

**ASSEMBLY, No. 818**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**SYNOPSIS**

Enacts the “Civil Marriage and Religious Protection Act.”

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



A818 GUSCIORA, VAINIERI HUTTLE

2

1 AN ACT concerning a legally recognized union of two consenting  
2 persons, amending R.S.37:1-1 and R.S.37:1-3 and supplementing  
3 Title 37 of the Revised Statutes.

4

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

7

8 1. (New section) This act shall be known and may be cited as  
9 the “Civil Marriage and Religious Protection Act.”

10

11 2. (New section) It is the intent of the Legislature that this act  
12 be interpreted consistently with the guarantees of the First  
13 Amendment to the United States Constitution and of Article I,  
14 paragraph 4 of the New Jersey Constitution.

15

16 3. (New section) The Legislature finds and declares that:

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

23 b. On October 25, 2006, the New Jersey Supreme Court held  
24 that denying rights and benefits to any committed couples that are  
25 statutorily given to others violates the equal protection guarantee of  
26 Article I, paragraph 1 of the New Jersey Constitution. The court  
27 held that to comply with this constitutional mandate, the Legislature  
28 must either amend the marriage statutes to include those couples or  
29 create a parallel statutory structure which will provide, on equal  
30 terms, the rights and benefits enjoyed and burdens and obligations  
31 borne by married couples.

32 c. The exclusion of couples from marriage harms those couples  
33 and their families by denying them and their families specific legal  
34 rights and responsibilities under State law and by depriving them of  
35 a legal basis to challenge federal laws that deny access to the many  
36 important federal benefits and obligations provided only to spouses.  
37 Those federal benefits include the right to file joint federal income  
38 tax returns, the right to sponsor a partner for immigration to the  
39 United States, the right to Social Security survivor’s benefits, the  
40 right to family and medical leave and many other substantial  
41 benefits and obligations.

42 d. New Jersey’s discriminatory exclusion of certain couples  
43 from marriage further harms those couples and their families by  
44 denying them unique public recognition and affirmation.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 e. The Legislature has an interest in encouraging stable  
2 relationships.

3 f. It is the intent of the Legislature in enacting this bill to end the  
4 pernicious practice of marriage discrimination in New Jersey.

5  
6 4. (New section) "Marriage" means the legally recognized union  
7 of two consenting persons in a committed relationship. Whenever  
8 the term "marriage" occurs or the term "man," "woman," "husband"  
9 or "wife" occurs in the context of marriage or any reference is made  
10 thereto in any law, statute, rule, regulation or order, the same shall  
11 be deemed to mean or refer to the union of two persons pursuant to  
12 this amendatory and supplementary act.

13  
14 5. R.S.37:1-1 is amended to read as follows:

15 37:1-1. Certain marriages prohibited.

16 A man shall not marry any of his ancestors or descendants, or his  
17 sister or brother, or the daughter or son of his brother or sister, or  
18 the sister or brother of his father or mother, whether such collateral  
19 kindred be of the whole or half blood. A woman shall not marry  
20 any of her ancestors or descendants, or her brother or sister, or the  
21 son or daughter of her brother or sister, or the brother or sister of  
22 her father or mother, whether such collateral kindred be of the  
23 whole or half blood. A marriage in violation of any of the foregoing  
24 provisions shall be absolutely void.

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

26  
27 6. R.S.37:1-3 is amended to read as follows:

28 37:1-3. Where license to be obtained.

29 The licensing officer shall issue the license which shall be  
30 obtained:

31 a. In the municipality of this state in which **[the female]** either  
32 party to the proposed marriage resides; or

33 b. In the municipality in which **[the male party]** one of the  
34 parties resides, if the **[female]** other party is a nonresident of this  
35 state; or

36 c. In the municipality in which the proposed marriage is to be  
37 performed, if both parties are nonresidents of this state.

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

39  
40 7. (New section) In addition to the fee for issuing a marriage  
41 license authorized pursuant to R.S.37:1-12 and the fee for the  
42 Department of Human Services trust fund authorized pursuant to  
43 P.L.1981, c.382 (C.37:1-12.1 and C.37:1-12.2), each licensing  
44 officer shall collect a fee of \$50 from the applicants which shall be  
45 deposited into the General Fund.

1 8. (New section) No minister of any religion authorized to  
2 solemnize marriage and no religious society, institution or  
3 organization in this State shall be required to solemnize any  
4 marriage in violation of the free exercise of religion guaranteed by  
5 the First Amendment to the United States Constitution or by Article  
6 I, paragraph 4 of the New Jersey Constitution.

7  
8 9. The Commissioner of Health and Senior Services, pursuant to  
9 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1)  
10 shall adopt rules and regulations to effectuate the purposes of this  
11 act.

12  
13 10. This act shall take effect on the 90th day following  
14 enactment, except that the Commissioner of Health and Senior  
15 Services may take such anticipatory administrative action in  
16 advance as shall be necessary for the implementation of this act.

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18  
19 STATEMENT

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21 This bill, which would be titled the “Civil Marriage and  
22 Religious Protection Act,” is in response to the recent New Jersey  
23 Supreme Court decision mandating marriage equality to all  
24 consenting couples in the State. The bill provides that it is the  
25 intent of the Legislature that the act be interpreted consistently with  
26 the guarantees of the First Amendment to the United States  
27 Constitution and of Article I, paragraph 4 of the New Jersey  
28 Constitution.

29 The bill’s findings and declarations provide that civil marriage is  
30 a legal institution recognized by the State in order to promote stable  
31 relationships and to protect individuals who are in those  
32 relationships. The institution of marriage also provides important  
33 protections for the families of those who are married, including not  
34 only any children or other dependents, but also members of their  
35 extended families.

36 On October 25, 2006, the New Jersey Supreme Court held that  
37 denying rights and benefits to any committed couples that are  
38 statutorily given to others violates the equal protection guarantee of  
39 Article I, paragraph 1 of the New Jersey Constitution. The court  
40 held that to comply with this constitutional mandate, the Legislature  
41 must either amend the marriage statutes to include those couples or  
42 create a parallel statutory structure which will provide, on equal  
43 terms, the rights and benefits enjoyed and burdens and obligations  
44 borne by married couples.

45 The findings and declarations set out in the bill provide further  
46 that the exclusion of certain couples from marriage harms them and  
47 their families by denying them specific legal rights and

1 responsibilities under State law and by depriving them of a legal  
2 basis to challenge federal laws that deny access to the many  
3 important federal benefits and obligations provided only to spouses.  
4 Those federal benefits include the right to file joint federal income  
5 tax returns, the right to sponsor a partner for immigration to the  
6 United States, the right to Social Security survivor's benefits, the  
7 right to family and medical leave and many other substantial  
8 benefits and obligations.

9 The findings and declarations also provide that the Legislature  
10 has an interest in encouraging stable relationships.

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

18 The bill also adds an additional marriage license fee of \$50 for  
19 all applicants for marriage. These funds would be deposited in the  
20 State General Fund.

21 The bill specifically provides that no minister of any religion  
22 authorized to solemnize marriage and no religious society,  
23 institution or organization in this State would be required to  
24 solemnize any marriage in violation of the free exercise of religion  
25 guaranteed by the First Amendment to the United States  
26 Constitution or by Article I, paragraph 4 of the New Jersey  
27 Constitution.