

ASSEMBLY, No. 3762

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JUNE 9, 2003

Sponsored by:
Assemblyman MATT AHEARN
District 38 (Bergen)

SYNOPSIS

Establishes civil unions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning civil unions and supplementing Title 26 of the
2 Revised Statutes.

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

6
7 1. The Legislature finds and declares that:

8 a. A significant number of unmarried New Jersey residents live
9 together in long-lasting, caring and committed relationships, while
10 participating in their communities and in some cases raising children
11 and caring for family members together; and the State has a strong
12 interest in promoting such stable and durable relationships between
13 individuals;

14 b. Without the legal protections, benefits and responsibilities
15 associated with marriage, however, unrelated adults who are living
16 together face numerous obstacles and hardships;

17 c. A system of civil unions would not bestow the status of marriage
18 upon those persons who enter into such an arrangement, but would
19 grant benefits and protections to those persons that are now
20 exclusively reserved for married persons under State law; and

21 d. Therefore, it shall be the public policy of New Jersey to provide
22 eligible couples with the opportunity to enter into civil unions, and
23 thereby obtain the same benefits and protections as are afforded by
24 State law to married couples, while providing due respect for tradition
25 and long-standing social institutions.

26
27 2. As used in this act:

28 "Certificate of civil union" means a document that certifies that the
29 persons named on the certificate have established a civil union in this
30 State in compliance with this act.

31 "Civil union" means that two eligible persons have established a
32 relationship pursuant to this act, and may receive the same benefits and
33 protections and be subject to the same responsibilities as spouses.

34 "Commissioner" means the Commissioner of Health and Senior
35 Services.

36 "Party to a civil union" means a person who has established a civil
37 union pursuant to this act.

38
39 3. a. Two persons may establish a civil union in this State in
40 accordance with the provisions of this act.

41 b. For a civil union to be established, it shall be necessary that each
42 party to a civil union satisfy all of the following criteria:

43 (1) not be a party to another civil union or a marriage;

44 (2) be at least 18 years of age; and

45 (3) not enter a civil union with the person's parent, grandparent,

1 son or daughter, grandson or granddaughter, sibling, sibling's son or
2 daughter, or parent's brother or sister.

3

4 4. a. The parties to a civil union shall have all the same benefits,
5 protections and responsibilities under law, whether they derive from
6 statute, administrative or court rule, public policy, common law or any
7 other source of civil law, as are granted to spouses in a marriage.

8 b. A party to a civil union shall be included in any definition or use
9 of the terms "spouse," "family," "immediate family," "dependent,"
10 "next of kin," and any other term that denotes a spousal relationship,
11 as those terms are used throughout the law.

12 c. The parties to a civil union shall be responsible for the support
13 of one another to the same degree and in the same manner as
14 prescribed under law for married persons.

15 d. The laws of domestic relations, including annulment, separation
16 and divorce, child custody and support, and property division and
17 maintenance shall apply to the parties to a civil union.

18 e. The following list of legal benefits, protections and
19 responsibilities of spouses shall apply in like manner to the parties to
20 a civil union, but shall not be construed to be an exclusive list of such
21 benefits, protections and responsibilities:

22 (1) laws relating to title, tenure, descent and distribution, intestate
23 succession, waiver of will, survivorship, or other incidents of the
24 acquisition, ownership or transfer, inter vivos or at death, of real or
25 personal property, including eligibility to hold real and personal
26 property as tenants by the entirety;

27 (2) causes of action related to or dependent upon spousal status,
28 including an action for wrongful death, emotional distress, loss of
29 consortium, or other torts or actions under contracts reciting, related
30 to, or dependent upon spousal status;

31 (3) probate law and procedure, including nonprobate transfer;

32 (4) adoption law and procedures;

33 (5) group health benefits for State employees;

34 (6) domestic violence programs;

35 (7) prohibitions against discrimination based upon marital status;

36 (8) victim's compensation benefits;

37 (9) workers' compensation benefits pursuant to chapter 15 of Title
38 34 of the Revised Statutes;

