

ASSEMBLY, No. 2238

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Authorizes persons serving overseas in military to be married or enter into civil union by video conference or other electronic means.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT authorizing marriage and entry into a civil union by
2 electronic means and amending various parts of the statutory
3 law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. R.S.26:8-41 is amended to read as follows:

9 26:8-41. Transmission of marriage and civil union licenses and
10 certificates. Every person or religious society, institution or
11 organization solemnizing a marriage or civil union shall, within 5
12 days thereafter, transmit the certificate of marriage or civil union
13 and the marriage or civil union license to the local registrar of the
14 registration district in which the marriage or civil union occurs or to
15 the clerk of the county board of health. In the case of marriages or
16 civil unions performed pursuant to section 7 of P.L.2011, c.179
17 (C.37:1-17.3), the person or religious society, institution or
18 organization solemnizing the marriage or civil union, in addition to
19 transmitting the certificate of marriage or civil union and the
20 marriage or civil union license, shall also transmit the power of
21 attorney or the sworn statement if the solemnization was performed
22 by electronic means.

23 The local registrar or clerk of the county board of health shall
24 stamp every certificate of marriage or civil union so received with
25 the date of its receipt and the name of the registration district in
26 which it is filed.

27 (cf: P.L.2011, c.179, s.1)
28

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

30 37:1-2. Necessity of marriage or civil union license; "licensing
31 officer" defined.

32 Before a marriage or a civil union can be lawfully performed in
33 this State, the persons intending to be married or to enter into a civil
34 union shall obtain a marriage or civil union license from the
35 licensing officer and deliver it to the person who is to officiate.

36 In the case of persons intending to be married or to enter into a
37 civil union pursuant to section 7 of P.L.2011, c.179 (C.37:1-17.3),
38 one of the persons intending to be married or to enter into a civil
39 union and the attorney-in-fact for the other person shall obtain a
40 marriage or civil union license and deliver it to the person who is to
41 officiate. In the case of a person intending to be married or to enter
42 into a civil union pursuant to section 7 of P.L.2011, c.179 (C.37:1-
43 17.3) by electronic means, one of the persons intending to be
44 married or to enter into a civil union shall obtain a marriage or civil

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.

1 union license and deliver it to the person who is to officiate
2 accompanied by a sworn statement from the party not present.

3 If the marriage or civil union is to be performed by or before any
4 religious society, institution or organization, the license shall be
5 delivered to such religious society, institution or organization, or
6 any officer thereof.

7 As used in this chapter, "licensing officer" means, as to cities of
8 the first class, the city clerk; as to other municipalities, the State
9 registrar; or the deputy of any said official designated by him to
10 issue licenses during his absence.

11 (cf: P.L.2011, c.179, s.1)

12
13 3. R.S.37:1-7 is amended to read as follows:

14 37:1-7. Issuing of license; remarriage or reaffirming a civil
15 union.

16 The licensing officer is hereby empowered to issue marriage or
17 civil union licenses to the contracting parties who, either personally
18 **【or】**, through an attorney-in-fact, or by electronic means pursuant
19 to section 7 of P.L.2011, c.179 (C.37:1-17.3), apply therefor and are
20 entitled under the laws of this State to contract matrimony or
21 establish a civil union, authorizing the marriage or civil union of
22 such parties, which license shall be substantially in the following
23 form:

24 "State of New Jersey. County of city, town or township of

25 This is to certify that any person, religious society, institution or
26 organization authorized by law to perform marriage or civil union
27 ceremonies within the State of New Jersey to whom this may come,
28 he or they not knowing any lawful impediment thereto, is hereby
29 authorized and empowered to solemnize the rites of matrimony or
30 the civil union between

31 A B of , in the county of and State of and
32 C D of , in the county of and State of , and to
33 certify the same to be the said parties, or either of them, under his
34 hand and seal in his ministerial or official capacity.

35 In testimony whereof, I have hereunto set my hand and affixed
36 the seal of said town, township or city at this day of
37 two thousand and

38 . (Name and official title)"

39 If the contracting parties desire both a civil and a religious
40 marriage or civil union ceremony, the licensing officer shall issue a
41 license in duplicate, marking one as "issued for civil marriage or
42 civil union ceremony" and one as "issued for religious marriage or
43 civil union ceremony."

44 Nothing in this section shall be construed to prevent the
45 remarriage of a couple already married to each other or to prevent a
46 couple who has entered into a civil union to reaffirm their
47 commitment to one another; provided, a new license is obtained and
48 the marriage or civil union properly reported. Such license shall be

1 plainly marked "Issued for remarriage--originally married to same
2 mate at (state place) on (state date) or Issued for reaffirmation of a
3 civil union-originally entered into a civil union to same mate at
4 (state place) on (state date)." Such a license shall be issued without
5 compliance with the provisions of R.S.37:1-4 and if applicable of
6 the provisions of "An act concerning marriages" approved May
7 third, one thousand nine hundred and thirty-eight (P.L.1938, c.126).
8 (cf: P.L.2011, c.179, s.3)

9
10 4. R.S.37:1-8 is amended to read as follows:

11 37:1-8. Testimony under oath by applicants as to legality of
12 proposed marriage or civil union; witnesses; perjury.

