

CHAPTER 343
(CORRECTED COPY)

AN ACT concerning marriage, amending R.S.37:1-1, repealing section 94 of P.L.2006, c.103, and supplementing Title 37 of the Revised Statutes.

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

C.37:1-1.1 Findings, declarations regarding same-sex marriage.

1. The Legislature finds and declares:

a. On September 27, 2013, Hon. Mary C. Jacobson, A.J.S.C. ruled in *Garden State Equality v. Dow*, 434 N.J. Super. 163 (Law Div. 2013) that New Jersey's exclusion of same-sex couples from civil marriage violated the equal protection guarantee of the New Jersey Constitution. The New Jersey Supreme Court declined to issue a stay of the lower court's order. Same-sex couples have been getting married in New Jersey since October 18, 2013, the day the State withdrew its appeal in the case.

b. Seven years before *Garden State Equality v. Dow*, the New Jersey Supreme Court had ruled unanimously in *Lewis v. Harris*, 188 N.J. 415 (2006) that same-sex couples are entitled to all of the rights, privileges, and obligations of marriage as opposite-sex couples. In response to the *Lewis v. Harris* decision, the Legislature enacted P.L.2006, c.103 (C.37:1-28 et al.), which established same-sex civil unions in New Jersey.

c. The New Jersey Civil Union Review Commission created by the Legislature concluded in 2008, after significant public hearings and discussion, that same-sex civil unions provided unequal treatment to same-sex couples in the State. In addition, under federal law, same-sex civil union couples did not have access to federal benefits available to married couples.

d. Section 2 of P.L.2021, c.343, amending N.J.S.37:1-1 is intended to bring New Jersey statutory law into conformance with the 2013 decision in *Garden State Equality v. Dow* as well as the 2015 United States Supreme Court decision in *Obergefell et al. v. Hodges, Director, Ohio Department of Health, et al.*, 576 U.S. 644 (2015). *Obergefell* held that same-sex marriage is a fundamental right and that all states are required to allow same-sex couples to marry.

e. This Legislature, in recognition of the New Jersey Supreme Court's unanimous holding in *Lewis v. Harris*; the New Jersey Superior Court's ruling in *Garden State Equality v. Dow*; and the United States Supreme Court's decision in *Obergefell v. Hodges*, and recognizing that New Jersey same-sex couples' right to marry has never been codified and made more secure by the enactment of a statute, finds that it is necessary to enact this legislation.

2. R.S.37:1-1 is amended to read as follows:

Marriages and civil unions.

37:1-1. Marriages and civil unions.

a. (Deleted by amendment, P.L.2021, c.343)

b. (Deleted by amendment, P.L.2021, c.343)

c. Laws concerning marriage and civil union shall be read with gender-neutral intent.

d. No person shall marry or enter into a civil union with any of the person's ancestors or descendants, or the person's sibling, or the child of the person's sibling, or the sibling of the person's parent, whether such collateral kindred be of the whole or half blood.

e. A marriage or civil union in violation of subsection d. of this section shall be absolutely void.

Repealer.

3. Section 94 of P.L.2006, c.103 (C.37:1-36) is repealed.

4. This act shall take effect immediately.

Approved January 10, 2022.