

Chapter 103, P.L. 2006

(Enacted December 21, 2006)

[Second Reprint]

ASSEMBLY, No. 3787

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED DECEMBER 4, 2006

Sponsored by:

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District 29 (Essex and Union)

Assemblywoman BONNIE WATSON COLEMAN

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District 37 (Bergen)

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Senators Weinberg and Codey

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SYNOPSIS

Revises the marriage laws; establishes civil unions; establishes the “New Jersey Civil Union Review Commission.”

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 11, 2006.

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3

1 AN ACT concerning marriage and civil unions, establishing a
2 commission and revising and supplementing various parts of the
3 statutory law.

4

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

7

8 1. (New section) The Legislature finds and declares that:

9 a. Same-sex couples in New Jersey live together in committed
10 relationships without the benefits and rights afforded to
11 heterosexual couples who choose to marry;

12 b. Promoting such stable and durable relationships as well as
13 eliminating obstacles and hardships these couples may face is
14 necessary and proper and reaffirms this State's obligation to insure
15 equality for all the citizens of New Jersey;

16 c. New Jersey was one of the first states to adopt
17 comprehensive legislation prohibiting discrimination based on
18 affectional or sexual orientation and one of the first states to
19 formally recognize domestic partnerships by enacting the
20 "Domestic Partnership Act," P.L.2003, c.246 (C.26:8A-1 et seq.) on
21 January 12, 2004 thereby guaranteeing in law certain rights and
22 benefits to those individuals who enter into domestic partnerships;

23 d. Those rights and benefits afforded to same-sex couples
24 under the "Domestic Partnership Act" should be expanded by the
25 legal recognition of civil unions between same-sex couples in order
26 to provide these couples with all the rights and benefits that married
27 heterosexual couples enjoy;

28 e. It is the intent of the Legislature to comply with the
29 constitutional mandate set forth by the New Jersey Supreme Court
30 in the recent landmark decision of Lewis v. Harris, 188 N.J. 415,
31 (October 25, 2006) wherein the Court held that the equal protection
32 guarantee of Article I, paragraph 1 of the State Constitution was

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:

¹Assembly AJU committee amendments adopted December 7, 2006.

²Assembly floor amendments adopted December 11, 2006.

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1 violated by denying rights and benefits to committed same-sex
2 couples which were statutorily given to their heterosexual
3 counterparts. The Court stated that the “State can fulfill that
4 constitutional requirement in one of two ways. It can either amend
5 the marriage statutes to include same-sex couples or enact a parallel
6 statutory structure by another name, in which same-sex couples
7 would not only enjoy the rights and benefits, but also bear the
8 burdens and obligations of civil marriage.” Id. at 463.

9 f. The Legislature has chosen to establish civil unions by
10 amending the current marriage statute to include same-sex couples.
11 In doing so, the Legislature is continuing its longstanding history of
12 insuring equality under the laws for all New Jersey citizens by

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1 providing same-sex couples with the same rights and benefits as
2 heterosexual couples who choose to marry.

3

4 2. (New section) As used in this act:

5 ¹ “Civil union couple” means two persons who have established a
6 civil union pursuant to this act.¹

7 “Civil union license or civil union certificate” means a document
8 that certifies that the persons named on the license or certificate
9 have established a civil union in this State in compliance with this
10 act.

11 “Civil union” means the legally recognized union of two eligible
12 individuals of the same sex established pursuant to this act. Parties
13 to a civil union shall receive the same benefits and protections and
14 be subject to the same responsibilities as spouses in a marriage.

15 “Commissioner” means the Commissioner of Health and Senior
16 Services.

17 ¹~~“Civil union partner”~~ “One partner in a civil union couple”¹
18 means a person who has established a civil union pursuant to the
19 provisions of this act.

20 ¹~~“Party to a civil union”~~ means a person who has established a
21 civil union pursuant to the provisions of this act.¹

22

23 3. (New section) For two persons to establish a civil union in
24 this State, it shall be necessary that they satisfy all of the following
25 criteria:

26 a. Not be a party to another civil union, domestic partnership or
27 marriage in this State;

28 b. Be of the same sex ¹~~and therefore be excluded from the~~
29 ~~marriage laws of this State or any other state~~¹;

30 c. Be at least 18 years of age, except as provided in section 10
31 of this act.

32

33 4. (New section) a. ¹~~Parties to a civil union~~ Civil union
34 couples¹ shall have all of the same benefits, protections and
35 responsibilities under law, whether they derive from statute,

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- 1 administrative or court rule, public policy, common law or any
2 other source of civil law, as are granted to spouses in a marriage.
- 3 b. The dissolution of civil unions shall follow the same
4 procedures and be subject to the same substantive rights and
5 obligations that are involved in the dissolution of marriage.
- 6 c. The laws of domestic relations, including annulment,
7 premarital agreements, separation, divorce, child custody and
8 support, property division and maintenance, and post-relationship
9 spousal support, shall apply to ¹~~the parties to a civil union~~civil
10 union couples¹.
- 11 d. ¹~~The parties to a civil union~~Civil union couples¹ may
12 modify the terms, conditions or effects of their civil union in the
13 same manner and to the same extent as married person who execute
14 an antenuptial agreement or other agreement recognized and
15 enforceable under the law, setting forth particular understandings
16 with respect to their union.
- 17 e. The rights of ¹~~the parties to a civil union~~ civil union
18 couples¹ with respect to a child of whom either becomes the parent
19 during the term of the civil union, shall be the same as those of a
20 married couple with respect to a child of whom either spouse ¹~~or~~
21 partner in a civil union couple¹ becomes the parent during the
22 marriage.
- 23 f. All contracts made between persons in contemplation of a
24 civil union shall remain in full force after such civil union takes
25 place.
- 26 g. A copy of the record of the civil union received from the
27 local or State registrar shall be presumptive evidence of the civil
28 union in all courts.
- 29
- 30 5. (New section) The following list of legal benefits,
31 protections and responsibilities of spouses shall apply in like
32 manner to ¹~~the parties to a~~¹ civil union ¹couples¹, but shall not be
33 construed to be an exclusive list of such benefits, protections and
34 responsibilities:
- 35 a. laws relating to title, tenure, descent and distribution,

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- 1 intestate succession, ¹[waiver of will,]¹ survivorship, or other
2 incidents of the acquisition, ownership or transfer, inter vivos or at
3 death, of real or personal property, including but not limited to
4 eligibility to hold real and personal property as tenants by the
5 entirety;
- 6 b. causes of action related to or dependent upon spousal status,
7 including an action for wrongful death, emotional distress, loss of
8 consortium, or other torts or actions under contracts reciting, related
9 to, or dependent upon spousal status;
- 10 c. probate law and procedure, including nonprobate transfer;
- 11 d. adoption law and procedures;
- 12 e. laws relating to insurance, health and pension benefits;
- 13 f. domestic violence protections pursuant to the “Prevention of
14 Domestic Violence Act of 1991,” P.L.1991, c.261 (2C:25-17 et
15 seq.) and domestic violence programs;
- 16 g. prohibitions against discrimination based upon marital
17 status;
- 18 h. victim's compensation benefits, including but not limited to
19 compensation to spouse, children and relatives of homicide victims;
- 20 i. workers' compensation benefits pursuant to chapter 15 of
21 Title 34 of the Revised Statutes, including but not limited to
22 survivors' benefits and payment of back wages;
- 23 j. laws relating to emergency and nonemergency medical care
24 and treatment, hospital visitation and notification, and any rights
25 guaranteed to a hospital patient pursuant to P.L.1989, c.170

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- 1 (C.26:2H-12.7 et seq.) or a nursing home resident pursuant to
2 P.L.1976, c.120 (C.30:13-1 et seq.);
- 3 k. advance directives for health care and designation as a health
4 care representative pursuant to P.L.1991, c.201 (C.26:2H-53 et
5 seq.);
- 6 l. family leave benefits pursuant to P.L.1989, c.261 (C.34:11B-
7 1 et seq.);
- 8 m. public assistance benefits under State law, including, but not
9 limited to: Work First New Jersey benefits pursuant to P.L.1997,
10 c.38 (C.44:10-55 et seq.); medical assistance pursuant to P.L.1968,
11 c.413 (C.30:4D-1 et seq.); Supplemental Security Income pursuant
12 to P.L.1973, c.256 (C.44:7-85 et seq.); pharmaceutical assistance
13 pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) and P.L.2001, c.96
14 (C.30:4D-43 et seq.); hearing aid assistance pursuant to P.L.1987,
15 c.298 (C.30:4D-36 et seq.); and utility benefits pursuant to
16 P.L.1979, c.197 (C.48:2-29.15 et seq.) and P.L.1981, c.210 (C.48:2-
17 29.30 et seq.);
- 18 n. laws relating to taxes imposed by the State or a municipality
19 ¹[other than estate taxes,]¹ including but not limited to homestead
20 rebate tax allowances, tax deductions based on marital status or
21 exemptions from realty transfer tax based on marital status;
- 22 o. laws relating to immunity from compelled testimony and the
23 marital communication privilege;
- 24 p. the home ownership rights of a surviving spouse;
- 25 q. the right of a spouse to a surname change without petitioning
26 the court;
- 27 r. laws relating to the making of, revoking and objecting to
28 anatomical gifts pursuant to P.L.1969, c.161 (C.26:6-57 et seq.);
- 29 s. State pay for military service;
- 30 t. application for absentee ballots;
- 31 u. legal requirements for assignment of wages; and
- 32 v. laws related to tuition assistance for higher education for
33 surviving spouses or children.
- 34
- 35 6. R.S.37:1-1 is amended to read as follows:
36 37:1-1. Certain marriages or civil unions prohibited.

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- 1 a. A man shall not marry or enter into a civil union with any of
2 his ancestors or descendants, or his sister or brother, or the daughter
3 or son of his brother or sister, or the sister or brother of his father or
4 mother, whether such collateral kindred be of the whole or half
5 blood.
- 6 b. A woman shall not marry or enter into a civil union with any
7 of her ancestors or descendants, or her sister or brother, or the
8 daughter or son of her brother or sister, or the sister or brother of
9 her father or mother, whether such collateral kindred be of the
10 whole or half blood.

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1 c. A marriage or civil union in violation of any of the foregoing
2 provisions shall be absolutely void.

3 (cf: R.S.37:1-1)

4

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

6 37:1-2. Necessity of marriage or civil union license; "licensing
7 officer" defined.

8 Before a marriage or a civil union can be lawfully performed in
9 this **【state】** State, the persons intending to be married or to enter
10 into a civil union shall obtain a marriage or civil union license from
11 the licensing officer and deliver it to the person who is to officiate,
12 but if the marriage or civil union is to be performed by or before
13 any religious society, institution or organization, the license shall be
14 delivered to such religious society, institution or organization, or
15 any officer thereof.

16 As used in this chapter, "licensing officer" means, as to cities of
17 the first class, the city clerk; as to other municipalities, the registrar
18 of vital statistics; or the deputy of any said official designated by
19 him to issue licenses during his absence.

20 (cf: R.S.37:1-2)

21

22 8. R.S.37:1-3 is amended to read as follows:

23 37:1-3. Where marriage or civil union license to be obtained.

24 The **【licensing officer shall issue the】** marriage or civil union
25 license **【which】** shall be **【obtained】**:

26 a. In the municipality of this state in which the female party to
27 the proposed marriage resides; or

28 b. In the municipality in which the male party resides, if the
29 female party is a nonresident of this state; or

30 c. In the municipality in which the proposed marriage is to be
31 performed, if both parties are nonresidents of this state **【issued by**
32 the licensing officer in the municipality in which either party
33 resides or, if neither party is a resident of the State, in the
34 municipality in which the proposed marriage or civil union is to be
35 performed.

36 (cf: R.S.37:1-3)

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

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

Except as provided in [sections 37:1-5 and] R.S.37:1-6 [of this Title], the marriage or civil union license shall not be issued by a licensing officer sooner than 72 hours after the application therefor has been made; provided, however, that the Superior Court may, by order, waive all or any part of said 72-hour period in cases of emergency, upon satisfactory proof being shown to it. Said order shall be filed with the licensing officer and attached to the application for the license.

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

(cf: P.L.1991, c.91, s.366)

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

37:1-6. A marriage or civil union license shall not be issued to a minor under the age of 18 years, unless the parents or guardian of the minor, if there be any, first certify under their hands and seals, in the presence of two reputable witnesses, their consent thereto, which consent shall be delivered to the licensing officer issuing the license. If the parents, or either of them, or guardian of any such minor shall be of unsound mind, the consent of such parent or guardian to the proposed marriage or civil union shall not be required.

When a minor is under the age of 16 years, the consent required by this section must be approved in writing by any judge of the Superior Court, Chancery Division, Family Part. Said approval shall be filed with the licensing officer.

The licensing officer shall transmit to the State Bureau of Vital Statistics all such consents, orders, and approvals so received by him in the same manner and subject to the same penalty as in the case of certificates of marriage or civil union and marriage or civil union licenses.

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1 **【If any such male applicant for a license to marry shall be a**
2 **minor under the age of 18 years, and shall have been arrested on the**
3 **charge of sexual intercourse with a single, widowed or divorced**
4 **female of good repute for chastity who has thereby become**
5 **pregnant, a license to marry the female may be immediately issued**
6 **by any licensing officer to the minor upon his application therefor,**
7 **without the consent or approval required by this section.】**

8 (cf: P.L.1991, c.91, s.367)

9

10 11. R.S.37:1-7 is amended to read as follows:

11 37:1-7. Issuing of license; remarriage or reaffirming a civil
12 union.

13 The licensing officer is hereby empowered to issue marriage or
14 civil union licenses to the contracting parties who apply therefor
15 and are entitled under the laws of this State to contract matrimony
16 or establish a civil union , authorizing the marriage or civil union
17 of such parties, which license shall be substantially in the
18 following form:

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

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

26 A B of in the county of and State of and
27 C D of , in the county of and State of , and to
28 certify the same to be the said parties, or either of them, under his
29 hand and seal in his ministerial or official capacity.

30 In testimony whereof, I have hereunto set my hand and affixed
31 the seal of said town, township or city at this day
32 of **【one thousand nine hundred】** two thousand and
33 , (Name and official title)"

34 If the contracting parties desire both a civil and a religious
35 marriage or civil union ceremony, the licensing officer shall issue a
36 license in duplicate, marking one as "issued for civil marriage or

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1 civil union ceremony" and one as "issued for religious marriage or
2 civil union ceremony."

3 Nothing in this section shall be construed to prevent the
4 remarriage of a couple already married to each other or to prevent a
5 couple who has entered into a civil union to reaffirm their
6 commitment to one another; provided, a new license is obtained and
7 the marriage or civil union properly reported. Such license shall be
8 plainly marked "Issued for remarriage--originally married to same
9 mate at (state place) on (state date) or Issued for reaffirmation of a
10 civil union—originally entered into a civil union to same mate at
11 (state place) on (state date)." Such a license shall be issued without
12 compliance with the provisions of **【section】 R.S.37:1-4 【of the**
13 **Revised Statutes】** and if applicable of the provisions of "An act
14 concerning marriages" approved May third, one thousand nine
15 hundred and thirty-eight (P.L.1938, c.126). ¹**【When such marriage**
16 or civil union report is received by the State registrar he shall, if an
17 original marriage or civil union certificate is recorded, make a
18 notation thereon of the remarriage or reaffirmation and its date and
19 place.】¹

20 (cf: P.L.1941, c.354, s.1)

21

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

23 37:1-8. Testimony under oath by applicants as to legality of
24 proposed marriage or civil union; witnesses; perjury

25 A licensing officer shall, before issuing a marriage or civil union
26 license, require the contracting parties to appear before him and
27 subscribe and swear to an oath attesting the truth of the facts
28 respecting the legality of the proposed marriage or civil union as set
29 forth in the form supplied by the State ¹**【Bureau of Vital Statistics】**
30 Registrar¹. Said testimony shall be verified by a witness of legal
31 age. A licensing officer shall issue a license only if it is thus made
32 to appear before him that no legal impediment to the marriage or
33 civil union exists. Every licensing officer may administer oaths to
34 the contracting parties and their identifying witness.

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1 Any identifying witness or applicant applying for a marriage or
2 civil union license who shall knowingly make false answers to any
3 of the inquiries asked by the licensing officer shall be guilty of
4 perjury.

5 (cf: P.L.1946, c.185, s. 4)

6

7 13. R.S.37:1-11 is amended to read as follows:

8 37:1-11. Illegal issuance of license a **【misdemeanor】** disorderly
9 persons offense.

10 Any licensing officer who issues a marriage or civil union
11 license except as provided in this chapter shall be guilty of a
12 **【misdemeanor】** disorderly persons offense.

13 (cf: R.S.37:1-11)

14

15 14. R.S.37:1-12 is amended to read as follows:

16 37:1-12. Fees; disposition in cities of first class.