13 A licensing officer shall, before issuing a marriage or civil union
14 license, require the contracting parties **【**or, in the case of persons
15 who intend to be married or to enter into a civil union pursuant to
16 section 7 of P.L.2011, c.179 (C.37:1-17.3), one of the contracting
17 parties and the attorney-in-fact for the other party,**】** to appear before
18 him and subscribe and swear to an oath attesting the truth of the
19 facts respecting the legality of the proposed marriage or civil union
20 as set forth in the form supplied by the State registrar. In the case
21 of persons who intend to be married or to enter into a civil union
22 pursuant to section 7 of P.L.2011, c.179 (C.37:1-17.3) the following
23 persons shall appear before the licensing officer, as appropriate: (1)
24 in the case of a marriage or civil union by proxy, one of the
25 contracting parties and the attorney-in-fact for the other party; or
26 (2) in the case of a marriage or civil union by electronic means, one
27 of the contracting parties and a sworn statement of the party not
28 present. Said testimony shall be verified by a witness of legal age.
29 A licensing officer shall issue a license only if it is thus made to
30 appear before him that no legal impediment to the marriage or civil
31 union exists.

32 Every licensing officer may administer oaths: (1) to the
33 contracting parties; or **【**,**】** (2) in the case of persons who intend to
34 be married or to enter into a civil union pursuant to section 7 of
35 P.L.2011, c.179 (C.37:1-17.3) : (a) in the case of a marriage or civil
36 union by proxy, to one of the contracting parties and to the
37 attorney-in-fact for the other contracting party and their identifying
38 witness; or (b) in the case of a marriage or civil union by electronic
39 means, to one of the contracting parties and to the other party by
40 electronic means.

41 Any identifying witness, applicant applying for a marriage or
42 civil union license or attorney-in-fact who shall knowingly make
43 false answers to any of the inquiries asked by the licensing officer
44 shall be guilty of perjury.

45 (cf: P.L.2011, c.179, s.4)

46
47 5. R.S.37:1-16 is amended to read as follows:

48 37:1-16. Interrogation of applicants under oath; perjury.

1 Any person authorized to solemnize marriages or civil unions
2 may administer oaths to the parties applying to be married or to
3 enter into a civil union **】**or, in the case of persons applying to be
4 married or to enter into a civil union pursuant to section 7 of
5 P.L.2011, c.179 (C.37:1-17.3), to one of the contracting parties and
6 to the attorney-in-fact for the other contracting party,**】** and may
7 require them, or either of them, to make true answers to any
8 inquiries made by him in order to ascertain whether, in his
9 judgment, any legal impediment to the proposed marriage or civil
10 union exists. In the case of persons applying to be married or to
11 enter into a civil union pursuant to section 7 of P.L.2011, c.179
12 (C.37:1-17.3), the person may administer the oath as follows: (1) if
13 the marriage or civil union is by proxy, to one of the contracting
14 parties and to the attorney-in-fact for the other contracting party; or
15 (2) if the marriage or civil union is by electronic means, to the
16 contracting party who is present and to the other contracting party
17 by electronic means.

18 Any person who willfully makes false answers to any such
19 inquiries shall, if the answers are reduced to writing, signed by the
20 person making the same and attached to the certificate of marriage
21 or civil union, be deemed guilty of perjury pursuant to N.J.S.2C:28-
22 1.

23 (cf: P.L.2011, c.179, s.5)
24

25 6. R.S. 37:1-17 is amended to read as follows:

26 37:1-17. Marriage or civil union license; information provided.

27 On the marriage or civil union license shall be the form for the
28 certificate of marriage or civil union in quadruplicate, to which the
29 licensing officer shall have set forth particularly therein the name,
30 age, parentage, birthplace, residence, Social Security number and
31 domestic status of each party, whether single, widowed, divorced,
32 or a former civil union or domestic partner and the names and
33 county of birth of their parents. The Social Security number shall
34 be kept confidential and may only be released for child support
35 enforcement purposes, and shall not be considered a public record
36 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). The person by
37 whom or the religious society, institution, or organization by or
38 before which, the marriage or civil union was solemnized, shall
39 personally or by legally authorized agent subscribe where indicated
40 on the form the date and place of the marriage or civil union. Each
41 certificate of marriage or civil union shall also contain the signature
42 and residence of at least two witnesses who were present at the
43 marriage or civil union ceremony. In the case of a marriage or civil
44 union performed pursuant to section 7 of P.L.2011, c.179 (C.37:1-
45 17.3): (1) if the marriage or civil union is by proxy, the certificate
46 shall state that an attorney-in-fact was present and the original
47 power of attorney shall be attached; or (2) if the marriage or civil

1 union is by electronic means, a sworn statement of the party not
2 present shall be attached.

