

[Second Reprint]

**ASSEMBLY, No. 3787**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED DECEMBER 4, 2006

**Sponsored by:**

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**Assemblyman DOUGLAS H. FISHER**

**District 3 (Salem, Cumberland and Gloucester)**

**Co-Sponsored by:**

**Senators Weinberg and Codey**

**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.

**(Sponsorship Updated As Of: 12/15/2006)**

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  
33 violated by denying rights and benefits to committed same-sex  
34 couples which were statutorily given to their heterosexual  
35 counterparts. The Court stated that the "State can fulfill that  
36 constitutional requirement in one of two ways. It can either amend  
37 the marriage statutes to include same-sex couples or enact a parallel  
38 statutory structure by another name, in which same-sex couples  
39 would not only enjoy the rights and benefits, but also bear the  
40 burdens and obligations of civil marriage." Id. at 463.

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

**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:**

<sup>1</sup>Assembly AJU committee amendments adopted December 7, 2006.

<sup>2</sup>Assembly floor amendments adopted December 11, 2006.

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

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 <sup>1</sup> **“Civil union partner”** <sup>1</sup> “One partner in a civil union couple”<sup>1</sup>  
18 means a person who has established a civil union pursuant to the  
19 provisions of this act.

20 <sup>1</sup> **“Party to a civil union”** means a person who has established a  
21 civil union pursuant to the provisions of this act.<sup>1</sup>

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 <sup>1</sup> **and therefore be excluded from the**  
29 **marriage laws of this State or any other state**<sup>1</sup>;

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. <sup>1</sup> **Parties to a civil union** Civil union  
34 couples<sup>1</sup> shall have all of the same benefits, protections and  
35 responsibilities under law, whether they derive from statute,  
36 administrative or court rule, public policy, common law or any  
37 other source of civil law, as are granted to spouses in a marriage.

38 b. The dissolution of civil unions shall follow the same  
39 procedures and be subject to the same substantive rights and  
40 obligations that are involved in the dissolution of marriage.

41 c. The laws of domestic relations, including annulment,  
42 premarital agreements, separation, divorce, child custody and  
43 support, property division and maintenance, and post-relationship  
44 spousal support, shall apply to <sup>1</sup> **the parties to a civil union** civil  
45 union couples<sup>1</sup>.

46 d. <sup>1</sup> **The parties to a civil union** Civil union couples<sup>1</sup> may  
47 modify the terms, conditions or effects of their civil union in the

1 same manner and to the same extent as married person who execute  
2 an antenuptial agreement or other agreement recognized and  
3 enforceable under the law, setting forth particular understandings  
4 with respect to their union.

5 e. The rights of <sup>1</sup>['the parties to a civil union'] civil union  
6 couples<sup>1</sup> with respect to a child of whom either becomes the parent  
7 during the term of the civil union, shall be the same as those of a  
8 married couple with respect to a child of whom either spouse <sup>1</sup>or  
9 partner in a civil union couple<sup>1</sup> becomes the parent during the  
10 marriage.

11 f. All contracts made between persons in contemplation of a  
12 civil union shall remain in full force after such civil union takes  
13 place.

14 g. A copy of the record of the civil union received from the  
15 local or State registrar shall be presumptive evidence of the civil  
16 union in all courts.

17

18 5. (New section) The following list of legal benefits,  
19 protections and responsibilities of spouses shall apply in like  
20 manner to <sup>1</sup>['the parties to a']<sup>1</sup> civil union <sup>1</sup>couples<sup>1</sup>, but shall not be  
21 construed to be an exclusive list of such benefits, protections and  
22 responsibilities:

23 a. laws relating to title, tenure, descent and distribution,  
24 intestate succession, <sup>1</sup>['waiver of will,']<sup>1</sup> survivorship, or other  
25 incidents of the acquisition, ownership or transfer, inter vivos or at  
26 death, of real or personal property, including but not limited to  
27 eligibility to hold real and personal property as tenants by the  
28 entirety;

29 b. causes of action related to or dependent upon spousal status,  
30 including an action for wrongful death, emotional distress, loss of  
31 consortium, or other torts or actions under contracts reciting, related  
32 to, or dependent upon spousal status;

33 c. probate law and procedure, including nonprobate transfer;

34 d. adoption law and procedures;

35 e. laws relating to insurance, health and pension benefits;

36 f. domestic violence protections pursuant to the "Prevention of  
37 Domestic Violence Act of 1991," P.L.1991, c.261 (2C:25-17 et  
38 seq.) and domestic violence programs;

39 g. prohibitions against discrimination based upon marital  
40 status;

41 h. victim's compensation benefits, including but not limited to  
42 compensation to spouse, children and relatives of homicide victims;

43 i. workers' compensation benefits pursuant to chapter 15 of  
44 Title 34 of the Revised Statutes, including but not limited to  
45 survivors' benefits and payment of back wages;

46 j. laws relating to emergency and nonemergency medical care  
47 and treatment, hospital visitation and notification, and any rights  
48 guaranteed to a hospital patient pursuant to P.L.1989, c.170

- 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 '【other than estate taxes,】' 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.
- 37 a. A man shall not marry or enter into a civil union with any of  
38 his ancestors or descendants, or his sister or brother, or the daughter  
39 or son of his brother or sister, or the sister or brother of his father or  
40 mother, whether such collateral kindred be of the whole or half  
41 blood.
- 42 b. A woman shall not marry or enter into a civil union with any  
43 of her ancestors or descendants, or her sister or brother, or the  
44 daughter or son of her brother or sister, or the sister or brother of  
45 her father or mother, whether such collateral kindred be of the  
46 whole or half blood.

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)

37

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

39       37:1-4. Issuance of marriage or civil union license, emergencies,  
40 validity.

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

1 A marriage or civil union license, when properly issued as  
2 provided in this article, shall be good and valid only for 30 days  
3 after the date of the issuance thereof.  
4 (cf: P.L.1991, c.91, s.366)

5  
6 10. R.S.37:1-6 is amended to read as follows:

7 37:1-6. A marriage or civil union license shall not be issued to a  
8 minor under the age of 18 years, unless the parents or guardian of  
9 the minor, if there be any, first certify under their hands and seals,  
10 in the presence of two reputable witnesses, their consent thereto,  
11 which consent shall be delivered to the licensing officer issuing the  
12 license. If the parents, or either of them, or guardian of any such  
13 minor shall be of unsound mind, the consent of such parent or  
14 guardian to the proposed marriage or civil union shall not be  
15 required.

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

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

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

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

33  
34 11. R.S.37:1-7 is amended to read as follows:

35 37:1-7. Issuing of license; remarriage or reaffirming a civil  
36 union.

37 The licensing officer is hereby empowered to issue marriage or  
38 civil union licenses to the contracting parties who apply therefor  
39 and are entitled under the laws of this State to contract matrimony  
40 or establish a civil union , authorizing the marriage or civil union  
41 of such parties, which license shall be substantially in the  
42 following form:

43 "State of New Jersey. County of \_\_\_\_\_ city, town or township of

44 This is to certify that any person, religious society, institution or  
45 organization authorized by law to perform marriage or civil union  
46 ceremonies within the State of New Jersey to whom this may come,  
47 he or they not knowing any lawful impediment thereto, is hereby

1 authorized and empowered to solemnize the rites of matrimony or  
2 the civil union between

3 A B of in the county of and State of and  
4 C D of , in the county of and State of , and to  
5 certify the same to be the said parties, or either of them, under his  
6 hand and seal in his ministerial or official capacity.

7 In testimony whereof, I have hereunto set my hand and affixed  
8 the seal of said town, township or city at this day  
9 of **[one thousand nine hundred] two thousand** and  
10 , (Name and official title)"

11 If the contracting parties desire both a civil and a religious  
12 marriage or civil union ceremony, the licensing officer shall issue a  
13 license in duplicate, marking one as "issued for civil marriage or  
14 civil union ceremony" and one as "issued for religious marriage or  
15 civil union ceremony."

16 Nothing in this section shall be construed to prevent the  
17 remarriage of a couple already married to each other or to prevent a  
18 couple who has entered into a civil union to reaffirm their  
19 commitment to one another; provided, a new license is obtained and  
20 the marriage or civil union properly reported. Such license shall be  
21 plainly marked "Issued for remarriage--originally married to same  
22 mate at (state place) on (state date) or Issued for reaffirmation of a  
23 civil union—originally entered into a civil union to same mate at  
24 (state place) on (state date)." Such a license shall be issued without  
25 compliance with the provisions of **[section] R.S.37:1-4 [of the**  
26 **Revised Statutes]** and if applicable of the provisions of "An act  
27 concerning marriages" approved May third, one thousand nine  
28 hundred and thirty-eight (P.L.1938, c.126). <sup>1</sup>**[When such marriage**  
29 or civil union report is received by the State registrar he shall, if an  
30 original marriage or civil union certificate is recorded, make a  
31 notation thereon of the remarriage or reaffirmation and its date and  
32 place.]<sup>1</sup>

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

34

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

36 37:1-8. Testimony under oath by applicants as to legality of  
37 proposed marriage or civil union; witnesses; perjury

38 A licensing officer shall, before issuing a marriage or civil union  
39 license, require the contracting parties to appear before him and  
40 subscribe and swear to an oath attesting the truth of the facts  
41 respecting the legality of the proposed marriage or civil union as set  
42 forth in the form supplied by the State <sup>1</sup>**[Bureau of Vital Statistics]**  
43 **Registrar**<sup>1</sup>. Said testimony shall be verified by a witness of legal  
44 age. A licensing officer shall issue a license only if it is thus made  
45 to appear before him that no legal impediment to the marriage or  
46 civil union exists. Every licensing officer may administer oaths to  
47 the contracting parties and their identifying witness.

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  
37 **【this act】** of P.L.1981, c.382 (C.37:1-12.1). The moneys from the  
38 trust fund shall be used for the specific purpose of establishing and  
39 maintaining shelters for the victims of domestic violence, or a. for  
40 providing grants-in-aid to such shelters established by local  
41 governments or private nonprofit organizations; or b. for providing  
42 grants-in-aid to non-residential agencies whose primary purpose is  
43 to serve victims of domestic violence in those counties which do not  
44 have emergency residential shelters for victims; or c. for providing  
45 grants-in-aid to any nonprofit, Statewide coalition whose  
46 membership includes a majority of the programs for battered  
47 women in New Jersey and whose board membership includes a  
48 majority of representatives of these programs and whose purpose is

1 to provide services, community education, and technical assistance  
2 to these programs to establish and maintain shelter and related  
3 services for victims of domestic violence and their children.  
4 (cf: P.L.1992, c.136, s.2).

5

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

7 37:1-13 Authorization to solemnize marriages and civil unions.

8 Each judge of the United States Court of Appeals for the Third  
9 Circuit, each judge of a federal district court, United States  
10 magistrate, judge of a municipal court, judge of the Superior Court,  
11 judge of a tax court, retired judge of the Superior Court or Tax  
12 Court, or judge of the Superior Court or Tax Court, the former  
13 County Court, the former County Juvenile and Domestic Relations  
14 Court, or the former County District Court who has resigned in  
15 good standing, surrogate of any county, county clerk and any mayor  
16 or the deputy mayor when authorized by the mayor, or chairman of  
17 any township committee or village president of this State, and every  
18 minister of every religion, are hereby authorized to solemnize  
19 marriage or civil union between such persons as may lawfully enter  
20 into the matrimonial relation or civil union; and every religious  
21 society, institution or organization in this State may join together in  
22 marriage or civil union such persons according to the rules and  
23 customs of the society, institution or organization.

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

25

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

27 37:1-15. Solemnizing without presentation of license;  
28 **【misdemeanor】** disorderly persons offense.