39 (10) laws relating to emergency and nonemergency medical care
40 and treatment, hospital visitation and notification, and any rights
41 guaranteed to a hospital patient pursuant to P.L.1989, c.170
42 (C.26:2H-12.7 et seq.) or a nursing home resident pursuant to
43 P.L.1976, c.120 (C.30:13-1 et seq.);

44 (11) advance directives for health care and designation as a health
45 care representative pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.);

46 (12) family leave benefits pursuant to P.L.1989, c.261 (C.34:11B-1

1 et seq.);

2 (13) public assistance benefits under State law, including, but not
3 limited to: Work First New Jersey benefits pursuant to P.L.1997, c.38
4 (C.44:10-55 et seq.); medical assistance pursuant to P.L.1968, c.413
5 (C.30:4D-1 et seq.), P.L.1997, c.272 (C.30:4I-1 et seq.) and
6 P.L.2000, c.71 (C.30:4J-1 et seq.); Supplemental Security Income
7 pursuant to P.L.1973, c.256 (C.44:7-85 et seq.); pharmaceutical
8 assistance pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) and
9 P.L.2001, c.96 (C.30:4D-43 et seq.); hearing aid assistance pursuant
10 to P.L.1987, c.298 (C.30:4D-36 et seq.); and utility benefits pursuant
11 to P.L.1979, c.197 (C.48:2-29.15 et seq.) and P.L.1981, c.210
12 (C.48:2-29.30 et seq.);

13 (14) laws relating to taxes imposed by the State or a municipality
14 other than estate taxes;

15 (15) laws relating to immunity from compelled testimony and the
16 marital communication privilege;

17 (16) the home ownership rights of a surviving spouse;

18 (17) laws relating to the making of, revoking and objecting to
19 anatomical gifts by other persons pursuant to P.L.1969, c.161 (C.26:6-
20 57 et seq.);

21 (18) State pay for military service;

22 (19) application for absentee ballots; and

23 (20) legal requirements for assignment of wages.

24 f. The rights of the parties to a civil union, with respect to a child
25 of whom either becomes the natural parent during the term of the civil
26 union, shall be the same as those of a married couple, with respect to
27 a child of whom either spouse becomes the natural parent during the
28 marriage.

29

30 5. a. The Commissioner of Health and Senior Services, through
31 the State Registrar of Vital Statistics, shall provide civil union license
32 and certificate forms to all local registrars, and shall maintain a record
33 of all civil unions.

34 b. The parties to a civil union may modify the terms, conditions or
35 effects of their civil union in the same manner and to the same extent
36 as married persons who execute an antenuptial agreement or other
37 agreement recognized and enforceable under law, setting forth
38 particular understandings with respect to their union.

39 c. The Superior Court shall have jurisdiction over all proceedings
40 relating to the dissolution of a civil union. The dissolution of a civil
41 union shall follow the same procedures and be subject to the same
42 substantive rights and obligations as are involved in the dissolution of
43 marriage, including any residency requirements.

44

45 6. a. (1) Upon application in a form prescribed by the
46 commissioner, a local registrar shall: issue a civil union license in the

1 form prescribed by the commissioner and enter thereon the names of
2 the parties to the proposed civil union; fill out the form as far as
3 practicable; and retain a copy in the local registrar's office. At least
4 one party to the proposed civil union shall sign the application
5 attesting to the accuracy of the facts stated. The license shall be
6 issued by the local registrar of the registration district in which either
7 party resides or, if neither party is a resident of the State, by any local
8 registrar in the State.

9 (2) A civil union license shall be delivered by one of the parties to
10 a proposed civil union, within 60 days after the date of issue, to a
11 person authorized to certify civil unions under this act, who shall fill
12 out that part of the form on the license provided for such use, sign and
13 certify the civil union. Thereafter, the document shall be known as a
14 civil union certificate. If the proposed civil union is not certified
15 within 60 days after the date of issue of the license, the license shall
16 become void.

