

# ASSEMBLY, No. 3787

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED DECEMBER 4, 2006

**Sponsored by:**

**Assemblyman WILFREDO CARABALLO**

**District 29 (Essex and Union)**

**SYNOPSIS**

Revises the marriage laws; establishes civil unions; establishes the “New Jersey Civil Union Review Commission.”

**CURRENT VERSION OF TEXT**

As introduced.



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 comprehensive  
17 legislation prohibiting discrimination based on affectional or sexual  
18 orientation and one of the first states to formally recognize domestic  
19 partnerships by enacting the "Domestic Partnership Act," P.L. 2003,  
20 c. 246 (C.26:8A-1 et seq.) on January 12, 2004 thereby  
21 guaranteeing in law certain rights and benefits to those individuals  
22 who enter into domestic partnerships;

23 d. Those rights and benefits afforded to same-sex couples under  
24 the "Domestic Partnership Act" should be expanded by the legal  
25 recognition of civil unions between same-sex couples in order to  
26 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  
45 providing same-sex couples with the same rights and benefits as

**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 heterosexual couples who choose to marry.

2

3 2. (New section) As used in this act :

4 “Civil union license or civil union certificate” means a document  
5 that certifies that the persons named on the license or certificate  
6 have established a civil union in this State in compliance with this  
7 act.

8 “Civil union” means the legally recognized union of two eligible  
9 individuals of the same sex established pursuant to this act. Parties  
10 to a civil union shall receive the same benefits and protections and  
11 be subject to the same responsibilities as spouses in a marriage.

12 “Commissioner” means the Commissioner of Health and Senior  
13 Services.

14 “Civil union partner” means a person who has established a civil  
15 union pursuant to the provisions of this act.

16 “Party to a civil union” means a person who has established a  
17 civil union pursuant to the provisions of this act.

18

19 3. (New section) For two persons to establish a civil union in  
20 this State, it shall be necessary that they satisfy all of the following  
21 criteria:

22 a. Not be a party to another civil union, domestic partnership or  
23 marriage in this State;

24 b. Be of the same sex and therefore be excluded from the  
25 marriage laws of this State or any other state;

26 c. Be at least 18 years of age, except as provided in section 10 of  
27 this act.

28

29 4. (New section) a. Parties to a civil union shall have all of the  
30 same benefits, protections and responsibilities under law, whether  
31 they derive from statute, administrative or court rule, public policy,  
32 common law or any other source of civil law, as are granted to  
33 spouses in a marriage.

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

37 c. The laws of domestic relations, including annulment,  
38 premarital agreements, separation, divorce, child custody and  
39 support, property division and maintenance, and post-relationship  
40 spousal support, shall apply to the parties to a civil union.

41 d. The parties to a civil union may modify the terms, conditions  
42 or effects of their civil union in the same manner and to the same  
43 extent as married person who execute an antenuptial agreement or  
44 other agreement recognized and enforceable under the law, setting  
45 forth particular understandings with respect to their union.

46 e. The rights of the parties to a civil union with respect to a child  
47 of whom either becomes the parent during the term of the civil  
48 union, shall be the same as those of a married couple with respect to  
49 a child of whom either spouse becomes the parent during the

1 marriage.

2 f. All contracts made between persons in contemplation of a  
3 civil union shall remain in full force after such civil union takes  
4 place.

5 g. A copy of the record of the civil union received from the local  
6 or State registrar shall be presumptive evidence of the civil union in  
7 all courts.

8

9 5. (New section) The following list of legal benefits, protections  
10 and responsibilities of spouses shall apply in like manner to the  
11 parties to a civil union, but shall not be construed to be an exclusive  
12 list of such benefits, protections and responsibilities:

13 a. laws relating to title, tenure, descent and distribution, intestate  
14 succession, waiver of will, survivorship, or other incidents of the  
15 acquisition, ownership or transfer, inter vivos or at death, of real or  
16 personal property, including but not limited to eligibility to hold  
17 real and personal property as tenants by the entirety;

18 b. causes of action related to or dependent upon spousal status,  
19 including an action for wrongful death, emotional distress, loss of  
20 consortium, or other torts or actions under contracts reciting, related  
21 to, or dependent upon spousal status;

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

23 d. adoption law and procedures;

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

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

28 g. prohibitions against discrimination based upon marital status;

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

31 i. workers' compensation benefits pursuant to chapter 15 of Title  
32 34 of the Revised Statutes, including but not limited to survivors'  
33 benefits and payment of back wages;

34 j. laws relating to emergency and nonemergency medical care  
35 and treatment, hospital visitation and notification, and any rights  
36 guaranteed to a hospital patient pursuant to P.L.1989, c.170  
37 (C.26:2H-12.7 et seq.) or a nursing home resident pursuant to  
38 P.L.1976, c.120 (C.30:13-1 et seq.);

39 k. advance directives for health care and designation as a health  
40 care representative pursuant to P.L.1991, c.201 (C.26:2H-53 et  
41 seq.);

42 l. family leave benefits pursuant to P.L.1989, c.261 (C.34:11B-1  
43 et seq.);

44 m. public assistance benefits under State law, including, but not  
45 limited to: Work First New Jersey benefits pursuant to P.L.1997,  
46 c.38 (C.44:10-55 et seq.); medical assistance pursuant to P.L.1968,  
47 c.413 (C.30:4D-1 et seq.); Supplemental Security Income pursuant  
48 to P.L.1973, c.256 (C.44:7-85 et seq.); pharmaceutical assistance  
49 pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) and P.L.2001, c.96

1 (C.30:4D-43 et seq.); hearing aid assistance pursuant to P.L.1987,  
2 c.298 (C.30:4D-36 et seq.); and utility benefits pursuant to  
3 P.L.1979, c.197 (C.48:2-29.15 et seq.) and P.L.1981, c.210 (C.48:2-  
4 29.30 et seq.);

5 n. laws relating to taxes imposed by the State or a municipality  
6 other than estate taxes, including but not limited to homestead  
7 rebate tax allowances, tax deductions based on marital status or  
8 exemptions from realty transfer tax based on marital status;

9 o. laws relating to immunity from compelled testimony and the  
10 marital communication privilege;

11 p. the home ownership rights of a surviving spouse;

12 q. the right of a spouse to a surname change without petitioning  
13 the court;

14 r. laws relating to the making of, revoking and objecting to  
15 anatomical gifts pursuant to P.L.1969, c.161 (C.26:6-57 et seq.);

16 s. State pay for military service;

17 t. application for absentee ballots;

18 u. legal requirements for assignment of wages; and

19 v. laws related to tuition assistance for higher education for  
20 surviving spouses or children.

21

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

23 37:1-1. Certain marriages or civil unions prohibited.

24 a. A man shall not marry or enter into a civil union with any of  
25 his ancestors or descendants, or his sister or brother, or the  
26 daughter or son of his brother or sister, or the sister or brother of his  
27 father or mother, whether such collateral kindred be of the whole  
28 or half blood.

29 b. A woman shall not marry or enter into a civil union with any  
30 of her ancestors or descendants, or her sister or brother, or the  
31 daughter or son of her brother or sister, or the sister or brother of  
32 her father or mother, whether such collateral kindred be of the  
33 whole or half blood.

34 c. A marriage or civil union in violation of any of the foregoing  
35 provisions shall be absolutely void.

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

37

38 7. R.S.37:1-2 is amended to read as follows:

39 37:1-2. Necessity of marriage or civil union license; "licensing  
40 officer" defined.

41 Before a marriage or a civil union can be lawfully performed in  
42 this [state] State, the persons intending to be married or to enter  
43 into a civil union shall obtain a marriage or civil union license from  
44 the licensing officer and deliver it to the person who is to officiate,  
45 but if the marriage or civil union is to be performed by or before  
46 any religious society, institution or organization, the license shall be  
47 delivered to such religious society, institution or organization, or  
48 any officer thereof.

1 As used in this chapter, "licensing officer" means, as to cities of  
2 the first class, the city clerk; as to other municipalities, the registrar  
3 of vital statistics; or the deputy of any said official designated by  
4 him to issue licenses during his absence.

5 (cf: R.S.37:1-2)

6

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

8 37:1-3. Where marriage or civil union license to be obtained.

9 The **[licensing officer shall issue the]** marriage or civil union  
10 license **[which]** shall be **[obtained]:**

11 a. In the municipality of this state in which the female party to  
12 the proposed marriage resides; or

13 b. In the municipality in which the male party resides, if the  
14 female party is a nonresident of this state; or

15 c. In the municipality in which the proposed marriage is to be  
16 performed, if both parties are nonresidents of this state] issued by  
17 the licensing officer in the municipality in which either party  
18 resides or, if neither party is a resident of the State, in the  
19 municipality in which the proposed marriage or civil union is to be  
20 performed.

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

22

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

24 37:1-4. Issuance of marriage or civil union license, emergencies,  
25 validity.

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

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

37 (cf: P.L.1991, c.91, s.366)

38

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

40 37:1-6. A marriage or civil union license shall not be issued to a  
41 minor under the age of 18 years, unless the parents or guardian of  
42 the minor, if there be any, first certify under their hands and seals,  
43 in the presence of two reputable witnesses, their consent thereto,  
44 which consent shall be delivered to the licensing officer issuing the  
45 license. If the parents, or either of them, or guardian of any such  
46 minor shall be of unsound mind, the consent of such parent or  
47 guardian to the proposed marriage or civil union shall not be  
48 required.

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

5 The licensing officer shall transmit to the State Bureau of Vital  
6 Statistics all such consents, orders, and approvals so received by  
7 him in the same manner and subject to the same penalty as in the  
8 case of certificates of marriage or civil union and marriage or civil  
9 union licenses.

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

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

18

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

20 37:1-7. Issuing of license; remarriage or reaffirming a civil  
21 union.

22 The licensing officer is hereby empowered to issue marriage or  
23 civil union licenses to the contracting parties who apply therefor  
24 and are entitled under the laws of this State to contract matrimony  
25 or establish a civil union , authorizing the marriage or civil union  
26 of such parties, which license shall be substantially in the  
27 following form:

28 "State of New Jersey. County of city, town or township of

29 This is to certify that any person, religious society, institution or  
30 organization authorized by law to perform marriage or civil union  
31 ceremonies within the State of New Jersey to whom this may come,  
32 he or they not knowing any lawful impediment thereto, is hereby  
33 authorized and empowered to solemnize the rites of matrimony or  
34 the civil union between

35 A B of in the county of and State of and C D  
36 of , in the county of and State of , and to certify the  
37 same to be the said parties, or either of them, under his hand and  
38 seal in his ministerial or official capacity.

39 In testimony whereof, I have hereunto set my hand and affixed  
40 the seal of said town, township or city at this day of  
41 **【one thousand nine hundred】** two thousand and

42 , (Name and official title)"

43 If the contracting parties desire both a civil and a religious  
44 marriage or civil union ceremony, the licensing officer shall issue a  
45 license in duplicate, marking one as "issued for civil marriage or  
46 civil union ceremony" and one as "issued for religious marriage or  
47 civil union ceremony."

48 Nothing in this section shall be construed to prevent the  
49 remarriage of a couple already married to each other or to prevent a

1 couple who has entered into a civil union to reaffirm their  
2 commitment to one another; provided, a new license is obtained  
3 and the marriage or civil union properly reported. Such license  
4 shall be plainly marked "Issued for remarriage--originally married  
5 to same mate at (state place) on (state date) or Issued for  
6 reaffirmation of a civil union—originally entered into a civil union  
7 to same mate at (state place) on (state date)." Such a license shall  
8 be issued without compliance with the provisions of **[section]** R.S.  
9 37:1-4 [of the Revised Statutes] and if applicable of the provisions  
10 of "An act concerning marriages" approved May third, one  
11 thousand nine hundred and thirty-eight (P.L.1938, c. 126). When  
12 such marriage or civil union report is received by the State registrar  
13 he shall, if an original marriage or civil union certificate is  
14 recorded, make a notation thereon of the remarriage or  
15 reaffirmation and its date and place.

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

17

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

19 37:1-8. Testimony under oath by applicants as to legality of  
20 proposed marriage or civil union; witnesses; perjury

21 A licensing officer shall, before issuing a marriage or civil union  
22 license, require the contracting parties to appear before him and  
23 subscribe and swear to an oath attesting the truth of the facts  
24 respecting the legality of the proposed marriage or civil union as set  
25 forth in the form supplied by the State Bureau of Vital Statistics.  
26 Said testimony shall be verified by a witness of legal age. A  
27 licensing officer shall issue a license only if it is thus made to  
28 appear before him that no legal impediment to the marriage or civil  
29 union exists. Every licensing officer may administer oaths to the  
30 contracting parties and their identifying witness.

31 Any identifying witness or applicant applying for a marriage or  
32 civil union license who shall knowingly make false answers to any  
33 of the inquiries asked by the licensing officer shall be guilty of  
34 perjury.

35 (cf: P.L.1946, c. 185, s. 4)

36

37 13. R.S.37:1-11 is amended to read as follows:

38 37:1-11. Illegal issuance of license a **[misdemeanor]** disorderly  
39 persons offense.

40 Any licensing officer who issues a marriage or civil union license  
41 except as provided in this chapter shall be guilty of a  
42 **[misdemeanor]** disorderly persons offense.

43 (cf: R.S.37:1-11)

44

45 14. R.S.37:1-12 is amended to read as follows:

46 37:1-12. Fees; disposition in cities of first class.

47 For issuing a marriage or civil union license, the licensing officer  
48 shall be entitled to receive from the applicants the sum of three



1 dollars (\$3.00). [All fees so received by the city clerk in cities of  
2 the first class shall be paid into the treasury of such city to be used  
3 for the relief of its poor.]

4 (cf: P.L.1948, c. 285, s. 3)

5  
6 15. Section 1 of P.L.1981, c.382 (C.37:1-12.1) is amended to  
7 read as follows:

8 1. In addition to the fee for issuing a marriage or civil union  
9 license authorized pursuant to R.S.37:1-12, each licensing officer  
10 shall collect a fee of \$25 from the marriage license or civil union  
11 license applicants which shall be forwarded on a quarterly basis to  
12 the Department of Human Services.

13 (cf: P.L.1992, c.136, s.1)

14

15 16. Section 2 of P.L.1981, c.382 (C.37:1-12.2) is amended to  
16 read as follows:

17 2. The Department of Human Services shall establish a trust  
18 fund for the deposit of the fees received pursuant to section 1 of  
19 **[this act]** of P.L.1981, c.382 (C.37:1-12.1). The moneys from the  
20 trust fund shall be used for the specific purpose of establishing and  
21 maintaining shelters for the victims of domestic violence, or a. for  
22 providing grants-in-aid to such shelters established by local  
23 governments or private nonprofit organizations; or b. for providing  
24 grants-in-aid to non-residential agencies whose primary purpose is  
25 to serve victims of domestic violence in those counties which do not  
26 have emergency residential shelters for victims; or c. for providing  
27 grants-in-aid to any nonprofit, Statewide coalition whose  
28 membership includes a majority of the programs for battered  
29 women in New Jersey and whose board membership includes a  
30 majority of representatives of these programs and whose purpose is  
31 to provide services, community education, and technical assistance  
32 to these programs to establish and maintain shelter and related  
33 services for victims of domestic violence and their children.