29 Any person, not authorized by **【section】**R.S.37:1-13 **【of the**  
30 **Revised Statutes】** to solemnize marriages or civil unions, who  
31 solemnizes a marriage or civil union or any person or religious  
32 society, institution or organization, authorized to solemnize  
33 marriages or civil unions, who solemnizes a marriage or civil union  
34 without the presentation of a license therefor, obtained in  
35 accordance with the provisions of article two of this chapter (s.37:1-  
36 2 et seq.), shall be guilty of a **【misdemeanor】** disorderly persons  
37 offense, and punished by a fine not exceeding five hundred dollars  
38 (\$500.00), or imprisonment not exceeding six months, or both.

39 (cf: P.L.1948, c.127, s.1).

40

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

42 37:1-16. Interrogation of applicants under oath; perjury.

43 Any person authorized to solemnize marriages or civil unions  
44 may administer oaths to the parties applying to be married or to  
45 enter into a civil union, and may require them, or either of them, to  
46 make true answers to any inquiries made by him in order to  
47 ascertain whether, in his judgment, any legal impediment to the  
48 proposed marriage or civil union exists.

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

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

8 37:1-17. Marriage or civil union license; information provided.

9 On the marriage or civil union license shall be the form for the  
10 certificate of marriage or civil union in quadruplicate, to which the  
11 licensing officer shall have set forth particularly therein the name,  
12 age, parentage, birthplace, residence, Social Security number and  
13 **[condition (whether single, widowed or divorced) of each of the**  
14 **married persons,]** domestic status of each party, whether single,  
15 widowed, divorced, or a former <sup>1</sup>**[party to a]** civil union or  
16 domestic [partnership] partner<sup>1</sup> and the names and county of birth  
17 of their parents. The Social Security number shall be kept  
18 confidential and may only be released for child support enforcement  
19 purposes, and shall not be considered a public record pursuant to  
20 P.L.1963, c.73 (C.47:1A-1 et seq.). The person by whom or the  
21 religious society, institution, or organization by or before which, the  
22 marriage or civil union was solemnized, shall personally or by  
23 legally authorized agent subscribe where indicated on the form the  
24 date and place of the marriage or civil union. Each certificate of  
25 marriage or civil union shall also contain the signature and  
26 residence of at least two witnesses who were present at the marriage  
27 or civil union ceremony.  
28 (cf: P.L.2002, c.88, s.3)

29  
30 21. Section 2 of P.L.1980, c.128 (C.37:1-17.1) is amended to  
31 read as follows:

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

33 The license and the original certificate shall be transmitted  
34 pursuant to R.S.26:8-41. One copy of the certificate shall be  
35 retained by the local registrar and one copy shall be given to the  
36 persons contracting the marriage or civil union. The remaining copy  
37 shall be retained by the person solemnizing the marriage or civil  
38 union.  
39 (cf: P.L.1980, c.128, s.2)

40  
41 22. Section 3 of P.L.1980, c.128 (C.37:1-17.2) is amended to  
42 read as follows:

43 37:1-17.2. Delayed reports; filing; contents; affidavits; evidence.

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

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.

36 A licensing officer or other person issuing marriage or civil  
37 union licenses shall make information available to applicants  
38 concerning places where such applicants may be tested for genetic  
39 diseases including, but not limited to Cooley's Anemia, Sickle Cell  
40 Anemia, and Tay-Sachs Disease. Literature containing such  
41 information which has been prepared and provided by private  
42 organizations may be distributed to applicants by a licensing officer  
43 or other person issuing marriage or civil union licenses.

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

45

46 26. R.S.37:2-31 is amended to read as follows to read as  
47 follows:

1 37:2-31. This article shall be known and may be cited as the  
2 "Uniform Premarital and Pre-Civil Union Agreement Act." Source:  
3 New.  
4 (cf: P.L.1988, c.99, s.1).

5  
6 27. R.S.37:2-32 is amended to read as follows to read as  
7 follows:

8 37:2-32. As used in this article:

9 a. "Premarital or pre-civil union agreement" means an  
10 agreement between prospective spouses or partners <sup>1</sup>in a civil union  
11 couple<sup>1</sup> made in contemplation of marriage or a civil union and to be  
12 effective upon marriage or upon the parties establishing a civil  
13 union;

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

17 c. "Unconscionable premarital or pre-civil union agreement"  
18 means an agreement, either due to a lack of property or  
19 unemployability:

20 (1) Which would render a spouse or partner <sup>1</sup>in a civil union  
21 couple<sup>1</sup> without a means of reasonable support;

22 (2) Which would make a spouse or partner <sup>1</sup>in a civil union  
23 couple<sup>1</sup> a public charge; or

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

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

27  
28 28. R.S.37:2-33 is amended to read as follows:

29 37:2-33. Formalities; consideration.

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

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

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

36 37:2-34. Contents of premarital or pre-civil union agreement. .

37 Parties to a premarital or pre-civil union agreement may contract  
38 with respect to:

39 a. The rights and obligations of each of the parties in any of the  
40 property of either or both of them whenever and wherever acquired  
41 or located;

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

46 c. The disposition of property upon separation, marital  
47 dissolution, dissolution of a civil union, death, or the occurrence or  
48 nonoccurrence of any other event;

- 1 d. The modification or elimination of spousal or ~~'[civil union~~  
2 ~~partner]~~ one partner in a civil union couple<sup>1</sup> support;  
3 e. The making of a will, trust, or other arrangement to carry out  
4 the provisions of the agreement;  
5 f. The ownership rights in and disposition of the death benefit  
6 from a life insurance policy;  
7 g. The choice of law governing the construction of the  
8 agreement; and  
9 h. Any other matter, including their personal rights and  
10 obligations, not in violation of public policy.  
11 (cf: P.L.1988, c.99, s.1)

12  
13 30. R.S.37:2-35 is amended to read as follows:

14 37:2-35. Premarital or pre-civil union agreement not to adversely  
15 affect right of child support .

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

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

19

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

21 37:2-35. When premarital or pre-civil union agreement becomes  
22 effective,

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

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

27

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

29 37:2-37. Amendment or revocation of premarital or pre-civil  
30 union agreement .

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

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

37

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

39 37:2-38. Enforcement of premarital or pre-civil union agreement;  
40 generally.

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

46 a. The party executed the agreement involuntarily; or

47 b. The agreement was unconscionable at the time enforcement  
48 was sought; or

- 1 c. That party, before execution of the agreement:
- 2 (1) Was not provided full and fair disclosure of the earnings,  
3 property and financial obligations of the other party;
- 4 (2) Did not voluntarily and expressly waive, in writing, any  
5 right to disclosure of the property or financial obligations of the  
6 other party beyond the disclosure provided;
- 7 (3) Did not have, or reasonably could not have had, an adequate  
8 knowledge of the property or financial obligations of the other  
9 party; or
- 10 (4) Did not consult with independent legal counsel and did not  
11 voluntarily and expressly waive, in writing, the opportunity to  
12 consult with independent legal counsel.

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

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

17

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

19 37:2-39. Enforcement of premarital or pre-civil union agreement;  
20 marriage or civil union determined void

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

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

26

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

28 37:2-40. Construction of article.

29 <sup>1</sup>a. This article shall be construed to effectuate its general  
30 purpose to make uniform the law with respect to the subject of the  
31 article among states enacting the "Uniform Premarital <sup>1</sup>[or Pre-  
32 Civil Union] Agreement Act."

33 <sup>1</sup>b. This article shall be construed to apply to pre-civil union  
34 agreements executed on and after the effective date of P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill).<sup>1</sup>

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

37

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

39 37:2-41. Application of article.

40 This article shall apply to premarital agreements executed on and  
41 after its effective date.

42 This article as amended by P.L. ,c. (C. )(pending before  
43 the Legislature as this bill) shall apply to pre-civil union agreements  
44 executed on and after the effective date of P.L. ,c. (C. )  
45 (pending before the Legislature as this bill).

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

47

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

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

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

5 "Vital records" means the birth, death, fetal death, marriage, civil  
6 union and domestic partnership records from which vital statistics  
7 are produced.

8 "State registrar" means the State registrar of vital statistics;  
9 "Local registrar" or "registrar" means the local registrar of vital  
10 statistics of any district; and "registration district" or "district"  
11 means a registration district as constituted by this article.

12 "Live birth" or "birth" means the complete expulsion or  
13 extraction from its mother of a product of conception, irrespective  
14 of the duration of pregnancy, which, after such separation, breathes  
15 or shows any other evidence of life such as beating of the heart,  
16 pulsation of the umbilical cord, or definite movement of voluntary  
17 muscles, whether or not the umbilical cord has been cut or the  
18 placenta attached.

19 "Authentication" means the entry by the State Medical Examiner  
20 or a county medical examiner, funeral director or physician into the  
21 New Jersey Electronic Death Registration System of a personal  
22 identification code, digital signature or other identifier unique to  
23 that user, by which the information entered into the system by the  
24 user is authenticated by the user who assumes responsibility for its  
25 accuracy. "Authentication" also means the process by which the  
26 State registrar or a local registrar, deputy registrar, alternate deputy  
27 registrar or subregistrar indicates that person's review and approval  
28 of information entered into the system by the State Medical  
29 Examiner or a county medical examiner, funeral director or  
30 physician.

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

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

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

42

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

44 26:8-4. Duty to furnish information relative to birth, death,  
45 marriage, civil union, domestic partnership. Upon demand of the  
46 State registrar in person, by mail, by means of the NJ-EDRS, or  
47 through the local registrar, every physician, midwife, informant,  
48 funeral director, or other person having knowledge of the facts

1 relative to any birth, death, fetal death, marriage, civil union or  
2 domestic partnership, shall supply such information as he may  
3 possess, upon a form provided by the State registrar, or through the  
4 NJ-EDRS, or upon the original birth, death, fetal death, marriage,  
5 civil union or domestic partnership certificate or its electronic  
6 facsimile or digitized form thereof.  
7 (cf: P.L.2003, c.246, s.16).

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

10 26:8-17. The local registrar, immediately upon acceptance of the  
11 appointment, shall appoint a deputy to assist in the normal, day-to-  
12 day operation of the office and whose duty shall be to act in the  
13 registrar's stead in case of absence, disability or death of the  
14 registrar. In case of death of the local registrar the deputy shall act  
15 as local registrar until a new local registrar has been appointed and  
16 qualified.

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

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

34  
35 40. R.S.26:8-23 is amended to read as follows:

36 26:8-23. The Department of Health and Senior Services shall  
37 have charge of the registration of births, deaths, fetal deaths,  
38 marriages, civil unions and domestic partnerships and shall procure  
39 the prompt and accurate registration of the same in each registration  
40 district and in the department. The department may promulgate any  
41 rule or regulation which it deems necessary for the uniform and  
42 thorough enforcement of this section.