17 For issuing a marriage or civil union license, the licensing officer
18 shall be entitled to receive from the applicants the sum of three
19 dollars (\$3.00). **【All fees so received by the city clerk in cities of**
20 **the first class shall be paid into the treasury of such city to be used**
21 **for the relief of its poor.】**

22 (cf: P.L.1948, c. 285, s. 3)

23

24 15. Section 1 of P.L.1981, c.382 (C.37:1-12.1) is amended to
25 read as follows:

26 1. In addition to the fee for issuing a marriage or civil union
27 license authorized pursuant to R.S.37:1-12, each licensing officer
28 shall collect a fee of \$25 from the marriage license or civil union
29 license applicants which shall be forwarded on a quarterly basis to
30 the Department of Human Services.

31 (cf: P.L.1992, c.136, s.1)

32

33 16. Section 2 of P.L.1981, c.382 (C.37:1-12.2) is amended to
34 read as follows:

35 2. The Department of Human Services shall establish a trust
36 fund for the deposit of the fees received pursuant to section 1 of

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1 **[this act]** of P.L.1981, c.382 (C.37:1-12.1). The moneys from the
2 trust fund shall be used for the specific purpose of establishing and
3 maintaining shelters for the victims of domestic violence, or a. for
4 providing grants-in-aid to such shelters established by local
5 governments or private nonprofit organizations; or b. for providing
6 grants-in-aid to non-residential agencies whose primary purpose is
7 to serve victims of domestic violence in those counties which do not
8 have emergency residential shelters for victims; or c. for providing
9 grants-in-aid to any nonprofit, Statewide coalition whose
10 membership includes a majority of the programs for battered
11 women in New Jersey and whose board membership includes a
12 majority of representatives of these programs and whose purpose is
13 to provide services, community education, and technical assistance
14 to these programs to establish and maintain shelter and related
15 services for victims of domestic violence and their children.
16 (cf: P.L.1992, c.136, s.2).

17

18 17. R.S.37:1-13 is amended to read as follows:

19 37:1-13 Authorization to solemnize marriages and civil unions.

20 Each judge of the United States Court of Appeals for the Third
21 Circuit, each judge of a federal district court, United States
22 magistrate, judge of a municipal court, judge of the Superior Court,
23 judge of a tax court, retired judge of the Superior Court or Tax
24 Court, or judge of the Superior Court or Tax Court, the former
25 County Court, the former County Juvenile and Domestic Relations
26 Court, or the former County District Court who has resigned in
27 good standing, surrogate of any county, county clerk and any mayor
28 or the deputy mayor when authorized by the mayor, or chairman of
29 any township committee or village president of this State, and every
30 minister of every religion, are hereby authorized to solemnize
31 marriage or civil union between such persons as may lawfully enter
32 into the matrimonial relation or civil union; and every religious
33 society, institution or organization in this State may join together in
34 marriage or civil union such persons according to the rules and
35 customs of the society, institution or organization.

36 (cf: P.L.2001, c.143, s.1)

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2 18. R.S.37:1-15 is amended to read as follows:

3 37:1-15. Solemnizing without presentation of license;
4 **【misdemeanor】** disorderly persons offense .

5 Any person, not authorized by **【section】**R.S.37:1-13 **【of the**
6 **Revised Statutes】** to solemnize marriages or civil unions, who
7 solemnizes a marriage or civil union or any person or religious
8 society, institution or organization, authorized to solemnize
9 marriages or civil unions, who solemnizes a marriage or civil union
10 without the presentation of a license therefor, obtained in
11 accordance with the provisions of article two of this chapter (s.37:1-
12 2 et seq.), shall be guilty of a **【misdemeanor】** disorderly persons
13 offense, and punished by a fine not exceeding five hundred dollars
14 (\$500.00), or imprisonment not exceeding six months, or both.
15 (cf: P.L.1948, c.127, s.1).

16

17 19. R.S.37:1-16 is amended to read as follows:

18 37:1-16. Interrogation of applicants under oath; perjury.

19 Any person authorized to solemnize marriages or civil unions
20 may administer oaths to the parties applying to be married or to
21 enter into a civil union, and may require them, or either of them, to
22 make true answers to any inquiries made by him in order to
23 ascertain whether, in his judgment, any legal impediment to the
24 proposed marriage or civil union exists.

25 Any person who willfully makes false answers to any such
26 inquiries shall, if the answers are reduced to writing, signed by the
27 party making the same and attached to the certificate of marriage or
28 civil union, be deemed guilty of perjury pursuant to N.J.S.2C:28-1.
29 (cf: R.S. 37:1-16)

30

31 20. R.S.37:1-17 is amended to read as follows:

32 37:1-17. Marriage or civil union license; information provided.

33 On the marriage or civil union license shall be the form for the
34 certificate of marriage or civil union in quadruplicate, to which the
35 licensing officer shall have set forth particularly therein the name,
36 age, parentage, birthplace, residence, Social Security number and

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1 condition (whether single, widowed or divorced) of each of the
2 married persons,] domestic status of each party, whether single,
3 widowed, divorced, or a former ¹[party to a] civil union or
4 domestic [partnership] partner¹ and the names and county of birth
5 of their parents. The Social Security number shall be kept
6 confidential and may only be released for child support enforcement
7 purposes, and shall not be considered a public record pursuant to
8 P.L.1963, c.73 (C.47:1A-1 et seq.). The person by whom or the
9 religious society, institution, or organization by or before which, the
10 marriage or civil union was solemnized, shall personally or by
11 legally authorized agent subscribe where indicated on the form the
12 date and place of the marriage or civil union. Each certificate of
13 marriage or civil union shall also contain the signature and
14 residence of at least two witnesses who were present at the marriage
15 or civil union ceremony.

16 (cf: P.L.2002, c.88, s.3)

17

18 21. Section 2 of P.L.1980, c.128 (C.37:1-17.1) is amended to
19 read as follows:

20 2. License and certificate of marriage or civil union; transmittal

21 The license and the original certificate shall be transmitted
22 pursuant to R.S.26:8-41. One copy of the certificate shall be
23 retained by the local registrar and one copy shall be given to the
24 persons contracting the marriage or civil union. The remaining copy
25 shall be retained by the person solemnizing the marriage or civil
26 union.

27 (cf: P.L.1980, c.128, s.2)

28

29 22. Section 3 of P.L.1980, c.128 (C.37:1-17.2) is amended to
30 read as follows:

31 37:1-17.2. Delayed reports; filing; contents; affidavits; evidence.

32 Any marriage or civil union which has occurred or which may
33 hereafter occur and which is not recorded with the State Registrar
34 as required by this chapter, may be recorded by filing a delayed
35 report with the State Registrar, documented by a copy of the
36 application for the license. The delayed report shall contain an

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1 affidavit of the person performing the marriage or civil union or if
2 he is deceased or not available, of one or both witnesses to the
3 marriage or civil union ceremony confirming that the ceremony was
4 performed and the date and place of the marriage or civil union.

5 When it is impossible to secure the affidavit of the officiant or
6 either of the witnesses, the affidavit may be made by a person who
7 was present at the marriage or civil union ceremony, or the
8 contracting parties, provided additional documentary evidence is
9 presented.

10 The State Registrar may require evidence of the correctness of
11 the information in a delayed report and may refuse to accept a
12 delayed report if the evidence is not submitted.

13 (cf:P.L.1980, c.128, s.3)

14

15 23. R.S.37:1-18 is amended to read as follows:

16 37:1-18. Penalty for false certificate.

17 Any person, religious society, institution or organization
18 authorized to solemnize marriages or civil unions, who makes and
19 false certificate of marriage or civil union, shall be liable to a
20 penalty of **【one hundred dollars】** \$100.00.

21 (cf: R.S.37:1-18)

22

23 24. R.S.37:1-19 is amended to read as follows:

24 37:1-19. Penalty; how recovered.

25 Any penalty incurred under any of the provisions of this article
26 may be recovered with costs, in an action at law by and in the name
27 of the local board of health of the municipality where the marriage
28 or civil union occurred, or by and in the name of the **【state**
29 **department of health】** Department of Health and Senior Services.

30 (cf: R.S.37:1-19)

31

32 25. Section 1 of P.L.1977, c.282 (C.37:1-27) is amended to read
33 as follows:

34 37:1-27. Tests; information; distribution by issuer of marriage or
35 civil union licenses.

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1 A licensing officer or other person issuing marriage or civil
2 union licenses shall make information available to applicants
3 concerning places where such applicants may be tested for genetic
4 diseases including, but not limited to Cooley's Anemia, Sickle Cell
5 Anemia, and Tay-Sachs Disease. Literature containing such
6 information which has been prepared and provided by private
7 organizations may be distributed to applicants by a licensing officer
8 or other person issuing marriage or civil union licenses.

9 (cf: P.L.1977, c.282, s.1)

10

11 26. R.S.37:2-31 is amended to read as follows to read as
12 follows:

13 37:2-31. This article shall be known and may be cited as the
14 "Uniform Premarital and Pre-Civil Union Agreement Act." Source:
15 New.

16 (cf: P.L.1988, c.99, s.1).

17

18 27. R.S.37:2-32 is amended to read as follows to read as
19 follows:

20 37:2-32. As used in this article:

21 a. "Premarital or pre-civil union agreement" means an
22 agreement between prospective spouses or partners ¹in a civil union
23 couple¹made in contemplation of marriage or a civil union and to be
24 effective upon marriage or upon the parties establishing a civil
25 union;

26 b. "Property" means an interest, present or future, legal or
27 equitable, vested or contingent, in real or personal property,
28 including income and earnings;

29 c. "Unconscionable premarital or pre-civil union agreement"
30 means an agreement, either due to a lack of property or
31 unemployability:

32 (1) Which would render a spouse or partner ¹in a civil union
33 couple¹ without a means of reasonable support;

34 (2) Which would make a spouse or partner ¹in a civil union
35 couple¹ a public charge; or

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1 (3) Which would provide a standard of living far below that
2 which was enjoyed before the marriage or civil union.

3 (cf: P.L.1988, c.99, s.1)

4
5 28. R.S.37:2-33 is amended to read as follows:

6 37:2-33. Formalities; consideration.

7 A premarital or pre-civil union agreement shall be in writing,
8 with a statement of assets annexed thereto, signed by both parties,
9 and it is enforceable without consideration.

10 (cf: P.L.1988, c.99, s.1)

11
12 29. R.S.37:2-34 is amended to read as follows:

13 37:2-34. Contents of premarital or pre-civil union agreement. .

14 Parties to a premarital or pre-civil union agreement may contract
15 with respect to:

16 a. The rights and obligations of each of the parties in any of the
17 property of either or both of them whenever and wherever acquired
18 or located;

19 b. The right to buy, sell, use, transfer, exchange, abandon,
20 lease, consume, expend, assign, create a security interest in,
21 mortgage, encumber, dispose of, or otherwise manage and control
22 property;

23 c. The disposition of property upon separation, marital
24 dissolution, dissolution of a civil union, death, or the occurrence or
25 nonoccurrence of any other event;

26 d. The modification or elimination of spousal or ¹[civil union
27 partner] one partner in a civil union couple¹ support;

28 e. The making of a will, trust, or other arrangement to carry out
29 the provisions of the agreement;

30 f. The ownership rights in and disposition of the death benefit
31 from a life insurance policy;

32 g. The choice of law governing the construction of the
33 agreement; and

34 h. Any other matter, including their personal rights and
35 obligations, not in violation of public policy.

36 (cf: P.L.1988, c.99, s.1)

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30. R.S.37:2-35 is amended to read as follows:

37:2-35. Premarital or pre-civil union agreement not to adversely affect right of child support .

A premarital or pre-civil union agreement shall not adversely affect the right of a child to support.

(cf: P.L.1988, c.99, s.1)

31. R.S.37:2-36 is amended to read as follows:

37:2-35. When premarital or pre-civil union agreement becomes effective,

A premarital or pre-civil union agreement becomes effective upon marriage of the parties or upon the parties establishing a civil union.

(cf: P.L.1988, c.99, s.1)

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

37:2-37. Amendment or revocation of premarital or pre-civil union agreement .

After marriage of the parties or the parties establishing a civil union, a premarital or pre-civil union agreement may be amended or revoked only by a written agreement signed by the parties, and the amended agreement or revocation is enforceable without consideration.

(cf: P.L.1988, c.99, s.1)

33. R.S.37:2-38 is amended to read as follows:

37:2-38. Enforcement of premarital or pre-civil union agreement; generally.

The burden of proof to set aside a premarital or pre-civil union agreement shall be upon the party alleging the agreement to be unenforceable. A premarital or pre-civil union agreement shall not be enforceable if the party seeking to set aside the agreement proves, by clear and convincing evidence, that:

- a. The party executed the agreement involuntarily; or

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1 b. The agreement was unconscionable at the time enforcement
2 was sought; or

3 c. That party, before execution of the agreement:

4 (1) Was not provided full and fair disclosure of the earnings,
5 property and financial obligations of the other party;

6 (2) Did not voluntarily and expressly waive, in writing, any
7 right to disclosure of the property or financial obligations of the
8 other party beyond the disclosure provided;

9 (3) Did not have, or reasonably could not have had, an adequate
10 knowledge of the property or financial obligations of the other
11 party; or

12 (4) Did not consult with independent legal counsel and did not
13 voluntarily and expressly waive, in writing, the opportunity to
14 consult with independent legal counsel.

15 d. The issue of unconscionability of a premarital or pre-civil
16 union agreement shall be determined by the court as a matter of
17 law.

18 (cf: P.L.1988, c.99, s.1)

19

20 34. R.S.37:2-39 is amended to read as follows:

21 37:2-39. Enforcement of premarital or pre-civil union agreement;
22 marriage or civil union determined void

23 If a marriage or civil union is determined to be void, an
24 agreement that would otherwise have been a premarital or pre-civil
25 union agreement is enforceable only to the extent necessary to
26 avoid an inequitable result.

27 (cf: P.L.1988, c.99, s.1).

28

29 35. R.S.37:2-40 is amended to read as follows:

30 37:2-40. Construction of article₂

31 ¹a.¹ This article shall be construed to effectuate its general
32 purpose to make uniform the law with respect to the subject of the
33 article among states enacting the "Uniform Premarital ¹【or Pre-
34 Civil Union】¹ Agreement Act."

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1 ¹b. This article shall be construed to apply to pre-civil union
2 agreements executed on and after the effective date of P.L. ,
3 c. (C.) (pending before the Legislature as this bill).¹
4 (cf: P.L.1988, c.99, s.1)

5
6 36. R.S.37:2-41 is amended to read as follows:

7 37:2-41. Application of article.

8 This article shall apply to premarital agreements executed on and
9 after its effective date.

10 This article as amended by P.L. ,c. (C.)(pending before
11 the Legislature as this bill) shall apply to pre-civil union agreements
12 executed on and after the effective date of P.L. ,c. (C.)
13 (pending before the Legislature as this bill).
14 (cf: P.L.1988, c.99, s.1)

15
16 37. R.S.26:8-1 is amended to read as follows:

17 26:8-1. As used in this chapter:

18 "Vital statistics" means statistics concerning births, deaths, fetal
19 deaths, marriages, civil unions and domestic partnerships
20 established pursuant to P.L.2003, c.246 (C.26:8A-1 et al.).

21 "Vital records" means the birth, death, fetal death, marriage, civil
22 union and domestic partnership records from which vital statistics
23 are produced.

24 "State registrar" means the State registrar of vital statistics;
25 "Local registrar" or "registrar" means the local registrar of vital
26 statistics of any district; and "registration district" or "district"
27 means a registration district as constituted by this article.

28 "Live birth" or "birth" means the complete expulsion or
29 extraction from its mother of a product of conception, irrespective
30 of the duration of pregnancy, which, after such separation, breathes
31 or shows any other evidence of life such as beating of the heart,
32 pulsation of the umbilical cord, or definite movement of voluntary
33 muscles, whether or not the umbilical cord has been cut or the
34 placenta attached.

35 "Authentication" means the entry by the State Medical Examiner
36 or a county medical examiner, funeral director or physician into the

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1 New Jersey Electronic Death Registration System of a personal
2 identification code, digital signature or other identifier unique to
3 that user, by which the information entered into the system by the
4 user is authenticated by the user who assumes responsibility for its
5 accuracy. "Authentication" also means the process by which the
6 State registrar or a local registrar, deputy registrar, alternate deputy
7 registrar or subregistrar indicates that person's review and approval
8 of information entered into the system by the State Medical
9 Examiner or a county medical examiner, funeral director or
10 physician.

11 "Electronic registration system" means any electronic method,
12 including, but not limited to, one based on Internet technology, of
13 collecting, transmitting, recording and authenticating information
14 from one or more responsible parties, which is necessary to
15 complete a vital record, and is designed to replace a manual, paper-
16 based data collection, recordation and signature system.

17 "New Jersey Electronic Death Registration System" or "NJ-
18 EDRS" is an electronic registration system for completing a
19 certification of death or fetal death record that is authorized,
20 designed and maintained by the State registrar.

21 (cf: P.L.2003, c.246, s.14).

