Establishes civil unions.

As introduced.
AN ACT concerning civil unions and supplementing Title 26 of the Revised Statutes.

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

1. The Legislature finds and declares that:
   a. A significant number of unmarried New Jersey residents live together in long-lasting, caring and committed relationships, while participating in their communities and in some cases raising children and caring for family members together; and the State has a strong interest in promoting such stable and durable relationships between individuals;
   b. Without the legal protections, benefits and responsibilities associated with marriage, however, unrelated adults who are living together face numerous obstacles and hardships;
   c. A system of civil unions would not bestow the status of marriage upon those persons who enter into such an arrangement, but would grant benefits and protections to those persons that are now exclusively reserved for married persons under State law; and
   d. Therefore, it shall be the public policy of New Jersey to provide eligible couples with the opportunity to enter into civil unions, and thereby obtain the same benefits and protections as are afforded by State law to married couples, while providing due respect for tradition and long-standing social institutions.

2. As used in this act:
   "Certificate of civil union" means a document that certifies that the persons named on the certificate have established a civil union in this State in compliance with this act.
   "Civil union" means that two eligible persons have established a relationship pursuant to this act, and may receive the same benefits and protections and be subject to the same responsibilities as spouses.
   "Commissioner" means the Commissioner of Health and Senior Services.
   "Party to a civil union" means a person who has established a civil union pursuant to this act.

3. a. Two persons may establish a civil union in this State in accordance with the provisions of this act.
   b. For a civil union to be established, it shall be necessary that each party to a civil union satisfy all of the following criteria:
      (1) not be a party to another civil union or a marriage;
      (2) be at least 18 years of age; and
      (3) not enter a civil union with the person's parent, grandparent,
son or daughter, grandson or granddaughter, sibling, sibling's son or
daughter, or parent's brother or sister.

4. a. The parties to a civil union shall have all the same benefits,
protections and responsibilities under law, whether they derive from
statute, administrative or court rule, public policy, common law or any
other source of civil law, as are granted to spouses in a marriage.
b. A party to a civil union shall be included in any definition or use
of the terms "spouse," "family," "immediate family," "dependent,"
"next of kin," and any other term that denotes a spousal relationship,
as those terms are used throughout the law.
c. The parties to a civil union shall be responsible for the support
of one another to the same degree and in the same manner as
prescribed under law for married persons.
d. The laws of domestic relations, including annulment, separation
and divorce, child custody and support, and property division and
maintenance shall apply to the parties to a civil union.
e. The following list of legal benefits, protections and
responsibilities of spouses shall apply in like manner to the parties to
a civil union, but shall not be construed to be an exclusive list of such
benefits, protections and responsibilities:
(1) laws relating to title, tenure, descent and distribution, intestate
succession, waiver of will, survivorship, or other incidents of the
acquisition, ownership or transfer, inter vivos or at death, of real or
personal property, including eligibility to hold real and personal
property as tenants by the entirety;
(2) causes of action related to or dependent upon spousal status,
including an action for wrongful death, emotional distress, loss of
consortium, or other torts or actions under contracts reciting, related
to, or dependent upon spousal status;
(3) probate law and procedure, including nonprobate transfer;
(4) adoption law and procedures;
(5) group health benefits for State employees;
(6) domestic violence programs;
(7) prohibitions against discrimination based upon marital status;
(8) victim's compensation benefits;
(9) workers' compensation benefits pursuant to chapter 15 of Title
34 of the Revised Statutes;
(10) laws relating to emergency and nonemergency medical care
and treatment, hospital visitation and notification, and any rights
guaranteed to a hospital patient pursuant to P.L.1989, c.170
(C.26:2H-12.7 et seq.) or a nursing home resident pursuant to
P.L.1976, c.120 (C.30:13-1 et seq.);
(11) advance directives for health care and designation as a health
care representative pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.);
(12) family leave benefits pursuant to P.L.1989, c.261 (C.34:11B-1
et seq.);
(14) laws relating to taxes imposed by the State or a municipality other than estate taxes;
(15) laws relating to immunity from compelled testimony and the marital communication privilege;
(16) the home ownership rights of a surviving spouse;
(17) laws relating to the making of, revoking and objecting to anatomical gifts by other persons pursuant to P.L.1969, c.161 (C.26:6-57 et seq.);
(18) State pay for military service;
(19) application for absentee ballots; and
(20) legal requirements for assignment of wages.

f. The rights of the parties to a civil union, with respect to a child of whom either becomes the natural parent during the term of the civil union, shall be the same as those of a married couple, with respect to a child of whom either spouse becomes the natural parent during the marriage.