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

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

46  
47 41. R.S.26:8-24 is amended to read as follows:

48 26:8-24. The State registrar shall:

- 1 a. Have general supervision throughout the State of the  
2 registration of vital records;
- 3 b. Have supervisory power over local registrars, deputy local  
4 registrars, alternate deputy local registrars, and subregistrars, in the  
5 enforcement of the law relative to the disposal of dead bodies and  
6 the registration of vital records;
- 7 c. Prepare, print, and supply to all registrars, upon request  
8 therefor, all blanks and forms used in registering the records  
9 required by said law, and provide for and prescribe the use of the  
10 NJ-EDRS. No other blanks or methods of registration shall be used  
11 than those supplied or approved by the State registrar;
- 12 d. Carefully examine the certificates or electronic files received  
13 periodically from the local registrars or originating from their  
14 jurisdiction; and, if any are incomplete or unsatisfactory, require  
15 such further information to be supplied as may be necessary to  
16 make the record complete and satisfactory;
- 17 e. Arrange or bind, and permanently preserve the certificates of  
18 vital records, or the information comprising those records, in a  
19 systematic manner and in a form that is deemed most consistent  
20 with contemporary and developing standards of vital statistical  
21 archival record keeping;
- 22 f. Prepare and maintain a comprehensive and continuous index  
23 of all vital records registered, the index to be arranged  
24 alphabetically;
  - 25 1. In the case of deaths, by the name of the decedent;
  - 26 2. In the case of births, by the name of child, if given, and if  
27 not, then by the name of father or mother;
  - 28 3. In the case of marriages, by the surname of the husband and  
29 also by the maiden name of the wife;
  - 30 4. In the case of civil union, by the surname of each of the  
31 parties to the civil union;
  - 32 5. In the case of domestic partnerships, by the surname of each  
33 of the partners; and
- 34 g. Mark the birth certificate of a missing child when notified by  
35 the Missing Persons Unit in the Department of Law and Public  
36 Safety pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c);  
37 and
- 38 h. Develop and provide to local registrars an education and  
39 training program, which the State registrar may require each local  
40 registrar to complete as a condition of retaining that position, and  
41 which may be offered to deputy local registrars, alternate deputy  
42 local registrars and subregistrars at the discretion of the State  
43 registrar, that includes material designed to implement the NJ-  
44 EDRS and to familiarize local registrars with the statutory  
45 requirements applicable to their duties and any rules and regulations  
46 adopted pursuant thereto, as deemed appropriate by the State  
47 registrar.  
48 (cf: P.L.2003, c.246, s.18)

1 42. R.S.26:8-25 is amended to read as follows:

2 26:8-25. The local registrar, under the supervision and direction  
3 of the State registrar, shall:

4 a. Strictly and thoroughly enforce the law relative to the  
5 disposal of dead bodies and the registration of vital records in his  
6 registration district;

7 b. Supply blank forms of certificates to such persons as require  
8 them;

9 c. Supply to every physician, midwife, and funeral director a  
10 copy of the law relative to the registration of vital records and the  
11 disposal of dead bodies, together with such rules and regulations as  
12 may be prepared by the State registrar relative to their enforcement;

13 d. Sign his name and insert the date of filing on each certificate  
14 of birth, marriage, civil union, domestic partnership and death or  
15 otherwise authenticate the local registrar's identity through the NJ-  
16 EDRS as prescribed by the State registrar;

17 e. Examine each certificate of birth, marriage, civil union,  
18 domestic partnership or death when presented for record in order to  
19 ascertain whether or not it has been made in accordance with law  
20 and the instructions of the State registrar; and if incomplete and  
21 unsatisfactory, have the same corrected;

22 f. At the expense of the municipality make a complete and  
23 accurate copy of each birth, marriage, civil union, domestic  
24 partnership and death certificate registered by him on a form or in a  
25 manner prescribed by the State registrar, to be preserved in his  
26 office as the local record or in the NJ-EDRS as prescribed by the  
27 State registrar;

28 g. On the tenth day of each month or sooner if requested by the  
29 department, transmit to the State registrar all original birth,  
30 marriage, civil union, domestic partnership and death certificates  
31 received by him for the preceding month, except that a record  
32 created on the NJ-EDRS as prescribed by the State registrar shall be  
33 deemed to have been transmitted. If no births, marriages, civil  
34 union, domestic partnerships or deaths occurred in any month, he  
35 shall, on or before the tenth day of the following month, report that  
36 fact to the State registrar on a card provided for such purpose;

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

41 i. In the case of any birth in his registration district to parents  
42 who are residents of another registration district or of the marriage  
43 or civil union in his registration district of any couple who obtained  
44 the marriage or civil union license in another registration district, or  
45 of the death in his registration district of any person who at the time  
46 of death was a resident of another registration district notify the  
47 registrar of the other registration district, within five days of the  
48 birth, marriage, civil union, or death, on forms prescribed by the

1 State registrar. All entries relating to cause of death on the original  
2 certificate shall be entered on the death form sent to the registrar of  
3 the other registration district. A record created on the NJ-EDRS as  
4 prescribed by the State registrar shall be deemed to have been  
5 transmitted to the registrar of the other registration district;

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

9 k. Make computer facilities with access to the NJ-EDRS  
10 available to funeral directors and physicians registered with the NJ-  
11 EDRS, within the regular established business hours of the local  
12 registrar, for the purpose of providing information necessary to  
13 complete a death record.

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

15

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

17 26:8-27. Inquiries to applicants for marriage or civil union  
18 license. The department shall issue to each local registrar and to  
19 city clerks of cities of the first class, the form and substance of the  
20 several inquiries to be made of applicants for a marriage license or a  
21 civil union license and their witnesses for the purpose of  
22 ascertaining whether any legal impediment to any proposed  
23 marriage or civil union exists.

24 The form shall not contain any inquiries or information which  
25 concerns the race of an applicant for a marriage or civil union  
26 license.

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

28

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

30 26:8-41. Transmission of marriage and civil union licenses and  
31 certificates.

32 Every person or religious society, institution or organization  
33 solemnizing a marriage or <sup>1</sup>[performing a] civil union shall,  
34 within 5 days thereafter, transmit the certificate of marriage or civil  
35 union and the marriage or civil union license to the local registrar of  
36 the registration district in which the marriage or civil union occurs  
37 or to the clerk of the county board of health.

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

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

43

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

45 26:8-42. The local registrar who receives the certificate of a  
46 marriage or the certificate of a civil union within the district under  
47 his jurisdiction, the license for which was issued in another  
48 registration district, shall, within 5 days after receipt of the marriage

1 or civil union certificate, copy the names of the persons married or  
2 the <sup>1</sup>[parties to a civil union]partners in a civil union couple<sup>1</sup>; the  
3 date of marriage or civil union; the place of marriage or the civil  
4 union and the marriage or civil union license number upon a form  
5 provided by the State registrar and transmit it by mail to the officer  
6 legally designated to receive certificates of marriage or civil union  
7 in the registration district in which the license was issued.  
8 (cf: P.L.1965, c.78, s.60)

9  
10 46. R.S.26:8-43 is amended to read as follows:

11 26:8-43. Transmission of marriage and civil union certificates  
12 and licenses to state registrar.

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

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

21

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

23 26:8-44. The State registrar shall cause all certificates of  
24 marriages and civil unions and marriage and civil union licenses  
25 received to be alphabetically indexed and shall cause to be  
26 transcribed or otherwise recorded from the certificates such of the  
27 vital facts appearing thereon as the department may deem necessary  
28 or useful.

29 The certificates of marriage and civil union shall be so tabulated  
30 as to present in separate and distinct classes the record of each  
31 county or registration district of over 5,000 inhabitants, which  
32 record shall be preserved as a public record and the original  
33 certificates shall be preserved in the archives of the department.

34 (cf: P.L.1965, c.78, s.62)

35

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

37 26:8-45. Cancellation of records of marriages and civil unions  
38 declared void.

39 If a marriage or a civil union has been declared void by the  
40 Superior Court in an action instituted for that purpose and the court  
41 is satisfied by the proof taken before the final judgment or by  
42 affidavit or otherwise after the final judgment that a record of the  
43 marriage or civil union is filed with the State registrar, it may order  
44 the record to be canceled.

45 It shall not be necessary to make the custodian of the record a  
46 party to the cause.

47 The order need only recite that there was a ceremony of marriage  
48 or civil union between parties to the cause (naming them),

1 performed on (date) by (naming the officer) and that by a final  
2 judgment entered on (date), the marriage or civil union was  
3 declared void and may then direct that the said record be canceled.  
4 (cf: P.L.1965, c.78, s.63)

5

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

7 26:8-46. Upon presenting a certified copy of said order to the  
8 State Registrar, he shall indorse on the return of the marriage or  
9 civil union the following words: "This marriage or civil union  
10 declared void by the Superior Court. See order hereto annexed" and  
11 shall annex the certified copy to the return.

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

13

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

15 26:8-47. Preparation of forms for marriage and civil union  
16 licenses, certificates.

17 The department shall cause to be prepared blank forms of  
18 certificates of marriages or civil unions and marriage or civil union  
19 licenses corresponding to the requirements of R.S.37:1-7 and  
20 R.S.37:1-17. The forms, together with such sections of the laws  
21 concerning marriages or civil unions and such instructions and  
22 explanations thereof as the department may deem useful to persons  
23 having duties to perform under such laws shall be printed and  
24 supplied upon request therefor to the local registrars and to the city  
25 clerks of cities of the first class.

26 All certificates of marriages or civil unions and marriage or civil  
27 union licenses shall be written upon the said blanks or blanks  
28 approved by the department and shall not contain any inquiries or  
29 information which concerns the race of an applicant for a marriage  
30 or civil union license.

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

32

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

34 26:8-48. A certificate of birth, fetal death, marriage, civil union,  
35 domestic partnership or death heretofore or hereafter filed with the  
36 State registrar shall not be altered or changed otherwise than by  
37 amendments properly signed, dated and witnessed, or as otherwise  
38 recorded and authenticated on the NJ-EDRS as prescribed by the  
39 State registrar.

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

41

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

43 26:8-50. Correcting marriage or civil union licenses

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

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

47

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

1 26:8-51. Corrections to marriage, civil union, domestic  
2 partnership certificates. Corrections to marriage, civil union or  
3 domestic partnership certificates shall be signed by the person who  
4 signed the certificate or by any other person having personal  
5 knowledge of the matters sought to be corrected which other person  
6 shall state such matters on his oath.  
7 (cf:P.L.2003, c.246, s.21)

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

10 26:8-55. Any person knowingly submitting a certificate pursuant  
11 to this article containing incorrect particulars relating to any birth,  
12 marriage, civil union, domestic partnership or death shall be subject  
13 to a penalty of not more than \$500, which shall be recovered with  
14 costs in a summary proceeding in the name of the department.  
15 (cf: P.L.2003, c.246, s.22)

16  
17 55. R.S.26:8-60 is amended to read as follows:

18 26:8-60. Each local registrar shall be entitled to receive from the  
19 proper disbursing officer of the municipality or county the sum of  
20 \$1 for each marriage, civil union or domestic partnership certificate  
21 properly transmitted to the State Registrar.

22 In any registration district, the body appointing local registrars  
23 may, in lieu of fees, provide that officers performing the above  
24 service shall receive a fixed compensation to be determined by such  
25 body.  
26 (cf: P.L.2003, c.246, s.23)

27  
28 56. R.S.26:8-61 is amended to read as follows:

29 26:8-61. Fee for cancellation of marriage or civil union record.  
30 The person procuring the cancellation of a marriage or civil  
31 union record pursuant to **[sections]**R.S.26:8-45 and R.S.26:8-46  
32 **[of this Title]** shall first pay to the State Registrar the sum of \$2.00  
33 and the State Registrar shall pay the same over to the State  
34 Treasurer. Such fee may be included in the taxable costs in the  
35 annulment suit.  
36 (cf: P.L.1983, c.275, s.16)

37  
38 57. R.S.26:8-62 is amended to read as follows:

39 26:8-62. a. The State registrar or local registrar shall, upon  
40 request, supply to a person who establishes himself as one of the  
41 following: the subject of the record of a birth, death, fetal death,  
42 certificate of birth resulting in stillbirth, domestic partnership, civil  
43 union or marriage, as applicable; the subject's parent, legal guardian  
44 or other legal representative; the subject's spouse, **'[civil union**  
45 **partner]** one partner in a civil union couple', child, grandchild or  
46 sibling, if of legal age, or the subject's legal representative; an  
47 agency of State or federal government for official purposes; a  
48 person possessing an order of a court of competent jurisdiction; or a

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

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

26 c. For each death registration initiated on the NJ-EDRS on or  
27 after the first day of the first month following the date of enactment  
28 of P.L.2003, c.221 but before the first day of the thirty-seventh  
29 month following the date of enactment of P.L.2003, c.221, the State  
30 registrar shall be paid a recording fee for each record filed, whether  
31 by means of the current paper process or electronically, in an  
32 amount to be determined by the State registrar but not exceeding  
33 \$10, from the account of the funeral home, which may include this  
34 amount in the funeral expenses charged to the estate or person  
35 accepting responsibility for the disposition of the deceased's human  
36 remains and the costs associated therewith; provided however, this  
37 fee shall not apply to the death registration of a person who died  
38 while in the military or naval or maritime or merchant marine  
39 service of the United States whose death is recorded pursuant to  
40 section 1 of P.L.1950, c.299 (C.26:6-5.2). The State registrar shall  
41 deposit the proceeds from the recording fee into the New Jersey  
42 Electronic Death Registration Support Fund established pursuant to  
43 section 17 of P.L.2003, c.221 (C.26:8-24.2).