22

23 38. R.S.26:8-4 is amended to read as follows:

24 26:8-4. Duty to furnish information relative to birth, death,
25 marriage, civil union, domestic partnership. Upon demand of the
26 State registrar in person, by mail, by means of the NJ-EDRS, or
27 through the local registrar, every physician, midwife, informant,
28 funeral director, or other person having knowledge of the facts
29 relative to any birth, death, fetal death, marriage, civil union or
30 domestic partnership, shall supply such information as he may
31 possess, upon a form provided by the State registrar, or through the
32 NJ-EDRS, or upon the original birth, death, fetal death, marriage,
33 civil union or domestic partnership certificate or its electronic
34 facsimile or digitized form thereof.

35 (cf: P.L.2003, c.246, s.16).

36

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25

1 39. R.S.26:8-17 is amended to read as follows:

2 26:8-17. The local registrar, immediately upon acceptance of the
3 appointment, shall appoint a deputy to assist in the normal, day-to-
4 day operation of the office and whose duty shall be to act in the
5 registrar's stead in case of absence, disability or death of the
6 registrar. In case of death of the local registrar the deputy shall act
7 as local registrar until a new local registrar has been appointed and
8 qualified.

9 In addition to a deputy registrar, the local registrar may appoint
10 one or two alternate deputy registrars if the local registrar deems
11 such an appointment to be necessary for the office to function
12 efficiently and to provide quality service to the public. The deputy
13 registrar and alternate deputy registrar shall have the authority to
14 receive birth certificates and death certificates; to issue burial
15 permits, and copies of birth, death, marriage, civil union and
16 domestic partnership certificates; to take the oath on marriage and
17 civil union license applications; and to issue marriage and civil
18 union licenses and register domestic partnerships. The deputy
19 registrar and alternate deputy registrar shall receive instructions
20 from and perform their duties under the direct supervision of the
21 registrar, who shall be the final authority with the responsibility of
22 fulfilling the duties of the local registrar outlined in R.S.26:8-25.
23 The deputy registrar and any alternate deputy registrar shall serve at
24 the pleasure of the local registrar.

25 (cf: P.L.2003, c.246, s.16).

26

27 40. R.S.26:8-23 is amended to read as follows:

28 26:8-23. The Department of Health and Senior Services shall
29 have charge of the registration of births, deaths, fetal deaths,
30 marriages, civil unions and domestic partnerships and shall procure
31 the prompt and accurate registration of the same in each registration
32 district and in the department. The department may promulgate any
33 rule or regulation which it deems necessary for the uniform and
34 thorough enforcement of this section.

35 The department may decline permission to examine any record
36 except in the presence of an officer or employee of the department.

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26

1 (cf: P.L.2003, c.246, s.17).

2

3 41. R.S.26:8-24 is amended to read as follows:

4 26:8-24. The State registrar shall:

5 a. Have general supervision throughout the State of the
6 registration of vital records;

7 b. Have supervisory power over local registrars, deputy local
8 registrars, alternate deputy local registrars, and subregistrars, in the
9 enforcement of the law relative to the disposal of dead bodies and
10 the registration of vital records;

11 c. Prepare, print, and supply to all registrars, upon request
12 therefor, all blanks and forms used in registering the records
13 required by said law, and provide for and prescribe the use of the
14 NJ-EDRS. No other blanks or methods of registration shall be used
15 than those supplied or approved by the State registrar;

16 d. Carefully examine the certificates or electronic files received
17 periodically from the local registrars or originating from their
18 jurisdiction; and, if any are incomplete or unsatisfactory, require
19 such further information to be supplied as may be necessary to
20 make the record complete and satisfactory;

21 e. Arrange or bind, and permanently preserve the certificates of
22 vital records, or the information comprising those records, in a
23 systematic manner and in a form that is deemed most consistent
24 with contemporary and developing standards of vital statistical
25 archival record keeping;

26 f. Prepare and maintain a comprehensive and continuous index
27 of all vital records registered, the index to be arranged
28 alphabetically;

29 1. In the case of deaths, by the name of the decedent;

30 2. In the case of births, by the name of child, if given, and if
31 not, then by the name of father or mother;

32 3. In the case of marriages, by the surname of the husband and
33 also by the maiden name of the wife;

34 4. In the case of civil union, by the surname of each of the
35 parties to the civil union;

36 5. In the case of domestic partnerships, by the surname of each

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27

- 1 of the partners; and
- 2 g. Mark the birth certificate of a missing child when notified by
- 3 the Missing Persons Unit in the Department of Law and Public
- 4 Safety pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c);
- 5 and
- 6 h. Develop and provide to local registrars an education and
- 7 training program, which the State registrar may require each local
- 8 registrar to complete as a condition of retaining that position, and
- 9 which may be offered to deputy local registrars, alternate deputy
- 10 local registrars and subregistrars at the discretion of the State
- 11 registrar, that includes material designed to implement the NJ-
- 12 EDRS and to familiarize local registrars with the statutory
- 13 requirements applicable to their duties and any rules and regulations
- 14 adopted pursuant thereto, as deemed appropriate by the State
- 15 registrar.
- 16 (cf: P.L.2003, c.246, s.18)
- 17 42. R.S.26:8-25 is amended to read as follows:
- 18 26:8-25. The local registrar, under the supervision and direction
- 19 of the State registrar, shall:
- 20 a. Strictly and thoroughly enforce the law relative to the
- 21 disposal of dead bodies and the registration of vital records in his
- 22 registration district;
- 23 b. Supply blank forms of certificates to such persons as require
- 24 them;
- 25 c. Supply to every physician, midwife, and funeral director a
- 26 copy of the law relative to the registration of vital records and the
- 27 disposal of dead bodies, together with such rules and regulations as
- 28 may be prepared by the State registrar relative to their enforcement;
- 29 d. Sign his name and insert the date of filing on each certificate
- 30 of birth, marriage, civil union, domestic partnership and death or
- 31 otherwise authenticate the local registrar's identity through the NJ-
- 32 EDRS as prescribed by the State registrar;
- 33 e. Examine each certificate of birth, marriage, civil union,
- 34 domestic partnership or death when presented for record in order to
- 35 ascertain whether or not it has been made in accordance with law
- 36 and the instructions of the State registrar; and if incomplete and

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1 unsatisfactory, have the same corrected;

2 f. At the expense of the municipality make a complete and
3 accurate copy of each birth, marriage, civil union, domestic
4 partnership and death certificate registered by him on a form or in a
5 manner prescribed by the State registrar, to be preserved in his
6 office as the local record or in the NJ-EDRS as prescribed by the
7 State registrar;

8 g. On the tenth day of each month or sooner if requested by the
9 department, transmit to the State registrar all original birth,
10 marriage, civil union, domestic partnership and death certificates
11 received by him for the preceding month, except that a record
12 created on the NJ-EDRS as prescribed by the State registrar shall be
13 deemed to have been transmitted. If no births, marriages, civil
14 union, domestic partnerships or deaths occurred in any month, he
15 shall, on or before the tenth day of the following month, report that
16 fact to the State registrar on a card provided for such purpose;

17 h. Make an immediate report to the State registrar of any
18 violation of R.S.26:6-1 et seq., R.S.26:8-1 et seq., or R.S.37:1-1 et
19 seq. or P.L. , c. (C.)(pending before the Legislature as this
20 amendatory and supplementary bill) coming to his knowledge;

21 i. In the case of any birth in his registration district to parents
22 who are residents of another registration district or of the marriage
23 or civil union in his registration district of any couple who obtained
24 the marriage or civil union license in another registration district, or
25 of the death in his registration district of any person who at the time
26 of death was a resident of another registration district notify the
27 registrar of the other registration district, within five days of the
28 birth, marriage, civil union, or death, on forms prescribed by the
29 State registrar. All entries relating to cause of death on the original
30 certificate shall be entered on the death form sent to the registrar of
31 the other registration district. A record created on the NJ-EDRS as
32 prescribed by the State registrar shall be deemed to have been
33 transmitted to the registrar of the other registration district;

34 j. Mark the birth certificate of a missing child born in his
35 registration district when notified by the State registrar pursuant to
36 section 3 of P.L.1995, c.395 (C.52:17B-9.8c); and

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1 k. Make computer facilities with access to the NJ-EDRS
2 available to funeral directors and physicians registered with the NJ-
3 EDRS, within the regular established business hours of the local
4 registrar, for the purpose of providing information necessary to
5 complete a death record.

6 (cf:P.L.2003, c.246, s.19).

7

8 43. R.S.26:8-27 is amended to read as follows:

9 26:8-27. Inquiries to applicants for marriage or civil union
10 license. The department shall issue to each local registrar and to
11 city clerks of cities of the first class, the form and substance of the
12 several inquiries to be made of applicants for a marriage license or a
13 civil union license and their witnesses for the purpose of
14 ascertaining whether any legal impediment to any proposed
15 marriage or civil union exists.

16 The form shall not contain any inquiries or information which
17 concerns the race of an applicant for a marriage or civil union
18 license.

19 (cf: P.L.2002,c.88, c.1)

20

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

22 26:8-41. Transmission of marriage and civil union licenses and
23 certificates.

24 Every person or religious society, institution or organization
25 solemnizing a marriage or ¹[performing a] civil union shall,
26 within 5 days thereafter, transmit the certificate of marriage or civil
27 union and the marriage or civil union license to the local registrar of
28 the registration district in which the marriage or civil union occurs
29 or to the clerk of the county board of health.

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

34 (cf: P.L.1965, c.78, s.59)

35

36 45. R.S.26:8-42 is amended to read as follows:

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1 26:8-42. The local registrar who receives the certificate of a
2 marriage or the certificate of a civil union within the district under
3 his jurisdiction, the license for which was issued in another
4 registration district, shall, within 5 days after receipt of the marriage
5 or civil union certificate, copy the names of the persons married or
6 the ¹[parties to a civil union]partners in a civil union couple¹; the
7 date of marriage or civil union; the place of marriage or the civil
8 union and the marriage or civil union license number upon a form
9 provided by the State registrar and transmit it by mail to the officer
10 legally designated to receive certificates of marriage or civil union
11 in the registration district in which the license was issued.

12 (cf: P.L.1965, c.78, s.60)

13

14 46. R.S.26:8-43 is amended to read as follows:

15 26:8-43. Transmission of marriage and civil union certificates
16 and licenses to state registrar.

17 Each local registrar and the clerk of the county board of health
18 shall, on or before the tenth of each calendar month, or sooner if
19 requested by the department, transmit by mail, express or
20 messenger to the State registrar in an envelope or package marked
21 "vital statistics" all the certificates of marriages and civil unions,
22 marriage and civil union licenses and consents to the marriage or
23 civil union of minors received by them.

24 (cf: P.L.1965, c.78, s.61)

25

26 47. R.S.26:8-44 is amended to read as follows:

27 26:8-44. The State registrar shall cause all certificates of
28 marriages and civil unions and marriage and civil union licenses
29 received to be alphabetically indexed and shall cause to be
30 transcribed or otherwise recorded from the certificates such of the
31 vital facts appearing thereon as the department may deem necessary
32 or useful.

33 The certificates of marriage and civil union shall be so tabulated
34 as to present in separate and distinct classes the record of each
35 county or registration district of over 5,000 inhabitants, which
36 record shall be preserved as a public record and the original

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1 certificates shall be preserved in the archives of the department.
2 (cf: P.L.1965, c.78, s.62)

3
4 48. R.S.26:8-45 is amended to read as follows:

5 26:8-45. Cancellation of records of marriages and civil unions
6 declared void.

7 If a marriage or a civil union has been declared void by the
8 Superior Court in an action instituted for that purpose and the court
9 is satisfied by the proof taken before the final judgment or by
10 affidavit or otherwise after the final judgment that a record of the
11 marriage or civil union is filed with the State registrar, it may order
12 the record to be canceled.

13 It shall not be necessary to make the custodian of the record a
14 party to the cause.

15 The order need only recite that there was a ceremony of marriage
16 or civil union between parties to the cause (naming them),
17 performed on (date) by (naming the officer) and that by a final
18 judgment entered on (date), the marriage or civil union was
19 declared void and may then direct that the said record be canceled.
20 (cf: P.L.1965, c.78, s.63)

21
22 49. R.S.26:8-46 is amended to read as follows:

23 26:8-46. Upon presenting a certified copy of said order to the
24 State Registrar, he shall indorse on the return of the marriage or
25 civil union the following words: "This marriage or civil union
26 declared void by the Superior Court. See order hereto annexed" and
27 shall annex the certified copy to the return.

28 (cf: P.L.1953, c.26, p.483, s.59)

29
30 50. R.S.26:8-47 is amended to read as follows:

31 26:8-47. Preparation of forms for marriage and civil union
32 licenses, certificates.

33 The department shall cause to be prepared blank forms of
34 certificates of marriages or civil unions and marriage or civil union
35 licenses corresponding to the requirements of R.S.37:1-7 and
36 R.S.37:1-17. The forms, together with such sections of the laws

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1 concerning marriages or civil unions and such instructions and
2 explanations thereof as the department may deem useful to persons
3 having duties to perform under such laws shall be printed and
4 supplied upon request therefor to the local registrars and to the city
5 clerks of cities of the first class.

6 All certificates of marriages or civil unions and marriage or civil
7 union licenses shall be written upon the said blanks or blanks
8 approved by the department and shall not contain any inquiries or
9 information which concerns the race of an applicant for a marriage
10 or civil union license.

11 (cf: P.L.2002, c.88, s.2)

12

13 51. R.S.26:8-48 is amended to read as follows:

14 26:8-48. A certificate of birth, fetal death, marriage, civil union,
15 domestic partnership or death heretofore or hereafter filed with the
16 State registrar shall not be altered or changed otherwise than by
17 amendments properly signed, dated and witnessed, or as otherwise
18 recorded and authenticated on the NJ-EDRS as prescribed by the
19 State registrar.

20 (cf: P.L.2003, c.246, s.20).

21

22 52. R.S.26:8-50 is amended to read as follows:

23 26:8-50. Correcting marriage or civil union licenses

24 Correction to marriage or civil union licenses shall be signed by
25 the person who issued the license or his successor in office.

26 (cf: R.S.26:8-50)

27

28 53. R.S.26:8-51 is amended to read as follows:

29 26:8-51. Corrections to marriage, civil union, domestic
30 partnership certificates. Corrections to marriage, civil union or
31 domestic partnership certificates shall be signed by the person who
32 signed the certificate or by any other person having personal
33 knowledge of the matters sought to be corrected which other person
34 shall state such matters on his oath.

35 (cf:P.L.2003, c.246, s.21)

36

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1 54. R.S.26:8-55 is amended to read as follows:

2 26:8-55. Any person knowingly submitting a certificate pursuant
3 to this article containing incorrect particulars relating to any birth,
4 marriage, civil union, domestic partnership or death shall be subject
5 to a penalty of not more than \$500, which shall be recovered with
6 costs in a summary proceeding in the name of the department.

7 (cf: P.L.2003, c.246, s.22)

8

9 55. R.S.26:8-60 is amended to read as follows:

10 26:8-60. Each local registrar shall be entitled to receive from the
11 proper disbursing officer of the municipality or county the sum of
12 \$1 for each marriage, civil union or domestic partnership certificate
13 properly transmitted to the State Registrar.

14 In any registration district, the body appointing local registrars
15 may, in lieu of fees, provide that officers performing the above
16 service shall receive a fixed compensation to be determined by such
17 body.

18 (cf: P.L.2003, c.246, s.23)

19

20 56. R.S.26:8-61 is amended to read as follows:

21 26:8-61. Fee for cancellation of marriage or civil union record.

22 The person procuring the cancellation of a marriage or civil
23 union record pursuant to **sections** R.S.26:8-45 and R.S.26:8-46
24 **[of this Title]** shall first pay to the State Registrar the sum of \$2.00
25 and the State Registrar shall pay the same over to the State
26 Treasurer. Such fee may be included in the taxable costs in the
27 annulment suit.

28 (cf: P.L.1983, c.275, s.16)

29

30 57. R.S.26:8-62 is amended to read as follows:

31 26:8-62. a. The State registrar or local registrar shall, upon
32 request, supply to a person who establishes himself as one of the
33 following: the subject of the record of a birth, death, fetal death,
34 certificate of birth resulting in stillbirth, domestic partnership, civil
35 union or marriage, as applicable; the subject's parent, legal guardian
36 or other legal representative; the subject's spouse, ¹civil union

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1 partner] one partner in a civil union couple¹, child, grandchild or
2 sibling, if of legal age, or the subject's legal representative; an
3 agency of State or federal government for official purposes; a
4 person possessing an order of a court of competent jurisdiction; or a
5 person who is authorized under other emergent circumstances as
6 determined by the commissioner, a certified copy, or release of the
7 data and information of that record registered under the provisions
8 of R.S.26:8-1 et seq., or P.L. , c. (C.)(pending before the
9 Legislature as this bill) or any domestic partnership registered under
10 the provisions of P.L.2003, c.246 (C.26:8A-1 et al.), for any of
11 which, except as provided by R.S.26:8-63, the State registrar shall
12 be entitled to a search fee, if any, as provided by R.S.26:8-64, to be
13 paid by the person. A certification may be issued in other
14 circumstances and shall state that it is for informational purposes
15 only, and is not to be used for identification purposes. The registrar
16 shall authenticate the identity of the requestor and the requestor's
17 relationship with the subject of the vital record. For the purposes of
18 this subsection, any employee of a mortuary registered pursuant to
19 P.L.1952, c.340 (C.45:7-32 et seq.), or a funeral director licensed
20 pursuant to that act who is affiliated with a registered mortuary, if
21 the mortuary was recorded on the original certificate of death, shall
22 be construed to be the subject's legal representative and entitled to
23 obtain full and complete copies of death certificates or certifications
24 thereof.

