

[First Reprint]

SENATE, No. 1967

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JUNE 9, 2008

Sponsored by:

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District 37 (Bergen)

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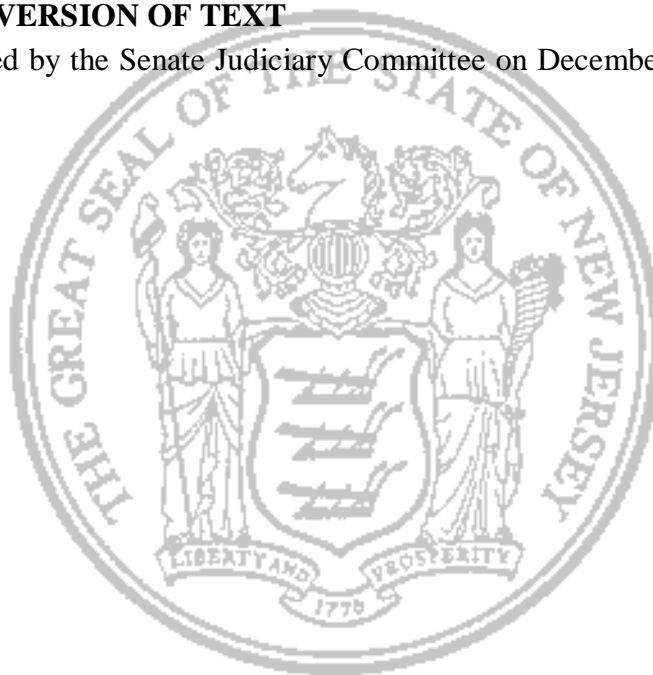
Senators Buono, Ruiz, Cunningham, Gill and Stack

SYNOPSIS

Enacts the “Freedom of Religion and Equality in Civil Marriage Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on December 7, 2009, with amendments.



(Sponsorship Updated As Of: 12/11/2009)

1 AN ACT concerning marriage, revising various parts of the statutory
2 law and supplementing Title 37 of the Revised Statutes, and
3 repealing section 94 of P.L.2006, c.103.

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

7
8 1. (New section) This act shall be known and may be cited as
9 the “Freedom of Religion and Equality in Civil Marriage Act.”

10
11 2. (New section) The Legislature finds and declares that:

12 a. Civil marriage is a legal institution recognized by the State
13 in order to promote stable relationships and to protect individuals
14 who are in those relationships. The institution of marriage also
15 provides important protections for the families of those who are
16 married, including not only children or other dependents, but
17 members of their extended families.

18 b. In Lewis v. Harris, 188 N.J. 415 (2006), the New Jersey
19 Supreme Court held that denying rights and benefits to committed
20 same-sex couples that are statutorily given to their heterosexual
21 counterparts violates the equal protection guarantee of Article I,
22 paragraph 1 of the New Jersey Constitution. The court held that to
23 comply with this constitutional mandate, the Legislature must either
24 amend the marriage statutes to include those couples or create a
25 parallel statutory structure which will provide, on equal terms, the
26 rights and benefits enjoyed and burdens and obligations borne by
27 married couples. The Legislature responded to the Lewis v. Harris
28 decision by enacting P.L.2006, c.103 (C.37:1-28 et al.), which
29 established civil unions in this State.

30 c. Although same-sex couples may enter into civil unions,
31 nonetheless New Jersey’s discriminatory exclusion of these couples
32 from marriage further harms same-sex couples and their families by
33 denying them unique public recognition and affirmation.

34 d. The Legislature has an interest in encouraging stable
35 relationships.

36 e. It is the intent of the Legislature in enacting this bill to end
37 the pernicious practice of marriage discrimination in New Jersey.

38
39 3. (New section) “Marriage” means the legally recognized
40 union of two consenting persons in a committed relationship.
41 Whenever the term “marriage” occurs or the term “man,” “woman,”
42 “husband” or “wife” occurs in the context of marriage or any
43 reference is made thereto in any law, statute, rule, regulation or

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted December 7, 2009.

1 order, the same shall be deemed to mean or refer to the union of two
2 persons pursuant to this amendatory and supplementary act.

3

4 4. (New section) It is the intent of the Legislature that this
5 amendatory and supplementary act be interpreted consistently with
6 the guarantees of the First Amendment to the United States
7 Constitution and of Article I, paragraph 4 of the New Jersey
8 Constitution.

9

10 5. (New section) ¹a. ¹No member of the clergy of any religion
11 authorized to solemnize marriage and no religious society,
12 institution or organization in this State shall be required to
13 solemnize any marriage in violation of the free exercise of religion
14 guaranteed by the First Amendment to the United States
15 Constitution or by Article I, paragraph 4 of the New Jersey
16 Constitution.

17 ¹b. No religious society, institution or organization in this State
18 serving a particular faith or denomination shall be compelled to
19 provide space, services, advantages, goods, or privileges related to
20 the solemnization, celebration or promotion of marriage if such
21 solemnization, celebration or promotion of marriage is in violation
22 of the beliefs of such religious society, institution or organization.