44 d. Notwithstanding any other provision of this section to the  
45 contrary, the Commissioner of Health and Senior Services shall  
46 designate specifications for uniform forms for the issuance of all  
47 vital records, which shall be used by registrars beginning on a date  
48 established by the commissioner. The form designated for certified

1 copies of vital records shall contain safety features for  
2 authentication purposes and to deter forgery, and shall be readily  
3 distinguishable from the form designated for certifications of vital  
4 records. Local registrars may include in the fee for a certified copy  
5 the additional cost of the form containing such safety features.

6 The commissioner may issue and enforce orders to implement  
7 the provisions of this subsection.

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

9

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

11 26:8-63. The State registrar shall:

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

16 b. Furnish the United States Public Health Service without  
17 expense to the State, microfilm or photocopy images of birth,  
18 marriage, civil union, domestic partnership, fetal death and death  
19 certificates without payment of the fees prescribed in this article;  
20 and

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

25 d. Furnish without fee upon request for administrative use by  
26 any city, State or Federal agency a certified transcript of any New  
27 Jersey State census entry, or a certification or certified copy of a  
28 birth, death, fetal death, marriage, civil union or domestic  
29 partnership certificate.

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

31

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

33 26:8-64. a. For any <sup>1</sup>genealogical<sup>1</sup> search of the files and records  
34 of births, deaths, marriages, civil unions or domestic partnerships  
35 when <sup>1</sup>information required on the application for a certification or  
36 certified copy of a vital record, and<sup>1</sup> the correct year only is  
37 supplied by the applicant, whether or not a certification or a  
38 certified copy is made, the State Registrar shall be entitled to a  
39 minimum fee of \$4, plus a fee of \$1 for each additional year  
40 searched, which fee shall be paid by the applicant, except as  
41 provided by R.S.26:8-63. The fee for each additional copy <sup>1</sup>of the  
42 same record ordered at the same time<sup>1</sup> shall be \$2.

43 b. <sup>1</sup>For all searches of the New Jersey State census records,  
44 except as otherwise provided herein, the State Registrar shall be  
45 entitled to a fee of \$2 for each address searched in any census  
46 year.] <sup>1</sup>For any non-genealogical search of the files and records of  
47 births, deaths, marriages, civil unions or domestic partnerships  
48 when the exact date of the event is supplied, along with all other

1 information required on the application for a certification or  
2 certified copy of a vital record, whether or not a certification or  
3 certified copy is made, the State Registrar shall be entitled to a  
4 minimum fee of \$4, which shall be paid by the applicant, except as  
5 provided by R.S.26:8-63. The fee for each additional copy of the  
6 same record ordered at the same time shall be \$2.<sup>1</sup>

7 c. Conduct without fee upon request for administrative use by  
8 any city, state, or federal agency, a search for any New Jersey State  
9 census entry.

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

11  
12 60. R.S.26:8-66 is amended to read as follows:

13 26:8-66. The State registrar either personally or by accredited  
14 representative, may investigate any case of irregularity or violation  
15 of **[this chapter, or chapter 6 of this Title (s. 26:6-1 et seq.), as well**  
16 **as chapter 1 of Title 37 of the Revised Statutes]** R.S.26:6-1 et seq.,  
17 R.S.8-1 et seq., R.S.37:1-1 et seq., or P.L. , c. (C. ) (pending  
18 before the Legislature as this bill, and every local registrar shall aid  
19 him in such investigation.

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

21  
22 61. R.S.26:8-67 is amended to read as follows:

23 26:8-67. Duty of **[prosecutor of the pleas]** county prosecutor.  
24 When the State registrar shall deem it necessary, he shall report  
25 any violation of any provision of **[this chapter or chapter 6 of this**  
26 **Title (s. 26:6-1 et seq.), as well as chapter 1 of Title 37 of the**  
27 **Revised Statutes]** R.S.26:6-1 et seq., R.S.26:8-1 et seq., R.S.37:1-1  
28 et seq. or P.L. , c. (C. )(pending before the Legislature as this  
29 bill), to the county prosecutor **[of the pleas of the proper county],**  
30 with a statement of the facts and circumstances. Upon such report,  
31 the county prosecutor **[of the pleas]** shall forthwith institute and  
32 prosecute the necessary proceedings for such alleged violation.

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

34  
35 62. R.S.26:8-68 is amended to read as follows:

36 26:8-68. Upon request of the State registrar, the Attorney  
37 General shall assist in the enforcement of the provisions of **[this**  
38 **chapter and chapter 6 of this Title (s. 26:6-1 et seq.), as well as**  
39 **chapter 1 of Title 37 of the Revised Statutes]** R.S.26:6-1 et seq.,  
40 R.S.26:8-1 et seq., R.S.37:1-1 et seq. or P.L. , c. (C. )  
41 (pending before the Legislature as this bill), or the State registrar  
42 may direct that local registrars institute proceedings or civil actions  
43 in the name of the State department. Such a proceeding or action  
44 may be instituted in any court of competent jurisdiction.

45 (cf: P.L.1965, c.78, s.77)

46  
47 63. N.J.S.2A:34-1 is amended to read as follows:

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

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

4 a. Either of the parties has another wife <sup>1</sup>[or],<sup>1</sup> husband <sup>1</sup>,  
5 partner in a civil union couple or domestic partner<sup>1</sup>living at the time  
6 of a second or other marriage;

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

11 c. The parties, or either of them, were at the time of marriage  
12 physically and incurably impotent, provided the party making the  
13 application shall have been ignorant of such impotency or  
14 incapability at the time of the marriage, and has not subsequently  
15 ratified the marriage.

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

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

26 f. Allowable under the general equity jurisdiction of the  
27 Superior Court.

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

30 a. Either of the parties has another wife, husband, <sup>1</sup>[civil union  
31 partner] partner in a civil union couple<sup>1</sup> or domestic partner living  
32 at the time of establishing the new civil union or;

33 b. The parties are within the degrees prohibited by the law  
34 from entering into a marriage or establishing a civil union or  
35 domestic partnership. If any such civil union shall not have been  
36 annulled during the lifetime of the parties the validity thereof shall  
37 not be inquired into after the death of either party.

38 c. The parties, or either of them, lacked capacity to enter into a  
39 civil union due to want of understanding because of mental  
40 condition, or the influence of intoxicants, drugs, or similar agents;  
41 or where there was a lack of mutual assent to the civil union;  
42 duress; or fraud as to the essentials of a civil union; and has not  
43 subsequently ratified the civil union.

44 d. The demand for such a judgment is by the party who was  
45 under the age of 18 years at the time of the civil union, unless such  
46 civil union be confirmed by him after arriving at such age.

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 '[civil union  
9 partner] partner in a civil union couple';

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 '[civil union]' partners  
13 'in a civil union couple';

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 '[civil union]' partners 'in a  
22 civil union couple' 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;

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

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

41  
42     65. N.J.S.2A:34-3 is amended to read as follows:

43     2A:34-3. Causes for divorce from bed and board or legal  
44 separation from '[civil union partner] partner in a civil union  
45 couple'.

46     a. Divorce from bed and board may be adjudged for the same  
47 causes as divorce from the bonds of matrimony whenever both

1 parties petition or join in requesting such relief and they or either of  
2 them present sufficient proof of such cause or causes to warrant the  
3 entry of a judgment of divorce from the bonds of matrimony,  
4 provided further that in the case of a reconciliation thereafter the  
5 parties may apply for a revocation or suspension of the judgment,  
6 and provided further that the granting of a bed and board divorce  
7 shall in no way prejudice either party from thereafter applying to  
8 the court for a conversion of said divorce to a divorce from the  
9 bonds of matrimony, which application shall be granted as a matter  
10 of right.

11 b. Legal separation from a '[civil union partner] partner in a  
12 civil union couple' may be adjudged for the same causes as  
13 dissolution of a civil union whenever both parties petition or join in  
14 requesting such relief and they or either of them present sufficient  
15 proof of such cause or causes to warrant the entry of a judgment of  
16 dissolution of a civil union, provided further that in the case of a  
17 reconciliation thereafter the parties may apply for a revocation or  
18 suspension of the judgment, and provided further that the granting  
19 of a legal separation from a '[civil union partner] partner in a civil  
20 union couple' shall in no way prejudice either party from thereafter  
21 applying to the court for a conversion of said legal separation from  
22 a '[civil union partner] partner in a civil union couple' to a  
23 dissolution of a civil union, which application shall be granted as a  
24 matter of right.

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

26

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

28 2A:34-6. Divorce from bed and board or legal separation from a  
29 civil union; property rights

30 For and during the time that any judgment for divorce from bed  
31 and board or legal separation from a '[civil union partner] partner  
32 in a civil union couple' shall remain in force and effect all property  
33 rights of the parties shall be as though a judgment of absolute  
34 divorce or dissolution had been entered.

35 In any property transaction **[had]** by either of the parties in such  
36 status the fact of the existence of such judgment shall be distinctly  
37 recited and reference to the public record thereof shall be clearly set  
38 forth.

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

40

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

42 2A:34-7. Certain defenses abolished.

43 Recrimination, condonation and the clean hands doctrine are  
44 hereby abolished as defenses to divorce from the bonds of  
45 matrimony **[or from]** , dissolution of a civil union, divorce from  
46 bed and board or legal separation from a '[civil union partner]  
47 partner in a civil union couple', and if both parties make out

1 grounds for a divorce, dissolution or legal separation a decree may  
2 be granted to each; provided that nothing herein shall preclude or  
3 abrogate the responsibility of a party for the penalty provided by  
4 law for perjury or the subornation of perjury.

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

6  
7 68. N.J.S.2A:34-8 is amended to read as follows:

8 2A:34-8. Jurisdiction stated.

9 The Superior Court shall have jurisdiction of all causes of  
10 divorce, dissolution of a civil union, bed and board divorce, legal  
11 separation from a <sup>1</sup> [civil union partner] partner in a civil union  
12 couple<sup>1</sup> or nullity when either party is a bona fide resident of this  
13 State. The Superior Court shall have jurisdiction of an action for  
14 alimony and maintenance when the defendant is subject to the  
15 personal jurisdiction of the court, is a resident of this State, or has  
16 tangible or intangible real or personal property within the  
17 jurisdiction of the court. The Superior Court may afford incidental  
18 relief as in other cases of an equitable nature and by rule of court  
19 may determine the venue of matrimonial and civil union actions.

20 (cf: P.L.1971, c.212, s.5).

21  
22 69. N.J.S.2A:34-9 is amended to read as follows:

23 2A:34-9. Jurisdiction in nullity proceedings or dissolution  
24 proceedings; residence requirements; service of process

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

27 a. Either party is a bona fide resident of this **[state]** State at the  
28 time of the commencement of the action; and

29 b. Process is served upon the defendant as prescribed by the  
30 rules of the **[supreme court]** Supreme Court.