25 b. The State registrar shall, upon request, supply to any
26 applicant a certified transcript of any entry contained in the records
27 of the New Jersey State census for which, except as provided by
28 R.S.26:8-63, he shall be entitled to a search fee as provided by
29 R.S.26:8-64, to be paid by the applicant.

30 c. For each death registration initiated on the NJ-EDRS on or
31 after the first day of the first month following the date of enactment
32 of P.L.2003, c.221 but before the first day of the thirty-seventh
33 month following the date of enactment of P.L.2003, c.221, the State
34 registrar shall be paid a recording fee for each record filed, whether
35 by means of the current paper process or electronically, in an
36 amount to be determined by the State registrar but not exceeding

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1 \$10, from the account of the funeral home, which may include this
2 amount in the funeral expenses charged to the estate or person
3 accepting responsibility for the disposition of the deceased's human
4 remains and the costs associated therewith; provided however, this
5 fee shall not apply to the death registration of a person who died
6 while in the military or naval or maritime or merchant marine
7 service of the United States whose death is recorded pursuant to
8 section 1 of P.L.1950, c.299 (C.26:6-5.2). The State registrar shall
9 deposit the proceeds from the recording fee into the New Jersey
10 Electronic Death Registration Support Fund established pursuant to
11 section 17 of P.L.2003, c.221 (C.26:8-24.2).

12 d. Notwithstanding any other provision of this section to the
13 contrary, the Commissioner of Health and Senior Services shall
14 designate specifications for uniform forms for the issuance of all
15 vital records, which shall be used by registrars beginning on a date
16 established by the commissioner. The form designated for certified
17 copies of vital records shall contain safety features for
18 authentication purposes and to deter forgery, and shall be readily
19 distinguishable from the form designated for certifications of vital
20 records. Local registrars may include in the fee for a certified copy
21 the additional cost of the form containing such safety features.

22 The commissioner may issue and enforce orders to implement
23 the provisions of this subsection.

24 (cf: P.L.2005, c.222, s.32)

25

26 58. R.S.26:8-63 is amended to read as follows:

27 26:8-63. The State registrar shall:

28 a. Furnish a certification or certified copy of a birth, marriage,
29 civil union, domestic partnership, fetal death or death certificate
30 without fee in the prosecution of any claim for public pension or for
31 military or naval enlistment purposes; and

32 b. Furnish the United States Public Health Service without
33 expense to the State, microfilm or photocopy images of birth,
34 marriage, civil union, domestic partnership, fetal death and death
35 certificates without payment of the fees prescribed in this article;
36 and

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36

1 c. Furnish a certified transcript of any entry in the records of
2 the New Jersey State census without fee for certification in the
3 prosecution of any claim for public pension, for military or naval
4 enlistment purposes; and

5 d. Furnish without fee upon request for administrative use by
6 any city, State or Federal agency a certified transcript of any New
7 Jersey State census entry, or a certification or certified copy of a
8 birth, death, fetal death, marriage, civil union or domestic
9 partnership certificate.
10 (cf: P.L.2003, c.246, s.25).

11

12 59. R.S.26:8-64 is amended to read as follows:

13 26:8-64. a. For any ¹genealogical¹ search of the files and records
14 of births, deaths, marriages, civil unions or domestic partnerships
15 when ¹information required on the application for a certification or
16 certified copy of a vital record, and¹ the correct year only is
17 supplied by the applicant, whether or not a certification or a
18 certified copy is made, the State Registrar shall be entitled to a
19 minimum fee of \$4, plus a fee of \$1 for each additional year
20 searched, which fee shall be paid by the applicant, except as
21 provided by R.S.26:8-63. The fee for each additional copy ¹of the
22 same record ordered at the same time¹ shall be \$2.

23 b. ¹**¶**For all searches of the New Jersey State census records,
24 except as otherwise provided herein, the State Registrar shall be
25 entitled to a fee of \$2 for each address searched in any census
26 year. ¹**¶**For any non-genealogical search of the files and records of
27 births, deaths, marriages, civil unions or domestic partnerships
28 when the exact date of the event is supplied, along with all other
29 information required on the application for a certification or
30 certified copy of a vital record, whether or not a certification or
31 certified copy is made, the State Registrar shall be entitled to a
32 minimum fee of \$4, which shall be paid by the applicant, except as
33 provided by R.S.26:8-63. The fee for each additional copy of the
34 same record ordered at the same time shall be \$2.¹

35 c. Conduct without fee upon request for administrative use by

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1 any city, state, or federal agency, a search for any New Jersey State
2 census entry.

3 (cf: P.L.2003, c.246, s.26)

4

5 60. R.S.26:8-66 is amended to read as follows:

6 26:8-66. The State registrar either personally or by accredited
7 representative, may investigate any case of irregularity or violation
8 of **【this chapter, or chapter 6 of this Title (s. 26:6-1 et seq.), as well**
9 **as chapter 1 of Title 37 of the Revised Statutes】** R.S.26:6-1 et seq.,
10 R.S.8-1 et seq., R.S.37:1-1 et seq., or P.L. , c. (C.) (pending
11 before the Legislature as this bill, and every local registrar shall aid
12 him in such investigation.

13 (cf: P.L.1965, c.78, s.75)

14

15 61. R.S.26:8-67 is amended to read as follows:

16 26:8-67. Duty of **【prosecutor of the pleas】** county prosecutor.

17 When the State registrar shall deem it necessary, he shall report
18 any violation of any provision of **【this chapter or chapter 6 of this**
19 **Title (s. 26:6-1 et seq.), as well as chapter 1 of Title 37 of the**
20 **Revised Statutes】** R.S.26:6-1 et seq., R.S.26:8-1 et seq., R.S.37:1-1
21 et seq. or P.L. , c. (C.)(pending before the Legislature as this
22 bill), to the county prosecutor **【of the pleas of the proper county】**,
23 with a statement of the facts and circumstances. Upon such report,
24 the county prosecutor **【of the pleas】** shall forthwith institute and
25 prosecute the necessary proceedings for such alleged violation.

26 (cf: P.L.1965, c.78, s.76)

27

28 62. R.S.26:8-68 is amended to read as follows:

29 26:8-68. Upon request of the State registrar, the Attorney
30 General shall assist in the enforcement of the provisions of **【this**
31 **chapter and chapter 6 of this Title (s. 26:6-1 et seq.), as well as**
32 **chapter 1 of Title 37 of the Revised Statutes】** R.S.26:6-1 et seq.,
33 R.S.26:8-1 et seq., R.S.37:1-1 et seq. or P.L. , c. (C.)
34 (pending before the Legislature as this bill), or the State registrar
35 may direct that local registrars institute proceedings or civil actions

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1 in the name of the State department. Such a proceeding or action
2 may be instituted in any court of competent jurisdiction.
3 (cf: P.L.1965, c.78, s.77)

4

5 63. N.J.S.2A:34-1 is amended to read as follows:

6 2A:34-1. Causes for judgments of nullity.

7 (1) Judgments of nullity of marriage may be rendered in all
8 cases, when:

9 a. Either of the parties has another wife ¹~~or~~¹ husband ¹,
10 partner in a civil union couple or domestic partner¹ living at the time
11 of a second or other marriage;

12 b. The parties are within the degrees prohibited by law. If any
13 such marriage shall not have been annulled during the lifetime of
14 the parties the validity thereof shall not be inquired into after the
15 death of either party.

16 c. The parties, or either of them, were at the time of marriage
17 physically and incurably impotent, provided the party making the
18 application shall have been ignorant of such impotency or
19 incapability at the time of the marriage, and has not subsequently
20 ratified the marriage.

21 d. The parties, or either of them, lacked capacity to marry due
22 to want of understanding because of mental condition, or the
23 influence of intoxicants, drugs, or similar agents; or where there
24 was a lack of mutual assent to the marital relationship; duress; or
25 fraud as to the essentials of marriage; and has not subsequently
26 ratified the marriage.

27 e. The demand for such a judgment is by the wife or husband
28 who was under the age of 18 years at the time of the marriage,
29 unless such marriage be confirmed by her or him after arriving at
30 such age.

31 f. Allowable under the general equity jurisdiction of the
32 Superior Court.

33 (2) Judgments of nullity of a civil union may be rendered in all
34 cases, when:

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- 1 a. Either of the parties has another wife, husband, ¹ [civil union
2 partner] partner in a civil union couple¹ or domestic partner living
3 at the time of establishing the new civil union or;
- 4 b. The parties are within the degrees prohibited by the law
5 from entering into a marriage or establishing a civil union or
6 domestic partnership. If any such civil union shall not have been
7 annulled during the lifetime of the parties the validity thereof shall
8 not be inquired into after the death of either party.
- 9 c. The parties, or either of them, lacked capacity to enter into a
10 civil union due to want of understanding because of mental
11 condition, or the influence of intoxicants, drugs, or similar agents;
12 or where there was a lack of mutual assent to the civil union;
13 duress; or fraud as to the essentials of a civil union; and has not
14 subsequently ratified the civil union.
- 15 d. The demand for such a judgment is by the party who was
16 under the age of 18 years at the time of the civil union, unless such
17 civil union be confirmed by him after arriving at such age.

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1 e. Allowable under the general equity jurisdiction of the
2 Superior Court.

3 (cf: P.L.1971, c.212, s.1)

4

5 64. (New section). The dissolution of a civil union may be
6 adjudged for the following causes:

7 a. voluntary sexual intercourse between a person who is in a
8 civil union and an individual other than the person's ¹**【civil union**
9 **partner】** partner in a civil union couple¹;

10 b. willful and continued desertion for a period of 12 or more
11 consecutive months, which may be established by satisfactory proof
12 that the parties have ceased to cohabit as ¹**【civil union】¹** partners
13 ¹in a civil union couple¹;

14 c. extreme cruelty, which is defined as including any physical
15 or mental cruelty that endangers the safety or health of the plaintiff
16 or makes it improper or unreasonable to expect the plaintiff to
17 continue to cohabit with the defendant; except that no complaint for
18 termination shall be filed until after three months from the date of
19 the last act of cruelty complained of in the complaint, but this
20 provision shall not be held to apply to any counterclaim;

21 d. separation, provided that the ¹**【civil union】¹** partners ¹in a
22 civil union couple¹ have lived separate and apart in different
23 habitations for a period of at least 18 or more consecutive months
24 and there is no reasonable prospect of reconciliation; and provided
25 further that, after the 18-month period, there shall be a presumption
26 that there is no reasonable prospect of reconciliation;

27 e. voluntarily induced addiction or habituation to any narcotic
28 drug, as defined in the "New Jersey Controlled Dangerous
29 Substances Act," P.L.1970, c.226 (C.24:21-2) or the
30 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.,
31 or habitual drunkenness for a period of 12 or more consecutive
32 months subsequent to establishment of the civil union and next
33 preceding the filing of the complaint;

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1 f. institutionalization for mental illness for a period of 24 or
2 more consecutive months subsequent to establishment of the civil
3 union and next preceding the filing of the complaint; or

4 g. imprisonment of the defendant for 18 or more consecutive
5 months after establishment of the civil union, provided that where
6 the action is not commenced until after the defendant's release, the
7 parties have not resumed cohabitation following the imprisonment.

8
9 65. N.J.S.2A:34-3 is amended to read as follows:

10 2A:34-3. Causes for divorce from bed and board or legal
11 separation from ¹【civil union partner】 partner in a civil union
12 couple¹.

13 a. Divorce from bed and board may be adjudged for the same
14 causes as divorce from the bonds of matrimony whenever both
15 parties petition or join in requesting such relief and they or either of
16 them present sufficient proof of such cause or causes to warrant the
17 entry of a judgment of divorce from the bonds of matrimony,
18 provided further that in the case of a reconciliation thereafter the
19 parties may apply for a revocation or suspension of the judgment,
20 and provided further that the granting of a bed and board divorce
21 shall in no way prejudice either party from thereafter applying to
22 the court for a conversion of said divorce to a divorce from the
23 bonds of matrimony, which application shall be granted as a matter
24 of right.

25 b. Legal separation from a ¹【civil union partner】 partner in a
26 civil union couple¹ may be adjudged for the same causes as
27 dissolution of a civil union whenever both parties petition or join in
28 requesting such relief and they or either of them present sufficient
29 proof of such cause or causes to warrant the entry of a judgment of
30 dissolution of a civil union, provided further that in the case of a
31 reconciliation thereafter the parties may apply for a revocation or
32 suspension of the judgment, and provided further that the granting
33 of a legal separation from a ¹【civil union partner】 partner in a civil
34 union couple¹ shall in no way prejudice either party from thereafter
35 applying to the court for a conversion of said legal separation from

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1 a ¹【civil union partner】 partner in a civil union couple¹ to a
2 dissolution of a civil union, which application shall be granted as a
3 matter of right.

4 (cf: P.L.1971, c.212, s.3)

5

6 66. N.J.S.2A:34-6 is amended to read as follows:

7 2A:34-6. Divorce from bed and board or legal separation from a
8 civil union; property rights

9 For and during the time that any judgment for divorce from bed
10 and board or legal separation from a ¹【civil union partner】 partner
11 in a civil union couple¹ shall remain in force and effect all property
12 rights of the parties shall be as though a judgment of absolute
13 divorce or dissolution had been entered.

14 In any property transaction **【had】** by either of the parties in such
15 status the fact of the existence of such judgment shall be distinctly
16 recited and reference to the public record thereof shall be clearly set
17 forth.

18 (cf: N.J.S.2A:34-6).

19

20 67. N.J.S.2A:34-7 is amended to read as follows:

21 2A:34-7. Certain defenses abolished.

22 Recrimination, condonation and the clean hands doctrine are
23 hereby abolished as defenses to divorce from the bonds of
24 matrimony **【or from】** , dissolution of a civil union, divorce from
25 bed and board or legal separation from a ¹【civil union partner】
26 partner in a civil union couple¹, and if both parties make out
27 grounds for a divorce, dissolution or legal separation a decree may
28 be granted to each; provided that nothing herein shall preclude or
29 abrogate the responsibility of a party for the penalty provided by
30 law for perjury or the subornation of perjury.

31 (cf: P.L.1971, c.212, s.4)

32

33 68. N.J.S.2A:34-8 is amended to read as follows:

34 2A:34-8. Jurisdiction stated.

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1 The Superior Court shall have jurisdiction of all causes of
2 divorce, dissolution of a civil union, bed and board divorce, legal
3 separation from a ¹**【civil union partner】** partner in a civil union
4 couple¹ or nullity when either party is a bona fide resident of this
5 State. The Superior Court shall have jurisdiction of an action for
6 alimony and maintenance when the defendant is subject to the
7 personal jurisdiction of the court, is a resident of this State, or has
8 tangible or intangible real or personal property within the
9 jurisdiction of the court. The Superior Court may afford incidental
10 relief as in other cases of an equitable nature and by rule of court
11 may determine the venue of matrimonial and civil union actions.
12 (cf: P.L.1971, c.212, s.5).

13

14 69. N.J.S.2A:34-9 is amended to read as follows:

15 2A:34-9. Jurisdiction in nullity proceedings or dissolution
16 proceedings; residence requirements; service of process

17 Jurisdiction in actions for nullity of marriage or dissolution of a
18 civil union may be acquired when:

19 a. Either party is a bona fide resident of this **【state】** State at the
20 time of the commencement of the action; and

21 b. Process is served upon the defendant as prescribed by the
22 rules of the **【supreme court】** Supreme Court.

23 (cf: N.J.S.2A:34-9)

24

25 70. N.J.S.2A:34-10 is amended to read as follows:

26 2A:34-10. Jurisdiction in divorce proceedings, dissolution of a
27 civil union, legal separation from a ¹**【civil union partner】** partner in
28 a civil union couple¹; service of process; residence requirements

29 Jurisdiction in actions for divorce, either absolute or from bed
30 and board, and in actions for dissolution of a civil union or legal
31 separation from a ¹**【civil union partner】** partner in a civil union
32 couple¹ may be acquired when process is served upon the defendant
33 as prescribed by the rules of the Supreme Court, and

34 1. When, at the time the cause of action arose, either party was
35 a bona fide resident of this State, and has continued so to be down

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1 to the time of the commencement of the action; except that no
2 action for absolute divorce or dissolution of a civil union shall be
3 commenced for any cause other than adultery, unless one of the
4 parties has been for the 1 year next preceding the commencement of
5 the action a bona fide resident of this State; or

6 2. When, since the cause of action arose, either party has
7 become, and for at least 1 year next preceding the commencement
8 of the action has continued to be, a bona fide resident of this State.
9 (cf: P.L.1971, c.212, s.6).

