Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)
Senator RAYMOND J. LESNIAK
District 20 (Union)

Co-Sponsored by:
Senators Buono, Ruiz, Cunningham, Gill and Stack

SYNOPSIS
Enacts the “Freedom of Religion and Equality in Civil Marriage Act.”

CURRENT VERSION OF TEXT
As reported by the Senate Judiciary Committee on December 7, 2009, with amendments.

(Sponsorship Updated As Of: 12/11/2009)
AN ACT concerning marriage, revising various parts of the statutory law and supplementing Title 37 of the Revised Statutes, and repealing section 94 of P.L.2006, c.103.

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 "Freedom of Religion and Equality in Civil Marriage Act."

2. (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 children or other dependents, but members of their extended families.

b. In Lewis v. Harris, 188 N.J. 415 (2006), the New Jersey Supreme Court held that denying rights and benefits to committed same-sex couples that are statutorily given to their heterosexual counterparts 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 Legislature responded to the Lewis v. Harris decision by enacting P.L.2006, c.103 (C.37:1-28 et al.), which established civil unions in this State.

c. Although same-sex couples may enter into civil unions, nonetheless New Jersey’s discriminatory exclusion of these couples from marriage further harms same-sex couples and their families by denying them unique public recognition and affirmation.

d. The Legislature has an interest in encouraging stable relationships.

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

3. (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

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:
Senate S/JU committee amendments adopted December 7, 2009.
order, the same shall be deemed to mean or refer to the union of two
persons pursuant to this amendatory and supplementary act.

4. (New section) It is the intent of the Legislature that this
amendatory and supplementary 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.

5. (New section)  

a. No member of the clergy 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.

b. No religious society, institution or organization in this State
serving a particular faith or denomination shall be compelled to
provide space, services, advantages, goods, or privileges related to
the solemnization, celebration or promotion of marriage if such
solemnization, celebration or promotion of marriage is in violation
of the beliefs of such religious society, institution or organization.

c. No civil claim or cause of action against any religious society,
institution or organization, or any employee thereof, shall arise out
of any refusal to provide space, services, advantages, goods, or
privileges pursuant to this section. No State action to penalize or
withhold benefits from any such religious society, institution or
organization, or any employee thereof, shall result from any refusal
to provide space, services, advantages, goods, or privileges pursuant
to this section.

d. Nothing in this act shall be construed to limit the effect of

6. (New section) On and after the effective date of this
amendatory and supplementary act, no civil unions shall be

7. (New section) On and after the effective date of this
amendatory and supplementary act:

a. All partners in civil unions previously established under
P.L.2006, c.103 (C.37:1-28 et al.) who have not moved for
dissolution of their civil union pursuant to section 64 of P.L.2006,
c.103 (C.2A:34-2.1) shall be deemed married; all civil union
licenses previously issued on their behalf shall be deemed to be
marriage licenses; and all certificates of civil union shall be deemed
to be certificates of marriage;
b. All partners in civil unions previously established under P.L.2006, c.103 (C.37:1-28 et al.) may apply for a marriage license in accordance with the provisions of R.S.37:1-4, section 10 of P.L. , c. (C. ) (pending before the Legislature as this bill) and all other applicable provisions of law.

c. Partners in civil unions previously established under P.L.2006, c.103 (C.37:1-28 et al.) may solemnize their marriage at any time, but partners who do not undergo the solemnization of their marriage will nonetheless be deemed married pursuant to this act.

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

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

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

b. The licensing officer shall issue a marriage license immediately to partners in a civil union established pursuant to P.L.2006, c.103 (C.37:1-28 et al.) who apply for such license.

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

(cf: P.L.2006, c.103, s.9)

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


Each judge of the United States Court of Appeals for the Third Circuit, each judge of a federal district court, United States magistrate, judge of a municipal court, judge of the Superior Court, judge of a tax court, retired judge of the Superior Court or Tax Court, or judge of the Superior Court or Tax Court, the former County Court, the former County Juvenile and Domestic Relations Court, or the former County District Court who has resigned in good standing, surrogate of any county, county clerk and any mayor or the deputy mayor when authorized by the mayor, or chairman of any township committee or village president of this State, and every [minister] member of the clergy of every religion, are hereby authorized to solemnize marriages [or civil unions] between such persons as may lawfully enter into the matrimonial relation [or civil union]; and every religious society, institution or organization in this State may join together in marriage [or civil union] such
persons according to the rules and customs of the society,
institution or organization.
(cf: P.L.2006, c.103, s.17)

10. (New section) Partners in a civil union established
pursuant to P.L.2006, c.103 (C.37:1-28 et al.) who apply for a
marriage license and present a certificate of civil union to the
licensing officer shall not be charged a fee for such marriage
license, including any fees set out in R.S.37:1-11 or R.S.37:1-12.]

11. Section 94 of P.L.2006, c.103 (C.37:1-36) is
repealed.

12. (New section) 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 amendatory and supplementary act.

13. This act shall take effect on the 60th 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.