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

32  
33 70. N.J.S.2A:34-10 is amended to read as follows:

34 2A:34-10. Jurisdiction in divorce proceedings, dissolution of a  
35 civil union, legal separation from a <sup>1</sup> [civil union partner] partner in  
36 a civil union couple<sup>1</sup>; service of process; residence requirements

37 Jurisdiction in actions for divorce, either absolute or from bed  
38 and board, and in actions for dissolution of a civil union or legal  
39 separation from a <sup>1</sup> [civil union partner] partner in a civil union  
40 couple<sup>1</sup> may be acquired when process is served upon the defendant  
41 as prescribed by the rules of the Supreme Court, and

42 1. When, at the time the cause of action arose, either party was  
43 a bona fide resident of this State, and has continued so to be down  
44 to the time of the commencement of the action; except that no  
45 action for absolute divorce or dissolution of a civil union shall be  
46 commenced for any cause other than adultery, unless one of the

1 parties has been for the 1 year next preceding the commencement of  
2 the action a bona fide resident of this State; or

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

7

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

9 2A:34-11. Jurisdiction by acknowledgment of service of process,  
10 appearance, etc.

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

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

19

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

21 2A:34-12. Counterclaims.

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

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

29

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

31 2A:34-13. Matrimonial or civil union action.

32 A person who has attained the age of 16 years may prosecute or  
33 defend any matrimonial or civil union action in person or by  
34 attorney.

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

36

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

38 2A:34-14. Parent or guardian may prosecute or defend.

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

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

43

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

45 2A:34-15. Co-respondent in adultery or dissolution of a civil  
46 union actions

47 Where a person is named as co-respondent in a charge of  
48 adultery or in a charge giving rise to a cause of action for

1 dissolution of a civil union pursuant to subsection a. of section  
2 '[53] 64' of P.L. , c. (C. )(pending before the Legislature  
3 as this bill), the party making the charge shall give the co-  
4 respondent written notice of the charge within the time and in the  
5 manner prescribed by the rules of the [supreme court]Supreme  
6 Court.

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

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

10

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

12 2A:34-18. Final judgment; appeal

13 If after the hearing of any cause the court shall determine that the  
14 plaintiff or counterclaimant is entitled to a judgment of nullity of  
15 marriage or nullity of a civil union or a judgment for divorce from  
16 the bonds of matrimony or judgment for dissolution of a civil union,  
17 a final judgment shall be entered.

18 Appeals shall be taken only from the final judgment.

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

20

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

22 2A:34-21. Surname.

23 The court, upon or after granting a divorce from the bonds of  
24 matrimony to either spouse or dissolution of a civil union to either  
25 partner 'in a civil union couple', may allow either spouse or partner  
26 'in a civil union couple' to resume any name used by the spouse or  
27 partner 'in a civil union couple' before the marriage or civil union,  
28 or to assume any surname.

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

30

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

32 2A:34-23 Alimony, maintenance.

33 Pending any matrimonial action or action for dissolution of a  
34 civil union brought in this State or elsewhere, or after judgment of  
35 divorce or dissolution or maintenance, whether obtained in this  
36 State or elsewhere, the court may make such order as to the alimony  
37 or maintenance of the parties, and also as to the care, custody,  
38 education and maintenance of the children, or any of them, as the  
39 circumstances of the parties and the nature of the case shall render  
40 fit, reasonable and just, and require reasonable security for the due  
41 observance of such orders, including, but not limited to, the creation  
42 of trusts or other security devices, to assure payment of reasonably  
43 foreseeable medical and educational expenses. Upon neglect or  
44 refusal to give such reasonable security, as shall be required, or  
45 upon default in complying with any such order, the court may  
46 award and issue process for the immediate sequestration of the  
47 personal estate, and the rents and profits of the real estate of the  
48 party so charged, and appoint a receiver thereof, and cause such

1 personal estate and the rents and profits of such real estate, or so  
2 much thereof as shall be necessary, to be applied toward such  
3 alimony and maintenance as to the said court shall from time to  
4 time seem reasonable and just; or the performance of the said orders  
5 may be enforced by other ways according to the practice of the  
6 court. Orders so made may be revised and altered by the court from  
7 time to time as circumstances may require.

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

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

- 25 (1) Needs of the child;
- 26 (2) Standard of living and economic circumstances of each  
27 parent;
- 28 (3) All sources of income and assets of each parent;
- 29 (4) Earning ability of each parent, including educational  
30 background, training, employment skills, work experience,  
31 custodial responsibility for children including the cost of providing  
32 child care and the length of time and cost of each parent to obtain  
33 training or experience for appropriate employment;
- 34 (5) Need and capacity of the child for education, including  
35 higher education;
- 36 (6) Age and health of the child and each parent;
- 37 (7) Income, assets and earning ability of the child;
- 38 (8) Responsibility of the parents for the court-ordered support of  
39 others;
- 40 (9) Reasonable debts and liabilities of each child and parent; and  
41 (10) Any other factors the court may deem relevant.

42 The obligation to pay support for a child who has not been  
43 emancipated by the court shall not terminate solely on the basis of  
44 the child's age if the child suffers from a severe mental or physical  
45 incapacity that causes the child to be financially dependent on a  
46 parent. The obligation to pay support for that child shall continue  
47 until the court finds that the child is relieved of the incapacity or is  
48 no longer financially dependent on the parent. However, in

1 assessing the financial obligation of the parent, the court shall  
2 consider, in addition to the factors enumerated in this section, the  
3 child's eligibility for public benefits and services for people with  
4 disabilities and may make such orders, including an order involving  
5 the creation of a trust, as are necessary to promote the well-being of  
6 the child.

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

10 b. In all actions brought for divorce, dissolution of a civil  
11 union, divorce from bed and board, legal separation from a <sup>1</sup> [civil  
12 union partner] partner in a civil union couple<sup>1</sup> or nullity the court  
13 may award one or more of the following types of alimony:  
14 permanent alimony; rehabilitative alimony; limited duration  
15 alimony or reimbursement alimony to either party. In so doing the  
16 court shall consider, but not be limited to, the following factors:

17 (1) The actual need and ability of the parties to pay;

18 (2) The duration of the marriage or civil union;

19 (3) The age, physical and emotional health of the parties;

20 (4) The standard of living established in the marriage or civil  
21 union and the likelihood that each party can maintain a reasonably  
22 comparable standard of living;

23 (5) The earning capacities, educational levels, vocational skills,  
24 and employability of the parties;

25 (6) The length of absence from the job market of the party  
26 seeking maintenance;

27 (7) The parental responsibilities for the children;

28 (8) The time and expense necessary to acquire sufficient  
29 education or training to enable the party seeking maintenance to  
30 find appropriate employment, the availability of the training and  
31 employment, and the opportunity for future acquisitions of capital  
32 assets and income;

33 (9) The history of the financial or non-financial contributions to  
34 the marriage or civil union by each party including contributions to  
35 the care and education of the children and interruption of personal  
36 careers or educational opportunities;

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

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

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

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

47 When a share of a retirement benefit is treated as an asset for  
48 purposes of equitable distribution, the court shall not consider

1 income generated thereafter by that share for purposes of  
2 determining alimony.

3 c. In any case in which there is a request for an award of  
4 permanent alimony, the court shall consider and make specific  
5 findings on the evidence about the above factors. If the court  
6 determines that an award of permanent alimony is not warranted,  
7 the court shall make specific findings on the evidence setting out  
8 the reasons therefor. The court shall then consider whether alimony  
9 is appropriate for any or all of the following: (1) limited duration;  
10 (2) rehabilitative; (3) reimbursement. In so doing, the court shall  
11 consider and make specific findings on the evidence about factors  
12 set forth above. The court shall not award limited duration alimony  
13 as a substitute for permanent alimony in those cases where  
14 permanent alimony would otherwise be awarded.

15 An award of alimony for a limited duration may be modified  
16 based either upon changed circumstances, or upon the  
17 nonoccurrence of circumstances that the court found would occur at  
18 the time of the award. The court may modify the amount of such an  
19 award, but shall not modify the length of the term except in unusual  
20 circumstances.

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

25 d. Rehabilitative alimony shall be awarded based upon a plan  
26 in which the payee shows the scope of rehabilitation, the steps to be  
27 taken, and the time frame, including a period of employment during  
28 which rehabilitation will occur. An award of rehabilitative alimony  
29 may be modified based either upon changed circumstances, or upon  
30 the nonoccurrence of circumstances that the court found would  
31 occur at the time of the rehabilitative award.

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

34 e. Reimbursement alimony may be awarded under  
35 circumstances in which one party supported the other through an  
36 advanced education, anticipating participation in the fruits of the  
37 earning capacity generated by that education.

38 f. Nothing in this section shall be construed to limit the court's  
39 authority to award permanent alimony, limited duration alimony,  
40 rehabilitative alimony or reimbursement alimony, separately or in  
41 any combination, as warranted by the circumstances of the parties  
42 and the nature of the case.

43 g. In all actions for divorce or dissolution other than those  
44 where judgment is granted solely on the ground of separation the  
45 court may consider also the proofs made in establishing such  
46 ground in determining an amount of alimony or maintenance that is  
47 fit, reasonable and just. In all actions for divorce **[or]** dissolution  
48 of civil union, divorce from bed and board, legal separation from a

1 '[civil union partner] partner in a civil union couple' where  
2 judgment is granted on the ground of institutionalization for mental  
3 illness the court may consider the possible burden upon the  
4 taxpayers of the State as well as the ability of the party to pay in  
5 determining an amount of maintenance to be awarded.

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

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

21

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

24 1. Maintenance of certain insurance coverage in action for  
25 divorce or dissolution.

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

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

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

42 d. The court may take any action it deems appropriate to  
43 reallocate financial responsibilities including but not limited to  
44 ordering a party to obtain comparable coverage or releasing a party  
45 from the obligation or any other order.

46 (cf: P.L.1997, c.405, s.1)

- 1       80. '[N.J.S.2A:34-23.1]Section 4 of P.L.1988, c.153 (C.2A:34-  
2 23.1)' is amended to read as follows:
- 3       '[2A:34-23.1 Equitable distribution criteria.]'
- 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 couple' and to  
36 use or own the household effects;
- 37      m. The debts and liabilities of the parties;
- 38      n. The need for creation, now or in the future, of a trust fund to  
39 secure reasonably foreseeable medical or educational costs for a  
40 spouse, partner 'in a civil union couple' or children;
- 41      o. The extent to which a party deferred achieving their career  
42 goals; and
- 43      p. Any other factors which the court may deem relevant.
- 44       In every case, the court shall make specific findings of fact on  
45 the evidence relevant to all issues pertaining to asset eligibility or  
46 ineligibility, asset valuation, and equitable distribution, including  
47 specifically, but not limited to, the factors set forth in this section.

1 It shall be a rebuttable presumption that each party made a  
2 substantial financial or nonfinancial contribution to the acquisition  
3 of income and property while the party was married.

4 (cf: P.L.1997, c.407, s.1).

5  
6 81. Section 1 of P.L.1954, c.187 (C.2A:34-24.1) is amended to  
7 read as follows:

8 1. Court-ordered support, maintenance.

9 When a spouse or '[civil union partner] partner in a civil union  
10 couple' has secured a judgment or decree of divorce, whether  
11 absolute or from bed and board, dissolution of a civil union, legal  
12 separation from a '[civil union partner] partner in a civil union  
13 couple', or of nullity or annulment of marriage or civil union, in an  
14 action whether brought in this State or elsewhere, wherein  
15 jurisdiction over the person of the other spouse or the other '[civil  
16 union partner] partner in a civil union couple' was not obtained, the  
17 court may make the same orders and judgments touching the  
18 suitable support and maintenance to be paid and provided by the  
19 spouse or '[civil union partner] partner in a civil union couple', or  
20 to be made out of the spouse's or partner's property, for the other  
21 spouse or partner and their children, or any of them, by their  
22 marriage or civil union and for such time, as the nature of the case  
23 and circumstances of the parties render suitable and proper,  
24 pursuant to the provisions of chapter 34 of Title 2A of the New  
25 Jersey Statutes notwithstanding the securing of such judgment or  
26 decree.