3 (cf: P.L.2006, c.103, s.20)

4
5 7. Section 2 of P.L.1980, c.128 (C.37:1-17.1) is amended to
6 read as follows:

7 2. License and certificate of marriage or civil union;
8 transmittal. The license and the original certificate shall be
9 transmitted pursuant to R.S.26:8-41. One copy of the certificate
10 shall be retained by the local registrar and one copy shall be given
11 to the persons contracting the marriage or civil union. In the case of
12 persons who have married or entered into a civil union pursuant to
13 section 7 of P.L.2011, c.179 (C.37:1-17.3) : (1) if the marriage or
14 civil union is by proxy, one copy of the certificate shall be retained
15 by the local registrar and one copy shall be given to one of the
16 contracting persons and to the attorney-in-fact for the other
17 contracting person; or (2) if the marriage or civil union is by
18 electronic means, one copy of the certificate shall be retained by the
19 local registrar and both copies shall be given to the contracting
20 party who is present. The remaining copy shall be retained by the
21 person solemnizing the marriage or civil union.

22 (cf: P.L.2011, c.179, s.6)

23
24 8. Section 7 of P.L.2011, c.179 (C.37:1-17.3) is amended to
25 read as follows:

26 7. A member of the Armed Forces of the United States or the
27 National Guard who is stationed overseas and serving in a conflict
28 or a war and is unable to appear for the licensure and solemnization
29 of his marriage or civil union may enter into that marriage or civil
30 union either: (1) by the appearance of an attorney-in-fact,
31 commissioned and empowered in writing for that purpose through a
32 power of attorney; or (2) by telephone, video conference, or other
33 electronic means which allows viewing by webcam. The attorney-
34 in-fact must personally appear before the licensing officer with the
35 person who is not serving overseas, and present the original power
36 of attorney duly signed by the party stationed overseas and
37 acknowledged by a notary or witnessed by two officers of the
38 United States Armed Forces or the National Guard. The power of
39 attorney shall state the legal names of the parties to be married or
40 enter into a civil union, and shall state that the power of attorney is
41 solely for the purpose of authorizing the attorney-in-fact to obtain a
42 marriage or civil union license on the person's behalf and to
43 participate in the solemnization of the marriage or civil union. The
44 original power of attorney shall be a part of the marriage or civil
45 union certificate upon registration. In the case of parties using
46 electronic means, one of the contracting parties shall personally
47 appear before the licensing officer accompanied by a sworn
48 statement of the party stationed overseas acknowledged by a notary

1 or witnessed by two officers of the United States Armed Forces or
2 the National Guard.

3 (cf: P.L.2011, c.179, s.7)

4
5 9. This act shall take effect immediately.

6
7
8 STATEMENT

9
10 This bill would authorize a marriage or civil union by telephone,
11 video conference, or other electronic means which allows viewing
12 by webcam for persons in the military stationed overseas and unable
13 to appear.

14 P.L.2011, c.179 authorized proxy marriages for members of the
15 United States Armed Forces or National Guard who are unable to
16 appear for the licensure and solemnization of a marriage or civil union
17 because that member is stationed overseas and serving in a conflict or
18 a war. Under this recent enactment the military member may enter a
19 marriage or civil union by the appearance of an attorney-in-fact,
20 commissioned and empowered in writing for that purpose through a
21 power of attorney. For the purposes of a marriage or civil union by
22 proxy, the attorney-in-fact must personally appear before the licensing
23 officer with the person who is not serving overseas and present the
24 original power of attorney. The original power of attorney is signed
25 by the party stationed overseas and acknowledged by a notary or
26 witnessed by two officers of the United States Armed Forces or the
27 National Guard.

28 This bill would enhance the existing system which authorizes
29 marriages or civil unions by proxy by using technology to facilitate
30 access for military personnel who are unable to appear. Under the bill,
31 for the purposes of a marriage or civil union by electronic means
32 one of the contracting parties would appear before the licensing
33 authority with a sworn statement of the party stationed overseas,
34 acknowledged by a notary or witnessed by two officers of the
35 United States Armed Forces or the National Guard. In addition, the
36 bill authorizes the party stationed overseas to participate in the
37 application process and in the ceremony by telephone, video
38 conference, or other electronic means, such as Skype or another
39 service which allows viewing by webcam.