5. a. The Commissioner of Health and Senior Services, through the State Registrar of Vital Statistics, shall provide civil union license and certificate forms to all local registrars, and shall maintain a record of all civil unions.
b. The parties to a civil union may modify the terms, conditions or effects of their civil union in the same manner and to the same extent as married persons who execute an antenuptial agreement or other agreement recognized and enforceable under law, setting forth particular understandings with respect to their union.
c. The Superior Court shall have jurisdiction over all proceedings relating to the dissolution of a civil union. The dissolution of a civil union shall follow the same procedures and be subject to the same substantive rights and obligations as are involved in the dissolution of marriage, including any residency requirements.

6. a. (1) Upon application in a form prescribed by the commissioner, a local registrar shall: issue a civil union license in the
form prescribed by the commissioner and enter thereon the names of
the parties to the proposed civil union; fill out the form as far as
practicable; and retain a copy in the local registrar's office. At least
one party to the proposed civil union shall sign the application
attesting to the accuracy of the facts stated. The license shall be
issued by the local registrar of the registration district in which either
party resides or, if neither party is a resident of the State, by any local
registrar in the State.

(2) A civil union license shall be delivered by one of the parties to
a proposed civil union, within 60 days after the date of issue, to a
person authorized to certify civil unions under this act, who shall fill
out that part of the form on the license provided for such use, sign and
certify the civil union. Thereafter, the document shall be known as a
civil union certificate. If the proposed civil union is not certified
within 60 days after the date of issue of the license, the license shall
become void.

(3) Within 10 days after the certification, the person performing the
certification shall return the civil union certificate to the local registrar
who issued the license. The local registrar shall retain and file the
original in accordance with the provisions of this act.

(4) A local registrar shall provide a person who applies for a civil
license with information prepared by the commissioner that advises the
person of the benefits, protections and responsibilities of a civil union
and that State residency may be required for dissolution of a civil
union in New Jersey.

b. (1) A local registrar shall issue a civil union license to all
applicants who have complied with the provisions of this act and are
otherwise qualified under State law to apply for a civil union license.

(2) Before issuing a civil union license to an applicant, the local
registrar shall be satisfied, through the presentation of affidavits or
other proof, that each party to the intended civil union meets the
criteria set forth to enter into a civil union.

(3) Affidavits shall be in a form prescribed by the commissioner,
and shall be attached to and filed with the civil union certificate in the
office of the local registrar of the registration district in which the
license was issued.

c. (1) A civil union may be certified by a judge of a court of
competent jurisdiction or a member of the clergy residing in this State
and ordained or licensed, or otherwise regularly authorized by the
published laws or discipline of the general conference, convention or
other authority of the faith or denomination of the member of the
clergy or by such a member of the clergy residing in an adjoining state
or country, whose parish, church, temple, mosque or other religious
organization lies wholly or in part in this State, or by a member of the
clergy residing in some other state of the United States or in the
Dominion of Canada, provided that the member of the clergy has first
secured, from a court of competent jurisdiction in the registration
district within which the civil union is to be certified, a special
authorization to certify the civil union if the court determines that the
circumstances make the special authorization desirable. Civil unions
among the Friends or Quakers, Christadelphian Exxlesia and the Bahai
faith may be certified in the manner used in those societies.

(2) Persons authorized by this act to certify civil unions shall
require a civil union license of the parties before certifying the civil
union. The license shall afford full immunity to the person who
certifies the civil union.

(3) A civil union certified before a person falsely professing to be
a judge of a court of competent jurisdiction or a member of the clergy
shall be valid, provided that the civil union is in other respects lawful,
and that either of the parties to a civil union believed that the party
was lawfully joined in a civil union.

d. (1) A copy of the record of the civil union received from the
local or State registrar shall be presumptive evidence of the civil union
in all courts.

