

[First Reprint]

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 reported by the Assembly Judiciary Committee on December 7, 2006, with amendments.



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 guaranteeing
21 in law certain rights and benefits to those individuals who enter into
22 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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted December 7, 2006.

1 providing same-sex couples with the same rights and benefits as
2 heterosexual couples who choose to marry.

3

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

5 ¹ “Civil union couple” means two persons who have established a
6 civil union pursuant to this act.¹

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

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

15 “Commissioner” means the Commissioner of Health and Senior
16 Services.

17 ¹ “Civil union partner” ¹ “One partner in a civil union couple”¹
18 means a person who has established a civil union pursuant to the
19 provisions of this act.

20 ¹ “Party to a civil union” means a person who has established a
21 civil union pursuant to the provisions of this act. ¹

22

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

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

28 b. Be of the same sex ¹ [and therefore be excluded from the
29 marriage laws of this State or any other state]¹;

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

32

33 4. (New section) a. ¹ [Parties to a civil union] Civil union
34 couples¹ shall have all of the same benefits, protections and
35 responsibilities under law, whether they derive from statute,
36 administrative or court rule, public policy, common law or any
37 other source of civil law, as are granted to spouses in a marriage.

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

41 c. The laws of domestic relations, including annulment,
42 premarital agreements, separation, divorce, child custody and
43 support, property division and maintenance, and post-relationship
44 spousal support, shall apply to ¹ [the parties to a civil union] civil
45 union couples¹.

46 d. ¹ [The parties to a civil union] Civil union couples¹ may
47 modify the terms, conditions or effects of their civil union in the
48 same manner and to the same extent as married person who execute

1 an antenuptial agreement or other agreement recognized and
2 enforceable under the law, setting forth particular understandings
3 with respect to their union.

4 e. The rights of ¹['the parties to a civil union] civil union
5 couples¹ with respect to a child of whom either becomes the parent
6 during the term of the civil union, shall be the same as those of a
7 married couple with respect to a child of whom either spouse ¹or
8 partner in a civil union couple¹ becomes the parent during the
9 marriage.

10 f. All contracts made between persons in contemplation of a
11 civil union shall remain in full force after such civil union takes
12 place.

13 g. A copy of the record of the civil union received from the local
14 or State registrar shall be presumptive evidence of the civil union in
15 all courts.

16

17 5. (New section) The following list of legal benefits, protections
18 and responsibilities of spouses shall apply in like manner to ¹['the
19 parties to a] ¹civil union ¹couples¹, but shall not be construed to be
20 an exclusive list of such benefits, protections and responsibilities:

21 a. laws relating to title, tenure, descent and distribution, intestate
22 succession, ¹['waiver of will,']¹ survivorship, or other incidents of
23 the acquisition, ownership or transfer, inter vivos or at death, of real
24 or personal property, including but not limited to eligibility to hold
25 real and personal property as tenants by the entirety;

26 b. causes of action related to or dependent upon spousal status,
27 including an action for wrongful death, emotional distress, loss of
28 consortium, or other torts or actions under contracts reciting, related
29 to, or dependent upon spousal status;

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

31 d. adoption law and procedures;

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

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

36 g. prohibitions against discrimination based upon marital status;

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

39 i. workers' compensation benefits pursuant to chapter 15 of Title
40 34 of the Revised Statutes, including but not limited to survivors'
41 benefits and payment of back wages;

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

47 k. advance directives for health care and designation as a health
48 care representative pursuant to P.L.1991, c.201 (C.26:2H-53 et

- 1 seq.);
- 2 l. family leave benefits pursuant to P.L.1989, c.261 (C.34:11B-1
- 3 et seq.);
- 4 m. public assistance benefits under State law, including, but not
- 5 limited to: Work First New Jersey benefits pursuant to P.L.1997,
- 6 c.38 (C.44:10-55 et seq.); medical assistance pursuant to P.L.1968,
- 7 c.413 (C.30:4D-1 et seq.); Supplemental Security Income pursuant
- 8 to P.L.1973, c.256 (C.44:7-85 et seq.); pharmaceutical assistance
- 9 pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) and P.L.2001, c.96
- 10 (C.30:4D-43 et seq.); hearing aid assistance pursuant to P.L.1987,
- 11 c.298 (C.30:4D-36 et seq.); and utility benefits pursuant to
- 12 P.L.1979, c.197 (C.48:2-29.15 et seq.) and P.L.1981, c.210 (C.48:2-
- 13 29.30 et seq.);
- 14 n. laws relating to taxes imposed by the State or a municipality
- 15 '[other than estate taxes,]' including but not limited to homestead
- 16 rebate tax allowances, tax deductions based on marital status or
- 17 exemptions from realty transfer tax based on marital status;
- 18 o. laws relating to immunity from compelled testimony and the
- 19 marital communication privilege;
- 20 p. the home ownership rights of a surviving spouse;
- 21 q. the right of a spouse to a surname change without petitioning
- 22 the court;
- 23 r. laws relating to the making of, revoking and objecting to
- 24 anatomical gifts pursuant to P.L.1969, c.161 (C.26:6-57 et seq.);
- 25 s. State pay for military service;
- 26 t. application for absentee ballots;
- 27 u. legal requirements for assignment of wages; and
- 28 v. laws related to tuition assistance for higher education for
- 29 surviving spouses or children.

30

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

32 37:1-1. Certain marriages or civil unions prohibited.

33 a. A man shall not marry or enter into a civil union with any of

34 his ancestors or descendants, or his sister or brother, or the

35 daughter or son of his brother or sister, or the sister or brother of his

36 father or mother, whether such collateral kindred be of the whole

37 or half blood.