10

11 71. N.J.S.2A:34-11 is amended to read as follows:

12 2A:34-11. Jurisdiction by acknowledgment of service of process,
13 appearance, etc.

14 In divorce, dissolution and nullity actions, the jurisdiction of the
15 court over the defendant's person for all purposes of the action shall
16 be fully established by the filing of an acknowledgment of service
17 of process, or of an appearance, or of an answer by the defendant
18 pro se, or on his behalf by a duly authorized attorney, in such
19 manner as may be prescribed by rules of the **[supreme court]**
20 Supreme Court.

21 (cf: N.J.S.2A:34-11)

22

23 72. N.J.S.2A:34-12 is amended to read as follows:

24 2A:34-12. Counterclaims.

25 Whenever the court shall have acquired jurisdiction of any action
26 under the provisions of this chapter or P.L. ,c. (C.) (pending
27 before the Legislature as this bill), the defendant therein may, by
28 counterclaim, state any cause of action under this chapter or P.L. ,
29 c. (C.)(pending before the Legislature as this bill) which exists
30 at the time of the service of the counterclaim.

31 (cf: N.J.S.2A:34-12)

32

33 73. N.J.S.2A:34-13 is amended to read as follows:

34 2A:34-13. Matrimonial or civil union action.

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1 A person who has attained the age of 16 years may prosecute or
2 defend any matrimonial or civil union action in person or by
3 attorney.

4 (cf: P.L.1988, c.153, s.1)

5
6 74. N.J.S.2A:34-14 is amended to read as follows:

7 2A:34-14. Parent or guardian may prosecute or defend.

8 A parent or guardian shall not be precluded by the provisions of
9 this chapter from prosecuting or defending any action respecting the
10 marriage or civil union status or relation of his minor child or ward.

11 (cf: N.J.S.2A:34-14)

12
13 75. N.J.S.2A:34-15 is amended to read as follows:

14 2A:34-15. Co-respondent in adultery or dissolution of a civil
15 union actions

16 Where a person is named as co-respondent in a charge of
17 adultery or in a charge giving rise to a cause of action for
18 dissolution of a civil union pursuant to subsection a. of section
19 1[53] 64¹ of P.L. , c. (C.)(pending before the Legislature
20 as this bill), the party making the charge shall give the co-
21 respondent written notice of the charge within the time and in the
22 manner prescribed by the rules of the **[supreme court]**Supreme
23 Court.

24 Any such co-respondent shall be entitled to intervene in the
25 action on **[the]** this particular issue **[of adultery]**.

26 (cf: N.J.S.2A:34-15)

27
28 76. N.J.S.2A:34-18 is amended to read as follows:

29 2A:34-18. Final judgment; appeal

30 If after the hearing of any cause the court shall determine that the
31 plaintiff or counterclaimant is entitled to a judgment of nullity of
32 marriage or nullity of a civil union or a judgment for divorce from
33 the bonds of matrimony or judgment for dissolution of a civil union,
34 a final judgment shall be entered.

35 Appeals shall be taken only from the final judgment.

36 (cf: P.L.1969, c.82, s.1)

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77. N.J.S.2A:34-21 is amended to read as follows:

2A:34-21. Surname.

The court, upon or after granting a divorce from the bonds of matrimony to either spouse or dissolution of a civil union to either partner ¹in a civil union couple¹, may allow either spouse or partner ¹in a civil union couple¹ to resume any name used by the spouse or partner ¹in a civil union couple¹ before the marriage or civil union, or to assume any surname.

(cf: P.L.1988,c.153,s.2)

78. N.J.S.2A:34-23 is amended to read as follows:

2A:34-23 Alimony, maintenance.

Pending any matrimonial action or action for dissolution of a civil union brought in this State or elsewhere, or after judgment of divorce or dissolution or maintenance, whether obtained in this State or elsewhere, the court may make such order as to the alimony or maintenance of the parties, and also as to the care, custody, education and maintenance of the children, or any of them, as the circumstances of the parties and the nature of the case shall render fit, reasonable and just, and require reasonable security for the due observance of such orders, including, but not limited to, the creation of trusts or other security devices, to assure payment of reasonably foreseeable medical and educational expenses. Upon neglect or refusal to give such reasonable security, as shall be required, or upon default in complying with any such order, the court may award and issue process for the immediate sequestration of the personal estate, and the rents and profits of the real estate of the party so charged, and appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate, or so much thereof as shall be necessary, to be applied toward such alimony and maintenance as to the said court shall from time to time seem reasonable and just; or the performance of the said orders may be enforced by other ways according to the practice of the court. Orders so made may be revised and altered by the court from time to time as circumstances may require.

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1 The court may order one party to pay a retainer on behalf of the
2 other for expert and legal services when the respective financial
3 circumstances of the parties make the award reasonable and just. In
4 considering an application, the court shall review the financial
5 capacity of each party to conduct the litigation and the criteria for
6 award of counsel fees that are then pertinent as set forth by court
7 rule. Whenever any other application is made to a court which
8 includes an application for pendente lite or final award of counsel
9 fees, the court shall determine the appropriate award for counsel
10 fees, if any, at the same time that a decision is rendered on the other
11 issue then before the court and shall consider the factors set forth in
12 the court rule on counsel fees, the financial circumstances of the
13 parties, and the good or bad faith of either party.

14 a. In determining the amount to be paid by a parent for support
15 of the child and the period during which the duty of support is
16 owed, the court in those cases not governed by court rule shall
17 consider, but not be limited to, the following factors:

18 (1) Needs of the child;

19 (2) Standard of living and economic circumstances of each
20 parent;

21 (3) All sources of income and assets of each parent;

22 (4) Earning ability of each parent, including educational
23 background, training, employment skills, work experience,
24 custodial responsibility for children including the cost of providing
25 child care and the length of time and cost of each parent to obtain
26 training or experience for appropriate employment;

27 (5) Need and capacity of the child for education, including
28 higher education;

29 (6) Age and health of the child and each parent;

30 (7) Income, assets and earning ability of the child;

31 (8) Responsibility of the parents for the court-ordered support of
32 others;

33 (9) Reasonable debts and liabilities of each child and parent; and

34 (10) Any other factors the court may deem relevant.

35 The obligation to pay support for a child who has not been
36 emancipated by the court shall not terminate solely on the basis of

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1 the child's age if the child suffers from a severe mental or physical
2 incapacity that causes the child to be financially dependent on a
3 parent. The obligation to pay support for that child shall continue
4 until the court finds that the child is relieved of the incapacity or is
5 no longer financially dependent on the parent. However, in
6 assessing the financial obligation of the parent, the court shall
7 consider, in addition to the factors enumerated in this section, the
8 child's eligibility for public benefits and services for people with
9 disabilities and may make such orders, including an order involving
10 the creation of a trust, as are necessary to promote the well-being of
11 the child.

12 As used in this section "severe mental or physical incapacity"
13 shall not include a child's abuse of, or addiction to, alcohol or
14 controlled substances.

15 b. In all actions brought for divorce, dissolution of a civil
16 union, divorce from bed and board, legal separation from a ¹【civil
17 union partner】 partner in a civil union couple¹ or nullity the court
18 may award one or more of the following types of alimony:
19 permanent alimony; rehabilitative alimony; limited duration
20 alimony or reimbursement alimony to either party. In so doing the
21 court shall consider, but not be limited to, the following factors:

- 22 (1) The actual need and ability of the parties to pay;
- 23 (2) The duration of the marriage or civil union;
- 24 (3) The age, physical and emotional health of the parties;
- 25 (4) The standard of living established in the marriage or civil
26 union and the likelihood that each party can maintain a reasonably
27 comparable standard of living;
- 28 (5) The earning capacities, educational levels, vocational skills,
29 and employability of the parties;
- 30 (6) The length of absence from the job market of the party
31 seeking maintenance;
- 32 (7) The parental responsibilities for the children;
- 33 (8) The time and expense necessary to acquire sufficient
34 education or training to enable the party seeking maintenance to
35 find appropriate employment, the availability of the training and

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1 employment, and the opportunity for future acquisitions of capital
2 assets and income;

3 (9) The history of the financial or non-financial contributions to
4 the marriage or civil union by each party including contributions to
5 the care and education of the children and interruption of personal
6 careers or educational opportunities;

7 (10) The equitable distribution of property ordered and any
8 payouts on equitable distribution, directly or indirectly, out of
9 current income, to the extent this consideration is reasonable, just
10 and fair;

11 (11) The income available to either party through investment of
12 any assets held by that party;

13 (12) The tax treatment and consequences to both parties of any
14 alimony award, including the designation of all or a portion of the
15 payment as a non-taxable payment; and

16 (13) Any other factors which the court may deem relevant.

17 When a share of a retirement benefit is treated as an asset for
18 purposes of equitable distribution, the court shall not consider
19 income generated thereafter by that share for purposes of
20 determining alimony.

21 c. In any case in which there is a request for an award of
22 permanent alimony, the court shall consider and make specific
23 findings on the evidence about the above factors. If the court
24 determines that an award of permanent alimony is not warranted,
25 the court shall make specific findings on the evidence setting out
26 the reasons therefor. The court shall then consider whether alimony
27 is appropriate for any or all of the following: (1) limited duration;
28 (2) rehabilitative; (3) reimbursement. In so doing, the court shall
29 consider and make specific findings on the evidence about factors
30 set forth above. The court shall not award limited duration alimony
31 as a substitute for permanent alimony in those cases where
32 permanent alimony would otherwise be awarded.

33 An award of alimony for a limited duration may be modified
34 based either upon changed circumstances, or upon the
35 nonoccurrence of circumstances that the court found would occur at
36 the time of the award. The court may modify the amount of such an

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1 award, but shall not modify the length of the term except in unusual
2 circumstances.

3 In determining the length of the term, the court shall consider the
4 length of time it would reasonably take for the recipient to improve
5 his or her earning capacity to a level where limited duration
6 alimony is no longer appropriate.

7 d. Rehabilitative alimony shall be awarded based upon a plan
8 in which the payee shows the scope of rehabilitation, the steps to be
9 taken, and the time frame, including a period of employment during
10 which rehabilitation will occur. An award of rehabilitative alimony
11 may be modified based either upon changed circumstances, or upon
12 the nonoccurrence of circumstances that the court found would
13 occur at the time of the rehabilitative award.

14 This section is not intended to preclude a court from modifying
15 permanent alimony awards based upon the law.

16 e. Reimbursement alimony may be awarded under
17 circumstances in which one party supported the other through an
18 advanced education, anticipating participation in the fruits of the
19 earning capacity generated by that education.

20 f. Nothing in this section shall be construed to limit the court's
21 authority to award permanent alimony, limited duration alimony,
22 rehabilitative alimony or reimbursement alimony, separately or in
23 any combination, as warranted by the circumstances of the parties
24 and the nature of the case.

25 g. In all actions for divorce or dissolution other than those
26 where judgment is granted solely on the ground of separation the
27 court may consider also the proofs made in establishing such
28 ground in determining an amount of alimony or maintenance that is
29 fit, reasonable and just. In all actions for divorce **[or]** , dissolution
30 of civil union, divorce from bed and board, legal separation from a
31 ¹[civil union partner] partner in a civil union couple¹ where
32 judgment is granted on the ground of institutionalization for mental
33 illness the court may consider the possible burden upon the
34 taxpayers of the State as well as the ability of the party to pay in
35 determining an amount of maintenance to be awarded.

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1 h. In all actions where a judgment of divorce **[or]** dissolution
2 of civil union, divorce from bed and board or legal separation from
3 a ¹**[civil union partner]** partner in a civil union couple¹ is entered
4 the court may make such award or awards to the parties, in addition
5 to alimony and maintenance, to effectuate an equitable distribution
6 of the property, both real and personal, which was legally and
7 beneficially acquired by them or either of them during the marriage
8 or civil union. However, all such property, real, personal or
9 otherwise, legally or beneficially acquired during the marriage or
10 civil union by either party by way of gift, devise, or intestate
11 succession shall not be subject to equitable distribution, except that
12 interspousal gifts or gifts between ¹**[parties to a civil union]**
13 partners in a civil union couple¹ shall be subject to equitable
14 distribution.

15 (cf: P.L.2005, c.171, s.1)

16

17 79. Section 1 of P.L.1997,c.405 (C.2A:34-23d) is amended to
18 read as follows:

19 1. Maintenance of certain insurance coverage in action for
20 divorce or dissolution.

21 a. Upon filing of a complaint for an action for divorce,
22 dissolution, nullity or separate maintenance, where the custody,
23 visitation or support of a minor child is an issue, the party who has
24 maintained all existing insurance coverage or coverage traditionally
25 maintained during the marriage or civil union, including but not
26 limited to, all health, disability, home or life insurance, shall
27 continue to maintain or continue to share in the cost of maintaining
28 the coverage.

29 b. If a party who has maintained the existing insurance
30 coverage or has shared in the cost of maintaining the coverage has
31 had a voluntary or involuntary change in employment status, which
32 may cause the existing insurance coverage to terminate, then that
33 party shall notify the other party that it may be necessary to
34 reallocate the financial responsibilities of maintaining the coverage.

35 c. Upon receipt of this notice, the party may petition the court
36 to reallocate financial responsibilities.

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1 d. The court may take any action it deems appropriate to
2 reallocate financial responsibilities including but not limited to
3 ordering a party to obtain comparable coverage or releasing a party
4 from the obligation or any other order.
5 (cf: P.L.1997, c.405, s.1)

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- 1 80. ¹[N.J.S.2A:34-23.1]Section 4 of P.L.1988, c.153 (C.2A:34-
2 23.1)¹ is amended to read as follows:
- 3 ¹[2A:34-23.1 Equitable distribution criteria.]¹
- 4 4. In making an equitable distribution of property, the court
5 shall consider, but not be limited to, the following factors:
- 6 a. The duration of the marriage or civil union;
- 7 b. The age and physical and emotional health of the parties;
- 8 c. The income or property brought to the marriage or civil
9 union by each party;
- 10 d. The standard of living established during the marriage or
11 civil union;
- 12 e. Any written agreement made by the parties before or during
13 the marriage or civil union concerning an arrangement of property
14 distribution;
- 15 f. The economic circumstances of each party at the time the
16 division of property becomes effective;
- 17 g. The income and earning capacity of each party, including
18 educational background, training, employment skills, work
19 experience, length of absence from the job market, custodial
20 responsibilities for children, and the time and expense necessary to
21 acquire sufficient education or training to enable the party to
22 become self-supporting at a standard of living reasonably
23 comparable to that enjoyed during the marriage or civil union;
- 24 h. The contribution by each party to the education, training or
25 earning power of the other;
- 26 i. The contribution of each party to the acquisition, dissipation,
27 preservation, depreciation or appreciation in the amount or value of
28 the marital property, or the property acquired during the civil union
29 as well as the contribution of a party as a homemaker;
- 30 j. The tax consequences of the proposed distribution to each
31 party;
- 32 k. The present value of the property;
- 33 l. The need of a parent who has physical custody of a child to
34 own or occupy the marital residence or residence shared by the
35 [parties to a civil union] partners in a civil union couple¹ and to
36 use or own the household effects;

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- 1 m. The debts and liabilities of the parties;
- 2 n. The need for creation, now or in the future, of a trust fund to
- 3 secure reasonably foreseeable medical or educational costs for a
- 4 spouse, partner ¹in a civil union couple¹ or children;
- 5 o. The extent to which a party deferred achieving their career
- 6 goals; and
- 7 p. Any other factors which the court may deem relevant.

8 In every case, the court shall make specific findings of fact on
9 the evidence relevant to all issues pertaining to asset eligibility or
10 ineligibility, asset valuation, and equitable distribution, including
11 specifically, but not limited to, the factors set forth in this section.

12 It shall be a rebuttable presumption that each party made a
13 substantial financial or nonfinancial contribution to the acquisition
14 of income and property while the party was married.
15 (cf: P.L.1997, c.407, s.1).

16
17 81. Section 1 of P.L.1954, c.187 (C.2A:34-24.1) is amended to
18 read as follows:

19 1. Court-ordered support, maintenance.

20 When a spouse or ¹**civil union partner** partner in a civil union
21 couple¹ has secured a judgment or decree of divorce, whether
22 absolute or from bed and board, dissolution of a civil union, legal
23 separation from a ¹**civil union partner** partner in a civil union
24 couple¹, or of nullity or annulment of marriage or civil union, in an
25 action whether brought in this State or elsewhere, wherein
26 jurisdiction over the person of the other spouse or the other ¹**civil**
27 **union partner** partner in a civil union couple¹ was not obtained, the
28 court may make the same orders and judgments touching the
29 suitable support and maintenance to be paid and provided by the
30 spouse or ¹**civil union partner** partner in a civil union couple¹, or
31 to be made out of the spouse's or partner's property, for the other
32 spouse or partner and their children, or any of them, by their
33 marriage or civil union and for such time, as the nature of the case
34 and circumstances of the parties render suitable and proper,
35 pursuant to the provisions of chapter 34 of Title 2A of the New

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1 Jersey Statutes notwithstanding the securing of such judgment or
2 decree.

3 (cf: P.L.1988, c.153, s.6)

4

5 82. N.J.S.2A:34-25. Termination of alimony.

