which subsection a. of
27 this section prohibits an employer from refusing to hire or employ or
28 barring or discharging or requiring to retire from employment or
29 discriminating against the individual in compensation or in terms,
30 conditions or privileges of employment.

31 (cf: P.L.2021, c.248, s.2)

32

33 3. This act shall take effect immediately.

34

35

36

STATEMENT

37

38 This bill expands certain civil rights protections under the New
39 Jersey "Law Against Discrimination" by making it an unlawful
40 employment practice for any employer, employee or an agent thereof
41 to discriminate against an employee on the basis of menstruation,
42 perimenopause, or menopause, if the symptoms of menstruation,
43 perimenopause, or menopause substantially interfere with an
44 employee's ability to perform one or more job functions.