17 (3) Within 10 days after the certification, the person performing the
18 certification shall return the civil union certificate to the local registrar
19 who issued the license. The local registrar shall retain and file the
20 original in accordance with the provisions of this act.

21 (4) A local registrar shall provide a person who applies for a civil
22 license with information prepared by the commissioner that advises the
23 person of the benefits, protections and responsibilities of a civil union
24 and that State residency may be required for dissolution of a civil
25 union in New Jersey.

26 b. (1) A local registrar shall issue a civil union license to all
27 applicants who have complied with the provisions of this act and are
28 otherwise qualified under State law to apply for a civil union license.

29 (2) Before issuing a civil union license to an applicant, the local
30 registrar shall be satisfied, through the presentation of affidavits or
31 other proof, that each party to the intended civil union meets the
32 criteria set forth to enter into a civil union.

33 (3) Affidavits shall be in a form prescribed by the commissioner,
34 and shall be attached to and filed with the civil union certificate in the
35 office of the local registrar of the registration district in which the
36 license was issued.

37 c. (1) A civil union may be certified by a judge of a court of
38 competent jurisdiction or a member of the clergy residing in this State
39 and ordained or licensed, or otherwise regularly authorized by the
40 published laws or discipline of the general conference, convention or
41 other authority of the faith or denomination of the member of the
42 clergy or by such a member of the clergy residing in an adjoining state
43 or country, whose parish, church, temple, mosque or other religious
44 organization lies wholly or in part in this State, or by a member of the
45 clergy residing in some other state of the United States or in the
46 Dominion of Canada, provided that the member of the clergy has first

1 secured, from a court of competent jurisdiction in the registration
2 district within which the civil union is to be certified, a special
3 authorization to certify the civil union if the court determines that the
4 circumstances make the special authorization desirable. Civil unions
5 among the Friends or Quakers, Christadelphian Exxlesia and the Bahai
6 faith may be certified in the manner used in those societies.

7 (2) Persons authorized by this act to certify civil unions shall
8 require a civil union license of the parties before certifying the civil
9 union. The license shall afford full immunity to the person who
10 certifies the civil union.

11 (3) A civil union certified before a person falsely professing to be
12 a judge of a court of competent jurisdiction or a member of the clergy
13 shall be valid, provided that the civil union is in other respects lawful,
14 and that either of the parties to a civil union believed that the party
15 was lawfully joined in a civil union.

16 d. (1) A copy of the record of the civil union received from the
17 local or State registrar shall be presumptive evidence of the civil union
18 in all courts.

19 (2) Within six months after a civil union is certified, the local
20 registrar may correct or complete a civil union certificate, upon
21 application by a party to a civil union or by the person who certified
22 the civil union. The local registrar shall certify that the correction or
23 completion was made pursuant to this section and note that date. The
24 local registrar may refuse an application for correction or completion,
25 in which case the applicant may petition a court of competent
26 jurisdiction for correction or completion.

27 (3) After six months from the date that a civil union is certified, a
28 civil union certificate may only be corrected or amended pursuant to
29 the decree of a court of competent jurisdiction in the registration
30 district in which the original certificate is filed. The court shall set a
31 time for a hearing and, if the court deems necessary, give notice of the
32 time and place to the parties to the civil union. After a hearing, the
33 court shall make such findings with respect to the correction of the
34 civil union certificate as are supported by the evidence. The court
35 shall issue a decree setting forth the facts as found, and transmit a
36 certified copy of the decree to the State registrar. The State registrar
37 shall transmit the same to the appropriate local registrar to amend the
38 original or issue a new certificate. The words "Court Amended" shall
39 be typed, written or stamped at the top of the new or amended
40 certificate with the date of the decree and the name of the issuing
41 court.

42 e. (1) Persons who were parties to a certified civil union ceremony
43 in this State for whom no certificate of civil union was filed, as
44 required by law, may petition a court of competent jurisdiction in the
45 registration district in which the civil union license was obtained to
46 determine the facts, and to order the issuance of a delayed certificate

1 of civil union.