6 2A:34-25. If after the judgment of divorce or dissolution a
7 former spouse shall remarry or a former partner shall enter into a
8 new civil union, permanent and limited duration alimony shall
9 terminate as of the date of remarriage or new civil union except that
10 any arrearages that have accrued prior to the date of remarriage or
11 new civil union shall not be vacated or annulled. A former spouse
12 or ¹[civil union partner] former partner in a civil union couple¹
13 who remarries ¹or enters into a new civil union¹ shall promptly so
14 inform the spouse or partner paying permanent or limited duration
15 alimony as well as the collecting agency, if any. The court may
16 order such alimony recipient who fails to comply with the
17 notification provision of this act to pay any reasonable attorney fees
18 and court costs incurred by the recipient's former spouse or partner
19 as a result of such non-compliance.

20 The remarriage or establishment of a new civil union of a former
21 spouse or partner receiving rehabilitative or reimbursement alimony
22 shall not be cause for termination of such alimony by the court
23 unless the court finds that the circumstances upon which the award
24 was based have not occurred or unless the payer spouse or partner
25 demonstrates an agreement or good cause to the contrary.

26 Alimony shall terminate upon the death of the payer spouse or
27 partner, except that any arrearages that have accrued prior to the
28 date of the payer spouse's or partner's death shall not be vacated or
29 annulled.

30 Nothing in this act shall be construed to prohibit a court from
31 ordering either spouse or partner to maintain life insurance for the
32 protection of the former spouse, partner, or the children of the
33 marriage or civil union in the event of the payer spouse's or
34 partner's death.

35 (cf: P.L.1999, c.199, s.2)

36

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1 83. N.J.S.2A:34-26 is amended to read as follows:

2 2A:34-26. Attachment of property.

3 When a spouse or ¹**【civil union partner】** one partner in a civil
4 union couple¹ cannot be found within this State to be served with
5 process, the spouse's or partner's estate, property and effects within
6 this State and the rents and profits thereof may be attached to
7 compel the spouse's or partner's appearance and performance of any
8 judgment or order which may be made in the action. Where the
9 proceedings are by process of attachment and the defendant does
10 not appear, the judgment shall be enforceable only out of and
11 against the property attached.

12 (cf: P.L.1988,c.153, s.8)

13

14 84. N.J.S.22A:2-10 is amended to read as follows:

15 22A:2-10. Chancery Division of Superior Court; costs awarded.

16 Upon the completion and determination of the following actions
17 and proceedings in the Chancery Division of the Superior Court, the
18 costs awarded to a party therein for the drawing of papers, including
19 orders, writs and judgments, shall be as stated below:

20	Plaintiff's costs, foreclosure	\$50 ₀₀
21	Plaintiff's costs, partition	70 ₀₀
22	Plaintiff's and receiver's costs, receivership	125 ₀₀
23	Plaintiff's costs, receivership	62 ₅₀
24	Receiver's costs, receivership	62 ₅₀
25	Plaintiff's costs, divorce, <u>dissolution of civil</u>	
26	<u>union</u> , nullity, custody	30 ₀₀
27	Plaintiff's costs, causes of action for other relief	65 ₀₀
28	Plaintiff's costs, incompetency action	47 ₅₀
29	Plaintiff's costs, sale of lands of infant or incompetent	50 ₀₀
30	Plaintiff's costs, release of dower or curtesy	50 ₀₀
31	Plaintiff's costs, mortgage lands of an infant or	
32	incompetent ...	50 ₀₀
33	Plaintiff's costs, interpleader	35 ₀₀
34	Plaintiff's costs, appointment of tax receiver	27 ₅₀
35	Plaintiff's costs, actions for payment of money	
36	into court; to hold real estate; to limit creditors	22 ₅₀

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1	Plaintiff's costs, action for appointment of trustee	
2	or substituted trustee	33_50
3	Costs on contempt proceedings	25_00
4	Costs on application to fix dower or curtesy	22_50
5	Costs on application to pay moneys out of court	23_50
6	Costs on application for instructions, or to	
7	approve account	30_00
8	Costs on application for writ of execution	10_00
9	Costs on application for relief from final judgment	
10	or, in a matrimonial cause from judgment	
11	nisi or order..	20_00
12	Costs on application for writ of possession	30_00
13	Costs on application for alimony pendente lite,	
14	attorney fee, suit money	20_00
15	Defendant's costs where final judgment is taken by him ...	30_00
16	Defendant's costs where final judgment is not taken by him .	20_00
17	Costs upon any other litigated or special motion,	
18	subsidiary or interlocutory, not heretofore provided for ...	20_00
19	(cf: N.J.S.22A:2-10)	

20

21 85. N.J.S.22A:2-12 is amended to read as follows:

22 22A:2-12. Payment of fees in Chancery Division of Superior
23 Court upon filing of first paper. Upon the filing of the first paper in
24 any action or proceeding in the Chancery Division of the Superior
25 Court, there shall be paid to the clerk of the court, for the use of the
26 State, the following fees, which, except as hereinafter provided,
27 shall constitute the entire fees to be collected by the clerk for the
28 use of the State, down to the final disposition of the cause:

29 Receivership and partition, \$200.00.

30 All other actions and proceedings except in probate cases and
31 actions and proceedings for divorce or dissolution of a civil union
32 union, \$200.00.

33 Actions and proceedings for divorce or dissolution of civil union,
34 \$250.00, \$25.00 of which shall be forwarded by the Clerk of the
35 Superior Court as provided in section 2 of P.L.1993, c.188
36 (C.52:27D-43.24a).

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1 Any person filing a motion in any action or proceeding shall pay
2 to the clerk \$30.00.

3 (cf: P.L.2003, c.117, s.41)

4

5 86. Section 2 of P.L.1993, c.188 (C.52:27D-43.24a) is amended
6 to read as follows:

7 2. Forwarding of filing fee.The Clerk of the Superior Court
8 shall forward \$25.00 of the \$250.00 filing fee for a divorce or a
9 dissolution of a civil union provided for in N.J.S.22A:2-12 on a
10 quarterly basis to the Department of Community Affairs.

11 (cf: P.L.2003, c.117, s.42)

12 87. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
13 as follows:

14 5. As used in this act, unless a different meaning clearly
15 appears from the context:

16 a. "Person" includes one or more individuals, partnerships,
17 associations, organizations, labor organizations, corporations, legal
18 representatives, trustees, trustees in bankruptcy, receivers, and
19 fiduciaries.

20 b. "Employment agency" includes any person undertaking to
21 procure employees or opportunities for others to work.

22 c. "Labor organization" includes any organization which exists
23 and is constituted for the purpose, in whole or in part, of collective
24 bargaining, or of dealing with employers concerning grievances,
25 terms or conditions of employment, or of other mutual aid or
26 protection in connection with employment.

27 d. "Unlawful employment practice" and "unlawful
28 discrimination" include only those unlawful practices and acts
29 specified in section 11 of this act.

30 e. "Employer" includes all persons as defined in subsection a.
31 of this section unless otherwise specifically exempt under another
32 section of this act, and includes the State, any political or civil
33 subdivision thereof, and all public officers, agencies, boards or
34 bodies.

35 f. "Employee" does not include any individual employed in the
36 domestic service of any person.

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- 1 g. "Liability for service in the Armed Forces of the United
2 States" means subject to being ordered as an individual or member
3 of an organized unit into active service in the Armed Forces of the
4 United States by reason of membership in the National Guard, naval
5 militia or a reserve component of the Armed Forces of the United
6 States, or subject to being inducted into such armed forces through
7 a system of national selective service.
- 8 h. "Division" means the "Division on Civil Rights" created by
9 this act.
- 10 i. "Attorney General" means the Attorney General of the State
11 of New Jersey or his representative or designee.
- 12 j. "Commission" means the Commission on Civil Rights
13 created by this act.
- 14 k. "Director" means the Director of the Division on Civil
15 Rights.
- 16 l. "A place of public accommodation" shall include, but not be
17 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
18 summer camp, day camp, or resort camp, whether for entertainment
19 of transient guests or accommodation of those seeking health,
20 recreation or rest; any producer, manufacturer, wholesaler,
21 distributor, retail shop, store, establishment, or concession dealing
22 with goods or services of any kind; any restaurant, eating house, or
23 place where food is sold for consumption on the premises; any
24 place maintained for the sale of ice cream, ice and fruit preparations
25 or their derivatives, soda water or confections, or where any
26 beverages of any kind are retailed for consumption on the premises;
27 any garage, any public conveyance operated on land or water, or in
28 the air, any stations and terminals thereof; any bathhouse,
29 boardwalk, or seashore accommodation; any auditorium, meeting
30 place, or hall; any theatre, motion-picture house, music hall, roof
31 garden, skating rink, swimming pool, amusement and recreation
32 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
33 pool parlor, or other place of amusement; any comfort station; any
34 dispensary, clinic or hospital; any public library; any kindergarten,
35 primary and secondary school, trade or business school, high
36 school, academy, college and university, or any educational

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1 institution under the supervision of the State Board of Education, or
2 the Commissioner of Education of the State of New Jersey.
3 Nothing herein contained shall be construed to include or to apply
4 to any institution, bona fide club, or place of accommodation, which
5 is in its nature distinctly private; nor shall anything herein contained
6 apply to any educational facility operated or maintained by a bona
7 fide religious or sectarian institution, and the right of a natural
8 parent or one in loco parentis to direct the education and upbringing
9 of a child under his control is hereby affirmed; nor shall anything
10 herein contained be construed to bar any private secondary or post
11 secondary school from using in good faith criteria other than race,
12 creed, color, national origin, ancestry or affectional or sexual
13 orientation in the admission of students.

14 m. "A publicly assisted housing accommodation" shall include
15 all housing built with public funds or public assistance pursuant to
16 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
17 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
18 c.184, and all housing financed in whole or in part by a loan,
19 whether or not secured by a mortgage, the repayment of which is
20 guaranteed or insured by the federal government or any agency
21 thereof.

22 n. The term "real property" includes real estate, lands,
23 tenements and hereditaments, corporeal and incorporeal, and
24 leaseholds, provided, however, that, except as to publicly assisted
25 housing accommodations, the provisions of this act shall not apply
26 to the rental: (1) of a single apartment or flat in a two-family
27 dwelling, the other occupancy unit of which is occupied by the
28 owner as a residence; or (2) of a room or rooms to another person or
29 persons by the owner or occupant of a one-family dwelling
30 occupied by the owner or occupant as a residence at the time of
31 such rental. Nothing herein contained shall be construed to bar any
32 religious or denominational institution or organization, or any
33 organization operated for charitable or educational purposes, which
34 is operated, supervised or controlled by or in connection with a
35 religious organization, in the sale, lease or rental of real property,
36 from limiting admission to or giving preference to persons of the

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1 same religion or denomination or from making such selection as is
2 calculated by such organization to promote the religious principles
3 for which it is established or maintained. Nor does any provision
4 under this act regarding discrimination on the basis of familial
5 status apply with respect to housing for older persons.

6 o. "Real estate broker" includes a person, firm or corporation
7 who, for a fee, commission or other valuable consideration, or by
8 reason of promise or reasonable expectation thereof, lists for sale,
9 sells, exchanges, buys or rents, or offers or attempts to negotiate a
10 sale, exchange, purchase, or rental of real estate or an interest
11 therein, or collects or offers or attempts to collect rent for the use of
12 real estate, or solicits for prospective purchasers or assists or directs
13 in the procuring of prospects or the negotiation or closing of any
14 transaction which does or is contemplated to result in the sale,
15 exchange, leasing, renting or auctioning of any real estate, or
16 negotiates, or offers or attempts or agrees to negotiate a loan
17 secured or to be secured by mortgage or other encumbrance upon or
18 transfer of any real estate for others; or any person who, for
19 pecuniary gain or expectation of pecuniary gain conducts a public
20 or private competitive sale of lands or any interest in lands. In the
21 sale of lots, the term "real estate broker" shall also include any
22 person, partnership, association or corporation employed by or on
23 behalf of the owner or owners of lots or other parcels of real estate,
24 at a stated salary, or upon a commission, or upon a salary and
25 commission or otherwise, to sell such real estate, or any parts
26 thereof, in lots or other parcels, and who shall sell or exchange, or
27 offer or attempt or agree to negotiate the sale or exchange, of any
28 such lot or parcel of real estate.

29 p. "Real estate salesperson" includes any person who, for
30 compensation, valuable consideration or commission, or other thing
31 of value, or by reason of a promise or reasonable expectation
32 thereof, is employed by and operates under the supervision of a
33 licensed real estate broker to sell or offer to sell, buy or offer to buy
34 or negotiate the purchase, sale or exchange of real estate, or offers
35 or attempts to negotiate a loan secured or to be secured by a
36 mortgage or other encumbrance upon or transfer of real estate, or to

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1 lease or rent, or offer to lease or rent any real estate for others, or to
2 collect rents for the use of real estate, or to solicit for prospective
3 purchasers or lessees of real estate, or who is employed by a
4 licensed real estate broker to sell or offer to sell lots or other parcels
5 of real estate, at a stated salary, or upon a commission, or upon a
6 salary and commission, or otherwise to sell real estate, or any parts
7 thereof, in lots or other parcels.

8 q. "Disability" means physical disability, infirmity,
9 malformation or disfigurement which is caused by bodily injury,
10 birth defect or illness including epilepsy and other seizure
11 disorders, and which shall include, but not be limited to, any degree
12 of paralysis, amputation, lack of physical coordination, blindness or
13 visual impediment, deafness or hearing impediment, muteness or
14 speech impediment or physical reliance on a service or guide dog,
15 wheelchair, or other remedial appliance or device, or any mental,
16 psychological or developmental disability resulting from
17 anatomical, psychological, physiological or neurological conditions
18 which prevents the normal exercise of any bodily or mental
19 functions or is demonstrable, medically or psychologically, by
20 accepted clinical or laboratory diagnostic techniques. Disability
21 shall also mean AIDS or HIV infection.

22 r. "Blind person" means any individual whose central visual
23 acuity does not exceed 20/200 in the better eye with correcting lens
24 or whose visual acuity is better than 20/200 if accompanied by a
25 limit to the field of vision in the better eye to such a degree that its
26 widest diameter subtends an angle of no greater than 20 degrees.

27 s. "Guide dog" means a dog used to assist deaf persons or
28 which is fitted with a special harness so as to be suitable as an aid to
29 the mobility of a blind person, and is used by a blind person who
30 has satisfactorily completed a specific course of training in the use
31 of such a dog, and has been trained by an organization generally
32 recognized by agencies involved in the rehabilitation of the blind or
33 deaf as reputable and competent to provide dogs with training of
34 this type.

35 t. "Guide or service dog trainer" means any person who is
36 employed by an organization generally recognized by agencies

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1 involved in the rehabilitation of persons with disabilities as
2 reputable and competent to provide dogs with training, and who is
3 actually involved in the training process.

4 u. "Housing accommodation" means any publicly assisted
5 housing accommodation or any real property, or portion thereof,
6 which is used or occupied, or is intended, arranged, or designed to
7 be used or occupied, as the home, residence or sleeping place of one
8 or more persons, but shall not include any single family residence
9 the occupants of which rent, lease, or furnish for compensation not
10 more than one room therein.

11 v. "Public facility" means any place of public accommodation
12 and any street, highway, sidewalk, walkway, public building, and
13 any other place or structure to which the general public is regularly,
14 normally or customarily permitted or invited.

15 w. "Deaf person" means any person whose hearing is so
16 severely impaired that the person is unable to hear and understand
17 normal conversational speech through the unaided ear alone, and
18 who must depend primarily on a supportive device or visual
19 communication such as writing, lip reading, sign language, and
20 gestures.

21 x. "Atypical hereditary cellular or blood trait" means sickle cell
22 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
23 fibrosis trait.

24 y. "Sickle cell trait" means the condition wherein the major
25 natural hemoglobin components present in the blood of the
26 individual are hemoglobin A (normal) and hemoglobin S (sickle
27 hemoglobin) as defined by standard chemical and physical analytic
28 techniques, including electrophoresis; and the proportion of
29 hemoglobin A is greater than the proportion of hemoglobin S or one
30 natural parent of the individual is shown to have only normal
31 hemoglobin components (hemoglobin A, hemoglobin A2,
32 hemoglobin F) in the normal proportions by standard chemical and
33 physical analytic tests.

