

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4939

STATE OF NEW JERSEY

DATED: FEBRUARY 16, 2023

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4939.

New Jersey has never enacted a statute prohibiting miscegenation, or marriage between persons of different races. Accordingly, New Jersey has never had to reverse, in statutory or case law, invidious discrimination in marriage or civil union status on the basis of race.

In 1967, the United States Supreme Court in Loving v. Virginia, 388 U.S. 1 (1967), overturned the convictions of a husband, a white person, and wife, a black person, who married in the District of Columbia, and returned to Virginia, where, upon their plea of guilty, were sentenced, in a Virginia state court, to one year in jail for violating Virginia's ban on interracial marriages. In overturning the Virginia statute, the Supreme Court analyzed the statute under the Equal Protection Clause of the federal constitution and found that the racial classifications then in existence in Virginia violated this clause. The effect of the ruling was to legalize interracial marriages nationwide.

In June 2022, the United States Supreme Court, in Dobbs v. Jackson Women's Health Org., 142 S. Ct. 2228 (2022), overturned the Court's 1973 decision in Roe v. Wade, 410 U.S. 113 (1973), which established the constitutional right to an abortion, on the grounds that there are no privacy rights guaranteed under the United States Constitution. The effect of the ruling is that abortion is a matter to be decided by individual states.

Given the risk that other personal decisions, currently protected under the federal constitution, could be returned to individual states for determination, including the right of persons of different racial or ethnic backgrounds to marry, it is prudent to protect interracial marriage in New Jersey statutory law.

This bill declares the right of a person to marry or enter into a civil union with a person of any race is fundamental and that race is not a prohibiting factor.