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

28  
29 82. N.J.S.2A:34-25. Termination of alimony.

30 2A:34-25. If after the judgment of divorce or dissolution a  
31 former spouse shall remarry or a former partner shall enter into a  
32 new civil union, permanent and limited duration alimony shall  
33 terminate as of the date of remarriage or new civil union except that  
34 any arrearages that have accrued prior to the date of remarriage or  
35 new civil union shall not be vacated or annulled. A former spouse  
36 or '[civil union partner] former partner in a civil union couple'  
37 who remarries 'or enters into a new civil union' shall promptly so  
38 inform the spouse or partner paying permanent or limited duration  
39 alimony as well as the collecting agency, if any. The court may  
40 order such alimony recipient who fails to comply with the  
41 notification provision of this act to pay any reasonable attorney fees  
42 and court costs incurred by the recipient's former spouse or partner  
43 as a result of such non-compliance.

44 The remarriage or establishment of a new civil union of a former  
45 spouse or partner receiving rehabilitative or reimbursement alimony  
46 shall not be cause for termination of such alimony by the court  
47 unless the court finds that the circumstances upon which the award

1 was based have not occurred or unless the payer spouse or partner  
 2 demonstrates an agreement or good cause to the contrary.

3 Alimony shall terminate upon the death of the payer spouse or  
 4 partner, except that any arrearages that have accrued prior to the  
 5 date of the payer spouse's or partner's death shall not be vacated or  
 6 annulled.

7 Nothing in this act shall be construed to prohibit a court from  
 8 ordering either spouse or partner to maintain life insurance for the  
 9 protection of the former spouse, partner, or the children of the  
 10 marriage or civil union in the event of the payer spouse's or  
 11 partner's death.

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

13

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

15 2A:34-26. Attachment of property.

16 When a spouse or <sup>1</sup>['civil union partner'] one partner in a civil  
 17 union couple<sup>1</sup> cannot be found within this State to be served with  
 18 process, the spouse's or partner's estate, property and effects within  
 19 this State and the rents and profits thereof may be attached to  
 20 compel the spouse's or partner's appearance and performance of any  
 21 judgment or order which may be made in the action. Where the  
 22 proceedings are by process of attachment and the defendant does  
 23 not appear, the judgment shall be enforceable only out of and  
 24 against the property attached.

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

26

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

28 22A:2-10. Chancery Division of Superior Court; costs awarded.

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

33	Plaintiff's costs, foreclosure .....	\$50 <sub>00</sub>
34	Plaintiff's costs, partition .....	70 <sub>00</sub>
35	Plaintiff's and receiver's costs, receivership .....	125 <sub>00</sub>
36	Plaintiff's costs, receivership .....	62 <sub>50</sub>
37	Receiver's costs, receivership .....	62 <sub>50</sub>
38	Plaintiff's costs, divorce, <u>dissolution of civil</u>	
39	<u>union</u> , nullity, custody .....	30 <sub>00</sub>
40	Plaintiff's costs, causes of action for other relief .....	65 <sub>00</sub>
41	Plaintiff's costs, incompetency action .....	47 <sub>50</sub>
42	Plaintiff's costs, sale of lands of infant or incompetent	50 <sub>00</sub>
43	Plaintiff's costs, release of dower or curtesy .....	50 <sub>00</sub>
44	Plaintiff's costs, mortgage lands of an infant or	
45	incompetent ...	50.00
46	Plaintiff's costs, interpleader .....	35 <sub>00</sub>
47	Plaintiff's costs, appointment of tax receiver .....	27 <sub>50</sub>
48	Plaintiff's costs, actions for payment of money	

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

21

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

23 22A:2-12. Payment of fees in Chancery Division of Superior

24 Court upon filing of first paper. Upon the filing of the first paper in

25 any action or proceeding in the Chancery Division of the Superior

26 Court, there shall be paid to the clerk of the court, for the use of the

27 State, the following fees, which, except as hereinafter provided,

28 shall constitute the entire fees to be collected by the clerk for the

29 use of the State, down to the final disposition of the cause:

30 Receivership and partition, \$200.00.

31 All other actions and proceedings except in probate cases and

32 actions and proceedings for divorce or dissolution of a civil union

33 union, \$200.00.

34 Actions and proceedings for divorce or dissolution of civil union,

35 \$250.00, \$25.00 of which shall be forwarded by the Clerk of the

36 Superior Court as provided in section 2 of P.L.1993, c.188

37 (C.52:27D-43.24a).

38 Any person filing a motion in any action or proceeding shall pay

39 to the clerk \$30.00.

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

41

42 86. Section 2 of P.L.1993, c.188 (C.52:27D-43.24a) is amended

43 to read as follows:

44 2. Forwarding of filing fee. The Clerk of the Superior Court

45 shall forward \$25.00 of the \$250.00 filing fee for a divorce or a

46 dissolution of a civil union provided for in N.J.S.22A:2-12 on a

47 quarterly basis to the Department of Community Affairs.

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

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

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

5       a. "Person" includes one or more individuals, partnerships,  
6 associations, organizations, labor organizations, corporations, legal  
7 representatives, trustees, trustees in bankruptcy, receivers, and  
8 fiduciaries.

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

11       c. "Labor organization" includes any organization which exists  
12 and is constituted for the purpose, in whole or in part, of collective  
13 bargaining, or of dealing with employers concerning grievances,  
14 terms or conditions of employment, or of other mutual aid or  
15 protection in connection with employment.

16       d. "Unlawful employment practice" and "unlawful  
17 discrimination" include only those unlawful practices and acts  
18 specified in section 11 of this act.

19       e. "Employer" includes all persons as defined in subsection a.  
20 of this section unless otherwise specifically exempt under another  
21 section of this act, and includes the State, any political or civil  
22 subdivision thereof, and all public officers, agencies, boards or  
23 bodies.

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

26       g. "Liability for service in the Armed Forces of the United  
27 States" means subject to being ordered as an individual or member  
28 of an organized unit into active service in the Armed Forces of the  
29 United States by reason of membership in the National Guard, naval  
30 militia or a reserve component of the Armed Forces of the United  
31 States, or subject to being inducted into such armed forces through  
32 a system of national selective service.

33       h. "Division" means the "Division on Civil Rights" created by  
34 this act.

35       i. "Attorney General" means the Attorney General of the State  
36 of New Jersey or his representative or designee.

37       j. "Commission" means the Commission on Civil Rights  
38 created by this act.

39       k. "Director" means the Director of the Division on Civil  
40 Rights.

41       l. "A place of public accommodation" shall include, but not be  
42 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
43 summer camp, day camp, or resort camp, whether for entertainment  
44 of transient guests or accommodation of those seeking health,  
45 recreation or rest; any producer, manufacturer, wholesaler,  
46 distributor, retail shop, store, establishment, or concession dealing  
47 with goods or services of any kind; any restaurant, eating house, or  
48 place where food is sold for consumption on the premises; any

1 place maintained for the sale of ice cream, ice and fruit preparations  
2 or their derivatives, soda water or confections, or where any  
3 beverages of any kind are retailed for consumption on the premises;  
4 any garage, any public conveyance operated on land or water, or in  
5 the air, any stations and terminals thereof; any bathhouse,  
6 boardwalk, or seashore accommodation; any auditorium, meeting  
7 place, or hall; any theatre, motion-picture house, music hall, roof  
8 garden, skating rink, swimming pool, amusement and recreation  
9 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
10 pool parlor, or other place of amusement; any comfort station; any  
11 dispensary, clinic or hospital; any public library; any kindergarten,  
12 primary and secondary school, trade or business school, high  
13 school, academy, college and university, or any educational  
14 institution under the supervision of the State Board of Education, or  
15 the Commissioner of Education of the State of New Jersey.  
16 Nothing herein contained shall be construed to include or to apply  
17 to any institution, bona fide club, or place of accommodation, which  
18 is in its nature distinctly private; nor shall anything herein contained  
19 apply to any educational facility operated or maintained by a bona  
20 fide religious or sectarian institution, and the right of a natural  
21 parent or one in loco parentis to direct the education and upbringing  
22 of a child under his control is hereby affirmed; nor shall anything  
23 herein contained be construed to bar any private secondary or post  
24 secondary school from using in good faith criteria other than race,  
25 creed, color, national origin, ancestry or affectional or sexual  
26 orientation in the admission of students.

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

35 n. The term "real property" includes real estate, lands,  
36 tenements and hereditaments, corporeal and incorporeal, and  
37 leaseholds, provided, however, that, except as to publicly assisted  
38 housing accommodations, the provisions of this act shall not apply  
39 to the rental: (1) of a single apartment or flat in a two-family  
40 dwelling, the other occupancy unit of which is occupied by the  
41 owner as a residence; or (2) of a room or rooms to another person or  
42 persons by the owner or occupant of a one-family dwelling  
43 occupied by the owner or occupant as a residence at the time of  
44 such rental. Nothing herein contained shall be construed to bar any  
45 religious or denominational institution or organization, or any  
46 organization operated for charitable or educational purposes, which  
47 is operated, supervised or controlled by or in connection with a  
48 religious organization, in the sale, lease or rental of real property,

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

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

30 p. "Real estate salesperson" includes any person who, for  
31 compensation, valuable consideration or commission, or other thing  
32 of value, or by reason of a promise or reasonable expectation  
33 thereof, is employed by and operates under the supervision of a  
34 licensed real estate broker to sell or offer to sell, buy or offer to buy  
35 or negotiate the purchase, sale or exchange of real estate, or offers  
36 or attempts to negotiate a loan secured or to be secured by a  
37 mortgage or other encumbrance upon or transfer of real estate, or to  
38 lease or rent, or offer to lease or rent any real estate for others, or to  
39 collect rents for the use of real estate, or to solicit for prospective  
40 purchasers or lessees of real estate, or who is employed by a  
41 licensed real estate broker to sell or offer to sell lots or other parcels  
42 of real estate, at a stated salary, or upon a commission, or upon a  
43 salary and commission, or otherwise to sell real estate, or any parts  
44 thereof, in lots or other parcels.

45 q. "Disability" means physical disability, infirmity,  
46 malformation or disfigurement which is caused by bodily injury,  
47 birth defect or illness including epilepsy and other seizure  
48 disorders, and which shall include, but not be limited to, any degree

1 of paralysis, amputation, lack of physical coordination, blindness or  
2 visual impediment, deafness or hearing impediment, muteness or  
3 speech impediment or physical reliance on a service or guide dog,  
4 wheelchair, or other remedial appliance or device, or any mental,  
5 psychological or developmental disability resulting from  
6 anatomical, psychological, physiological or neurological conditions  
7 which prevents the normal exercise of any bodily or mental  
8 functions or is demonstrable, medically or psychologically, by  
9 accepted clinical or laboratory diagnostic techniques. Disability  
10 shall also mean AIDS or HIV infection.

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

16 s. "Guide dog" means a dog used to assist deaf persons or  
17 which is fitted with a special harness so as to be suitable as an aid to  
18 the mobility of a blind person, and is used by a blind person who  
19 has satisfactorily completed a specific course of training in the use  
20 of such a dog, and has been trained by an organization generally  
21 recognized by agencies involved in the rehabilitation of the blind or  
22 deaf as reputable and competent to provide dogs with training of  
23 this type.

24 t. "Guide or service dog trainer" means any person who is  
25 employed by an organization generally recognized by agencies  
26 involved in the rehabilitation of persons with disabilities as  
27 reputable and competent to provide dogs with training, and who is  
28 actually involved in the training process.

