ASSEMBLY, No. 818

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:
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Assemblywoman Wagner

SYNOPSIS
Enacts the “Civil Marriage and Religious Protection Act.”

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 2/8/2008)
AN ACT concerning a legally recognized union of two consenting persons, amending R.S.37:1-1 and R.S.37:1-3 and supplementing Title 37 of the Revised Statutes.

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

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

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

3. (New section) The Legislature finds and declares that:
   a. Civil marriage is a legal institution recognized by the State in order to promote stable relationships and to protect individuals who are in those relationships. The institution of marriage also provides important protections for the families of those who are married, including not only any children or other dependents, but also members of their extended families.
   b. On October 25, 2006, the New Jersey Supreme Court held that denying rights and benefits to any committed couples that are statutorily given to others violates the equal protection guarantee of Article I, paragraph 1 of the New Jersey Constitution. The court held that to comply with this constitutional mandate, the Legislature must either amend the marriage statutes to include those couples or create a parallel statutory structure which will provide, on equal terms, the rights and benefits enjoyed and burdens and obligations borne by married couples.
   c. The exclusion of couples from marriage harms those couples and their families by denying them and their families specific legal rights and responsibilities under State law and by depriving them of a legal basis to challenge federal laws that deny access to the many important federal benefits and obligations provided only to spouses. Those federal benefits include the right to file joint federal income tax returns, the right to sponsor a partner for immigration to the United States, the right to Social Security survivor’s benefits, the right to family and medical leave and many other substantial benefits and obligations.
   d. New Jersey’s discriminatory exclusion of certain couples from marriage further harms those couples and their families by 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.
e. The Legislature has an interest in encouraging stable relationships.

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

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

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


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

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

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

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

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

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

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

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

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

7. (New section) In addition to the fee for issuing a marriage license authorized pursuant to R.S.37:1-12 and the fee for the Department of Human Services trust fund authorized pursuant to P.L.1981, c.382 (C.37:1-12.1 and C.37:1-12.2), each licensing officer shall collect a fee of $50 from the applicants which shall be deposited into the General Fund.
8. (New section) No minister of any religion authorized to solemnize marriage and no religious society, institution or organization in this State shall be required to solemnize any marriage in violation of the free exercise of religion guaranteed by the First Amendment to the United States Constitution or by Article I, paragraph 4 of the New Jersey Constitution.

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

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

STATEMENT

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

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

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

The findings and declarations set out in the bill provide further that the exclusion of certain couples from marriage harms them and their families by denying them specific legal rights and
responsibilities under State law and by depriving them of a legal basis to challenge federal laws that deny access to the many important federal benefits and obligations provided only to spouses. Those federal benefits include the right to file joint federal income tax returns, the right to sponsor a partner for immigration to the United States, the right to Social Security survivor’s benefits, the right to family and medical leave and many other substantial benefits and obligations.

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

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

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

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