34 (cf: P.L.1992, c.136, s.2).

35

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

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

38 Each judge of the United States Court of Appeals for the Third  
39 Circuit, each judge of a federal district court, United States  
40 magistrate, judge of a municipal court, judge of the Superior Court,  
41 judge of a tax court, retired judge of the Superior Court or Tax  
42 Court, or judge of the Superior Court or Tax Court, the former  
43 County Court, the former County Juvenile and Domestic Relations  
44 Court, or the former County District Court who has resigned in  
45 good standing, surrogate of any county, county clerk and any mayor  
46 or the deputy mayor when authorized by the mayor, or chairman of  
47 any township committee or village president of this State, and every  
48 minister of every religion, are hereby authorized to solemnize  
49 marriage or civil union between such persons as may lawfully enter

1 into the matrimonial relation or civil union; and every religious  
2 society, institution or organization in this State may join together in  
3 marriage or civil union such persons according to the rules and  
4 customs of the society, institution or organization.

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

6

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

8 37:1-15. Solemnizing without presentation of license;  
9 **[misdemeanor]** disorderly persons offense .

10 Any person, not authorized by **[section]**R.S.37:1-13 **[of the**  
11 **Revised Statutes]** to solemnize marriages or civil unions, who  
12 solemnizes a marriage or civil union or any person or religious  
13 society, institution or organization, authorized to solemnize  
14 marriages or civil unions, who solemnizes a marriage or civil union  
15 without the presentation of a license therefor, obtained in  
16 accordance with the provisions of article two of this chapter (s.  
17 37:1-2 et seq.), shall be guilty of a **[misdemeanor]** disorderly  
18 persons offense, and punished by a fine not exceeding five hundred  
19 dollars (\$500.00), or imprisonment not exceeding six months, or  
20 both.

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

22

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

24 37:1-16. Interrogation of applicants under oath; perjury.

25 Any person authorized to solemnize marriages or civil unions  
26 may administer oaths to the parties applying to be married or to  
27 enter into a civil union, and may require them, or either of them, to  
28 make true answers to any inquiries made by him in order to  
29 ascertain whether, in his judgment, any legal impediment to the  
30 proposed marriage or civil union exists.

31 Any person who willfully makes false answers to any such  
32 inquiries shall, if the answers are reduced to writing, signed by the  
33 party making the same and attached to the certificate of marriage or  
34 civil union, be deemed guilty of perjury pursuant to N.J.S.2C:28-1.

35 (cf: R.S. 37:1-16)

36

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

38 37:1-17. Marriage or civil union license; information provided.

39 On the marriage or civil union license shall be the form for the  
40 certificate of marriage or civil union in quadruplicate, to which the  
41 licensing officer shall have set forth particularly therein the name,  
42 age, parentage, birthplace, residence, Social Security number and  
43 **[condition (whether single, widowed or divorced) of each of the**  
44 **married persons,]** domestic status of each party, whether single,  
45 widowed, divorced, or a former party to a civil union or domestic  
46 partnership and the names and county of birth of their parents. The  
47 Social Security number shall be kept confidential and may only be  
48 released for child support enforcement purposes, and shall not be

1 considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et  
2 seq.). The person by whom or the religious society, institution, or  
3 organization by or before which, the marriage or civil union was  
4 solemnized, shall personally or by legally authorized agent  
5 subscribe where indicated on the form the date and place of the  
6 marriage or civil union. Each certificate of marriage or civil union  
7 shall also contain the signature and residence of at least two  
8 witnesses who were present at the marriage or civil union  
9 ceremony.

10 (cf: P.L.2002, c.88, s.3)

11

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

14 2. License and certificate of marriage or civil union; transmittal  
15 The license and the original certificate shall be transmitted  
16 pursuant to R.S. 26:8-41. One copy of the certificate shall be  
17 retained by the local registrar and one copy shall be given to the  
18 persons contracting the marriage or civil union. The remaining copy  
19 shall be retained by the person solemnizing the marriage or civil  
20 union.

21 (cf: P.L.1980, c.128, s.2)

22

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

25 37:1-17.2. Delayed reports; filing; contents; affidavits; evidence.  
26 Any marriage or civil union which has occurred or which may  
27 hereafter occur and which is not recorded with the State Registrar  
28 as required by this chapter, may be recorded by filing a delayed  
29 report with the State Registrar, documented by a copy of the  
30 application for the license. The delayed report shall contain an  
31 affidavit of the person performing the marriage or civil union or if  
32 he is deceased or not available, of one or both witnesses to the  
33 marriage or civil union ceremony confirming that the ceremony was  
34 performed and the date and place of the marriage or civil union.

35 When it is impossible to secure the affidavit of the officiant or  
36 either of the witnesses, the affidavit may be made by a person who  
37 was present at the marriage or civil union ceremony, or the  
38 contracting parties, provided additional documentary evidence is  
39 presented.

40 The State Registrar may require evidence of the correctness of  
41 the information in a delayed report and may refuse to accept a  
42 delayed report if the evidence is not submitted.

43 (cf:P.L.1980, c.128, s.3)

44

45 23. R.S.37:1-18 is amended to read as follows:

46 37:1-18. Penalty for false certificate.

47 Any person, religious society, institution or organization  
48 authorized to solemnize marriages or civil unions, who makes any

1 false certificate of marriage or civil union, shall be liable to a  
2 penalty of [one hundred dollars] \$100.00.

3 (cf: R.S.37:1-18)

4

5 24. R.S.37:1-19 is amended to read as follows:

6 37:1-19. Penalty; how recovered.

7 Any penalty incurred under any of the provisions of this article  
8 may be recovered with costs, in an action at law by and in the name  
9 of the local board of health of the municipality where the marriage  
10 or civil union occurred, or by and in the name of the [state  
11 department of health] Department of Health and Senior Services.

12 (cf: R.S.37:1-19)

13

14 25. Section 1 of P.L.1977, c.282 (C.37:1-27) is amended to read  
15 as follows:

16 37:1-27. Tests; information; distribution by issuer of marriage or  
17 civil union licenses.

18 A licensing officer or other person issuing marriage or civil  
19 union licenses shall make information available to applicants  
20 concerning places where such applicants may be tested for genetic  
21 diseases including, but not limited to Cooley's Anemia, Sickle Cell  
22 Anemia, and Tay-Sachs Disease. Literature containing such  
23 information which has been prepared and provided by private  
24 organizations may be distributed to applicants by a licensing  
25 officer or other person issuing marriage or civil union licenses.

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

27

28 26. R.S.37:2-31 is amended to read as follows to read as  
29 follows:

30 37. 2-31. This article shall be known and may be cited as the  
31 "Uniform Premarital and Pre-Civil Union Agreement Act." Source:  
32 New.

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

34

35 27. R.S.37:2-32 is amended to read as follows to read as  
36 follows:

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

38 a. "Premarital or pre-civil union agreement" means an agreement  
39 between prospective spouses or partners made in contemplation of  
40 marriage or a civil union and to be effective upon marriage or upon  
41 the parties establishing a civil union;

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

45 c. "Unconscionable premarital or pre-civil union agreement"  
46 means an agreement, either due to a lack of property or  
47 unemployability:

48 (1) Which would render a spouse or partner without a means of  
49 reasonable support;

- 1 (2) Which would make a spouse or partner a public charge; or  
2 (3) Which would provide a standard of living far below that  
3 which was enjoyed before the marriage or civil union.  
4 (cf: P.L.1988, c.99, s.1)

5  
6 28. R.S.37:2-33 is amended to read as follows:  
7 37:2-33. Formalities; consideration.

8 A premarital or pre-civil union agreement shall be in writing,  
9 with a statement of assets annexed thereto, signed by both parties,  
10 and it is enforceable without consideration.  
11 (cf: P.L.1988, c.99, s.1)

12  
13 29. R.S.37:2-34 is amended to read as follows:

14 37:2-34. Contents of premarital or pre-civil union agreement. .  
15 Parties to a premarital or pre-civil union agreement may contract  
16 with respect to:

17 a. The rights and obligations of each of the parties in any of the  
18 property of either or both of them whenever and wherever acquired  
19 or located;

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

23 c. The disposition of property upon separation, marital  
24 dissolution, dissolution of a civil union, death, or the occurrence or  
25 nonoccurrence of any other event;

26 d. The modification or elimination of spousal or civil union  
27 partner support;

28 e. The making of a will, trust, or other arrangement to carry out  
29 the provisions of the agreement;

30 f. The ownership rights in and disposition of the death benefit  
31 from a life insurance policy;

32 g. The choice of law governing the construction of the  
33 agreement; and

34 h. Any other matter, including their personal rights and  
35 obligations, not in violation of public policy.

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

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

39 37:2-35. Premarital or pre-civil union agreement not to adversely  
40 affect right of child support .

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

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

44  
45 31. R.S.37:2-36 is amended to read as follows:

46 37:2-35. When premarital or pre-civil union agreement becomes  
47 effective,

1 A premarital or pre-civil union agreement becomes effective  
2 upon marriage of the parties or upon the parties establishing a civil  
3 union.

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

5

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

7 37:2-37. Amendment or revocation of premarital or pre-civil  
8 union agreement .

9 After marriage of the parties or the parties establishing a civil  
10 union, a premarital or pre-civil union agreement may be amended or  
11 revoked only by a written agreement signed by the parties, and the  
12 amended agreement or revocation is enforceable without  
13 consideration.

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

15

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

17 37:2-38. Enforcement of premarital or pre-civil union agreement;  
18 generally.

19 The burden of proof to set aside a premarital or pre-civil union  
20 agreement shall be upon the party alleging the agreement to be  
21 unenforceable. A premarital or pre-civil union agreement shall not  
22 be enforceable if the party seeking to set aside the agreement  
23 proves, by clear and convincing evidence, that:

24 a. The party executed the agreement involuntarily; or

25 b. The agreement was unconscionable at the time enforcement  
26 was sought; or

27 c. That party, before execution of the agreement:

28 (1) Was not provided full and fair disclosure of the earnings,  
29 property and financial obligations of the other party;

30 (2) Did not voluntarily and expressly waive, in writing, any right  
31 to disclosure of the property or financial obligations of the other  
32 party beyond the disclosure provided;

33 (3) Did not have, or reasonably could not have had, an adequate  
34 knowledge of the property or financial obligations of the other  
35 party; or

36 (4) Did not consult with independent legal counsel and did not  
37 voluntarily and expressly waive, in writing, the opportunity to  
38 consult with independent legal counsel.

39 d. The issue of unconscionability of a premarital or pre-civil  
40 union agreement shall be determined by the court as a matter of  
41 law.

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

43

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

45 37:2-39. Enforcement of premarital or pre-civil union agreement;  
46 marriage or civil union determined void

47 If a marriage or civil union is determined to be void, an  
48 agreement that would otherwise have been a premarital or pre-civil

1 union agreement is enforceable only to the extent necessary to  
2 avoid an inequitable result.  
3 (cf: P.L.1988, c.99, s.1).

4

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

6 37:2-40. Construction of article.

7 This article shall be construed to effectuate its general purpose  
8 to make uniform the law with respect to the subject of the article  
9 among states enacting the "Uniform Premarital or Pre-Civil Union  
10 Agreement Act."

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

12

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

14 37:2-41. Application of article.

15 This article shall apply to premarital agreements executed on and  
16 after its effective date.

17 This article as amended by P.L. .c. (C. )(pending before the  
18 Legislature as this bill) shall apply to pre-civil union agreements  
19 executed on and after the effective date of P.L. .c. (C. )(pending  
20 before the Legislature as this bill).

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

22

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

24 26:8-1. As used in this chapter:

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

28 "Vital records" means the birth, death, fetal death, marriage, civil  
29 union and domestic partnership records from which vital statistics  
30 are produced.

31 "State registrar" means the State registrar of vital statistics;  
32 "Local registrar" or "registrar" means the local registrar of vital  
33 statistics of any district; and "registration district" or "district"  
34 means a registration district as constituted by this article.

35 "Live birth" or "birth" means the complete expulsion or  
36 extraction from its mother of a product of conception, irrespective  
37 of the duration of pregnancy, which, after such separation, breathes  
38 or shows any other evidence of life such as beating of the heart,  
39 pulsation of the umbilical cord, or definite movement of voluntary  
40 muscles, whether or not the umbilical cord has been cut or the  
41 placenta attached.

42 "Authentication" means the entry by the State Medical Examiner  
43 or a county medical examiner, funeral director or physician into the  
44 New Jersey Electronic Death Registration System of a personal  
45 identification code, digital signature or other identifier unique to  
46 that user, by which the information entered into the system by the  
47 user is authenticated by the user who assumes responsibility for its  
48 accuracy. "Authentication" also means the process by which the  
49 State registrar or a local registrar, deputy registrar, alternate deputy

1 registrar or subregistrar indicates that person's review and approval  
2 of information entered into the system by the State Medical  
3 Examiner or a county medical examiner, funeral director or  
4 physician.

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

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

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

16

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

18 26:8-4. Duty to furnish information relative to birth, death,  
19 marriage, civil union, domestic partnership. Upon demand of the  
20 State registrar in person, by mail, by means of the NJ-EDRS, or  
21 through the local registrar, every physician, midwife, informant,  
22 funeral director, or other person having knowledge of the facts  
23 relative to any birth, death, fetal death, marriage, civil union or  
24 domestic partnership, shall supply such information as he may  
25 possess, upon a form provided by the State registrar, or through the  
26 NJ-EDRS, or upon the original birth, death, fetal death, marriage,  
27 civil union or domestic partnership certificate or its electronic  
28 facsimile or digitized form thereof.

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

30

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

32 26:8-17. The local registrar, immediately upon acceptance of the  
33 appointment, shall appoint a deputy to assist in the normal, day-to-  
34 day operation of the office and whose duty shall be to act in the  
35 registrar's stead in case of absence, disability or death of the  
36 registrar. In case of death of the local registrar the deputy shall act  
37 as local registrar until a new local registrar has been appointed and  
38 qualified.

39 In addition to a deputy registrar, the local registrar may appoint  
40 one or two alternate deputy registrars if the local registrar deems  
41 such an appointment to be necessary for the office to function  
42 efficiently and to provide quality service to the public. The deputy  
43 registrar and alternate deputy registrar shall have the authority to  
44 receive birth certificates and death certificates; to issue burial  
45 permits, and copies of birth, death, marriage, civil union and  
46 domestic partnership certificates; to take the oath on marriage and  
47 civil union license applications; and to issue marriage and civil  
48 union licenses and register domestic partnerships. The deputy  
49 registrar and alternate deputy registrar shall receive instructions



1 from and perform their duties under the direct supervision of the  
2 registrar, who shall be the final authority with the responsibility of  
3 fulfilling the duties of the local registrar outlined in R.S.26:8-25.  
4 The deputy registrar and any alternate deputy registrar shall serve at  
5 the pleasure of the local registrar.  
6 (cf: P.L.2003, c.246, s.16).