29 u. "Housing accommodation" means any publicly assisted  
30 housing accommodation or any real property, or portion thereof,  
31 which is used or occupied, or is intended, arranged, or designed to  
32 be used or occupied, as the home, residence or sleeping place of one  
33 or more persons, but shall not include any single family residence  
34 the occupants of which rent, lease, or furnish for compensation not  
35 more than one room therein.

36 v. "Public facility" means any place of public accommodation  
37 and any street, highway, sidewalk, walkway, public building, and  
38 any other place or structure to which the general public is regularly,  
39 normally or customarily permitted or invited.

40 w. "Deaf person" means any person whose hearing is so  
41 severely impaired that the person is unable to hear and understand  
42 normal conversational speech through the unaided ear alone, and  
43 who must depend primarily on a supportive device or visual  
44 communication such as writing, lip reading, sign language, and  
45 gestures.

46 x. "Atypical hereditary cellular or blood trait" means sickle cell  
47 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
48 fibrosis trait.

1 y. "Sickle cell trait" means the condition wherein the major  
2 natural hemoglobin components present in the blood of the  
3 individual are hemoglobin A (normal) and hemoglobin S (sickle  
4 hemoglobin) as defined by standard chemical and physical analytic  
5 techniques, including electrophoresis; and the proportion of  
6 hemoglobin A is greater than the proportion of hemoglobin S or one  
7 natural parent of the individual is shown to have only normal  
8 hemoglobin components (hemoglobin A, hemoglobin A2,  
9 hemoglobin F) in the normal proportions by standard chemical and  
10 physical analytic tests.

11 z. "Hemoglobin C trait" means the condition wherein the major  
12 natural hemoglobin components present in the blood of the  
13 individual are hemoglobin A (normal) and hemoglobin C as defined  
14 by standard chemical and physical analytic techniques, including  
15 electrophoresis; and the proportion of hemoglobin A is greater than  
16 the proportion of hemoglobin C or one natural parent of the  
17 individual is shown to have only normal hemoglobin components  
18 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
19 proportions by standard chemical and physical analytic tests.

20 aa. "Thalassemia trait" means the presence of the thalassemia  
21 gene which in combination with another similar gene results in the  
22 chronic hereditary disease Cooley's anemia.

23 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
24 which in combination with another similar gene results in the  
25 chronic hereditary disease Tay-Sachs.

26 cc. "Cystic fibrosis trait" means the presence of the cystic  
27 fibrosis gene which in combination with another similar gene  
28 results in the chronic hereditary disease cystic fibrosis.

29 dd. "Service dog" means any dog individually trained to the  
30 requirements of a person with a disability including, but not limited  
31 to minimal protection work, rescue work, pulling a wheelchair or  
32 retrieving dropped items. This term shall include a "seizure dog"  
33 trained to alert or otherwise assist persons subject to epilepsy or  
34 other seizure disorders.

35 ee. "Qualified Medicaid applicant" means an individual who is a  
36 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

37 ff. "AIDS" means acquired immune deficiency syndrome as  
38 defined by the Centers for Disease Control and Prevention of the  
39 United States Public Health Service.

40 gg. "HIV infection" means infection with the human  
41 immunodeficiency virus or any other related virus identified as a  
42 probable causative agent of AIDS.

43 hh. "Affectional or sexual orientation" means male or female  
44 heterosexuality, homosexuality or bisexuality by inclination,  
45 practice, identity or expression, having a history thereof or being  
46 perceived, presumed or identified by others as having such an  
47 orientation.

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

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

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

42      Housing shall not fail to meet the requirements for housing for  
43 older persons by reason of: persons residing in such housing as of  
44 September 13, 1988 not meeting the age requirements of this  
45 subsection, provided that new occupants of such housing meet the  
46 age requirements of this subsection; or unoccupied units, provided  
47 that such units are reserved for occupancy by persons who meet the  
48 age requirements of this subsection.

1 nn. "Genetic characteristic" means any inherited gene or  
2 chromosome, or alteration thereof, that is scientifically or medically  
3 believed to predispose an individual to a disease, disorder or  
4 syndrome, or to be associated with a statistically significant  
5 increased risk of development of a disease, disorder or syndrome.

6 oo. "Genetic information" means the information about genes,  
7 gene products or inherited characteristics that may derive from an  
8 individual or family member.

9 pp. "Genetic test" means a test for determining the presence or  
10 absence of an inherited genetic characteristic in an individual,  
11 including tests of nucleic acids such as DNA, RNA and  
12 mitochondrial DNA, chromosomes or proteins in order to identify a  
13 predisposing genetic characteristic.

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

16 rr. "Civil Union" means a legally recognized union of two  
17 eligible individuals established pursuant to R.S.37:1-1 et seq. and  
18 P.L. .c. (C. ) (pending before the Legislature as this bill).  
19 (cf: P.L.2004, c.130, s.37)

20

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

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

25 a. For an employer, because of the race, creed, color, national  
26 origin, ancestry, age, marital status, civil union status, domestic  
27 partnership status, affectional or sexual orientation, genetic  
28 information, sex, disability or atypical hereditary cellular or blood  
29 trait of any individual, or because of the liability for service in the  
30 Armed Forces of the United States or the nationality of any  
31 individual, or because of the refusal to submit to a genetic test or  
32 make available the results of a genetic test to an employer, to refuse  
33 to hire or employ or to bar or to discharge or require to retire, unless  
34 justified by lawful considerations other than age, from employment  
35 such individual or to discriminate against such individual in  
36 compensation or in terms, conditions or privileges of employment;  
37 provided, however, it shall not be an unlawful employment practice  
38 to refuse to accept for employment an applicant who has received a  
39 notice of induction or orders to report for active duty in the armed  
40 forces; provided further that nothing herein contained shall be  
41 construed to bar an employer from refusing to accept for  
42 employment any person on the basis of sex in those certain  
43 circumstances where sex is a bona fide occupational qualification,  
44 reasonably necessary to the normal operation of the particular  
45 business or enterprise; provided further that nothing herein  
46 contained shall be construed to bar an employer from refusing to  
47 accept for employment or to promote any person over 70 years of  
48 age; provided further that it shall not be an unlawful employment

1 practice for a club exclusively social or fraternal to use club  
2 membership as a uniform qualification for employment, or for a  
3 religious association or organization to utilize religious affiliation  
4 as a uniform qualification in the employment of clergy, religious  
5 teachers or other employees engaged in the religious activities of  
6 the association or organization, or in following the tenets of its  
7 religion in establishing and utilizing criteria for employment of an  
8 employee; provided further, that it shall not be an unlawful  
9 employment practice to require the retirement of any employee  
10 who, for the two-year period immediately before retirement, is  
11 employed in a bona fide executive or a high policy-making position,  
12 if that employee is entitled to an immediate non-forfeitable annual  
13 retirement benefit from a pension, profit sharing, savings or  
14 deferred retirement plan, or any combination of those plans, of the  
15 employer of that employee which equals in the aggregate at least  
16 \$27,000.00; and provided further that an employer may restrict  
17 employment to citizens of the United States where such restriction  
18 is required by federal law or is otherwise necessary to protect the  
19 national interest.

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

24 For the purposes of this subsection, a "bona fide executive" is a  
25 top level employee who exercises substantial executive authority  
26 over a significant number of employees and a large volume of  
27 business. A "high policy-making position" is a position in which a  
28 person plays a significant role in developing policy and in  
29 recommending the implementation thereof.

30 b. For a labor organization, because of the race, creed, color,  
31 national origin, ancestry, age, marital status, civil union status,  
32 domestic partnership status, affectional or sexual orientation,  
33 disability or sex of any individual, or because of the liability for  
34 service in the Armed Forces of the United States or nationality of  
35 any individual, to exclude or to expel from its membership such  
36 individual or to discriminate in any way against any of its members,  
37 against any applicant for, or individual included in, any apprentice  
38 or other training program or against any employer or any individual  
39 employed by an employer; provided, however, that nothing herein  
40 contained shall be construed to bar a labor organization from  
41 excluding from its apprentice or other training programs any person  
42 on the basis of sex in those certain circumstances where sex is a  
43 bona fide occupational qualification reasonably necessary to the  
44 normal operation of the particular apprentice or other training  
45 program.

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

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  
37 sexual orientation, disability or nationality is unwelcome,  
38 objectionable or not acceptable, desired or solicited, and the  
39 production of any such written or printed communication, notice or  
40 advertisement, purporting to relate to any such place and to be made  
41 by any owner, lessee, proprietor, superintendent or manager thereof,  
42 shall be presumptive evidence in any action that the same was  
43 authorized by such person; provided, however, that nothing  
44 contained herein shall be construed to bar any place of public  
45 accommodation which is in its nature reasonably restricted  
46 exclusively to individuals of one sex, and which shall include but  
47 not be limited to any summer camp, day camp, or resort camp,  
48 bathhouse, dressing room, swimming pool, gymnasium, comfort

1 station, dispensary, clinic or hospital, or school or educational  
2 institution which is restricted exclusively to individuals of one sex,  
3 from refusing, withholding from or denying to any individual of the  
4 opposite sex any of the accommodations, advantages, facilities or  
5 privileges thereof on the basis of sex; provided further, that the  
6 foregoing limitation shall not apply to any restaurant as defined in  
7 R.S.33:1-1 or place where alcoholic beverages are served.

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

21 In addition to the penalties otherwise provided for a violation of  
22 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)  
23 of subsection f. of this section is the holder of an alcoholic beverage  
24 license issued under the provisions of R.S.33:1-12 for that private  
25 club or association, the matter shall be referred to the Director of  
26 the Division of Alcoholic Beverage Control who shall impose an  
27 appropriate penalty in accordance with the procedures set forth in  
28 R.S.33:1-31.

29 g. For any person, including but not limited to, any owner,  
30 lessee, sublessee, assignee or managing agent of, or other person  
31 having the right of ownership or possession of or the right to sell,  
32 rent, lease, assign, or sublease any real property or part or portion  
33 thereof, or any agent or employee of any of these:

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

41 (2) To discriminate against any person or group of persons  
42 because of race, creed, color, national origin, ancestry, marital  
43 status, civil union status, domestic partnership status, sex,  
44 affectional or sexual orientation, familial status, disability,  
45 nationality or source of lawful income used for rental or mortgage  
46 payments in the terms, conditions or privileges of the sale, rental or  
47 lease of any real property or part or portion thereof or in the  
48 furnishing of facilities or services in connection therewith;

1 (3) To print, publish, circulate, issue, display, post or mail, or  
2 cause to be printed, published, circulated, issued, displayed, posted  
3 or mailed any statement, advertisement, publication or sign, or to  
4 use any form of application for the purchase, rental, lease,  
5 assignment or sublease of any real property or part or portion  
6 thereof, or to make any record or inquiry in connection with the  
7 prospective purchase, rental, lease, assignment, or sublease of any  
8 real property, or part or portion thereof which expresses, directly or  
9 indirectly, any limitation, specification or discrimination as to race,  
10 creed, color, national origin, ancestry, marital status, civil union  
11 status, domestic partnership status, sex, affectional or sexual  
12 orientation, familial status, disability, nationality, or source of  
13 lawful income used for rental or mortgage payments, or any intent  
14 to make any such limitation, specification or discrimination, and the  
15 production of any such statement, advertisement, publicity, sign,  
16 form of application, record, or inquiry purporting to be made by any  
17 such person shall be presumptive evidence in any action that the  
18 same was authorized by such person; provided, however, that  
19 nothing contained in this subsection shall be construed to bar any  
20 person from refusing to sell, rent, lease, assign or sublease or from  
21 advertising or recording a qualification as to sex for any room,  
22 apartment, flat in a dwelling or residential facility which is planned  
23 exclusively for and occupied by individuals of one sex to any  
24 individual of the exclusively opposite sex on the basis of sex;

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

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

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

39 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
40 sale, rental, lease, assignment, or sublease any real property or part  
41 or portion thereof to any person or group of persons or to refuse to  
42 negotiate for the sale, rental, lease, assignment, or sublease of any  
43 real property or part or portion thereof to any person or group of  
44 persons because of race, creed, color, national origin, ancestry,  
45 marital status, civil union status, domestic partnership status,  
46 familial status, sex, affectional or sexual orientation, disability,  
47 nationality, or source of lawful income used for rental or mortgage  
48 payments, or to represent that any real property or portion thereof is

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

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

45 (5) To refuse to rent or lease any real property to another person  
46 because that person's family includes children under 18 years of  
47 age, or to make an agreement, rental or lease of any real property  
48 which provides that the agreement, rental or lease shall be rendered

1 null and void upon the birth of a child. This paragraph shall not  
2 apply to housing for older persons as defined in subsection mm. of  
3 section 5 of P.L.1945, c.169 (C.10:5-5).