2 (2) The court shall set a time for hearing on the petition and, if the
3 court deems necessary, give notice of the time and place to the persons
4 who were parties to the certified civil union ceremony. After hearing
5 proper and relevant evidence as may be presented, the court shall
6 make such findings with respect to the civil union as are supported by
7 the evidence.

8 (3) The court shall issue a decree setting forth the facts as found,
9 and transmit a certified copy of the decree to the State registrar.

10 f. The local registrar receiving new certificates in accordance with
11 this act shall file and index them in the most recent book of civil
12 unions, and also index them with civil unions occurring at the same
13 time.

14 g. (1) A local registrar who knowingly issues a civil union license
15 upon the application of a person other than as provided in this act, or
16 without first requiring the applicant to fill out, sign and make oath to
17 the declaration contained therein, shall be liable to a civil penalty of
18 not more than \$500 nor less than \$200.

19 (2) A person making application to a local registrar for a civil
20 union license who makes a material misrepresentation in the
21 declaration of intention shall be guilty of perjury pursuant to
22 N.J.S.2C:28-1.

23 (3) A local registrar who fails to comply with the provisions of this
24 section, or who issues a civil union license with knowledge that either
25 or both of the parties to a civil union have failed to comply with the
26 requirements of State law, or a person who, having authority and
27 having such knowledge, certifies such a civil union, shall be liable to
28 a civil penalty of not more than \$1,000.

29 (4) A local registrar who knowingly issues a civil union license
30 when either party to the intended civil union is under guardianship
31 without the written consent of the guardian shall be liable to a civil
32 penalty of not more than \$200. A person who aids in procuring a civil
33 union license by falsely pretending to be the guardian having authority
34 to give consent to the civil union shall be liable to a civil penalty of not
35 more than \$5,000.

36 (5) A person who certifies a civil union shall be liable to a civil
37 penalty of not less than \$100, if the person:

38 (a) certifies a civil union without first obtaining the license; or

39 (b) fails to properly fill out the license and, within 10 days after the
40 date of the certification, return the license and certification of civil
41 union to the local registrar from whom it was issued.

42 (6) An unauthorized person who knowingly undertakes to join
43 others in a civil union is a disorderly person.

44

45 7. This act shall not be construed in such a manner as to violate the
46 free exercise of religion of any person, religious or denominational

1 institution or organization, or any organization operated for charitable
2 or educational purposes that is operated, supervised or controlled by
3 or in connection with a religious organization, as guaranteed by the
4 federal or State constitution.

5
6 8. The Commissioner of Health and Senior Services, pursuant to
7 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), shall adopt rules and regulations necessary to effectuate the
9 purposes of this act.

10
11 9. This act shall take effect on the 180th day after the enactment
12 of this act, but the Commissioner of Health and Senior Services may
13 take such anticipatory administrative action in advance as shall be
14 necessary for the implementation of the act; however, the provisions
15 of this act as they apply to the income taxation of the parties to a civil
16 union in accordance with the "New Jersey Gross Income Tax Act,"
17 P.L.1976, c.47 (C.54A:1-1 et seq.), shall apply to taxable years
18 beginning on or after January 1 of the tax year following the enactment
19 of this act.

20
21
22 STATEMENT

23
24 This bill would permit adults of the same or opposite sex, who are
25 not related by blood, to establish civil unions in New Jersey in
26 accordance with the requirements of this bill and thereby be accorded
27 the same benefits and protections as a spouse under the laws of this
28 State.

29 The bill requires that each party to a civil union satisfy all of the
30 following criteria:

- 31 -- not be a party to another civil union or a marriage;
32 -- be at least 18 years of age; and
33 -- not enter a civil union with the person's parent, grandparent, son
34 or daughter, grandson or granddaughter, sibling, sibling's son or
35 daughter, or parent's brother or sister.

36 The bill directs the Commissioner of Health and Senior Services to
37 provide civil union license and certificate forms to all local registrars,
38 and to maintain a record of all civil unions.