7  
8 40. R.S.26:8-23 is amended to read as follows:

9 26:8-23. The Department of Health and Senior Services shall  
10 have charge of the registration of births, deaths, fetal deaths,  
11 marriages, civil unions and domestic partnerships and shall procure  
12 the prompt and accurate registration of the same in each registration  
13 district and in the department. The department may promulgate any  
14 rule or regulation which it deems necessary for the uniform and  
15 thorough enforcement of this section.

16 The department may decline permission to examine any record  
17 except in the presence of an officer or employee of the department.  
18 (cf: P.L.2003, c.246, s.17).

19  
20 41. R.S.26:8-24 is amended to read as follows:

21 26:8-24. The State registrar shall:

22 a. Have general supervision throughout the State of the  
23 registration of vital records;

24 b. Have supervisory power over local registrars, deputy local  
25 registrars, alternate deputy local registrars, and subregistrars, in the  
26 enforcement of the law relative to the disposal of dead bodies and  
27 the registration of vital records;

28 c. Prepare, print, and supply to all registrars, upon request  
29 therefor, all blanks and forms used in registering the records  
30 required by said law, and provide for and prescribe the use of the  
31 NJ-EDRS. No other blanks or methods of registration shall be used  
32 than those supplied or approved by the State registrar;

33 d. Carefully examine the certificates or electronic files received  
34 periodically from the local registrars or originating from their  
35 jurisdiction; and, if any are incomplete or unsatisfactory, require  
36 such further information to be supplied as may be necessary to  
37 make the record complete and satisfactory;

38 e. Arrange or bind, and permanently preserve the certificates of  
39 vital records, or the information comprising those records, in a  
40 systematic manner and in a form that is deemed most consistent  
41 with contemporary and developing standards of vital statistical  
42 archival record keeping;

43 f. Prepare and maintain a comprehensive and continuous index  
44 of all vital records registered, the index to be arranged  
45 alphabetically;

46 1. In the case of deaths, by the name of the decedent;

47 2. In the case of births, by the name of child, if given, and if not,  
48 then by the name of father or mother;

49 3. In the case of marriages, by the surname of the husband and

- 1 also by the maiden name of the wife;
- 2 4. In the case of civil union, by the surname of each of the parties
- 3 to the civil union;
- 4 5. In the case of domestic partnerships, by the surname of each
- 5 of the partners; and
- 6 g. Mark the birth certificate of a missing child when notified by
- 7 the Missing Persons Unit in the Department of Law and Public
- 8 Safety pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c);
- 9 and
- 10 h. Develop and provide to local registrars an education and
- 11 training program, which the State registrar may require each local
- 12 registrar to complete as a condition of retaining that position, and
- 13 which may be offered to deputy local registrars, alternate deputy
- 14 local registrars and subregistrars at the discretion of the State
- 15 registrar, that includes material designed to implement the NJ-
- 16 EDRS and to familiarize local registrars with the statutory
- 17 requirements applicable to their duties and any rules and regulations
- 18 adopted pursuant thereto, as deemed appropriate by the State
- 19 registrar.
- 20 (cf: P.L.2003, c.246, s.18)
- 21
- 22 42. R.S.26:8-25 is amended to read as follows:
- 23 26:8-25. The local registrar, under the supervision and direction
- 24 of the State registrar, shall:
- 25 a. Strictly and thoroughly enforce the law relative to the
- 26 disposal of dead bodies and the registration of vital records in his
- 27 registration district;
- 28 b. Supply blank forms of certificates to such persons as require
- 29 them;
- 30 c. Supply to every physician, midwife, and funeral director a
- 31 copy of the law relative to the registration of vital records and the
- 32 disposal of dead bodies, together with such rules and regulations as
- 33 may be prepared by the State registrar relative to their enforcement;
- 34 d. Sign his name and insert the date of filing on each certificate
- 35 of birth, marriage, civil union, domestic partnership and death or
- 36 otherwise authenticate the local registrar's identity through the NJ-
- 37 EDRS as prescribed by the State registrar;
- 38 e. Examine each certificate of birth, marriage, civil union,
- 39 domestic partnership or death when presented for record in order to
- 40 ascertain whether or not it has been made in accordance with law
- 41 and the instructions of the State registrar; and if incomplete and
- 42 unsatisfactory, have the same corrected;
- 43 f. At the expense of the municipality make a complete and
- 44 accurate copy of each birth, marriage, civil union, domestic
- 45 partnership and death certificate registered by him on a form or in a
- 46 manner prescribed by the State registrar, to be preserved in his
- 47 office as the local record or in the NJ-EDRS as prescribed by the
- 48 State registrar;
- 49 g. On the tenth day of each month or sooner if requested by the

1 department, transmit to the State registrar all original birth,  
2 marriage, civil union, domestic partnership and death certificates  
3 received by him for the preceding month, except that a record  
4 created on the NJ-EDRS as prescribed by the State registrar shall be  
5 deemed to have been transmitted. If no births, marriages, civil  
6 union, domestic partnerships or deaths occurred in any month, he  
7 shall, on or before the tenth day of the following month, report that  
8 fact to the State registrar on a card provided for such purpose;

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

13 i. In the case of any birth in his registration district to parents  
14 who are residents of another registration district or of the marriage  
15 or civil union in his registration district of any couple who obtained  
16 the marriage or civil union license in another registration district, or  
17 of the death in his registration district of any person who at the time  
18 of death was a resident of another registration district notify the  
19 registrar of the other registration district, within five days of the  
20 birth, marriage, civil union, or death, on forms prescribed by the  
21 State registrar. All entries relating to cause of death on the original  
22 certificate shall be entered on the death form sent to the registrar of  
23 the other registration district. A record created on the NJ-EDRS as  
24 prescribed by the State registrar shall be deemed to have been  
25 transmitted to the registrar of the other registration district;

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

29 k. Make computer facilities with access to the NJ-EDRS  
30 available to funeral directors and physicians registered with the NJ-  
31 EDRS, within the regular established business hours of the local  
32 registrar, for the purpose of providing information necessary to  
33 complete a death record.

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

35  
36 43. R.S.26:8-27 is amended to read as follows:

37 26:8-27. Inquiries to applicants for marriage or civil union  
38 license. The department shall issue to each local registrar and to  
39 city clerks of cities of the first class, the form and substance of the  
40 several inquiries to be made of applicants for a marriage license or a  
41 civil union license and their witnesses for the purpose of  
42 ascertaining whether any legal impediment to any proposed  
43 marriage or civil union exists.

44 The form shall not contain any inquiries or information which  
45 concerns the race of an applicant for a marriage or civil union  
46 license.

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

48  
49 44. R.S.26:8-41 is amended to read as follows:

1       26:8-41. Transmission of marriage and civil union licenses and  
2 certificates.

3       Every person or religious society, institution or organization  
4 solemnizing a marriage or performing a civil union shall, within 5  
5 days thereafter, transmit the certificate of marriage or civil union  
6 and the marriage or civil union license to the local registrar of the  
7 registration district in which the marriage or civil union occurs or to  
8 the clerk of the county board of health.

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

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

14

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

16       26:8-42. The local registrar who receives the certificate of a  
17 marriage or the certificate of a civil union within the district under  
18 his jurisdiction, the license for which was issued in another  
19 registration district, shall, within 5 days after receipt of the marriage  
20 or civil union certificate, copy the names of the persons married or  
21 the parties to a civil union; the date of marriage or civil union; the  
22 place of marriage or the civil union and the marriage or civil union  
23 license number upon a form provided by the State registrar and  
24 transmit it by mail to the officer legally designated to receive  
25 certificates of marriage or civil union in the registration district in  
26 which the license was issued.

27 (cf: P.L.1965, c.78, s.60)

28

29       46. S.26:8-43 is amended to read as follows:

30       26:8-43. Transmission of marriage and civil union certificates  
31 and licenses to state registrar.

32       Each local registrar and the clerk of the county board of health  
33 shall, on or before the tenth of each calendar month, or sooner if  
34 requested by the department, transmit by mail, express or  
35 messenger to the State registrar in an envelope or package marked  
36 "vital statistics" all the certificates of marriages and civil unions,  
37 marriage and civil union licenses and consents to the marriage or  
38 civil union of minors received by them.

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

40

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

42       26:8-44. The State registrar shall cause all certificates of  
43 marriages and civil unions and marriage and civil union licenses  
44 received to be alphabetically indexed and shall cause to be  
45 transcribed or otherwise recorded from the certificates such of the  
46 vital facts appearing thereon as the department may deem necessary  
47 or useful.

48       The certificates of marriage and civil union shall be so tabulated  
49 as to present in separate and distinct classes the record of each

1 county or registration district of over 5,000 inhabitants, which  
2 record shall be preserved as a public record and the original  
3 certificates shall be preserved in the archives of the department.

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

5

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

7 26:8-45. Cancellation of records of marriages and civil unions  
8 declared void.

9 If a marriage or a civil union has been declared void by the  
10 Superior Court in an action instituted for that purpose and the court  
11 is satisfied by the proof taken before the final judgment or by  
12 affidavit or otherwise after the final judgment that a record of the  
13 marriage or civil union is filed with the State registrar, it may order  
14 the record to be canceled.

15 It shall not be necessary to make the custodian of the record a  
16 party to the cause.

17 The order need only recite that there was a ceremony of marriage  
18 or civil union between parties to the cause (naming them),  
19 performed on (date) by (naming the officer) and that by a final  
20 judgment entered on (date), the marriage or civil union was  
21 declared void and may then direct that the said record be canceled.  
22 (cf: P.L.1965, c.78, s.63)

23

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

25 26:8-46. Upon presenting a certified copy of said order to the  
26 State Registrar, he shall indorse on the return of the marriage or  
27 civil union the following words: "This marriage or civil union  
28 declared void by the Superior Court. See order hereto annexed" and  
29 shall annex the certified copy to the return.

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

31

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

33 26:8-47. Preparation of forms for marriage and civil union  
34 licenses, certificates.

35 The department shall cause to be prepared blank forms of  
36 certificates of marriages or civil unions and marriage or civil union  
37 licenses corresponding to the requirements of R.S.37:1-7 and  
38 R.S.37:1-17. The forms, together with such sections of the laws  
39 concerning marriages or civil unions and such instructions and  
40 explanations thereof as the department may deem useful to persons  
41 having duties to perform under such laws shall be printed and  
42 supplied upon request therefor to the local registrars and to the city  
43 clerks of cities of the first class.

44 All certificates of marriages or civil unions and marriage or civil  
45 union licenses shall be written upon the said blanks or blanks  
46 approved by the department and shall not contain any inquiries or  
47 information which concerns the race of an applicant for a marriage  
48 or civil union license.

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

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

2 26:8-48. A certificate of birth, fetal death, marriage, civil union,  
3 domestic partnership or death heretofore or hereafter filed with the  
4 State registrar shall not be altered or changed otherwise than by  
5 amendments properly signed, dated and witnessed, or as otherwise  
6 recorded and authenticated on the NJ-EDRS as prescribed by the  
7 State registrar.

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

9

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

11 26:8-50. Correcting marriage or civil union licenses

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

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

15

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

17 26:8-51. Corrections to marriage, civil union, domestic  
18 partnership certificates. Corrections to marriage, civil union or  
19 domestic partnership certificates shall be signed by the person who  
20 signed the certificate or by any other person having personal  
21 knowledge of the matters sought to be corrected which other person  
22 shall state such matters on his oath.

23 (cf:P.L.2003, c.246, s.21)

24

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

26 26:8-55. Any person knowingly submitting a certificate pursuant  
27 to this article containing incorrect particulars relating to any birth,  
28 marriage, civil union, domestic partnership or death shall be subject  
29 to a penalty of not more than \$500, which shall be recovered with  
30 costs in a summary proceeding in the name of the department.

31 (cf: P.L. 2003, c.246, s.22)

32

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

34 26:8-60. Each local registrar shall be entitled to receive from the  
35 proper disbursing officer of the municipality or county the sum of  
36 \$1 for each marriage, civil union or domestic partnership certificate  
37 properly transmitted to the State Registrar.

38 In any registration district, the body appointing local registrars  
39 may, in lieu of fees, provide that officers performing the above  
40 service shall receive a fixed compensation to be determined by such  
41 body.

42 (cf: P.L.2003, c.246, s.23)

43

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

45 26:8-61. Fee for cancellation of marriage or civil union record.

46 The person procuring the cancellation of a marriage or civil  
47 union record pursuant to **[sections]**R.S. 26:8-45 and R.S.26:8-46  
48 **[of this Title]** shall first pay to the State Registrar the sum of \$2.00  
49 and the State Registrar shall pay the same over to the State

1 Treasurer. Such fee may be included in the taxable costs in the  
2 annulment suit.

3 (cf: P.L.1983, c.275, s.16)

4

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

6 26:8-62. a. The State registrar or local registrar shall, upon  
7 request, supply to a person who establishes himself as one of the  
8 following: the subject of the record of a birth, death, fetal death,  
9 certificate of birth resulting in stillbirth, domestic partnership, civil  
10 union or marriage, as applicable; the subject's parent, legal guardian  
11 or other legal representative; the subject's spouse, civil union  
12 partner, child, grandchild or sibling, if of legal age, or the subject's  
13 legal representative; an agency of State or federal government for  
14 official purposes; a person possessing an order of a court of  
15 competent jurisdiction; or a person who is authorized under other  
16 emergent circumstances as determined by the commissioner, a  
17 certified copy, or release of the data and information of that record  
18 registered under the provisions of R.S.26:8-1 et seq., or P.L. , c.  
19 (C. \_\_\_\_\_)(pending before the Legislature as this bill) or any  
20 domestic partnership registered under the provisions of P.L.2003,  
21 c.246 (C.26:8A-1 et al.), for any of which, except as provided by  
22 R.S.26:8-63, the State registrar shall be entitled to a search fee, if  
23 any, as provided by R.S.26:8-64, to be paid by the person. A  
24 certification may be issued in other circumstances and shall state  
25 that it is for informational purposes only, and is not to be used for  
26 identification purposes. The registrar shall authenticate the identity  
27 of the requestor and the requestor's relationship with the subject of  
28 the vital record. For the purposes of this subsection, any employee  
29 of a mortuary registered pursuant to P.L.1952, c.340 (C.45:7-32 et  
30 seq.), or a funeral director licensed pursuant to that act who is  
31 affiliated with a registered mortuary, if the mortuary was recorded  
32 on the original certificate of death, shall be construed to be the  
33 subject's legal representative and entitled to obtain full and  
34 complete copies of death certificates or certifications thereof.