4 i. For any person, bank, banking organization, mortgage  
5 company, insurance company or other financial institution, lender  
6 or credit institution involved in the making or purchasing of any  
7 loan or extension of credit, for whatever purpose, whether secured  
8 by residential real estate or not, including but not limited to  
9 financial assistance for the purchase, acquisition, construction,  
10 rehabilitation, repair or maintenance of any real property or part or  
11 portion thereof or any agent or employee thereof:

12 (1) To discriminate against any person or group of persons  
13 because of race, creed, color, national origin, ancestry, marital  
14 status, civil union status, domestic partnership status, sex,  
15 affectional or sexual orientation, disability, familial status or  
16 nationality, in the granting, withholding, extending, modifying,  
17 renewing, or purchasing, or in the fixing of the rates, terms,  
18 conditions or provisions of any such loan, extension of credit or  
19 financial assistance or purchase thereof or in the extension of  
20 services in connection therewith;

21 (2) To use any form of application for such loan, extension of  
22 credit or financial assistance or to make record or inquiry in  
23 connection with applications for any such loan, extension of credit  
24 or financial assistance which expresses, directly or indirectly, any  
25 limitation, specification or discrimination as to race, creed, color,  
26 national origin, ancestry, marital status, civil union status, domestic  
27 partnership status, sex, affectional or sexual orientation, disability,  
28 familial status or nationality or any intent to make any such  
29 limitation, specification or discrimination; unless otherwise  
30 required by law or regulation to retain or use such information;

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

32 (4) To discriminate against any person or group of persons  
33 because of the source of any lawful income received by the person  
34 or the source of any lawful rent payment to be paid for the real  
35 property; or

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

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

47 k. For any real estate broker, real estate salesperson or  
48 employee or agent thereof or any other individual, corporation,

1 partnership, or organization, for the purpose of inducing a  
2 transaction for the sale or rental of real property from which  
3 transaction such person or any of its members may benefit  
4 financially, to represent that a change has occurred or will or may  
5 occur in the composition with respect to race, creed, color, national  
6 origin, ancestry, marital status, civil union status, domestic  
7 partnership status, familial status, sex, affectional or sexual  
8 orientation, disability, nationality, or source of lawful income used  
9 for rental or mortgage payments of the owners or occupants in the  
10 block, neighborhood or area in which the real property is located,  
11 and to represent, directly or indirectly, that this change will or may  
12 result in undesirable consequences in the block, neighborhood or  
13 area in which the real property is located, including, but not limited  
14 to the lowering of property values, an increase in criminal or anti-  
15 social behavior, or a decline in the quality of schools or other  
16 facilities.

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

33 m. For any person to:

34 (1) Grant or accept any letter of credit or other document which  
35 evidences the transfer of funds or credit, or enter into any contract  
36 for the exchange of goods or services, where the letter of credit,  
37 contract, or other document contains any provisions requiring any  
38 person to discriminate against or to certify that he, she or it has not  
39 dealt with any other person on the basis of the race, creed, color,  
40 national origin, ancestry, age, sex, affectional or sexual orientation,  
41 marital status, civil union status, domestic partnership status,  
42 disability, liability for service in the Armed Forces of the United  
43 States, or nationality of such other person or of such other person's  
44 spouse, partners, members, stockholders, directors, officers,  
45 managers, superintendents, agents, employees, business associates,  
46 suppliers, or customers.

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

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  
37 status, domestic partnership status, familial status, sex, affectional  
38 or sexual orientation, disability or nationality.

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

40

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

43 3. As used in this act:

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

46 (1) under 18 years of age; or

47 (2) 18 years of age or older but incapable of self-care because of  
48 a mental or physical impairment.

- 1       b. "Director" means the Director of the Division on Civil  
2 Rights.
- 3       c. "Division" means the Division on Civil Rights in the  
4 Department of Law and Public Safety.
- 5       d. "Employ" means to suffer or permit to work for  
6 compensation, and includes ongoing, contractual relationships in  
7 which the employer retains substantial direct or indirect control  
8 over the employee's employment opportunities or terms and  
9 conditions of employment.
- 10      e. "Employee" means a person who is employed for at least 12  
11 months by an employer, with respect to whom benefits are sought  
12 under this act, for not less than 1,000 base hours during the  
13 immediately preceding 12-month period.
- 14      f. "Employer" means a person or corporation, partnership,  
15 individual proprietorship, joint venture, firm or company or other  
16 similar legal entity which engages the services of an employee and  
17 which:
- 18       (1) With respect to the period of time from the effective date of  
19 this act until the 365th day following the effective date of this act,  
20 employs 100 or more employees for each working day during each  
21 of 20 or more calendar workweeks in the then current or  
22 immediately preceding calendar year;
- 23       (2) With respect to the period of time from the 366th day  
24 following the effective date of this act until the 1,095th day  
25 following the effective date of this act, employs 75 or more  
26 employees for each working day during each of 20 or more calendar  
27 workweeks in the then current or immediately preceding calendar  
28 year; and
- 29       (3) With respect to any time after the 1,095th day following the  
30 effective date of this act, employs 50 or more employees for each  
31 working day during each of 20 or more calendar workweeks in the  
32 then current or immediately preceding calendar year. "Employer"  
33 includes the State, any political subdivision thereof, and all public  
34 offices, agencies, boards or bodies.
- 35      g. "Employment benefits" means all benefits and policies  
36 provided or made available to employees by an employer, and  
37 includes group life insurance, health insurance, disability insurance,  
38 sick leave, annual leave, pensions, or other similar benefits.
- 39      h. "Parent" means a person who is the biological parent,  
40 adoptive parent, resource family parent, step-parent, parent-in-law  
41 or legal guardian, having a "parent-child relationship" with a child  
42 as defined by law, or having sole or joint legal or physical custody,  
43 care, guardianship, or visitation with a child.
- 44      i. "Family leave" means leave from employment so that the  
45 employee may provide care made necessary by reason of:
- 46       (1) the birth of a child of the employee;
- 47       (2) the placement of a child with the employee in connection  
48 with adoption of such child by the employee; or

1 (3) the serious health condition of a family member of the  
2 employee.

3 j. "Family member" means a child, parent, **[or]**<sup>1</sup> spouse,  
4 or **[civil union partner] one partner in a civil union couple**<sup>1</sup>.

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

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

11 (1) inpatient care in a hospital, hospice, or residential medical  
12 care facility; or

13 (2) continuing medical treatment or continuing supervision by a  
14 health care provider.

15 (cf: P.L.2004, c.130, s.111).

16

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

19 2A:84A-17. Privilege of accused

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

22 (2) The spouse or **[civil union partner] one partner in a civil**  
23 **union couple**<sup>1</sup> of the accused in a criminal action shall not testify in  
24 such action except to prove the fact of marriage or civil union  
25 unless (a) such spouse or partner consents, or (b) the accused is  
26 charged with an offense against the spouse or partner, a child of the  
27 accused or of the spouse or partner, or a child to whom the accused  
28 or the spouse or partner stands in the place of a parent, or (c) such  
29 spouse or partner is the complainant.

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

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

35

36 91. (New section) On or after the effective date of this act, no  
37 domestic partnerships shall be registered under P.L.2003, c. 246  
38 (C.26:8A-1 et seq.), except that two persons who are each 62 years  
39 of age or older **[and not of the same sex]**<sup>1</sup> may establish a  
40 domestic partnership pursuant to the provisions of P.L.2003, c.246  
41 (C.26:8A-1 et seq.). This act shall not alter the rights and  
42 responsibilities of domestic partnerships existing before the  
43 effective date of this act, except that eligible domestic partners shall  
44 be given notice and opportunity to enter into a civil union pursuant  
45 to the provisions of this act. Entry into a civil union, when joined  
46 by both parties to an existing domestic partnership, shall operate to  
47 terminate the domestic partnership.

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,” <sup>1</sup>“widow,”  
5 “widower,” “widowed”<sup>1</sup> 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. <sup>1</sup>These 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. <sup>1</sup>

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:

37 (1) evaluate the implementation, operation and effectiveness of  
38 the act;

39 (2) collect information about the act’s effectiveness from  
40 members of the public, State agencies and private and public sector  
41 businesses and organizations;

42 (3) determine whether additional protections are needed;

43 (4) collect information about the recognition and treatment of  
44 civil unions by other states and jurisdictions including the  
45 procedures for dissolution; <sup>1</sup>**[and]**<sup>1</sup>

46 (5) evaluate the effect on same-sex couples, their children and  
47 other family members of being provided civil unions rather than  
48 marriage;

1       (6) evaluate the financial impact on the State of New Jersey of  
2 same-sex couples being provided civil unions rather than marriage;  
3 and

4       (7)<sup>1</sup> review the “Domestic Partnership Act,” P.L.2003, c.246  
5 (C.26:8A-1 et seq.) and make recommendations whether this act  
6 should be repealed.

7       d. The commission shall organize as soon as possible after the  
8 appointment of its members. The commission shall be established  
9 for a term of three years and the members shall be appointed for the  
10 full term of three years. Vacancies in the membership of the  
11 commission shall be filled in the same manner as the original  
12 appointment. The commission members shall choose a Chair from  
13 among its members.

14       e. The members of the commission shall serve without  
15 compensation, but may be reimbursed for necessary expenses  
16 incurred in the performance of their duties, within the limits of  
17 funds appropriated or otherwise made available to the commission  
18 for its purposes.

19       f. The commission is entitled to the assistance and service of  
20 the employees of any State, county or municipal department, board,  
21 bureau, commission or agency as it may require and as may be  
22 available to it for its purposes, and to employ stenographic and  
23 clerical assistance and to incur traveling or other miscellaneous  
24 expenses as may be necessary in order to perform its duties, within  
25 the limits of funds appropriated or otherwise made available to it  
26 for its purposes.

27       g. The commission shall report <sup>1</sup>~~annually~~ semi-annually<sup>1</sup> its  
28 findings and recommendations to the Legislature and the Governor.

29       h. The commission shall expire three years from the date of its  
30 initial organizational meeting and upon submission of its <sup>1</sup>~~third~~  
31 ~~and~~<sup>1</sup> final report.

32  
33       <sup>1</sup>95. (New section) A civil union relationship entered into  
34 outside of this State, which is valid under the laws of the  
35 jurisdiction under which the civil union relationship was created,  
36 shall be valid in this State.<sup>1</sup>

37  
38       <sup>1</sup>~~95.] 96.~~<sup>1</sup> This act shall take effect on the <sup>2</sup>~~30th~~60th<sup>2</sup> day  
39 after the enactment of this act, but the Commissioner of Health and  
40 Senior Services and the Director of the Administrative Office of the  
41 Courts may take such anticipatory administrative action in advance  
42 as shall be necessary for the implementation of the act.