34 z. "Hemoglobin C trait" means the condition wherein the major
35 natural hemoglobin components present in the blood of the
36 individual are hemoglobin A (normal) and hemoglobin C as defined

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- 1 by standard chemical and physical analytic techniques, including
2 electrophoresis; and the proportion of hemoglobin A is greater than
3 the proportion of hemoglobin C or one natural parent of the
4 individual is shown to have only normal hemoglobin components
5 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
6 proportions by standard chemical and physical analytic tests.
- 7 aa. "Thalassemia trait" means the presence of the thalassemia
8 gene which in combination with another similar gene results in the
9 chronic hereditary disease Cooley's anemia.
- 10 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
11 which in combination with another similar gene results in the
12 chronic hereditary disease Tay-Sachs.
- 13 cc. "Cystic fibrosis trait" means the presence of the cystic
14 fibrosis gene which in combination with another similar gene
15 results in the chronic hereditary disease cystic fibrosis.
- 16 dd. "Service dog" means any dog individually trained to the
17 requirements of a person with a disability including, but not limited
18 to minimal protection work, rescue work, pulling a wheelchair or
19 retrieving dropped items. This term shall include a "seizure dog"
20 trained to alert or otherwise assist persons subject to epilepsy or
21 other seizure disorders.
- 22 ee. "Qualified Medicaid applicant" means an individual who is a
23 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 24 ff. "AIDS" means acquired immune deficiency syndrome as
25 defined by the Centers for Disease Control and Prevention of the
26 United States Public Health Service.
- 27 gg. "HIV infection" means infection with the human
28 immunodeficiency virus or any other related virus identified as a
29 probable causative agent of AIDS.
- 30 hh. "Affectional or sexual orientation" means male or female
31 heterosexuality, homosexuality or bisexuality by inclination,
32 practice, identity or expression, having a history thereof or being
33 perceived, presumed or identified by others as having such an
34 orientation.

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- 1 ii. "Heterosexuality" means affectional, emotional or physical
2 attraction or behavior which is primarily directed towards persons
3 of the other gender.
- 4 jj. "Homosexuality" means affectional, emotional or physical
5 attraction or behavior which is primarily directed towards persons
6 of the same gender.
- 7 kk. "Bisexuality" means affectional, emotional or physical
8 attraction or behavior which is directed towards persons of either
9 gender.
- 10 ll. "Familial status" means being the natural parent of a child,
11 the adoptive parent of a child, the resource family parent of a child,
12 having a "parent and child relationship" with a child as defined by
13 State law, or having sole or joint legal or physical custody, care,
14 guardianship, or visitation with a child, or any person who is
15 pregnant or is in the process of securing legal custody of any
16 individual who has not attained the age of 18 years.
- 17 mm. "Housing for older persons" means housing:
- 18 (1) provided under any State program that the Attorney General
19 determines is specifically designed and operated to assist elderly
20 persons (as defined in the State program); or provided under any
21 federal program that the United States Department of Housing and
22 Urban Development determines is specifically designed and
23 operated to assist elderly persons (as defined in the federal
24 program); or
- 25 (2) intended for, and solely occupied by persons 62 years of age
26 or older; or
- 27 (3) intended and operated for occupancy by at least one person
28 55 years of age or older per unit. In determining whether housing
29 qualifies as housing for older persons under this subsection, the
30 Attorney General shall adopt regulations which require at least the
31 following factors:
- 32 (a) the existence of significant facilities and services
33 specifically designed to meet the physical or social needs of older
34 persons, or if the provision of such facilities and services is not
35 practicable, that such housing is necessary to provide important
36 housing opportunities for older persons; and

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1 (b) that at least 80 percent of the units are occupied by at least
2 one person 55 years of age or older per unit; and

3 (c) the publication of, and adherence to, policies and procedures
4 which demonstrate an intent by the owner or manager to provide
5 housing for persons 55 years of age or older.

6 Housing shall not fail to meet the requirements for housing for
7 older persons by reason of: persons residing in such housing as of
8 September 13, 1988 not meeting the age requirements of this
9 subsection, provided that new occupants of such housing meet the
10 age requirements of this subsection; or unoccupied units, provided
11 that such units are reserved for occupancy by persons who meet the
12 age requirements of this subsection.

13 nn. "Genetic characteristic" means any inherited gene or
14 chromosome, or alteration thereof, that is scientifically or medically
15 believed to predispose an individual to a disease, disorder or
16 syndrome, or to be associated with a statistically significant
17 increased risk of development of a disease, disorder or syndrome.

18 oo. "Genetic information" means the information about genes,
19 gene products or inherited characteristics that may derive from an
20 individual or family member.

21 pp. "Genetic test" means a test for determining the presence or
22 absence of an inherited genetic characteristic in an individual,
23 including tests of nucleic acids such as DNA, RNA and
24 mitochondrial DNA, chromosomes or proteins in order to identify a
25 predisposing genetic characteristic.

26 qq. "Domestic partnership" means a domestic partnership
27 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

28 rr. "Civil Union" means a legally recognized union of two
29 eligible individuals established pursuant to R.S.37:1-1 et seq. and
30 P.L. ,c. (C.) (pending before the Legislature as this bill).

31 (cf: P.L.2004, c.130, s.37)

32

33 88. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
34 read as follows:

35 11. It shall be an unlawful employment practice, or, as the case
36 may be, an unlawful discrimination:

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1 a. For an employer, because of the race, creed, color, national
2 origin, ancestry, age, marital status, civil union status, domestic
3 partnership status, affectional or sexual orientation, genetic
4 information, sex, disability or atypical hereditary cellular or blood
5 trait of any individual, or because of the liability for service in the
6 Armed Forces of the United States or the nationality of any
7 individual, or because of the refusal to submit to a genetic test or
8 make available the results of a genetic test to an employer, to refuse
9 to hire or employ or to bar or to discharge or require to retire, unless
10 justified by lawful considerations other than age, from employment
11 such individual or to discriminate against such individual in
12 compensation or in terms, conditions or privileges of employment;
13 provided, however, it shall not be an unlawful employment practice
14 to refuse to accept for employment an applicant who has received a
15 notice of induction or orders to report for active duty in the armed
16 forces; provided further that nothing herein contained shall be
17 construed to bar an employer from refusing to accept for
18 employment any person on the basis of sex in those certain
19 circumstances where sex is a bona fide occupational qualification,
20 reasonably necessary to the normal operation of the particular
21 business or enterprise; provided further that nothing herein
22 contained shall be construed to bar an employer from refusing to
23 accept for employment or to promote any person over 70 years of
24 age; provided further that it shall not be an unlawful employment
25 practice for a club exclusively social or fraternal to use club
26 membership as a uniform qualification for employment, or for a
27 religious association or organization to utilize religious affiliation
28 as a uniform qualification in the employment of clergy, religious
29 teachers or other employees engaged in the religious activities of
30 the association or organization, or in following the tenets of its
31 religion in establishing and utilizing criteria for employment of an
32 employee; provided further, that it shall not be an unlawful
33 employment practice to require the retirement of any employee
34 who, for the two-year period immediately before retirement, is
35 employed in a bona fide executive or a high policy-making position,
36 if that employee is entitled to an immediate non-forfeitable annual

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1 retirement benefit from a pension, profit sharing, savings or
2 deferred retirement plan, or any combination of those plans, of the
3 employer of that employee which equals in the aggregate at least
4 \$27,000.00; and provided further that an employer may restrict
5 employment to citizens of the United States where such restriction
6 is required by federal law or is otherwise necessary to protect the
7 national interest.

8 The provisions of subsections a. and b. of section 57 of
9 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of
10 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
11 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

12 For the purposes of this subsection, a "bona fide executive" is a
13 top level employee who exercises substantial executive authority
14 over a significant number of employees and a large volume of
15 business. A "high policy-making position" is a position in which a
16 person plays a significant role in developing policy and in
17 recommending the implementation thereof.

18 b. For a labor organization, because of the race, creed, color,
19 national origin, ancestry, age, marital status, civil union status,
20 domestic partnership status, affectional or sexual orientation,
21 disability or sex of any individual, or because of the liability for
22 service in the Armed Forces of the United States or nationality of
23 any individual, to exclude or to expel from its membership such
24 individual or to discriminate in any way against any of its members,
25 against any applicant for, or individual included in, any apprentice
26 or other training program or against any employer or any individual
27 employed by an employer; provided, however, that nothing herein
28 contained shall be construed to bar a labor organization from
29 excluding from its apprentice or other training programs any person
30 on the basis of sex in those certain circumstances where sex is a
31 bona fide occupational qualification reasonably necessary to the
32 normal operation of the particular apprentice or other training
33 program.

34 c. For any employer or employment agency to print or circulate
35 or cause to be printed or circulated any statement, advertisement or
36 publication, or to use any form of application for employment, or to

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- 1 make an inquiry in connection with prospective employment, which
2 expresses, directly or indirectly, any limitation, specification or
3 discrimination as to race, creed, color, national origin, ancestry,
4 age, marital status, civil union status, domestic partnership status,
5 affectional or sexual orientation, disability, nationality or sex or
6 liability of any applicant for employment for service in the Armed
7 Forces of the United States, or any intent to make any such
8 limitation, specification or discrimination, unless based upon a bona
9 fide occupational qualification.
- 10 d. For any person to take reprisals against any person because
11 that person has opposed any practices or acts forbidden under this
12 act or because that person has filed a complaint, testified or assisted
13 in any proceeding under this act or to coerce, intimidate, threaten or
14 interfere with any person in the exercise or enjoyment of, or on
15 account of that person having aided or encouraged any other person
16 in the exercise or enjoyment of, any right granted or protected by
17 this act.
- 18 e. For any person, whether an employer or an employee or not,
19 to aid, abet, incite, compel or coerce the doing of any of the acts
20 forbidden under this act, or to attempt to do so.
- 21 f. (1) For any owner, lessee, proprietor, manager,
22 superintendent, agent, or employee of any place of public
23 accommodation directly or indirectly to refuse, withhold from or
24 deny to any person any of the accommodations, advantages,
25 facilities or privileges thereof, or to discriminate against any person
26 in the furnishing thereof, or directly or indirectly to publish,
27 circulate, issue, display, post or mail any written or printed
28 communication, notice, or advertisement to the effect that any of
29 the accommodations, advantages, facilities, or privileges of any
30 such place will be refused, withheld from, or denied to any person
31 on account of the race, creed, color, national origin, ancestry,
32 marital status, civil union status, domestic partnership status, sex,
33 affectional or sexual orientation, disability or nationality of such
34 person, or that the patronage or custom thereat of any person of any
35 particular race, creed, color, national origin, ancestry, marital status,
36 civil union status, domestic partnership status, sex, affectional or

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1 sexual orientation, disability or nationality is unwelcome,
2 objectionable or not acceptable, desired or solicited, and the
3 production of any such written or printed communication, notice or
4 advertisement, purporting to relate to any such place and to be made
5 by any owner, lessee, proprietor, superintendent or manager thereof,
6 shall be presumptive evidence in any action that the same was
7 authorized by such person; provided, however, that nothing
8 contained herein shall be construed to bar any place of public
9 accommodation which is in its nature reasonably restricted
10 exclusively to individuals of one sex, and which shall include but
11 not be limited to any summer camp, day camp, or resort camp,
12 bathhouse, dressing room, swimming pool, gymnasium, comfort
13 station, dispensary, clinic or hospital, or school or educational
14 institution which is restricted exclusively to individuals of one sex,
15 from refusing, withholding from or denying to any individual of the
16 opposite sex any of the accommodations, advantages, facilities or
17 privileges thereof on the basis of sex; provided further, that the
18 foregoing limitation shall not apply to any restaurant as defined in
19 R.S.33:1-1 or place where alcoholic beverages are served.

20 (2) Notwithstanding the definition of "public accommodation "
21 as set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-
22 5), for any owner, lessee, proprietor, manager, superintendent,
23 agent, or employee of any private club or association to directly or
24 indirectly refuse, withhold from or deny to any individual who has
25 been accepted as a club member and has contracted for or is
26 otherwise entitled to full club membership any of the
27 accommodations, advantages, facilities or privileges thereof, or to
28 discriminate against any member in the furnishing thereof on
29 account of the race, creed, color, national origin, ancestry, marital
30 status, civil union status, domestic partnership status, sex,
31 affectional or sexual orientation, disability or nationality of such
32 person.

33 In addition to the penalties otherwise provided for a violation of
34 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)
35 of subsection f. of this section is the holder of an alcoholic beverage
36 license issued under the provisions of R.S.33:1-12 for that private

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1 club or association, the matter shall be referred to the Director of
2 the Division of Alcoholic Beverage Control who shall impose an
3 appropriate penalty in accordance with the procedures set forth in
4 R.S.33:1-31.

5 g. For any person, including but not limited to, any owner,
6 lessee, sublessee, assignee or managing agent of, or other person
7 having the right of ownership or possession of or the right to sell,
8 rent, lease, assign, or sublease any real property or part or portion
9 thereof, or any agent or employee of any of these:

10 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
11 to deny to or withhold from any person or group of persons any real
12 property or part or portion thereof because of race, creed, color,
13 national origin, ancestry, marital status, civil union status, domestic
14 partnership status, sex, affectional or sexual orientation, familial
15 status, disability, nationality, or source of lawful income used for
16 rental or mortgage payments;

17 (2) To discriminate against any person or group of persons
18 because of race, creed, color, national origin, ancestry, marital
19 status, civil union status, domestic partnership status, sex,
20 affectional or sexual orientation, familial status, disability,
21 nationality or source of lawful income used for rental or mortgage
22 payments in the terms, conditions or privileges of the sale, rental or
23 lease of any real property or part or portion thereof or in the
24 furnishing of facilities or services in connection therewith;

25 (3) To print, publish, circulate, issue, display, post or mail, or
26 cause to be printed, published, circulated, issued, displayed, posted
27 or mailed any statement, advertisement, publication or sign, or to
28 use any form of application for the purchase, rental, lease,
29 assignment or sublease of any real property or part or portion
30 thereof, or to make any record or inquiry in connection with the
31 prospective purchase, rental, lease, assignment, or sublease of any
32 real property, or part or portion thereof which expresses, directly or
33 indirectly, any limitation, specification or discrimination as to race,
34 creed, color, national origin, ancestry, marital status, civil union
35 status, domestic partnership status, sex, affectional or sexual
36 orientation, familial status, disability, nationality, or source of

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1 lawful income used for rental or mortgage payments, or any intent
2 to make any such limitation, specification or discrimination, and the
3 production of any such statement, advertisement, publicity, sign,
4 form of application, record, or inquiry purporting to be made by any
5 such person shall be presumptive evidence in any action that the
6 same was authorized by such person; provided, however, that
7 nothing contained in this subsection shall be construed to bar any
8 person from refusing to sell, rent, lease, assign or sublease or from
9 advertising or recording a qualification as to sex for any room,
10 apartment, flat in a dwelling or residential facility which is planned
11 exclusively for and occupied by individuals of one sex to any
12 individual of the exclusively opposite sex on the basis of sex;

13 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
14 to deny to or withhold from any person or group of persons any real
15 property or part or portion thereof because of the source of any
16 lawful income received by the person or the source of any lawful
17 rent payment to be paid for the real property; or

18 (5) To refuse to rent or lease any real property to another person
19 because that person's family includes children under 18 years of
20 age, or to make an agreement, rental or lease of any real property
21 which provides that the agreement, rental or lease shall be rendered
22 null and void upon the birth of a child. This paragraph shall not
23 apply to housing for older persons as defined in subsection mm. of
24 section 5 of P.L.1945, c.169 (C.10:5-5).

25 h. For any person, including but not limited to, any real estate
26 broker, real estate salesperson, or employee or agent thereof:

27 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
28 sale, rental, lease, assignment, or sublease any real property or part
29 or portion thereof to any person or group of persons or to refuse to
30 negotiate for the sale, rental, lease, assignment, or sublease of any
31 real property or part or portion thereof to any person or group of
32 persons because of race, creed, color, national origin, ancestry,
33 marital status, civil union status, domestic partnership status,
34 familial status, sex, affectional or sexual orientation, disability,
35 nationality, or source of lawful income used for rental or mortgage
36 payments, or to represent that any real property or portion thereof is

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1 not available for inspection, sale, rental, lease, assignment, or
2 sublease when in fact it is so available, or otherwise to deny or
3 withhold any real property or any part or portion of facilities thereof
4 to or from any person or group of persons because of race, creed,
5 color, national origin, ancestry, marital status, civil union status,
6 domestic partnership status, familial status, sex, affectional or
7 sexual orientation, disability or nationality;

8 (2) To discriminate against any person because of race, creed,
9 color, national origin, ancestry, marital status, civil union status,
10 domestic partnership status, familial status, sex, affectional or
11 sexual orientation, disability, nationality, or source of lawful
12 income used for rental or mortgage payments in the terms,
13 conditions or privileges of the sale, rental, lease, assignment or
14 sublease of any real property or part or portion thereof or in the
15 furnishing of facilities or services in connection therewith;

16 (3) To print, publish, circulate, issue, display, post, or mail, or
17 cause to be printed, published, circulated, issued, displayed, posted
18 or mailed any statement, advertisement, publication or sign, or to
19 use any form of application for the purchase, rental, lease,
20 assignment, or sublease of any real property or part or portion
21 thereof or to make any record or inquiry in connection with the
22 prospective purchase, rental, lease, assignment, or sublease of any
23 real property or part or portion thereof which expresses, directly or
24 indirectly, any limitation, specification or discrimination as to race,
25 creed, color, national origin, ancestry, marital status, civil union
26 status, domestic partnership status, familial status, sex, affectional
27 or sexual orientation, disability, nationality, or source of lawful
28 income used for rental or mortgage payments or any intent to make
29 any such limitation, specification or discrimination, and the
30 production of any such statement, advertisement, publicity, sign,
31 form of application, record, or inquiry purporting to be made by any
32 such person shall be presumptive evidence in any action that the
33 same was authorized by such person; provided, however, that
34 nothing contained in this subsection h., shall be construed to bar
35 any person from refusing to sell, rent, lease, assign or sublease or
36 from advertising or recording a qualification as to sex for any room,

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1 apartment, flat in a dwelling or residential facility which is planned
2 exclusively for and occupied exclusively by individuals of one sex
3 to any individual of the opposite sex on the basis of sex;

4 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
5 to deny to or withhold from any person or group of persons any real
6 property or part or portion thereof because of the source of any
7 lawful income received by the person or the source of any lawful
8 rent payment to be paid for the real property; or

9 (5) To refuse to rent or lease any real property to another person
10 because that person's family includes children under 18 years of
11 age, or to make an agreement, rental or lease of any real property
12 which provides that the agreement, rental or lease shall be rendered
13 null and void upon the birth of a child. This paragraph shall not
14 apply to housing for older persons as defined in subsection mm. of
15 section 5 of P.L.1945, c.169 (C.10:5-5).