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

40 c. For each death registration initiated on the NJ-EDRS on or  
41 after the first day of the first month following the date of enactment  
42 of P.L.2003, c.221 but before the first day of the thirty-seventh  
43 month following the date of enactment of P.L.2003, c.221, the State  
44 registrar shall be paid a recording fee for each record filed, whether  
45 by means of the current paper process or electronically, in an  
46 amount to be determined by the State registrar but not exceeding  
47 \$10, from the account of the funeral home, which may include this  
48 amount in the funeral expenses charged to the estate or person  
49 accepting responsibility for the disposition of the deceased's human

1 remains and the costs associated therewith; provided however, this  
2 fee shall not apply to the death registration of a person who died  
3 while in the military or naval or maritime or merchant marine  
4 service of the United States whose death is recorded pursuant to  
5 section 1 of P.L.1950, c.299 (C.26:6-5.2). The State registrar shall  
6 deposit the proceeds from the recording fee into the New Jersey  
7 Electronic Death Registration Support Fund established pursuant to  
8 section 17 of P.L.2003, c.221 (C.26:8-24.2).

9 d. Notwithstanding any other provision of this section to the  
10 contrary, the Commissioner of Health and Senior Services shall  
11 designate specifications for uniform forms for the issuance of all  
12 vital records, which shall be used by registrars beginning on a date  
13 established by the commissioner. The form designated for certified  
14 copies of vital records shall contain safety features for  
15 authentication purposes and to deter forgery, and shall be readily  
16 distinguishable from the form designated for certifications of vital  
17 records. Local registrars may include in the fee for a certified copy  
18 the additional cost of the form containing such safety features.

19 The commissioner may issue and enforce orders to implement  
20 the provisions of this subsection.

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

22  
23 58. R.S.26:8-63 is amended to read as follows:

24 26:8-63. The State registrar shall:

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

29 b. Furnish the United States Public Health Service without  
30 expense to the State, microfilm or photocopy images of birth,  
31 marriage, civil union, domestic partnership, fetal death and death  
32 certificates without payment of the fees prescribed in this article;  
33 and

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

38 d. Furnish without fee upon request for administrative use by  
39 any city, State or Federal agency a certified transcript of any New  
40 Jersey State census entry, or a certification or certified copy of a  
41 birth, death, fetal death, marriage, civil union or domestic  
42 partnership certificate.

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

44  
45 59. R.S.26:8-64 is amended to read as follows:

46 26:8-64. a. For any search of the files and records of births,  
47 deaths, marriages, civil unions or domestic partnerships when the  
48 correct year only is supplied by the applicant, whether or not a  
49 certification or a certified copy is made, the State Registrar shall be



1 entitled to a minimum fee of \$4, plus a fee of \$1 for each additional  
2 year searched, which fee shall be paid by the applicant, except as  
3 provided by R.S.26:8-63. The fee for each additional copy shall be  
4 \$2.

5 b. For all searches of the New Jersey State census records,  
6 except as otherwise provided herein, the State Registrar shall be  
7 entitled to a fee of \$2 for each address searched in any census year.

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

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

12

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

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

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

22

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

24 26:8-67. Duty of **【prosecutor of the pleas】** county prosecutor.

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

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

35

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

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

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

47

48 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 or husband living at the  
5 time of a second or other marriage;

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

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

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

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

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

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

29 a. Either of the parties has another wife, husband, civil union  
30 partner or domestic partner living at the time of establishing the  
31 new civil union or;

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

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

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

46 e. Allowable under the general equity jurisdiction of the Superior  
47 Court.

48 (cf: P.L.1971, c.212, s.1)

1       64. (New section). The dissolution of a civil union may be  
2 adjudged for the following causes:

3       a. voluntary sexual intercourse between a person who is in a  
4 civil union and an individual other than the person's civil union  
5 partner;

6       b. willful and continued desertion for a period of 12 or more  
7 consecutive months, which may be established by satisfactory proof  
8 that the parties have ceased to cohabit as civil union partners;

9       c. extreme cruelty, which is defined as including any physical or  
10 mental cruelty that endangers the safety or health of the plaintiff or  
11 makes it improper or unreasonable to expect the plaintiff to  
12 continue to cohabit with the defendant; except that no complaint for  
13 termination shall be filed until after three months from the date of  
14 the last act of cruelty complained of in the complaint, but this  
15 provision shall not be held to apply to any counterclaim;

16       d. separation, provided that the civil union partners have lived  
17 separate and apart in different habitations for a period of at least 18  
18 or more consecutive months and there is no reasonable prospect of  
19 reconciliation; and provided further that, after the 18-month period,  
20 there shall be a presumption that there is no reasonable prospect of  
21 reconciliation;

22       e. voluntarily induced addiction or habituation to any narcotic  
23 drug, as defined in the "New Jersey Controlled Dangerous  
24 Substances Act," P.L.1970, c. 226 (C.24:21-2) or the  
25 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.,  
26 or habitual drunkenness for a period of 12 or more consecutive  
27 months subsequent to establishment of the civil union and next  
28 preceding the filing of the complaint;

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

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

36

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

38       2A:34-3. Causes for divorce from bed and board or legal  
39 separation from civil union partner.

40       a. Divorce from bed and board may be adjudged for the same  
41 causes as divorce from the bonds of matrimony whenever both  
42 parties petition or join in requesting such relief and they or either of  
43 them present sufficient proof of such cause or causes to warrant the  
44 entry of a judgment of divorce from the bonds of matrimony,  
45 provided further that in the case of a reconciliation thereafter the  
46 parties may apply for a revocation or suspension of the judgment,  
47 and provided further that the granting of a bed and board divorce  
48 shall in no way prejudice either party from thereafter applying to  
49 the court for a conversion of said divorce to a divorce from the

1 bonds of matrimony, which application shall be granted as a matter  
2 of right.

3 b. Legal separation from a civil union partner may be adjudged  
4 for the same causes as dissolution of a civil union whenever both  
5 parties petition or join in requesting such relief and they or either of  
6 them present sufficient proof of such cause or causes to warrant the  
7 entry of a judgment of dissolution of a civil union, provided further  
8 that in the case of a reconciliation thereafter the parties may apply  
9 for a revocation or suspension of the judgment, and provided further  
10 that the granting of a legal separation from a civil union partner  
11 shall in no way prejudice either party from thereafter applying to  
12 the court for a conversion of said legal separation from a civil union  
13 partner to a dissolution of a civil union, which application shall be  
14 granted as a matter of right.

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

16

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

18 2A:34-6. Divorce from bed and board or legal separation from a  
19 civil union; property rights

20 For and during the time that any judgment for divorce from bed  
21 and board or legal separation from a civil union partner shall remain  
22 in force and effect all property rights of the parties shall be as  
23 though a judgment of absolute divorce or dissolution had been  
24 entered.

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

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

30

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

32 2A:34-7. Certain defenses abolished.

33 Recrimination, condonation and the clean hands doctrine are  
34 hereby abolished as defenses to divorce from the bonds of  
35 matrimony **[or from]** , dissolution of a civil union, divorce from  
36 bed and board or legal separation from a civil union partner, and if  
37 both parties make out grounds for a divorce, dissolution or legal  
38 separation a decree may be granted to each; provided that nothing  
39 herein shall preclude or abrogate the responsibility of a party for the  
40 penalty provided by law for perjury or the subornation of perjury.

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

42

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

44 2A:34-8. Jurisdiction stated.

45 The Superior Court shall have jurisdiction of all causes of  
46 divorce, dissolution of a civil union, bed and board divorce, legal  
47 separation from a civil union partner or nullity when either party is  
48 a bona fide resident of this State. The Superior Court shall have  
49 jurisdiction of an action for alimony and maintenance when the

1 defendant is subject to the personal jurisdiction of the court, is a  
2 resident of this State, or has tangible or intangible real or personal  
3 property within the jurisdiction of the court. The Superior Court  
4 may afford incidental relief as in other cases of an equitable nature  
5 and by rule of court may determine the venue of matrimonial and  
6 civil union actions.

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

8

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

10 2A:34-9. Jurisdiction in nullity proceedings or dissolution  
11 proceedings; residence requirements; service of process

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

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

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

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

19

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

21 2A:34-10. Jurisdiction in divorce proceedings, dissolution of a  
22 civil union, legal separation from a civil union partner; service of  
23 process; residence requirements

24 Jurisdiction in actions for divorce, either absolute or from bed  
25 and board, and in actions for dissolution of a civil union or legal  
26 separation from a civil union partner may be acquired when process  
27 is served upon the defendant as prescribed by the rules of the  
28 Supreme Court, and

29 1. When, at the time the cause of action arose, either party was a  
30 bona fide resident of this State, and has continued so to be down to  
31 the time of the commencement of the action; except that no action  
32 for absolute divorce or dissolution of a civil union shall be  
33 commenced for any cause other than adultery, unless one of the  
34 parties has been for the 1 year next preceding the commencement of  
35 the action a bona fide resident of this State; or

36 2. When, since the cause of action arose, either party has  
37 become, and for at least 1 year next preceding the commencement  
38 of the action has continued to be, a bona fide resident of this State.

39 (cf: P.L.1971, c.212, s.6).

40

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

42 2A:34-11. Jurisdiction by acknowledgment of service of process,  
43 appearance, etc.

44 In divorce, dissolution and nullity actions, the jurisdiction of the  
45 court over the defendant's person for all purposes of the action shall  
46 be fully established by the filing of an acknowledgment of service  
47 of process, or of an appearance, or of an answer by the defendant  
48 pro se, or on his behalf by a duly authorized attorney, in such

1 manner as may be prescribed by rules of the [supreme court]  
2 Supreme Court.

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

4

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

6 2A:34-12. Counterclaims.

7 Whenever the court shall have acquired jurisdiction of any action  
8 under the provisions of this chapter or P.L. ,c. (C. )(pending  
9 before the Legislature as this bill), the defendant therein may, by  
10 counterclaim, state any cause of action under this chapter or  
11 P.L. ,c. (C. )(pending before the Legislature as this bill) which  
12 exists at the time of the service of the counterclaim.

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

14

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

16 2A:34-13. Matrimonial or civil union action.

17 A person who has attained the age of 16 years may prosecute or  
18 defend any matrimonial or civil union action in person or by  
19 attorney.

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

21

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

23 2A:34-14. Parent or guardian may prosecute or defend.

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

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

28

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

30 2A:34-15. Co-respondent in adultery or dissolution of a civil  
31 union actions

32 Where a person is named as co-respondent in a charge of adultery  
33 or in a charge giving rise to a cause of action for dissolution of a  
34 civil union pursuant to subsection a. of section 53 of P.L. , c.  
35 (C. )(pending before the Legislature as this bill), the party  
36 making the charge shall give the co-respondent written notice of the  
37 charge within the time and in the manner prescribed by the rules of  
38 the [supreme court]Supreme Court.

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

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

42

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

44 2A:34-18. Final judgment; appeal

45 If after the hearing of any cause the court shall determine that the  
46 plaintiff or counterclaimant is entitled to a judgment of nullity of  
47 marriage or nullity of a civil union or a judgment for divorce from  
48 the bonds of matrimony or judgment for dissolution of a civil union,  
49 a final judgment shall be entered.

1 Appeals shall be taken only from the final judgment.  
2 (cf: P.L.1969, c.82, s.1)

3  
4 77. N.J.S.2A:34-21 is amended to read as follows:

5 2A:34-21. Surname.

6 The court, upon or after granting a divorce from the bonds of  
7 matrimony to either spouse or dissolution of a civil union to either  
8 partner, may allow either spouse or partner to resume any name  
9 used by the spouse or partner before the marriage or civil union, or  
10 to assume any surname.

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

12  
13 78. N.J.S.2A:34-23 is amended to read as follows:

14 2A:34-23 Alimony, maintenance.

15 Pending any matrimonial action or action for dissolution of a  
16 civil union brought in this State or elsewhere, or after judgment of  
17 divorce or dissolution or maintenance, whether obtained in this  
18 State or elsewhere, the court may make such order as to the alimony  
19 or maintenance of the parties, and also as to the care, custody,  
20 education and maintenance of the children, or any of them, as the  
21 circumstances of the parties and the nature of the case shall render  
22 fit, reasonable and just, and require reasonable security for the due  
23 observance of such orders, including, but not limited to, the creation  
24 of trusts or other security devices, to assure payment of reasonably  
25 foreseeable medical and educational expenses. Upon neglect or  
26 refusal to give such reasonable security, as shall be required, or  
27 upon default in complying with any such order, the court may  
28 award and issue process for the immediate sequestration of the  
29 personal estate, and the rents and profits of the real estate of the  
30 party so charged, and appoint a receiver thereof, and cause such  
31 personal estate and the rents and profits of such real estate, or so  
32 much thereof as shall be necessary, to be applied toward such  
33 alimony and maintenance as to the said court shall from time to  
34 time seem reasonable and just; or the performance of the said orders  
35 may be enforced by other ways according to the practice of the  
36 court. Orders so made may be revised and altered by the court from  
37 time to time as circumstances may require.

38 The court may order one party to pay a retainer on behalf of the  
39 other for expert and legal services when the respective financial  
40 circumstances of the parties make the award reasonable and just. In  
41 considering an application, the court shall review the financial  
42 capacity of each party to conduct the litigation and the criteria for  
43 award of counsel fees that are then pertinent as set forth by court  
44 rule. Whenever any other application is made to a court which  
45 includes an application for pendente lite or final award of counsel  
46 fees, the court shall determine the appropriate award for counsel  
47 fees, if any, at the same time that a decision is rendered on the other  
48 issue then before the court and shall consider the factors set forth in

1 the court rule on counsel fees, the financial circumstances of the  
2 parties, and the good or bad faith of either party.

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

7 (1) Needs of the child;

8 (2) Standard of living and economic circumstances of each  
9 parent;

10 (3) All sources of income and assets of each parent;

11 (4) Earning ability of each parent, including educational  
12 background, training, employment skills, work experience,  
13 custodial responsibility for children including the cost of providing  
14 child care and the length of time and cost of each parent to obtain  
15 training or experience for appropriate employment;

16 (5) Need and capacity of the child for education, including  
17 higher education;

18 (6) Age and health of the child and each parent;

19 (7) Income, assets and earning ability of the child;

20 (8) Responsibility of the parents for the court-ordered support of  
21 others;

22 (9) Reasonable debts and liabilities of each child and parent; and

23 (10) Any other factors the court may deem relevant.

24 The obligation to pay support for a child who has not been  
25 emancipated by the court shall not terminate solely on the basis of  
26 the child's age if the child suffers from a severe mental or physical  
27 incapacity that causes the child to be financially dependent on a  
28 parent. The obligation to pay support for that child shall continue  
29 until the court finds that the child is relieved of the incapacity or is  
30 no longer financially dependent on the parent. However, in  
31 assessing the financial obligation of the parent, the court shall  
32 consider, in addition to the factors enumerated in this section, the  
33 child's eligibility for public benefits and services for people with  
34 disabilities and may make such orders, including an order involving  
35 the creation of a trust, as are necessary to promote the well-being of  
36 the child.