39 The bill stipulates that:

- 40 -- the parties to a civil union are to have all the same benefits,
41 protections and responsibilities under law, whether they derive from
42 statute, administrative or court rule, public policy, common law or any
43 other source of civil law, as are granted to spouses in a marriage;
44 -- a party to a civil union is to be included in any definition or use
45 of the terms "spouse," "family," "immediate family," "dependent,"
46 "next of kin," and any other term that denotes a spousal relationship,

1 as those terms are used throughout the law;

2 -- the parties to a civil union are to be responsible for the support
3 of one another to the same degree and in the same manner as
4 prescribed under law for married persons; and

5 -- the laws of domestic relations, including annulment, separation
6 and divorce, child custody and support, and property division and
7 maintenance are to apply to the parties to a civil union.

8 The bill would apply the following list of legal benefits, protections
9 and responsibilities of spouses in like manner to the parties to a civil
10 union (although this is not to be construed to be an exclusive list of
11 such benefits, protections and responsibilities):

12 C laws relating to title, tenure, descent and distribution, intestate
13 succession, waiver of will, survivorship, or other incidents of the
14 acquisition, ownership or transfer, inter vivos or at death, of real or
15 personal property, including eligibility to hold real and personal
16 property as tenants by the entirety;

17 C causes of action related to or dependent upon spousal status,
18 including an action for wrongful death, emotional distress, loss of
19 consortium, or other torts or actions under contracts reciting,
20 related to, or dependent upon spousal status;

21 C probate law and procedure, including nonprobate transfer;

22 C adoption law and procedures;

23 C group health benefits for State employees;

24 C domestic violence programs;

25 C prohibitions against discrimination based upon marital status;

26 C victim's compensation benefits;

27 C workers' compensation benefits;

28 C laws relating to emergency and nonemergency medical care and
29 treatment, hospital visitation and notification, and any rights
30 guaranteed to a hospital patient or nursing home resident;

31 C advance directives for health care and designation as a health care
32 representative;

33 C family leave benefits;

34 C public assistance benefits under State law;

35 C laws relating to taxes imposed by the State or a municipality other
36 than estate taxes;

37 C laws relating to immunity from compelled testimony and the marital
38 communication privilege;

39 C the home ownership rights of a surviving spouse;

40 C laws relating to the making, revoking and objecting to anatomical
41 gifts by other persons;

42 C State pay for military service;

43 C application for absentee ballots; and

44 C legal requirements for assignment of wages.

45 In addition, the bill:

46 -- provides that the rights of the parties to a civil union, with

1 respect to a child of whom either becomes the natural parent during
2 the term of the civil union, are to be the same as those of a married
3 couple, with respect to a child of whom either spouse becomes the
4 natural parent during the marriage; and

5 -- permits the parties to a civil union to modify the terms,
6 conditions, or effects of their civil union in the same manner and to the
7 same extent as married persons who execute an antenuptial agreement
8 or other agreement recognized and enforceable under law, setting
9 forth particular understandings with respect to their union.

10 The bill gives the Superior Court jurisdiction over all proceedings
11 relating to the dissolution of civil unions, and specifies that the
12 dissolution of civil unions is to follow the same procedures and be
13 subject to the same substantive rights and obligations as are involved
14 in the dissolution of marriage, including any residency requirements.

15 This bill is not to be construed in such a manner as to violate the
16 free exercise of religion of any person, religious or denominational
17 institution or organization, or any organization operated for charitable
18 or educational purposes that is operated, supervised or controlled by
19 or in connection with a religious organization, as guaranteed by the
20 federal or State constitution.

21 The bill takes effect on the 180th day after enactment, but
22 authorizes the Commissioner of Health and Senior Services to take
23 anticipatory administrative action in advance as necessary for its
24 implementation; however, the provisions of the bill as they apply to the
25 income taxation of the parties to a civil union in accordance with the
26 "New Jersey Gross Income Tax Act" would apply to taxable years
27 beginning on or after January 1 of the tax year following enactment.