16 i. For any person, bank, banking organization, mortgage
17 company, insurance company or other financial institution, lender
18 or credit institution involved in the making or purchasing of any
19 loan or extension of credit, for whatever purpose, whether secured
20 by residential real estate or not, including but not limited to
21 financial assistance for the purchase, acquisition, construction,
22 rehabilitation, repair or maintenance of any real property or part or
23 portion thereof or any agent or employee thereof:

24 (1) To discriminate against any person or group of persons
25 because of race, creed, color, national origin, ancestry, marital
26 status, civil union status, domestic partnership status, sex,
27 affectional or sexual orientation, disability, familial status or
28 nationality, in the granting, withholding, extending, modifying,
29 renewing, or purchasing, or in the fixing of the rates, terms,
30 conditions or provisions of any such loan, extension of credit or
31 financial assistance or purchase thereof or in the extension of
32 services in connection therewith;

33 (2) To use any form of application for such loan, extension of
34 credit or financial assistance or to make record or inquiry in
35 connection with applications for any such loan, extension of credit
36 or financial assistance which expresses, directly or indirectly, any

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1 limitation, specification or discrimination as to race, creed, color,
2 national origin, ancestry, marital status, civil union status, domestic
3 partnership status, sex, affectional or sexual orientation, disability,
4 familial status or nationality or any intent to make any such
5 limitation, specification or discrimination; unless otherwise
6 required by law or regulation to retain or use such information;

7 (3) (Deleted by amendment, P.L.2003, c.180).

8 (4) To discriminate against any person or group of persons
9 because of the source of any lawful income received by the person
10 or the source of any lawful rent payment to be paid for the real
11 property; or

12 (5) To discriminate against any person or group of persons
13 because that person's family includes children under 18 years of
14 age, or to make an agreement or mortgage which provides that the
15 agreement or mortgage shall be rendered null and void upon the
16 birth of a child. This paragraph shall not apply to housing for older
17 persons as defined in subsection mm. of section 5 of P.L.1945,
18 c.169 (C.10:5-5).

19 j. For any person whose activities are included within the
20 scope of this act to refuse to post or display such notices concerning
21 the rights or responsibilities of persons affected by this act as the
22 Attorney General may by regulation require.

23 k. For any real estate broker, real estate salesperson or
24 employee or agent thereof or any other individual, corporation,
25 partnership, or organization, for the purpose of inducing a
26 transaction for the sale or rental of real property from which
27 transaction such person or any of its members may benefit
28 financially, to represent that a change has occurred or will or may
29 occur in the composition with respect to race, creed, color, national
30 origin, ancestry, marital status, civil union status, domestic
31 partnership status, familial status, sex, affectional or sexual
32 orientation, disability, nationality, or source of lawful income used
33 for rental or mortgage payments of the owners or occupants in the
34 block, neighborhood or area in which the real property is located,
35 and to represent, directly or indirectly, that this change will or may
36 result in undesirable consequences in the block, neighborhood or

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1 area in which the real property is located, including, but not limited
2 to the lowering of property values, an increase in criminal or anti-
3 social behavior, or a decline in the quality of schools or other
4 facilities.

5 1. For any person to refuse to buy from, sell to, lease from or
6 to, license, contract with, or trade with, provide goods, services or
7 information to, or otherwise do business with any other person on
8 the basis of the race, creed, color, national origin, ancestry, age,
9 sex, affectional or sexual orientation, marital status, civil union
10 status, domestic partnership status, liability for service in the Armed
11 Forces of the United States, disability, nationality, or source of
12 lawful income used for rental or mortgage payments of such other
13 person or of such other person's spouse, partners, members,
14 stockholders, directors, officers, managers, superintendents, agents,
15 employees, business associates, suppliers, or customers. This
16 subsection shall not prohibit refusals or other actions (1) pertaining
17 to employee-employer collective bargaining, labor disputes, or
18 unfair labor practices, or (2) made or taken in connection with a
19 protest of unlawful discrimination or unlawful employment
20 practices.

21 m. For any person to:

22 (1) Grant or accept any letter of credit or other document which
23 evidences the transfer of funds or credit, or enter into any contract
24 for the exchange of goods or services, where the letter of credit,
25 contract, or other document contains any provisions requiring any
26 person to discriminate against or to certify that he, she or it has not
27 dealt with any other person on the basis of the race, creed, color,
28 national origin, ancestry, age, sex, affectional or sexual orientation,
29 marital status, civil union status, domestic partnership status,
30 disability, liability for service in the Armed Forces of the United
31 States, or nationality of such other person or of such other person's
32 spouse, partners, members, stockholders, directors, officers,
33 managers, superintendents, agents, employees, business associates,
34 suppliers, or customers.

35 (2) Refuse to grant or accept any letter of credit or other
36 document which evidences the transfer of funds or credit, or refuse

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1 to enter into any contract for the exchange of goods or services, on
2 the ground that it does not contain such a discriminatory provision
3 or certification.

4 The provisions of this subsection shall not apply to any letter of
5 credit, contract, or other document which contains any provision
6 pertaining to employee-employer collective bargaining, a labor
7 dispute or an unfair labor practice, or made in connection with the
8 protest of unlawful discrimination or an unlawful employment
9 practice, if the other provisions of such letter of credit, contract, or
10 other document do not otherwise violate the provisions of this
11 subsection.

12 n. For any person to aid, abet, incite, compel, coerce, or induce
13 the doing of any act forbidden by subsections l. and m. of section
14 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
15 do so. Such prohibited conduct shall include, but not be limited to:

16 (1) Buying from, selling to, leasing from or to, licensing,
17 contracting with, trading with, providing goods, services, or
18 information to, or otherwise doing business with any person
19 because that person does, or agrees or attempts to do, any such act
20 or any act prohibited by this subsection; or

21 (2) Boycotting, commercially blacklisting or refusing to buy
22 from, sell to, lease from or to, license, contract with, provide goods,
23 services or information to, or otherwise do business with any person
24 because that person has not done or refuses to do any such act or
25 any act prohibited by this subsection; provided that this subsection
26 shall not prohibit refusals or other actions either pertaining to
27 employee-employer collective bargaining, labor disputes, or unfair
28 labor practices, or made or taken in connection with a protest of
29 unlawful discrimination or unlawful employment practices.

30 o. For any multiple listing service, real estate brokers'
31 organization or other service, organization or facility related to the
32 business of selling or renting dwellings to deny any person access
33 to or membership or participation in such organization, or to
34 discriminate against such person in the terms or conditions of such
35 access, membership, or participation, on account of race, creed,
36 color, national origin, ancestry, age, marital status, civil union

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1 status, domestic partnership status, familial status, sex, affectional
2 or sexual orientation, disability or nationality.

3 (cf: P.L.2003, c.246, s.12)

4

5 89. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to
6 read as follows:

7 3. As used in this act:

8 a. "Child" means a biological, adopted, or resource family
9 child, stepchild, legal ward, or child of a parent who is

10 (1) under 18 years of age; or

11 (2) 18 years of age or older but incapable of self-care because of
12 a mental or physical impairment.

13 b. "Director" means the Director of the Division on Civil
14 Rights.

15 c. "Division" means the Division on Civil Rights in the
16 Department of Law and Public Safety.

17 d. "Employ" means to suffer or permit to work for
18 compensation, and includes ongoing, contractual relationships in
19 which the employer retains substantial direct or indirect control
20 over the employee's employment opportunities or terms and
21 conditions of employment.

22 e. "Employee" means a person who is employed for at least 12
23 months by an employer, with respect to whom benefits are sought
24 under this act, for not less than 1,000 base hours during the
25 immediately preceding 12-month period.

26 f. "Employer" means a person or corporation, partnership,
27 individual proprietorship, joint venture, firm or company or other
28 similar legal entity which engages the services of an employee and
29 which:

30 (1) With respect to the period of time from the effective date of
31 this act until the 365th day following the effective date of this act,
32 employs 100 or more employees for each working day during each
33 of 20 or more calendar workweeks in the then current or
34 immediately preceding calendar year;

35 (2) With respect to the period of time from the 366th day
36 following the effective date of this act until the 1,095th day

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1 following the effective date of this act, employs 75 or more
2 employees for each working day during each of 20 or more calendar
3 workweeks in the then current or immediately preceding calendar
4 year; and

5 (3) With respect to any time after the 1,095th day following the
6 effective date of this act, employs 50 or more employees for each
7 working day during each of 20 or more calendar workweeks in the
8 then current or immediately preceding calendar year. "Employer"
9 includes the State, any political subdivision thereof, and all public
10 offices, agencies, boards or bodies.

11 g. "Employment benefits" means all benefits and policies
12 provided or made available to employees by an employer, and
13 includes group life insurance, health insurance, disability insurance,
14 sick leave, annual leave, pensions, or other similar benefits.

15 h. "Parent" means a person who is the biological parent,
16 adoptive parent, resource family parent, step-parent, parent-in-law
17 or legal guardian, having a "parent-child relationship" with a child
18 as defined by law, or having sole or joint legal or physical custody,
19 care, guardianship, or visitation with a child.

20 i. "Family leave" means leave from employment so that the
21 employee may provide care made necessary by reason of:

22 (1) the birth of a child of the employee;

23 (2) the placement of a child with the employee in connection
24 with adoption of such child by the employee; or

25 (3) the serious health condition of a family member of the
26 employee.

27 j. "Family member" means a child, parent, **[or]**¹**[,]**¹ spouse,
28 or **[civil union partner]** one partner in a civil union couple¹.

29 k. "Reduced leave schedule" means leave scheduled for fewer
30 than an employee's usual number of hours worked per workweek
31 but not for fewer than an employee's usual number of hours worked
32 per workday, unless agreed to by the employee and the employer.

33 l. "Serious health condition" means an illness, injury,
34 impairment, or physical or mental condition which requires:

35 (1) inpatient care in a hospital, hospice, or residential medical
36 care facility; or

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1 (2) continuing medical treatment or continuing supervision by a
2 health care provider.
3 (cf: P.L.2004, c.130, s.111).

4

5 90. Section 17 of P.L.1960, c.52 (C.2A:84A-17) is amended to
6 read as follows:

7 2A:84A-17. Privilege of accused

8 (1) Every person has in any criminal action in which he is an
9 accused a right not to be called as a witness and not to testify.

10 (2) The spouse or ¹**【civil union partner】** one partner in a civil
11 union couple¹ of the accused in a criminal action shall not testify in
12 such action except to prove the fact of marriage or civil union
13 unless (a) such spouse or partner consents, or (b) the accused is
14 charged with an offense against the spouse or partner, a child of the
15 accused or of the spouse or partner, or a child to whom the accused
16 or the spouse or partner stands in the place of a parent, or (c) such
17 spouse or partner is the complainant.

18 (3) An accused in a criminal action has no privilege to refuse
19 when ordered by the judge, to submit his body to examination or to
20 do any act in the presence of the judge or the trier of the fact, except
21 to refuse to testify.

22 (cf: P.L.1992, c.142, s.1)

23

24 91. (New section) On or after the effective date of this act, no
25 domestic partnerships shall be registered under P.L.2003, c. 246
26 (C.26:8A-1 et seq.), except that two persons who are each 62 years
27 of age or older ¹**【and not of the same sex】**¹ may establish a
28 domestic partnership pursuant to the provisions of P.L.2003, c.246
29 (C.26:8A-1 et seq.). This act shall not alter the rights and
30 responsibilities of domestic partnerships existing before the
31 effective date of this act, except that eligible domestic partners shall
32 be given notice and opportunity to enter into a civil union pursuant
33 to the provisions of this act. Entry into a civil union, when joined
34 by both parties to an existing domestic partnership, shall operate to
35 terminate the domestic partnership.

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1 92. (New section) Whenever in any law, rule, regulation,
2 judicial or administrative proceeding or otherwise, reference is
3 made to “marriage,” “husband,” “wife,” “spouse,” “family,”
4 “immediate family,” “dependent,” “next of kin,” ¹“widow,”
5 “widower,” “widowed”¹ or another word which in a specific
6 context denotes a marital or spousal relationship, the same shall
7 include a civil union pursuant to the provisions of this act.

8
9 93. The Commissioner of Health and Senior Services in
10 consultation with the Director of the Administrative Office of the
11 Courts, pursuant to the "Administrative Procedure Act," P.L.1968,
12 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations
13 necessary to effectuate the purposes of this act. ¹These rules and
14 regulations shall address the issue of how partners in a civil union
15 couple may legally answer questions on forms, governmental and
16 private, concerning their status as partners in a civil union couple. ¹

17
18 94. a. There is hereby established the New Jersey Civil Union
19 Review Commission commencing on the effective date of P.L. ,
20 c. (C.) (pending before the Legislature as this bill).

21 b. The commission shall be composed of 13 members to be
22 appointed as follows: the Attorney General or his designee, the
23 Commissioner of the Department of Banking and Insurance or his
24 designee, the Commissioner of Health and Senior Services or his
25 designee, the Commissioner of Human Services or his designee, the
26 Commissioner of the Department of Children and Families or his
27 designee, the Director of the Division of Civil Rights in the
28 Department of Law and Public Safety of his designee, one public
29 member appoint by the President of the Senate, one public member
30 appointed by the Speaker of the General Assembly, and five public
31 members appointed by the Governor, with the advise and consent of
32 the Senate, no more than three who shall be of the same political
33 party.

34 c. It shall be the duty of the commission to study all aspects of
35 P.L. ,c. (C.)(pending before the Legislature as this bill)
36 which authorizes civil unions including, but not limited to:

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- 1 (1) evaluate the implementation, operation and effectiveness of
2 the act;
- 3 (2) collect information about the act's effectiveness from
4 members of the public, State agencies and private and public sector
5 businesses and organizations;
- 6 (3) determine whether additional protections are needed;
- 7 (4) collect information about the recognition and treatment of
8 civil unions by other states and jurisdictions including the
9 procedures for dissolution; ¹**[and]**¹
- 10 (5) ¹evaluate the effect on same-sex couples, their children and
11 other family members of being provided civil unions rather than
12 marriage;
- 13 (6) evaluate the financial impact on the State of New Jersey of
14 same-sex couples being provided civil unions rather than marriage;
15 and
- 16 (7)¹ review the "Domestic Partnership Act," P.L.2003, c.246
17 (C.26:8A-1 et seq.) and make recommendations whether this act
18 should be repealed.
- 19 d. The commission shall organize as soon as possible after the
20 appointment of its members. The commission shall be established
21 for a term of three years and the members shall be appointed for the
22 full term of three years. Vacancies in the membership of the
23 commission shall be filled in the same manner as the original
24 appointment. The commission members shall choose a Chair from
25 among its members.
- 26 e. The members of the commission shall serve without
27 compensation, but may be reimbursed for necessary expenses
28 incurred in the performance of their duties, within the limits of
29 funds appropriated or otherwise made available to the commission
30 for its purposes.
- 31 f. The commission is entitled to the assistance and service of
32 the employees of any State, county or municipal department, board,
33 bureau, commission or agency as it may require and as may be
34 available to it for its purposes, and to employ stenographic and
35 clerical assistance and to incur traveling or other miscellaneous
36 expenses as may be necessary in order to perform its duties, within

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1 the limits of funds appropriated or otherwise made available to it
2 for its purposes.

3 g. The commission shall report ¹~~annually~~ semi-annually¹ its
4 findings and recommendations to the Legislature and the Governor.

5 h. The commission shall expire three years from the date of its
6 initial organizational meeting and upon submission of its ¹~~third~~
7 ~~and~~¹ final report.

8
9 ¹95. (New section) A civil union relationship entered into
10 outside of this State, which is valid under the laws of the
11 jurisdiction under which the civil union relationship was created,
12 shall be valid in this State.¹

13
14 ¹~~95.~~ 96.¹ This act shall take effect on the ²~~30th~~60th² day
15 after the enactment of this act, but the Commissioner of Health and
16 Senior Services and the Director of the Administrative Office of the
17 Courts may take such anticipatory administrative action in advance
18 as shall be necessary for the implementation of the act.