23 c. No civil claim or cause of action against any religious society,
24 institution or organization, or any employee thereof, shall arise out
25 of any refusal to provide space, services, advantages, goods, or
26 privileges pursuant to this section. No State action to penalize or
27 withhold benefits from any such religious society, institution or
28 organization, or any employee thereof, shall result from any refusal
29 to provide space, services, advantages, goods, or privileges pursuant
30 to this section.

31 d. Nothing in this act shall be construed to limit the effect of
32 section 2 of P.L.1979, c.428 (C.18A:35-4.7).¹

33

34 6. (New section) On and after the effective date of this
35 amendatory and supplementary act, no civil unions shall be
36 established under P.L.2006, c.103 (C.37:1-28 et al.).

37

38 7. (New section) On and after the effective date of this
39 amendatory and supplementary act:

40 a. All partners in civil unions previously established under
41 P.L.2006, c.103 (C.37:1-28 et al.) who have not moved for
42 dissolution of their civil union pursuant to section 64 of P.L.2006,
43 c.103 (C.2A:34-2.1) shall be deemed married; all civil union
44 licenses previously issued on their behalf shall be deemed to be
45 marriage licenses; and all certificates of civil union shall be deemed
46 to be certificates of marriage;

1 b. All partners in civil unions previously established under
2 P.L.2006, c.103 (C.37:1-28 et al.) may apply for a marriage license
3 in accordance with the provisions of R.S.37:1-4, section 10 of
4 P.L. , c. (C.) (pending before the Legislature as this bill)
5 and all other applicable provisions of law.

6 c. Partners in civil unions previously established under
7 P.L.2006, c.103 (C.37:1-28 et al.) may solemnize their marriage at
8 any time, but partners who do not undergo the solemnization of
9 their marriage will nonetheless be deemed married pursuant to this
10 act.

11
12 8. R.S.37:1-4 is amended to read as follows:

13 37:1-4. Issuance of marriage or civil union license, emergencies,
14 validity.

15 a. Except as provided in R.S.37:1-6 and subsection b. of this
16 section, the marriage **【or civil union】** license shall not be issued by
17 a licensing officer sooner than 72 hours after the application
18 therefor has been made; provided, however, that the Superior Court
19 may, by order, waive all or any part of said 72-hour period in cases
20 of emergency, upon satisfactory proof being shown to it. Said order
21 shall be filed with the licensing officer and attached to the
22 application for the license.

23 b. The licensing officer shall issue a marriage license
24 immediately to partners in a civil union established pursuant to
25 P.L.2006, c.103 (C.37:1-28 et al.) who apply for such license.

26 c. A marriage **【or civil union】** license, when properly issued as
27 provided in this article, shall be good and valid only for 30 days
28 after the date of the issuance thereof.

29 (cf: P.L.2006, c.103, s.9)

30
31 9. R.S.37:1-13 is amended to read as follows:

32 37:1-13. Authorization to solemnize marriages and civil unions.

33 Each judge of the United States Court of Appeals for the Third
34 Circuit, each judge of a federal district court, United States
35 magistrate, judge of a municipal court, judge of the Superior Court,
36 judge of a tax court, retired judge of the Superior Court or Tax
37 Court, or judge of the Superior Court or Tax Court, the former
38 County Court, the former County Juvenile and Domestic Relations
39 Court, or the former County District Court who has resigned in
40 good standing, surrogate of any county, county clerk and any mayor
41 or the deputy mayor when authorized by the mayor, or chairman of
42 any township committee or village president of this State, and every
43 **【minister】** member of the clergy of every religion, are hereby
44 authorized to solemnize marriages **【or civil unions】** between such
45 persons as may lawfully enter into the matrimonial relation **【or civil**
46 **union】**; and every religious society, institution or organization in
47 this State may join together in marriage **【or civil union】** such

1 persons according to the rules and customs of the society,
2 institution or organization.

3 (cf: P.L.2006, c.103, s.17)

4

5 ¹[10. (New section) Partners in a civil union established
6 pursuant to P.L.2006, c.103 (C.37:1-28 et al.) who apply for a
7 marriage license and present a certificate of civil union to the
8 licensing officer shall not be charged a fee for such marriage
9 license, including any fees set out in R.S.37:1-11 or R.S.37:1-12.]¹

10

11 ¹[11.] 10.¹ Section 94 of P.L.2006, c.103 (C.37:1-36) is
12 repealed.

13

14 ¹[12.] 11.¹ (New section) The Commissioner of Health and
15 Senior Services, pursuant to the “Administrative Procedure Act,”
16 P.L.1968, c.410 (C.52:14B-1) shall adopt rules and regulations to
17 effectuate the purposes of this amendatory and supplementary act.

18

19 ¹[13.] 12.¹ This act shall take effect on the 60th day following
20 enactment, except that the Commissioner of Health and Senior
21 Services may take such anticipatory administrative action in
22 advance as shall be necessary for the implementation of this act.