(2) Within six months after a civil union is certified, the local
registrar may correct or complete a civil union certificate, upon
application by a party to a civil union or by the person who certified
the civil union. The local registrar shall certify that the correction or
completion was made pursuant to this section and note that date. The
local registrar may refuse an application for correction or completion,
in which case the applicant may petition a court of competent
jurisdiction for correction or completion.

(3) After six months from the date that a civil union is certified, a
civil union certificate may only be corrected or amended pursuant to
the decree of a court of competent jurisdiction in the registration
district in which the original certificate is filed. The court shall set a
time for a hearing and, if the court deems necessary, give notice of the
time and place to the parties to the civil union. After a hearing, the
court shall make such findings with respect to the correction of the
civil union certificate as are supported by the evidence. The court
shall issue a decree setting forth the facts as found, and transmit a
certified copy of the decree to the State registrar. The State registrar
shall transmit the same to the appropriate local registrar to amend the
original or issue a new certificate. The words "Court Amended" shall
be typed, written or stamped at the top of the new or amended
certificate with the date of the decree and the name of the issuing
court.

e. (1) Persons who were parties to a certified civil union ceremony
in this State for whom no certificate of civil union was filed, as
required by law, may petition a court of competent jurisdiction in the
registration district in which the civil union license was obtained to
determine the facts, and to order the issuance of a delayed certificate
of civil union.

(2) The court shall set a time for hearing on the petition and, if the court deems necessary, give notice of the time and place to the persons who were parties to the certified civil union ceremony. After hearing proper and relevant evidence as may be presented, the court shall make such findings with respect to the civil union as are supported by the evidence.

(3) The court shall issue a decree setting forth the facts as found, and transmit a certified copy of the decree to the State registrar.

f. The local registrar receiving new certificates in accordance with this act shall file and index them in the most recent book of civil unions, and also index them with civil unions occurring at the same time.

g. (1) A local registrar who knowingly issues a civil union license upon the application of a person other than as provided in this act, or without first requiring the applicant to fill out, sign and make oath to the declaration contained therein, shall be liable to a civil penalty of not more than $500 nor less than $200.

(2) A person making application to a local registrar for a civil union license who makes a material misrepresentation in the declaration of intention shall be guilty of perjury pursuant to N.J.S. 2C:28-1.

(3) A local registrar who fails to comply with the provisions of this section, or who issues a civil union license with knowledge that either or both of the parties to a civil union have failed to comply with the requirements of State law, or a person who, having authority and having such knowledge, certifies such a civil union, shall be liable to a civil penalty of not more than $1,000.

(4) A local registrar who knowingly issues a civil union license when either party to the intended civil union is under guardianship without the written consent of the guardian shall be liable to a civil penalty of not more than $200. A person who aids in procuring a civil union license by falsely pretending to be the guardian having authority to give consent to the civil union shall be liable to a civil penalty of not more than $5,000.

(5) A person who certifies a civil union shall be liable to a civil penalty of not less than $100, if the person:

(a) certifies a civil union without first obtaining the license; or

(b) fails to properly fill out the license and, within 10 days after the date of the certification, return the license and certification of civil union to the local registrar from whom it was issued.

(6) An unauthorized person who knowingly undertakes to join others in a civil union is a disorderly person.

7. This act shall not be construed in such a manner as to violate the free exercise of religion of any person, religious or denominational
institution or organization, or any organization operated for charitable
or educational purposes that is operated, supervised or controlled by
or in connection with a religious organization, as guaranteed by the
federal or State constitution.

8. The Commissioner of Health and Senior Services, pursuant to
the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
seq.), shall adopt rules and regulations necessary to effectuate the
purposes of this act.

9. This act shall take effect on the 180th day after the enactment
of this act, but the Commissioner of Health and Senior Services may
take such anticipatory administrative action in advance as shall be
necessary for the implementation of the act; however, the provisions
of this act as they apply to the income taxation of the parties to a civil
union in accordance with the "New Jersey Gross Income Tax Act,"
P.L.1976, c.47 (C.54A:1-1 et seq.), shall apply to taxable years
beginning on or after January 1 of the tax year following the enactment
of this act.