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

40 b. In all actions brought for divorce, dissolution of a civil  
41 union, divorce from bed and board, legal separation from a civil  
42 union partner or nullity the court may award one or more of the  
43 following types of alimony: permanent alimony; rehabilitative  
44 alimony; limited duration alimony or reimbursement alimony to  
45 either party. In so doing the court shall consider, but not be limited  
46 to, the following factors:

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

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

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



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

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

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

8 (7) The parental responsibilities for the children;

9 (8) The time and expense necessary to acquire sufficient  
10 education or training to enable the party seeking maintenance to  
11 find appropriate employment, the availability of the training and  
12 employment, and the opportunity for future acquisitions of capital  
13 assets and income;

14 (9) The history of the financial or non-financial contributions to  
15 the marriage or civil union by each party including contributions to  
16 the care and education of the children and interruption of personal  
17 careers or educational opportunities;

18 (10) The equitable distribution of property ordered and any  
19 payouts on equitable distribution, directly or indirectly, out of  
20 current income, to the extent this consideration is reasonable, just  
21 and fair;

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

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

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

28 When a share of a retirement benefit is treated as an asset for  
29 purposes of equitable distribution, the court shall not consider  
30 income generated thereafter by that share for purposes of  
31 determining alimony.

32 c. In any case in which there is a request for an award of  
33 permanent alimony, the court shall consider and make specific  
34 findings on the evidence about the above factors. If the court  
35 determines that an award of permanent alimony is not warranted,  
36 the court shall make specific findings on the evidence setting out  
37 the reasons therefor. The court shall then consider whether alimony  
38 is appropriate for any or all of the following: (1) limited duration;  
39 (2) rehabilitative; (3) reimbursement. In so doing, the court shall  
40 consider and make specific findings on the evidence about factors  
41 set forth above. The court shall not award limited duration alimony  
42 as a substitute for permanent alimony in those cases where  
43 permanent alimony would otherwise be awarded.

44 An award of alimony for a limited duration may be modified  
45 based either upon changed circumstances, or upon the  
46 nonoccurrence of circumstances that the court found would occur at  
47 the time of the award. The court may modify the amount of such an  
48 award, but shall not modify the length of the term except in unusual  
49 circumstances.

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

5 d. Rehabilitative alimony shall be awarded based upon a plan  
6 in which the payee shows the scope of rehabilitation, the steps to be  
7 taken, and the time frame, including a period of employment during  
8 which rehabilitation will occur. An award of rehabilitative alimony  
9 may be modified based either upon changed circumstances, or upon  
10 the nonoccurrence of circumstances that the court found would  
11 occur at the time of the rehabilitative award.

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

14 e. Reimbursement alimony may be awarded under  
15 circumstances in which one party supported the other through an  
16 advanced education, anticipating participation in the fruits of the  
17 earning capacity generated by that education.

18 f. Nothing in this section shall be construed to limit the court's  
19 authority to award permanent alimony, limited duration alimony,  
20 rehabilitative alimony or reimbursement alimony, separately or in  
21 any combination, as warranted by the circumstances of the parties  
22 and the nature of the case.

23 g. In all actions for divorce or dissolution other than those  
24 where judgment is granted solely on the ground of separation the  
25 court may consider also the proofs made in establishing such  
26 ground in determining an amount of alimony or maintenance that is  
27 fit, reasonable and just. In all actions for divorce **[or]** .dissolution  
28 of civil union, divorce from bed and board, legal separation from a  
29 civil union partner where judgment is granted on the ground of  
30 institutionalization for mental illness the court may consider the  
31 possible burden upon the taxpayers of the State as well as the ability  
32 of the party to pay in determining an amount of maintenance to be  
33 awarded.

34 h. In all actions where a judgment of divorce **[or]** .dissolution  
35 of civil union, divorce from bed and board or legal separation from  
36 a civil union partner is entered the court may make such award or  
37 awards to the parties, in addition to alimony and maintenance, to  
38 effectuate an equitable distribution of the property, both real and  
39 personal, which was legally and beneficially acquired by them or  
40 either of them during the marriage or civil union. However, all such  
41 property, real, personal or otherwise, legally or beneficially  
42 acquired during the marriage or civil union by either party by way  
43 of gift, devise, or intestate succession shall not be subject to  
44 equitable distribution, except that interspousal gifts or gifts between  
45 parties to a civil union shall be subject to equitable distribution.  
46 (cf: P.L.2005, c.171, s.1)

47  
48 79. Section 1 of P.L.1997,c.405 (C.2A:34-23d) is amended to  
49 read as follows:

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

3 a. Upon filing of a complaint for an action for divorce,  
4 dissolution, nullity or separate maintenance, where the custody,  
5 visitation or support of a minor child is an issue, the party who has  
6 maintained all existing insurance coverage or coverage traditionally  
7 maintained during the marriage or civil union, including but not  
8 limited to, all health, disability, home or life insurance, shall  
9 continue to maintain or continue to share in the cost of maintaining  
10 the coverage.

11 b. If a party who has maintained the existing insurance  
12 coverage or has shared in the cost of maintaining the coverage has  
13 had a voluntary or involuntary change in employment status, which  
14 may cause the existing insurance coverage to terminate, then that  
15 party shall notify the other party that it may be necessary to  
16 reallocate the financial responsibilities of maintaining the coverage.

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

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

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

24

25 80. N.J.S.2A:34-23.1 is amended to read as follows:

26 2A:34-23.1 Equitable distribution criteria.

27 4. In making an equitable distribution of property, the court  
28 shall consider, but not be limited to, the following factors:

29 a. The duration of the marriage or civil union;

30 b. The age and physical and emotional health of the parties;

31 c. The income or property brought to the marriage or civil  
32 union by each party;

33 d. The standard of living established during the marriage or  
34 civil union;

35 e. Any written agreement made by the parties before or during  
36 the marriage or civil union concerning an arrangement of property  
37 distribution;

38 f. The economic circumstances of each party at the time the  
39 division of property becomes effective;

40 g. The income and earning capacity of each party, including  
41 educational background, training, employment skills, work  
42 experience, length of absence from the job market, custodial  
43 responsibilities for children, and the time and expense necessary to  
44 acquire sufficient education or training to enable the party to  
45 become self-supporting at a standard of living reasonably  
46 comparable to that enjoyed during the marriage or civil union;

47 h. The contribution by each party to the education, training or  
48 earning power of the other;

- 1 i. The contribution of each party to the acquisition, dissipation,  
2 preservation, depreciation or appreciation in the amount or value of  
3 the marital property, or the property acquired during the civil union  
4 as well as the contribution of a party as a homemaker;
- 5 j. The tax consequences of the proposed distribution to each  
6 party;
- 7 k. The present value of the property;
- 8 l. The need of a parent who has physical custody of a child to  
9 own or occupy the marital residence or residence shared by the  
10 parties to a civil union and to use or own the household effects;
- 11 m. The debts and liabilities of the parties;
- 12 n. The need for creation, now or in the future, of a trust fund to  
13 secure reasonably foreseeable medical or educational costs for a  
14 spouse, partner or children;
- 15 o. The extent to which a party deferred achieving their career  
16 goals; and
- 17 p. Any other factors which the court may deem relevant.

18 In every case, the court shall make specific findings of fact on  
19 the evidence relevant to all issues pertaining to asset eligibility or  
20 ineligibility, asset valuation, and equitable distribution, including  
21 specifically, but not limited to, the factors set forth in this section.

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

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

26

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

29 1. Court-ordered support, maintenance.

30 When a spouse or civil union partner has secured a judgment or  
31 decree of divorce, whether absolute or from bed and board,  
32 dissolution of a civil union, legal separation from a civil union  
33 partner, or of nullity or annulment of marriage or civil union, in an  
34 action whether brought in this State or elsewhere, wherein  
35 jurisdiction over the person of the other spouse or the other civil  
36 union partner was not obtained, the court may make the same orders  
37 and judgments touching the suitable support and maintenance to be  
38 paid and provided by the spouse or civil union partner, or to be  
39 made out of the spouse's or partner's property, for the other spouse  
40 or partner and their children, or any of them, by their marriage or  
41 civil union and for such time, as the nature of the case and  
42 circumstances of the parties render suitable and proper, pursuant to  
43 the provisions of chapter 34 of Title 2A of the New Jersey Statutes  
44 notwithstanding the securing of such judgment or decree.

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

46

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

48 2A:34-25. If after the judgment of divorce or dissolution a  
49 former spouse shall remarry or a former partner shall enter into a

1 new civil union, permanent and limited duration alimony shall  
 2 terminate as of the date of remarriage or new civil union except that  
 3 any arrearages that have accrued prior to the date of remarriage or  
 4 new civil union shall not be vacated or annulled. A former spouse  
 5 or civil union partner who remarries shall promptly so inform the  
 6 spouse or partner paying permanent or limited duration alimony as  
 7 well as the collecting agency, if any. The court may order such  
 8 alimony recipient who fails to comply with the notification  
 9 provision of this act to pay any reasonable attorney fees and court  
 10 costs incurred by the recipient's former spouse or partner as a result  
 11 of such non-compliance.

12 The remarriage or establishment of a new civil union of a former  
 13 spouse or partner receiving rehabilitative or reimbursement alimony  
 14 shall not be cause for termination of such alimony by the court  
 15 unless the court finds that the circumstances upon which the award  
 16 was based have not occurred or unless the payer spouse or partner  
 17 demonstrates an agreement or good cause to the contrary.

18 Alimony shall terminate upon the death of the payer spouse or  
 19 partner, except that any arrearages that have accrued prior to the  
 20 date of the payer spouse's or partner's death shall not be vacated or  
 21 annulled.

22 Nothing in this act shall be construed to prohibit a court from  
 23 ordering either spouse or partner to maintain life insurance for the  
 24 protection of the former spouse, partner, or the children of the  
 25 marriage or civil union in the event of the payer spouse's or  
 26 partner's death.

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

28

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

30 2A:34-26. Attachment of property.

31 When a spouse or civil union partner cannot be found within this  
 32 State to be served with process, the spouse's or partner's estate,  
 33 property and effects within this State and the rents and profits  
 34 thereof may be attached to compel the spouse's or partner's  
 35 appearance and performance of any judgment or order which may  
 36 be made in the action. Where the proceedings are by process of  
 37 attachment and the defendant does not appear, the judgment shall be  
 38 enforceable only out of and against the property attached.

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

40

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

42 22A:2-10. Chancery Division of Superior Court; costs awarded.

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

47	Plaintiff's costs, foreclosure .....	\$50 <sub>00</sub>
48	Plaintiff's costs, partition .....	70 <sub>00</sub>
49	Plaintiff's and receiver's costs, receivership .....	125 <sub>00</sub>

1	Plaintiff's costs, receivership .....	62.50
2	Receiver's costs, receivership .....	62.50
3	Plaintiff's costs, divorce, <u>dissolution of civil</u>	
4	<u>union</u> , nullity, custody .....	30.00
5	Plaintiff's costs, causes of action for other relief .....	65.00
6	Plaintiff's costs, incompetency action .....	47.50
7	Plaintiff's costs, sale of lands of infant or incompetent	50.00
8	Plaintiff's costs, release of dower or curtesy .....	50.00
9	Plaintiff's costs, mortgage lands of an infant or incompetent ...	
10	50.00	
11	Plaintiff's costs, interpleader .....	35.00
12	Plaintiff's costs, appointment of tax receiver .....	27.50
13	Plaintiff's costs, actions for payment of money	
14	into court; to hold real estate; to limit creditors .....	22.50
15	Plaintiff's costs, action for appointment of trustee	
16	or substituted trustee .....	33.50
17	Costs on contempt proceedings .....	25.00
18	Costs on application to fix dower or curtesy .....	22.50
19	Costs on application to pay moneys out of court .....	23.50
20	Costs on application for instructions, or to	
21	approve account .....	30.00
22	Costs on application for writ of execution .....	10.00
23	Costs on application for relief from final judgment	
24	or, in a matrimonial cause from judgment	
25	nisi or order..	20.00
26	Costs on application for writ of possession .....	30.00
27	Costs on application for alimony pendente lite,	
28	attorney fee, suit money .....	20.00
29	Defendant's costs where final judgment is taken by him ...	30.00
30	Defendant's costs where final judgment is not taken by him .	20.00
31	Costs upon any other litigated or special motion,	
32	subsidiary or interlocutory, not heretofore provided for ...	20.00
33	(cf: N.J.S.22A:2-10)	

34

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

36 22A:2-12. Payment of fees in Chancery Division of Superior

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

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

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

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

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

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

43 Receivership and partition, \$200.00.

44 All other actions and proceedings except in probate cases and

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

46 union, \$200.00.

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

48 \$250.00, \$25.00 of which shall be forwarded by the Clerk of the

1 Superior Court as provided in section 2 of P.L.1993, c.188  
2 (C.52:27D-43.24a).

3 Any person filing a motion in any action or proceeding shall pay  
4 to the clerk \$30.00.

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

6

7 86. Section 2 of P.L.1993, c.188 (C.52:27D-43.24a) is amended  
8 to read as follows:

9 2. Forwarding of filing fee. The Clerk of the Superior Court shall  
10 forward \$25.00 of the \$250.00 filing fee for a divorce or a  
11 dissolution of a civil union provided for in N.J.S.22A:2-12 on a  
12 quarterly basis to the Department of Community Affairs.

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

14

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

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

19 a. "Person" includes one or more individuals, partnerships,  
20 associations, organizations, labor organizations, corporations, legal  
21 representatives, trustees, trustees in bankruptcy, receivers, and  
22 fiduciaries.

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

25 c. "Labor organization" includes any organization which exists  
26 and is constituted for the purpose, in whole or in part, of collective  
27 bargaining, or of dealing with employers concerning grievances,  
28 terms or conditions of employment, or of other mutual aid or  
29 protection in connection with employment.

30 d. "Unlawful employment practice" and "unlawful  
31 discrimination" include only those unlawful practices and acts  
32 specified in section 11 of this act.

33 e. "Employer" includes all persons as defined in subsection a.  
34 of this section unless otherwise specifically exempt under another  
35 section of this act, and includes the State, any political or civil  
36 subdivision thereof, and all public officers, agencies, boards or  
37 bodies.

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

40 g. "Liability for service in the Armed Forces of the United  
41 States" means subject to being ordered as an individual or member  
42 of an organized unit into active service in the Armed Forces of the  
43 United States by reason of membership in the National Guard, naval  
44 militia or a reserve component of the Armed Forces of the United  
45 States, or subject to being inducted into such armed forces through  
46 a system of national selective service.

47 h. "Division" means the "Division on Civil Rights" created by  
48 this act.

