

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1

# STATE OF NEW JERSEY

DATED: FEBRUARY 2, 2012

The Assembly Judiciary Committee reports favorably Assembly Bill No. 1.

This bill, titled the “Marriage Equality and Religious Exemption Act,” would recognize same-sex marriage in the State. Under the bill, same-sex civil unions, first sanctioned with the enactment of P.L.2006, c.103 (C.37:1-28 et al.), would no longer be permitted, and all previously sanctioned civil unions would be deemed to be marriages. The bill would also establish that religious figures and organizations are not required to solemnize or provide goods, space, or services for any marriage in violation of their religious beliefs; such religious exemptions are intended to uphold the constitutionally protected free exercise of religion in this State.

Under the bill, marriage is defined as “the legally recognized union of two consenting persons in a committed relationship.” The bill further provides that whenever the term “marriage” occurs or the term “man,” “woman,” “husband,” or “wife” occurs in the context of marriage, or any reference is made thereto in any law, statute, rule, regulation, or order, the same would be deemed to mean or refer to the union of two persons pursuant to the bill.

The State would no longer permit civil unions to be established beginning on the effective date of the bill, which is the 60th day following enactment. All partners in civil unions previously established under P.L.2006, c.103 (C.37:1-28 et al.), who have not moved to dissolve their civil union, would be deemed married upon the bill taking effect, and any civil union licenses and certificates issued on their behalf would be deemed to be marriage licenses and certificates.

Although partners from a previously recognized civil union would automatically be deemed married, the bill provides that the partners could apply for a marriage license, subject to applicable marriage licensing laws, and solemnize their marriage at any time. The partners would receive their license immediately, without the usual 72-hour waiting period between application for the license and its issuance.

The bill updates statutory language concerning the authority to solemnize marriages, set out in R.S.37:1-13. Currently, this section of law authorizes “every minister of every religion” to solemnize

marriages. The bill would change this phrase to “every member of the clergy of every religion.”

Concerning the constitutional guarantees of the free exercise of religion, the bill proclaims it is the intent of the Legislature that the bill be interpreted consistently with those guarantees as provided by the First Amendment to the United States Constitution and Article I, paragraph 4 of the New Jersey Constitution.

The bill specifically provides that no member of the clergy of any religion authorized to solemnize marriage and no religious society, institution, or organization in this State would be required to solemnize any marriage in violation of the free exercise of religion. The bill also provides that no religious society, institution, or organization in this State serving a particular faith or denomination would be compelled to provide space, services, advantages, goods, or privileges related to the solemnization, celebration, or promotion of a marriage, if doing so is in violation of its religious beliefs. No civil claim or cause of action against that religious society, institution, or organization, or any employee thereof, would arise out of any refusal to provide space, services, advantages, goods, or privileges. Further, no State action to penalize or withhold benefits from the religious society, institution, or organization, or any employee thereof, would result from any refusal.

As stated in the bill, none of the bill’s provisions would be construed to limit the effect of section 2 of P.L.1979, c.428 (C.18A:35-4.7), concerning the removal of students from certain educational activities. That section of law permits a parent or guardian, upon presenting a signed statement to a school principal, to have any child excused from any portion of a course in health, family education, or sex education that is in conflict with the parent’s or guardian’s conscience, or sincerely held moral or religious beliefs.

Finally, the bill repeals section 94 of P.L.2006, c.103 (C.37:1-36), which had established the New Jersey Civil Union Review Commission. The main function of the Commission was to evaluate the operation and effectiveness of the State’s previous recognition of civil unions rather than marriage. Under the provisions of that section, the Commission expired three years from the date of the organizational meeting and upon submission of its final report. The Commission issued its final report on December 2008. Therefore, since the Commission’s work has been completed the bill abolishes the statute which created the Commission.