STATEMENT

This bill would permit adults of the same or opposite sex, who are
not related by blood, to establish civil unions in New Jersey in
accordance with the requirements of this bill and thereby be accorded
the same benefits and protections as a spouse under the laws of this
State.

The bill requires that each party to a civil union satisfy all of the
following criteria:

-- not be a party to another civil union or a marriage;
-- be at least 18 years of age; and
-- not enter a civil union with the person's parent, grandparent, son
or daughter, grandson or granddaughter, sibling, sibling's son or
daughter, or parent's brother or sister.

The bill directs the Commissioner of Health and Senior Services to
provide civil union license and certificate forms to all local registrars,
and to maintain a record of all civil unions.

The bill stipulates that:

-- the parties to a civil union are to have all the same benefits,
protections and responsibilities under law, whether they derive from
statute, administrative or court rule, public policy, common law or any
other source of civil law, as are granted to spouses in a marriage;
-- a party to a civil union is to be included in any definition or use
of the terms "spouse," "family," "immediate family," "dependent,"
"next of kin," and any other term that denotes a spousal relationship,
as those terms are used throughout the law;

-- the parties to a civil union are to be responsible for the support
of one another to the same degree and in the same manner as
prescribed under law for married persons; and

-- the laws of domestic relations, including annulment, separation
and divorce, child custody and support, and property division and
maintenance are to apply to the parties to a civil union.

The bill would apply the following list of legal benefits, protections
and responsibilities of spouses in like manner to the parties to a civil
union (although this is not to be construed to be an exclusive list of
such benefits, protections and responsibilities):

C laws relating to title, tenure, descent and distribution, intestate
succession, waiver of will, survivorship, or other incidents of the
acquisition, ownership or transfer, inter vivos or at death, of real or
personal property, including eligibility to hold real and personal
property as tenants by the entirety;

C causes of action related to or dependent upon spousal status,
including an action for wrongful death, emotional distress, loss of
consortium, or other torts or actions under contracts reciting,
related to, or dependent upon spousal status;

C probate law and procedure, including nonprobate transfer;

C adoption law and procedures;

C group health benefits for State employees;

C domestic violence programs;

C prohibitions against discrimination based upon marital status;

C victim's compensation benefits;

C workers' compensation benefits;

C laws relating to emergency and nonemergency medical care and
treatment, hospital visitation and notification, and any rights
guaranteed to a hospital patient or nursing home resident;

C advance directives for health care and designation as a health care
representative;

C family leave benefits;

C public assistance benefits under State law;

C laws relating to taxes imposed by the State or a municipality other
than estate taxes;

C laws relating to immunity from compelled testimony and the marital
communication privilege;

C the home ownership rights of a surviving spouse;

C laws relating to the making, revoking and objecting to anatomical
gifts by other persons;

C State pay for military service;

C application for absentee ballots; and

C legal requirements for assignment of wages.

In addition, the bill:

-- provides that the rights of the parties to a civil union, with
respect to a child of whom either becomes the natural parent during
the term of the civil union, are to be the same as those of a married
couple, with respect to a child of whom either spouse becomes the
natural parent during the marriage; and

-- permits the parties to a civil union to modify the terms,
conditions, or effects of their civil union in the same manner and to the
same extent as married persons who execute an antenuptial agreement
or other agreement recognized and enforceable under law, setting
forth particular understandings with respect to their union.

The bill gives the Superior Court jurisdiction over all proceedings
relating to the dissolution of civil unions, and specifies that the
dissolution of civil unions is to follow the same procedures and be
subject to the same substantive rights and obligations as are involved
in the dissolution of marriage, including any residency requirements.

This bill is not to be construed in such a manner as to violate the
free exercise of religion of any person, religious or denominational
institution or organization, or any organization operated for charitable
or educational purposes that is operated, supervised or controlled by
or in connection with a religious organization, as guaranteed by the
federal or State constitution.

The bill takes effect on the 180th day after enactment, but
authorizes the Commissioner of Health and Senior Services to take
anticipatory administrative action in advance as necessary for its
implementation; however, the provisions of the bill as they apply to the
income taxation of the parties to a civil union in accordance with the
"New Jersey Gross Income Tax Act" would apply to taxable years
beginning on or after January 1 of the tax year following enactment.