- 1       i. "Attorney General" means the Attorney General of the State  
2 of New Jersey or his representative or designee.
- 3       j. "Commission" means the Commission on Civil Rights  
4 created by this act.
- 5       k. "Director" means the Director of the Division on Civil  
6 Rights.
- 7       l. "A place of public accommodation" shall include, but not be  
8 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
9 summer camp, day camp, or resort camp, whether for entertainment  
10 of transient guests or accommodation of those seeking health,  
11 recreation or rest; any producer, manufacturer, wholesaler,  
12 distributor, retail shop, store, establishment, or concession dealing  
13 with goods or services of any kind; any restaurant, eating house, or  
14 place where food is sold for consumption on the premises; any  
15 place maintained for the sale of ice cream, ice and fruit preparations  
16 or their derivatives, soda water or confections, or where any  
17 beverages of any kind are retailed for consumption on the premises;  
18 any garage, any public conveyance operated on land or water, or in  
19 the air, any stations and terminals thereof; any bathhouse,  
20 boardwalk, or seashore accommodation; any auditorium, meeting  
21 place, or hall; any theatre, motion-picture house, music hall, roof  
22 garden, skating rink, swimming pool, amusement and recreation  
23 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
24 pool parlor, or other place of amusement; any comfort station; any  
25 dispensary, clinic or hospital; any public library; any kindergarten,  
26 primary and secondary school, trade or business school, high  
27 school, academy, college and university, or any educational  
28 institution under the supervision of the State Board of Education, or  
29 the Commissioner of Education of the State of New Jersey.  
30 Nothing herein contained shall be construed to include or to apply  
31 to any institution, bona fide club, or place of accommodation, which  
32 is in its nature distinctly private; nor shall anything herein contained  
33 apply to any educational facility operated or maintained by a bona  
34 fide religious or sectarian institution, and the right of a natural  
35 parent or one in loco parentis to direct the education and upbringing  
36 of a child under his control is hereby affirmed; nor shall anything  
37 herein contained be construed to bar any private secondary or post  
38 secondary school from using in good faith criteria other than race,  
39 creed, color, national origin, ancestry or affectional or sexual  
40 orientation in the admission of students.
- 41       m. "A publicly assisted housing accommodation" shall include  
42 all housing built with public funds or public assistance pursuant to  
43 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
44 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,  
45 c.184, and all housing financed in whole or in part by a loan,  
46 whether or not secured by a mortgage, the repayment of which is  
47 guaranteed or insured by the federal government or any agency  
48 thereof.



1 n. The term "real property" includes real estate, lands,  
2 tenements and hereditaments, corporeal and incorporeal, and  
3 leaseholds, provided, however, that, except as to publicly assisted  
4 housing accommodations, the provisions of this act shall not apply  
5 to the rental: (1) of a single apartment or flat in a two-family  
6 dwelling, the other occupancy unit of which is occupied by the  
7 owner as a residence; or (2) of a room or rooms to another person or  
8 persons by the owner or occupant of a one-family dwelling  
9 occupied by the owner or occupant as a residence at the time of  
10 such rental. Nothing herein contained shall be construed to bar any  
11 religious or denominational institution or organization, or any  
12 organization operated for charitable or educational purposes, which  
13 is operated, supervised or controlled by or in connection with a  
14 religious organization, in the sale, lease or rental of real property,  
15 from limiting admission to or giving preference to persons of the  
16 same religion or denomination or from making such selection as is  
17 calculated by such organization to promote the religious principles  
18 for which it is established or maintained. Nor does any provision  
19 under this act regarding discrimination on the basis of familial  
20 status apply with respect to housing for older persons.

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

44 p. "Real estate salesperson" includes any person who, for  
45 compensation, valuable consideration or commission, or other thing  
46 of value, or by reason of a promise or reasonable expectation  
47 thereof, is employed by and operates under the supervision of a  
48 licensed real estate broker to sell or offer to sell, buy or offer to buy  
49 or negotiate the purchase, sale or exchange of real estate, or offers

1 or attempts to negotiate a loan secured or to be secured by a  
2 mortgage or other encumbrance upon or transfer of real estate, or to  
3 lease or rent, or offer to lease or rent any real estate for others, or to  
4 collect rents for the use of real estate, or to solicit for prospective  
5 purchasers or lessees of real estate, or who is employed by a  
6 licensed real estate broker to sell or offer to sell lots or other parcels  
7 of real estate, at a stated salary, or upon a commission, or upon a  
8 salary and commission, or otherwise to sell real estate, or any parts  
9 thereof, in lots or other parcels.

10 q. "Disability" means physical disability, infirmity,  
11 malformation or disfigurement which is caused by bodily injury,  
12 birth defect or illness including epilepsy and other seizure  
13 disorders, and which shall include, but not be limited to, any degree  
14 of paralysis, amputation, lack of physical coordination, blindness or  
15 visual impediment, deafness or hearing impediment, muteness or  
16 speech impediment or physical reliance on a service or guide dog,  
17 wheelchair, or other remedial appliance or device, or any mental,  
18 psychological or developmental disability resulting from  
19 anatomical, psychological, physiological or neurological conditions  
20 which prevents the normal exercise of any bodily or mental  
21 functions or is demonstrable, medically or psychologically, by  
22 accepted clinical or laboratory diagnostic techniques. Disability  
23 shall also mean AIDS or HIV infection.

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

29 s. "Guide dog" means a dog used to assist deaf persons or  
30 which is fitted with a special harness so as to be suitable as an aid to  
31 the mobility of a blind person, and is used by a blind person who  
32 has satisfactorily completed a specific course of training in the use  
33 of such a dog, and has been trained by an organization generally  
34 recognized by agencies involved in the rehabilitation of the blind or  
35 deaf as reputable and competent to provide dogs with training of  
36 this type.

37 t. "Guide or service dog trainer" means any person who is  
38 employed by an organization generally recognized by agencies  
39 involved in the rehabilitation of persons with disabilities as  
40 reputable and competent to provide dogs with training, and who is  
41 actually involved in the training process.

42 u. "Housing accommodation" means any publicly assisted  
43 housing accommodation or any real property, or portion thereof,  
44 which is used or occupied, or is intended, arranged, or designed to  
45 be used or occupied, as the home, residence or sleeping place of one  
46 or more persons, but shall not include any single family residence  
47 the occupants of which rent, lease, or furnish for compensation not  
48 more than one room therein.

- 1 v. "Public facility" means any place of public accommodation  
2 and any street, highway, sidewalk, walkway, public building, and  
3 any other place or structure to which the general public is regularly,  
4 normally or customarily permitted or invited.
- 5 w. "Deaf person" means any person whose hearing is so  
6 severely impaired that the person is unable to hear and understand  
7 normal conversational speech through the unaided ear alone, and  
8 who must depend primarily on a supportive device or visual  
9 communication such as writing, lip reading, sign language, and  
10 gestures.
- 11 x. "Atypical hereditary cellular or blood trait" means sickle cell  
12 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
13 fibrosis trait.
- 14 y. "Sickle cell trait" means the condition wherein the major  
15 natural hemoglobin components present in the blood of the  
16 individual are hemoglobin A (normal) and hemoglobin S (sickle  
17 hemoglobin) as defined by standard chemical and physical analytic  
18 techniques, including electrophoresis; and the proportion of  
19 hemoglobin A is greater than the proportion of hemoglobin S or one  
20 natural parent of the individual is shown to have only normal  
21 hemoglobin components (hemoglobin A, hemoglobin A2,  
22 hemoglobin F) in the normal proportions by standard chemical and  
23 physical analytic tests.
- 24 z. "Hemoglobin C trait" means the condition wherein the major  
25 natural hemoglobin components present in the blood of the  
26 individual are hemoglobin A (normal) and hemoglobin C as defined  
27 by standard chemical and physical analytic techniques, including  
28 electrophoresis; and the proportion of hemoglobin A is greater than  
29 the proportion of hemoglobin C or one natural parent of the  
30 individual is shown to have only normal hemoglobin components  
31 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
32 proportions by standard chemical and physical analytic tests.
- 33 aa. "Thalassemia trait" means the presence of the thalassemia  
34 gene which in combination with another similar gene results in the  
35 chronic hereditary disease Cooley's anemia.
- 36 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
37 which in combination with another similar gene results in the  
38 chronic hereditary disease Tay-Sachs.
- 39 cc. "Cystic fibrosis trait" means the presence of the cystic  
40 fibrosis gene which in combination with another similar gene  
41 results in the chronic hereditary disease cystic fibrosis.
- 42 dd. "Service dog" means any dog individually trained to the  
43 requirements of a person with a disability including, but not limited  
44 to minimal protection work, rescue work, pulling a wheelchair or  
45 retrieving dropped items. This term shall include a "seizure dog"  
46 trained to alert or otherwise assist persons subject to epilepsy or  
47 other seizure disorders.
- 48 ee. "Qualified Medicaid applicant" means an individual who is a  
49 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

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

4 gg. "HIV infection" means infection with the human  
5 immunodeficiency virus or any other related virus identified as a  
6 probable causative agent of AIDS.

7 hh. "Affectional or sexual orientation" means male or female  
8 heterosexuality, homosexuality or bisexuality by inclination,  
9 practice, identity or expression, having a history thereof or being  
10 perceived, presumed or identified by others as having such an  
11 orientation.

12 ii. "Heterosexuality" means affectional, emotional or physical  
13 attraction or behavior which is primarily directed towards persons  
14 of the other gender.

15 jj. "Homosexuality" means affectional, emotional or physical  
16 attraction or behavior which is primarily directed towards persons  
17 of the same gender.

18 kk. "Bisexuality" means affectional, emotional or physical  
19 attraction or behavior which is directed towards persons of either  
20 gender.

21 ll. "Familial status" means being the natural parent of a child,  
22 the adoptive parent of a child, the resource family parent of a child,  
23 having a "parent and child relationship" with a child as defined by  
24 State law, or having sole or joint legal or physical custody, care,  
25 guardianship, or visitation with a child, or any person who is  
26 pregnant or is in the process of securing legal custody of any  
27 individual who has not attained the age of 18 years.

28 mm. "Housing for older persons" means housing:

29 (1) provided under any State program that the Attorney General  
30 determines is specifically designed and operated to assist elderly  
31 persons (as defined in the State program); or provided under any  
32 federal program that the United States Department of Housing and  
33 Urban Development determines is specifically designed and  
34 operated to assist elderly persons (as defined in the federal  
35 program); or

36 (2) intended for, and solely occupied by persons 62 years of age  
37 or older; or

38 (3) intended and operated for occupancy by at least one person  
39 55 years of age or older per unit. In determining whether housing  
40 qualifies as housing for older persons under this subsection, the  
41 Attorney General shall adopt regulations which require at least the  
42 following factors:

43 (a) the existence of significant facilities and services  
44 specifically designed to meet the physical or social needs of older  
45 persons, or if the provision of such facilities and services is not  
46 practicable, that such housing is necessary to provide important  
47 housing opportunities for older persons; and

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

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

4 Housing shall not fail to meet the requirements for housing for  
5 older persons by reason of: persons residing in such housing as of  
6 September 13, 1988 not meeting the age requirements of this  
7 subsection, provided that new occupants of such housing meet the  
8 age requirements of this subsection; or unoccupied units, provided  
9 that such units are reserved for occupancy by persons who meet the  
10 age requirements of this subsection.

11 nn. "Genetic characteristic" means any inherited gene or  
12 chromosome, or alteration thereof, that is scientifically or medically  
13 believed to predispose an individual to a disease, disorder or  
14 syndrome, or to be associated with a statistically significant  
15 increased risk of development of a disease, disorder or syndrome.

16 oo. "Genetic information" means the information about genes,  
17 gene products or inherited characteristics that may derive from an  
18 individual or family member.

19 pp. "Genetic test" means a test for determining the presence or  
20 absence of an inherited genetic characteristic in an individual,  
21 including tests of nucleic acids such as DNA, RNA and  
22 mitochondrial DNA, chromosomes or proteins in order to identify a  
23 predisposing genetic characteristic.

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

26 rr. "Civil Union" means a legally recognized union of two  
27 eligible individuals established pursuant to R.S.37:1-1 et seq. and  
28 P.L. .c. (C. )(pending before the Legislature as this bill).  
29 (cf: P.L.2004, c.130, s.37)  
30

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

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

35 a. For an employer, because of the race, creed, color, national  
36 origin, ancestry, age, marital status, civil union status, domestic  
37 partnership status, affectional or sexual orientation, genetic  
38 information, sex, disability or atypical hereditary cellular or blood  
39 trait of any individual, or because of the liability for service in the  
40 Armed Forces of the United States or the nationality of any  
41 individual, or because of the refusal to submit to a genetic test or  
42 make available the results of a genetic test to an employer, to refuse  
43 to hire or employ or to bar or to discharge or require to retire, unless  
44 justified by lawful considerations other than age, from employment  
45 such individual or to discriminate against such individual in  
46 compensation or in terms, conditions or privileges of employment;  
47 provided, however, it shall not be an unlawful employment practice  
48 to refuse to accept for employment an applicant who has received a  
49 notice of induction or orders to report for active duty in the armed

1 forces; provided further that nothing herein contained shall be  
2 construed to bar an employer from refusing to accept for  
3 employment any person on the basis of sex in those certain  
4 circumstances where sex is a bona fide occupational qualification,  
5 reasonably necessary to the normal operation of the particular  
6 business or enterprise; provided further that nothing herein  
7 contained shall be construed to bar an employer from refusing to  
8 accept for employment or to promote any person over 70 years of  
9 age; provided further that it shall not be an unlawful employment  
10 practice for a club exclusively social or fraternal to use club  
11 membership as a uniform qualification for employment, or for a  
12 religious association or organization to utilize religious affiliation  
13 as a uniform qualification in the employment of clergy, religious  
14 teachers or other employees engaged in the religious activities of  
15 the association or organization, or in following the tenets of its  
16 religion in establishing and utilizing criteria for employment of an  
17 employee; provided further, that it shall not be an unlawful  
18 employment practice to require the retirement of any employee  
19 who, for the two-year period immediately before retirement, is  
20 employed in a bona fide executive or a high policy-making position,  
21 if that employee is entitled to an immediate non-forfeitable annual  
22 retirement benefit from a pension, profit sharing, savings or  
23 deferred retirement plan, or any combination of those plans, of the  
24 employer of that employee which equals in the aggregate at least  
25 \$27,000.00; and provided further that an employer may restrict  
26 employment to citizens of the United States where such restriction  
27 is required by federal law or is otherwise necessary to protect the  
28 national interest.

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

33 For the purposes of this subsection, a "bona fide executive" is a  
34 top level employee who exercises substantial executive authority  
35 over a significant number of employees and a large volume of  
36 business. A "high policy-making position" is a position in which a  
37 person plays a significant role in developing policy and in  
38 recommending the implementation thereof.

39 b. For a labor organization, because of the race, creed, color,  
40 national origin, ancestry, age, marital status, civil union status,  
41 domestic partnership status, affectional or sexual orientation,  
42 disability or sex of any individual, or because of the liability for  
43 service in the Armed Forces of the United States or nationality of  
44 any individual, to exclude or to expel from its membership such  
45 individual or to discriminate in any way against any of its members,  
46 against any applicant for, or individual included in, any apprentice  
47 or other training program or against any employer or any individual  
48 employed by an employer; provided, however, that nothing herein  
49 contained shall be construed to bar a labor organization from

1 excluding from its apprentice or other training programs any person  
2 on the basis of sex in those certain circumstances where sex is a  
3 bona fide occupational qualification reasonably necessary to the  
4 normal operation of the particular apprentice or other training  
5 program.

6 c. For any employer or employment agency to print or circulate  
7 or cause to be printed or circulated any statement, advertisement or  
8 publication, or to use any form of application for employment, or to  
9 make an inquiry in connection with prospective employment, which  
10 expresses, directly or indirectly, any limitation, specification or  
11 discrimination as to race, creed, color, national origin, ancestry,  
12 age, marital status, civil union status, domestic partnership status,  
13 affectional or sexual orientation, disability, nationality or sex or  
14 liability of any applicant for employment for service in the Armed  
15 Forces of the United States, or any intent to make any such  
16 limitation, specification or discrimination, unless based upon a bona  
17 fide occupational qualification.

18 d. For any person to take reprisals against any person because  
19 that person has opposed any practices or acts forbidden under this  
20 act or because that person has filed a complaint, testified or assisted  
21 in any proceeding under this act or to coerce, intimidate, threaten or  
22 interfere with any person in the exercise or enjoyment of, or on  
23 account of that person having aided or encouraged any other person  
24 in the exercise or enjoyment of, any right granted or protected by  
25 this act.

26 e. For any person, whether an employer or an employee or not,  
27 to aid, abet, incite, compel or coerce the doing of any of the acts  
28 forbidden under this act, or to attempt to do so.

29 f. (1) For any owner, lessee, proprietor, manager, superintendent,  
30 agent, or employee of any place of public accommodation directly  
31 or indirectly to refuse, withhold from or deny to any person any of  
32 the accommodations, advantages, facilities or privileges thereof, or  
33 to discriminate against any person in the furnishing thereof, or  
34 directly or indirectly to publish, circulate, issue, display, post or  
35 mail any written or printed communication, notice, or advertisement  
36 to the effect that any of the accommodations, advantages, facilities,  
37 or privileges of any such place will be refused, withheld from, or  
38 denied to any person on account of the race, creed, color, national  
39 origin, ancestry, marital status, civil union status, domestic  
40 partnership status, sex, affectional or sexual orientation, disability  
41 or nationality of such person, or that the patronage or custom  
42 thereat of any person of any particular race, creed, color, national  
43 origin, ancestry, marital status, civil union status, domestic  
44 partnership status, sex, affectional or sexual orientation, disability  
45 or nationality is unwelcome, objectionable or not acceptable,  
46 desired or solicited, and the production of any such written or  
47 printed communication, notice or advertisement, purporting to  
48 relate to any such place and to be made by any owner, lessee,  
49 proprietor, superintendent or manager thereof, shall be presumptive

1 evidence in any action that the same was authorized by such person;  
2 provided, however, that nothing contained herein shall be construed  
3 to bar any place of public accommodation which is in its nature  
4 reasonably restricted exclusively to individuals of one sex, and  
5 which shall include but not be limited to any summer camp, day  
6 camp, or resort camp, bathhouse, dressing room, swimming pool,  
7 gymnasium, comfort station, dispensary, clinic or hospital, or  
8 school or educational institution which is restricted exclusively to  
9 individuals of one sex, from refusing, withholding from or denying  
10 to any individual of the opposite sex any of the accommodations,  
11 advantages, facilities or privileges thereof on the basis of sex;  
12 provided further, that the foregoing limitation shall not apply to any  
13 restaurant as defined in R.S.33:1-1 or place where alcoholic  
14 beverages are served.

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

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

36 g. For any person, including but not limited to, any owner,  
37 lessee, sublessee, assignee or managing agent of, or other person  
38 having the right of ownership or possession of or the right to sell,  
39 rent, lease, assign, or sublease any real property or part or portion  
40 thereof, or any agent or employee of any of these:

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

48 (2) To discriminate against any person or group of persons  
49 because of race, creed, color, national origin, ancestry, marital



1 status, civil union status, domestic partnership status, sex,  
2 affectional or sexual orientation, familial status, disability,  
3 nationality or source of lawful income used for rental or mortgage  
4 payments in the terms, conditions or privileges of the sale, rental or  
5 lease of any real property or part or portion thereof or in the  
6 furnishing of facilities or services in connection therewith;

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

31 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
32 to deny to or withhold from any person or group of persons any real  
33 property or part or portion thereof because of the source of any  
34 lawful income received by the person or the source of any lawful  
35 rent payment to be paid for the real property; or

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

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

45 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
46 sale, rental, lease, assignment, or sublease any real property or part  
47 or portion thereof to any person or group of persons or to refuse to  
48 negotiate for the sale, rental, lease, assignment, or sublease of any  
49 real property or part or portion thereof to any person or group of

1 persons because of race, creed, color, national origin, ancestry,  
2 marital status, civil union status, domestic partnership status,  
3 familial status, sex, affectional or sexual orientation, disability,  
4 nationality, or source of lawful income used for rental or mortgage  
5 payments, or to represent that any real property or portion thereof is  
6 not available for inspection, sale, rental, lease, assignment, or  
7 sublease when in fact it is so available, or otherwise to deny or  
8 withhold any real property or any part or portion of facilities thereof  
9 to or from any person or group of persons because of race, creed,  
10 color, national origin, ancestry, marital status, civil union status,  
11 domestic partnership status, familial status, sex, affectional or  
12 sexual orientation, disability or nationality;

13 (2) To discriminate against any person because of race, creed,  
14 color, national origin, ancestry, marital status, civil union status,  
15 domestic partnership status, familial status, sex, affectional or  
16 sexual orientation, disability, nationality, or source of lawful  
17 income used for rental or mortgage payments in the terms,  
18 conditions or privileges of the sale, rental, lease, assignment or  
19 sublease of any real property or part or portion thereof or in the  
20 furnishing of facilities or services in connection therewith;

21 (3) To print, publish, circulate, issue, display, post, or mail, or  
22 cause to be printed, published, circulated, issued, displayed, posted  
23 or mailed any statement, advertisement, publication or sign, or to  
24 use any form of application for the purchase, rental, lease,  
25 assignment, or sublease of any real property or part or portion  
26 thereof or to make any record or inquiry in connection with the  
27 prospective purchase, rental, lease, assignment, or sublease of any  
28 real property or part or portion thereof which expresses, directly or  
29 indirectly, any limitation, specification or discrimination as to race,  
30 creed, color, national origin, ancestry, marital status, civil union  
31 status, domestic partnership status, familial status, sex, affectional  
32 or sexual orientation, disability, nationality, or source of lawful  
33 income used for rental or mortgage payments or any intent to make  
34 any such limitation, specification or discrimination, and the  
35 production of any such statement, advertisement, publicity, sign,  
36 form of application, record, or inquiry purporting to be made by any  
37 such person shall be presumptive evidence in any action that the  
38 same was authorized by such person; provided, however, that  
39 nothing contained in this subsection h., shall be construed to bar  
40 any person from refusing to sell, rent, lease, assign or sublease or  
41 from advertising or recording a qualification as to sex for any room,  
42 apartment, flat in a dwelling or residential facility which is planned  
43 exclusively for and occupied exclusively by individuals of one sex  
44 to any individual of the opposite sex on the basis of sex;

45 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
46 to deny to or withhold from any person or group of persons any real  
47 property or part or portion thereof because of the source of any  
48 lawful income received by the person or the source of any lawful  
49 rent payment to be paid for the real property; or

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

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

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

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

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

36 (4) To discriminate against any person or group of persons  
37 because of the source of any lawful income received by the person  
38 or the source of any lawful rent payment to be paid for the real  
39 property; or

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

47 j. For any person whose activities are included within the  
48 scope of this act to refuse to post or display such notices concerning

1 the rights or responsibilities of persons affected by this act as the  
2 Attorney General may by regulation require.

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

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

37 m. For any person to:

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

1 managers, superintendents, agents, employees, business associates,  
2 suppliers, or customers.

3 (2) Refuse to grant or accept any letter of credit or other  
4 document which evidences the transfer of funds or credit, or refuse  
5 to enter into any contract for the exchange of goods or services, on  
6 the ground that it does not contain such a discriminatory provision  
7 or certification.

8 The provisions of this subsection shall not apply to any letter of  
9 credit, contract, or other document which contains any provision  
10 pertaining to employee-employer collective bargaining, a labor  
11 dispute or an unfair labor practice, or made in connection with the  
12 protest of unlawful discrimination or an unlawful employment  
13 practice, if the other provisions of such letter of credit, contract, or  
14 other document do not otherwise violate the provisions of this  
15 subsection.

16 n. For any person to aid, abet, incite, compel, coerce, or induce  
17 the doing of any act forbidden by subsections l. and m. of section  
18 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
19 do so. Such prohibited conduct shall include, but not be limited to:

20 (1) Buying from, selling to, leasing from or to, licensing,  
21 contracting with, trading with, providing goods, services, or  
22 information to, or otherwise doing business with any person  
23 because that person does, or agrees or attempts to do, any such act  
24 or any act prohibited by this subsection; or

25 (2) Boycotting, commercially blacklisting or refusing to buy  
26 from, sell to, lease from or to, license, contract with, provide goods,  
27 services or information to, or otherwise do business with any person  
28 because that person has not done or refuses to do any such act or  
29 any act prohibited by this subsection; provided that this subsection  
30 shall not prohibit refusals or other actions either pertaining to  
31 employee-employer collective bargaining, labor disputes, or unfair  
32 labor practices, or made or taken in connection with a protest of  
33 unlawful discrimination or unlawful employment practices.

34 o. For any multiple listing service, real estate brokers'  
35 organization or other service, organization or facility related to the  
36 business of selling or renting dwellings to deny any person access  
37 to or membership or participation in such organization, or to  
38 discriminate against such person in the terms or conditions of such  
39 access, membership, or participation, on account of race, creed,  
40 color, national origin, ancestry, age, marital status, civil union  
41 status, domestic partnership status, familial status, sex, affectional  
42 or sexual orientation, disability or nationality.

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

44

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

47 3. As used in this act:

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

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

1 (2) the placement of a child with the employee in connection  
2 with adoption of such child by the employee; or

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

5 j. "Family member" means a child, parent, ~~[or]~~, spouse, or  
6 civil union partner.

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

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

13 (1) inpatient care in a hospital, hospice, or residential medical  
14 care facility; or

15 (2) continuing medical treatment or continuing supervision by a  
16 health care provider.

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

18

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

21 2A:84A-17. Privilege of accused

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

24 (2) The spouse or civil union partner of the accused in a criminal  
25 action shall not testify in such action except to prove the fact of  
26 marriage or civil union unless (a) such spouse or partner consents,  
27 or (b) the accused is charged with an offense against the spouse or  
28 partner, a child of the accused or of the spouse or partner, or a child  
29 to whom the accused or the spouse or partner stands in the place of  
30 a parent, or (c) such spouse or partner is the complainant.

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

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

36

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

1 92. (New section) Whenever in any law, rule, regulation, judicial  
2 or administrative proceeding or otherwise, reference is made to  
3 “marriage,” “husband,” “wife,” “spouse,” “family,” “immediate  
4 family,” “dependent,” “next of kin,” or another word which in a  
5 specific context denotes a marital or spousal relationship, the same  
6 shall include a civil union pursuant to the provisions of this act.

7  
8 93. The Commissioner of Health and Senior Services in  
9 consultation with the Director of the Administrative Office of the  
10 Courts, pursuant to the "Administrative Procedure Act," P.L.1968,  
11 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations  
12 necessary to effectuate the purposes of this act.

13  
14 94. a. There is hereby established the New Jersey Civil Union  
15 Review Commission commencing on the effective date of P.L. ,c.  
16 (C. )(pending before the Legislature as this bill).

17 b. The commission shall be composed of 13 members to be  
18 appointed as follows: the Attorney General or his designee, the  
19 Commissioner of the Department of Banking and Insurance or his  
20 designee, the Commissioner of Health and Senior Services or his  
21 designee, the Commissioner of Human Services or his designee, the  
22 Commissioner of the Department of Children and Families or his  
23 designee, the Director of the Division of Civil Rights in the  
24 Department of Law and Public Safety of his designee, one public  
25 member appoint by the President of the Senate, one public member  
26 appointed by the Speaker of the General Assembly, and five public  
27 members appointed by the Governor, with the advise and consent of  
28 the Senate, no more than three who shall be of the same political  
29 party.

30 c. It shall be the duty of the commission to study all aspects of  
31 P.L. ,c. (C. )(pending before the Legislature as this bill) which  
32 authorizes civil unions including, but not limited to:

33 (1) evaluate the implementation, operation and effectiveness of  
34 the act;

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

38 (3) determine whether additional protections are needed;

39 (4) collect information about the recognition and treatment of  
40 civil unions by other states and jurisdictions including the  
41 procedures for dissolution; and

42 (5) review the “Domestic Partnership Act,” P.L.2003, c.246  
43 (C.26:8A-1 et seq.) and make recommendations whether this act  
44 should be repealed.

45 d. The commission shall organize as soon as possible after the  
46 appointment of its members. The commission shall be established  
47 for a term of three years and the members shall be appointed for the  
48 full term of three years. Vacancies in the membership of the  
49 commission shall be filled in the same manner as the original



1 appointment. The commission members shall choose a Chair from  
2 among its members.

3 e. The members of the commission shall serve without  
4 compensation, but may be reimbursed for necessary expenses  
5 incurred in the performance of their duties, within the limits of  
6 funds appropriated or otherwise made available to the commission  
7 for its purposes.

8 f. The commission is entitled to the assistance and service of the  
9 employees of any State, county or municipal department, board,  
10 bureau, commission or agency as it may require and as may be  
11 available to it for its purposes, and to employ stenographic and  
12 clerical assistance and to incur traveling or other miscellaneous  
13 expenses as may be necessary in order to perform its duties, within  
14 the limits of funds appropriated or otherwise made available to it  
15 for its purposes.

16 g. The commission shall report annually its findings and  
17 recommendations to the Legislature and the Governor.

18 h. The commission shall expire three years from the date of its  
19 initial organizational meeting and upon submission of its third and  
20 final report.

21

22 95. This act shall take effect on the 30th day after the enactment  
23 of this act, but the Commissioner of Health and Senior Services and  
24 the Director of the Administrative Office of the Courts may take  
25 such anticipatory administrative action in advance as shall be  
26 necessary for the implementation of the act.

27

28

29

#### STATEMENT

30

31 This bill would amend and supplement the marriage statutes to  
32 include civil unions. The bill defines a civil union as a legally  
33 recognized union of two eligible individuals of the same sex. The  
34 purpose of the bill is to provide same-sex couples with the same  
35 opportunity as heterosexual couples who choose to marry and to  
36 comply with the constitutional mandate set forth by the New Jersey  
37 Supreme Court in its recent landmark decision on October 25, 2006  
38 of Lewis v. Harris, 188 N.J. 415 (2006).

39 As the findings and declarations section of the bill states, same-  
40 sex couples in New Jersey live together in committed relationships  
41 without the benefits and rights afforded to heterosexual couples  
42 who choose to marry. Promoting such stable and durable  
43 relationships as well as eliminating obstacles and hardships these  
44 couples may face is necessary and proper and reaffirms this State's  
45 obligation to insure equality for all the citizens of New Jersey.

46 New Jersey was one of the first to adopt comprehensive  
47 legislation prohibiting discrimination based on affectional or sexual  
48 orientation and one of the first to formally recognize domestic  
49 partnerships by enacting the "Domestic Partnership Act," P.L.2003,

1 c. 246 (C.26:8A-1 et seq.) on January 12, 2004, thereby  
2 guaranteeing in law certain rights and benefits to those individuals  
3 who enter into domestic partnerships. Those rights and benefits  
4 afforded to same-sex couples under the Domestic Partnership Act  
5 should be expanded by the legal recognition of civil unions between  
6 same-sex couples.

7 In the Lewis v. Harris decision, the Court held that the State was  
8 violating the equal protection guarantee of Article I, paragraph 1 of  
9 the State Constitution by denying rights and benefits to committed  
10 same-sex couples which were statutorily given to their heterosexual  
11 counterparts. The Court stated that, “[T]he State can fulfill that  
12 constitutional requirement in one of two ways. It can either amend  
13 the marriage statutes to include same-sex couples or enact a parallel  
14 statutory structure by another name, in which same-sex couples  
15 would not only enjoy the rights and benefits, but also bear the  
16 burdens and obligations of civil marriage.” Id. at 463. This bill  
17 fulfills this requirement by amending the marriage statute to include  
18 civil unions.

19 **General Provisions.** Under the provisions of the bill, a person  
20 who wishes to enter a civil union must satisfy all of the following  
21 requirements: not be a party to another civil union, domestic  
22 partnership or marriage in this State or any other state; be of the  
23 same sex and therefore be excluded from the marriage laws in this  
24 State; and be at least 18 years of age or older, except if the minor  
25 has parental consent to enter into a civil union.

26 The bill provides that parties to a civil union would have all the  
27 same benefits, protections and responsibilities under law, whether  
28 they derive from statute, administrative or court rule, public policy,  
29 common law or any other source of civil law, as are granted to  
30 spouses in a marriage. The parties to a civil union may modify the  
31 terms, conditions or effects of their civil union in the same manner  
32 and to the same extent as married persons who execute an  
33 antenuptial agreement or other agreement recognized and  
34 enforceable under the law, setting forth particular understandings  
35 with respect to their union. The parties to a civil union would be  
36 responsible for the support of one another to the same degree and in  
37 the same manner as prescribed under law for married persons. The  
38 dissolution of civil unions would also follow the same procedures  
39 and be subject to the same substantive rights and obligations that  
40 are involved in the dissolution of a marriage.

41 The laws of domestic relations, including annulment, premarital  
42 agreements, separation, divorce, child custody and support, property  
43 division and maintenance, and post relationship spousal support,  
44 would apply to the parties to a civil union. Also, the rights of the  
45 parties to a civil union, with respect to a child of whom either  
46 becomes the natural parent during the term of the civil union, would  
47 be the same as those of a married couple, with respect to a child of  
48 whom either spouse becomes the natural parent during the marriage.

1 The bill enumerates some legal benefits, protections and  
2 responsibilities of spouses which would apply in like manner to the  
3 parties to a civil union, however, this list should not be construed to  
4 be an exclusive list of such benefits, protections and  
5 responsibilities: (1) laws relating to title, tenure, descent and  
6 distribution, intestate succession, waiver of will, survivorship, or  
7 other incidents of the acquisition, ownership or transfer, inter vivos  
8 or at death, of real or personal property, including eligibility to hold  
9 real and personal property as tenants by the entirety; (2) causes of  
10 action related to or dependent upon spousal status, including an  
11 action for wrongful death, emotional distress, loss of consortium, or  
12 other torts or actions under contracts reciting, related to, or  
13 dependent upon spousal status; (3) probate law and procedure,  
14 including nonprobate transfer; (4) adoption law and procedures; (5)  
15 laws relating to insurance, health and pension benefits; (6)  
16 domestic violence protections and domestic violence programs; (7)  
17 prohibitions against discrimination based upon marital status; (8)  
18 victim's compensation benefits, including compensation to spouse,  
19 children and relatives of homicide victims; (9) workers'  
20 compensation benefits pursuant to chapter 15 of Title 34 of the  
21 Revised Statutes, including survivors benefits and payment of back  
22 wages; (10) laws relating to emergency and nonemergency medical  
23 care and treatment, hospital visitation and notification, and any  
24 rights guaranteed to a hospital patient or a nursing home resident;  
25 (11) advance directives for health care and designation as a health  
26 care representative; (12) family leave benefits; (13) public  
27 assistance benefits, medical assistance, Supplemental Security  
28 Income, pharmaceutical assistance, hearing aid assistance, and  
29 utility benefits; (14) laws relating to taxes imposed by the State or a  
30 municipality other than estate taxes, including tax deduction based  
31 on marital status or exemptions from realty transfer tax based on  
32 marital status; (15) laws relating to immunity from compelled  
33 testimony and the marital communication privilege; (16) the home  
34 ownership rights of a surviving spouse; (17) the right of a spouse to  
35 a surname change without petitioning the court; (18) laws relating  
36 to the making of, revoking and objecting to anatomical gifts; (19)  
37 State pay for military service; (20) application for absentee ballots;  
38 (21) legal requirements for assignment of wages; and (22) laws  
39 related to tuition assistance for higher education for surviving  
40 spouses or children.

41 **Licensing requirements.** This bill amends and supplements Title  
42 37 of the Revised Statutes concerning marriage to include civil  
43 unions. Under the provisions of the bill, the same requirements and  
44 restrictions which currently apply to the issuance of a marriage  
45 license would apply to the issuance of a civil union license. For  
46 example, the bill provides that before a civil union can be lawfully  
47 performed in this State, the persons to the proposed civil union must  
48 obtain a civil union license from the licensing officer and deliver it  
49 to the person who is to officiate. The bill would also expand the

1 current prohibitions concerning marriage to include civil unions: (1)  
2 a man could not enter into a civil union with his brother or the son  
3 of his brother or sister or the brother of his father or mother; and (2)  
4 a woman could not enter into a civil union with her sister, the  
5 daughter of her brother or sister, or the sister of her father or  
6 mother.

7 The civil union license would be issued by the licensing officer  
8 in the municipality in which either party resides or, if neither party  
9 is a resident of the State, in the municipality in which the proposed  
10 civil union is to be performed.

11 The civil union license cannot be issued by the local registrar  
12 sooner than 72 hours after the application therefore has been made.  
13 However, the Superior Court may, by order, waive all or any part of  
14 said 72-hour period in cases of emergency, upon satisfactory proof  
15 being shown to it. A civil union license would be valid only for 30  
16 days after the date of the issuance. A civil union licenses can be  
17 issued to a minor provided his parent or guardian consents.

18 The licensing officer before issuing a civil union license would  
19 require the parties to appear before him and to subscribe and swear  
20 to an oath attesting to the truth of the facts with respect to the civil  
21 union. This testimony would be verified by a witness of legal age.  
22 Any person who knowingly provides false answers to any of the  
23 inquiries would be guilty of perjury. The licensing officer shall be  
24 required to set forth: the name, age, birthplace of each party to the  
25 civil union, name and birthplace of their parents, the person or the  
26 religious society who perform the ceremony and the two witnesses  
27 who would be present at the civil union. The civil union license and  
28 the original civil union certificate would be transmitted to the local  
29 registrar. One copy of the civil union certificate shall be retained  
30 by the local registrar and one copy shall be given to each party to a  
31 civil union. The remaining copy shall be retained by the person  
32 certifying the civil union. Any civil union which has occurred or  
33 which may hereafter occur and which is not recorded with the State  
34 Registrar may be recorded by filing a delayed report with the State  
35 Registrar, documented by a copy of the application for the civil  
36 union license.

37 **Fees.** The same \$28.00 fee which is currently required for a  
38 marriage license would be required for a civil union: This consists  
39 of a \$3.00 fee for the license plus an additional fee of \$25 which is  
40 earmarked toward domestic violence shelters.

41 **Officials authorized to perform a civil union.** Those persons  
42 who may currently solemnize marriage may also perform a civil  
43 union: a judge of the United States Court of Appeals for the Third  
44 Circuit, judge of a federal district court, United States magistrate,  
45 judge of a municipal court, judge of the Superior Court, judge of a  
46 tax court, retired judge of the Superior Court or Tax Court, or judge  
47 of the Superior Court or Tax Court, the former County Court, the  
48 former County Juvenile and Domestic Relations Court, or the  
49 former County District Court who has resigned in good standing,

1 surrogate of any county, county clerk and any mayor or the deputy  
2 mayor when authorized by the mayor, or chairman of any township  
3 committee or village president of this State, and every minister of  
4 every religion.

5 **Premarital and Pre-civil union agreements.** The bill amends  
6 the Uniform Premarital Agreement Act, N.J.S.A.37:2-31 et seq. to  
7 include pre-civil union agreements.

8 **Vital Statistics provisions.** This bill would also amend various  
9 provisions in Title 26 of the Revised Statutes concerning the State  
10 Registrar of Vital Statistics and recording, indexing and  
11 transmission of marriage certificates and licenses to include civil  
12 unions.

13 Under the current law, the State Registrar of Vital Statistics is  
14 charged with the general supervision of registration of vital  
15 statistics and as such the State registrar is also in charge of  
16 maintaining and indexing the records pertaining to marriages, death  
17 and births. This bill would expand the duties of the State registrar  
18 by also requiring civil union records to be maintained and indexed  
19 by the State registrar.

20 The local registrar, under the supervision of the State registrar, is  
21 currently charged with the responsibility of coordinating the filing  
22 of the proper licenses and certificates pertaining to marriages and  
23 transmitting the same to the State registrar. This bill would require  
24 the local registrar to also coordinate the filing of civil union  
25 licenses. Under the current provisions of the law, marriage licenses  
26 may be corrected and amended. This bill would require the same  
27 procedures for correcting or amending a civil union license or  
28 certificate.

29 **Dissolution of civil unions, equitable distribution and legal**  
30 **separation of civil union partners.** The dissolution of a civil union  
31 would follow the same procedures and be subject to the same  
32 substantive rights and obligations as are involved in the dissolution  
33 of marriage, including any residency requirements. The bill  
34 provides for the following ground for the dissolution of civil  
35 unions: voluntary sexual intercourse between a person who is in a  
36 civil union and an individual other than the person's civil union  
37 partner; willful and continued desertion for a period of 12 or more  
38 consecutive months, which may be established by satisfactory proof  
39 that the parties have ceased to cohabit as civil union partners;  
40 extreme cruelty; separation for a period of at least 18 or more  
41 consecutive months; voluntarily induced addiction or habituation or  
42 habitual drunkenness for a period of 12 or more consecutive  
43 months; institutionalization for mental illness for a period of 24; or  
44 imprisonment of the defendant for 18 or more consecutive months.

45 The bill would also provide for legal separation from a civil  
46 union partner. The current equitable distribution statute would be  
47 amended to provide for distribution of the property which was  
48 legally and beneficially acquired by the civil union partners or  
49 either of them during the civil union. In addition, the bill provides

1 for alimony and maintenance upon dissolution of a civil union. The  
2 court, upon or after granting a dissolution of the civil union to either  
3 partner, may allow either partner to resume any name used by the  
4 partner before the civil union, or to assume any surname.

5 The Superior Court would have jurisdiction over dissolution of a  
6 civil unions and legal separations from a civil union partner. The  
7 filings fees for an action or proceeding for the dissolution of a civil  
8 union would be the same as those for filing divorce proceedings or  
9 actions

10 **Additional amendatory sections.** This bill would also amend  
11 several sections of the statutory law to include civil unions. Here is  
12 a brief summary of those sections: (1) the “Law Against  
13 Discrimination,” N.J.S.10:5-5 and N.J.S.10:5-12; (2) the definition  
14 of family member under the “Family Leave Act,” N.J.S.34:11B-3;  
15 and (3) the spousal privilege , N.J.S.A. 2A:84A-17.

16 **Existing domestic partnerships.** The bill provides that on or  
17 after the effective date of this act, no domestic partnerships shall be  
18 registered under P.L.2003, c. 246 (C.26:8A-1 et seq.), except that  
19 two persons who are each 62 years of age or older and not of the  
20 same sex may establish a domestic partnership pursuant to the  
21 provisions of P.L.2003, c.246 (C.26:8A-1 et seq.). This bill would  
22 not alter the rights and responsibilities of domestic partnerships  
23 existing on or before the effective date of this act, except that  
24 eligible domestic partners shall be given notice and opportunity to  
25 enter into a civil union pursuant to the provisions of this act. Entry  
26 into a civil union, when joined by both parties to an existing  
27 domestic partnership, shall operate to terminate the domestic  
28 partnership.

29 **Consistency provision.** In an attempt to insure consistency with  
30 regard to all of the provisions in the statutory law concerning  
31 marriage and spouses and the rights and benefits thereof, the bill  
32 provides that whenever in any law, rule, regulation, judicial or  
33 administrative proceeding or otherwise, reference is made to  
34 “marriage,” “husband,” “wife,” “spouse,” “family,” “immediate  
35 family,” “dependent,” “next of kin,” or another word which in a  
36 specific context denotes a marital or spousal relationship, the same  
37 shall include a civil union.

38 **Rule making power.** The bill authorizes the Commissioner of  
39 Health and Senior Services in consultation with the Director of the  
40 Administrative Office of the Courts to adopt rules and regulations  
41 necessary to effectuate the purposes of this act.

42 **Establishes Review commission.** The bill would also establish a  
43 review commission, the New Jersey Civil Union Review  
44 Commission. The commission would be charged with the duty to  
45 study all aspects of the bill including, but not limited to: (1)  
46 evaluate the implementation, operation and effectiveness of the bill;  
47 (2) collect information about the bill’s effectiveness from members  
48 of the public, State agencies and private and public sector  
49 businesses and organizations; (3) determine whether additional

1 protections are needed; (4) collect information about the recognition  
2 and treatment of civil unions by other states and jurisdictions  
3 including the procedures for dissolution; and (5) review the  
4 “Domestic Partnership Act,” N.J.S.A.26:8A-1 et seq. to determine  
5 whether this act should be repealed.

6 The commission would be composed of 13 members which  
7 would include: the Attorney General or his designee, the  
8 Commissioner of the Department of Banking and Insurance or his  
9 designee, the Commissioner of Health and Senior Services or his  
10 designee, the Commissioner of Human Services or his designee, the  
11 Commissioner of the Department of Children and Families or his  
12 designee, the Director of the Division of Civil Rights in the  
13 Department of Law and Public Safety or his designee, one public  
14 member appointed by the President of the Senate, one public member  
15 appointed by the Speaker of the General Assembly, and five public  
16 members appointed by the Governor, with the advise and consent of  
17 the Senate, no more than two who shall be of the same political  
18 party. The commission shall be established for a term of three  
19 years.

20 The commission would report annually its findings and  
21 recommendations to the Legislature and the Governor.

22 **Effective date.** The bill provides for a delayed effective date of  
23 30 days after enactment in order to allow for any anticipatory  
24 administrative action which may be necessary for the  
25 implementation of the bill.