38 b. A woman shall not marry or enter into a civil union with any

39 of her ancestors or descendants, or her sister or brother, or the

40 daughter or son of her brother or sister, or the sister or brother of

41 her father or mother, whether such collateral kindred be of the

42 whole or half blood.

43 c. A marriage or civil union in violation of any of the foregoing

44 provisions shall be absolutely void.

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

46

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

48 37:1-2. Necessity of marriage or civil union license; "licensing

49 officer" defined.

1 Before a marriage or a civil union can be lawfully performed in
2 this **[state]** State, the persons intending to be married or to enter
3 into a civil union shall obtain a marriage or civil union license from
4 the licensing officer and deliver it to the person who is to officiate,
5 but if the marriage or civil union is to be performed by or before
6 any religious society, institution or organization, the license shall be
7 delivered to such religious society, institution or organization, or
8 any officer thereof.

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

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

14
15 8. R.S.37:1-3 is amended to read as follows:

16 37:1-3. Where marriage or civil union license to be obtained.

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

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

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

23 c. In the municipality in which the proposed marriage is to be
24 performed, if both parties are nonresidents of this state] issued by
25 the licensing officer in the municipality in which either party
26 resides or, if neither party is a resident of the State, in the
27 municipality in which the proposed marriage or civil union is to be
28 performed.

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

30
31 9. R.S.37:1-4 is amended to read as follows:

32 37:1-4. Issuance of marriage or civil union license, emergencies,
33 validity.

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

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

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

46
47 10. R.S.37:1-6 is amended to read as follows:

1 37:1-6. A marriage or civil union license shall not be issued to a
2 minor under the age of 18 years, unless the parents or guardian of
3 the minor, if there be any, first certify under their hands and seals,
4 in the presence of two reputable witnesses, their consent thereto,
5 which consent shall be delivered to the licensing officer issuing the
6 license. If the parents, or either of them, or guardian of any such
7 minor shall be of unsound mind, the consent of such parent or
8 guardian to the proposed marriage or civil union shall not be
9 required.

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

14 The licensing officer shall transmit to the State Bureau of Vital
15 Statistics all such consents, orders, and approvals so received by
16 him in the same manner and subject to the same penalty as in the
17 case of certificates of marriage or civil union and marriage or civil
18 union licenses.

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

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

27

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

29 37:1-7. Issuing of license; remarriage or reaffirming a civil
30 union.

31 The licensing officer is hereby empowered to issue marriage or
32 civil union licenses to the contracting parties who apply therefor
33 and are entitled under the laws of this State to contract matrimony
34 or establish a civil union , authorizing the marriage or civil union
35 of such parties, which license shall be substantially in the
36 following form:

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

38 This is to certify that any person, religious society, institution or
39 organization authorized by law to perform marriage or civil union
40 ceremonies within the State of New Jersey to whom this may come,
41 he or they not knowing any lawful impediment thereto, is hereby
42 authorized and empowered to solemnize the rites of matrimony or
43 the civil union between

44 A B of in the county of and State of and C D
45 of , in the county of and State of , and to certify the
46 same to be the said parties, or either of them, under his hand and
47 seal in his ministerial or official capacity.

1 In testimony whereof, I have hereunto set my hand and affixed
2 the seal of said town, township or city at this day of
3 **[one thousand nine hundred] two thousand and**
4 , (Name and official title)"

5 If the contracting parties desire both a civil and a religious
6 marriage or civil union ceremony, the licensing officer shall issue a
7 license in duplicate, marking one as "issued for civil marriage or
8 civil union ceremony" and one as "issued for religious marriage or
9 civil union ceremony."

10 Nothing in this section shall be construed to prevent the
11 remarriage of a couple already married to each other or to prevent a
12 couple who has entered into a civil union to reaffirm their
13 commitment to one another; provided, a new license is obtained
14 and the marriage or civil union properly reported. Such license
15 shall be plainly marked "Issued for remarriage--originally married
16 to same mate at (state place) on (state date) or Issued for
17 reaffirmation of a civil union—originally entered into a civil union
18 to same mate at (state place) on (state date)." Such a license shall
19 be issued without compliance with the provisions of **[section]**
20 **R.S.37:1-4 [of the Revised Statutes]** and if applicable of the
21 provisions of "An act concerning marriages" approved May third,
22 one thousand nine hundred and thirty-eight (P.L.1938, c.126).
23 ¹**[When such marriage or civil union report is received by the State**
24 **registrar he shall, if an original marriage or civil union certificate is**
25 **recorded, make a notation thereon of the remarriage or**
26 **reaffirmation and its date and place.]¹**

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

28

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

30 37:1-8. Testimony under oath by applicants as to legality of
31 proposed marriage or civil union; witnesses; perjury

32 A licensing officer shall, before issuing a marriage or civil union
33 license, require the contracting parties to appear before him and
34 subscribe and swear to an oath attesting the truth of the facts
35 respecting the legality of the proposed marriage or civil union as set
36 forth in the form supplied by the State ¹**[Bureau of Vital Statistics]**
37 **Registrar¹**. Said testimony shall be verified by a witness of legal
38 age. licensing officer shall issue a license only if it is thus made to
39 appear before him that no legal impediment to the marriage or civil
40 union exists. Every licensing officer may administer oaths to the
41 contracting parties and their identifying witness.

42 Any identifying witness or applicant applying for a marriage or
43 civil union license who shall knowingly make false answers to any
44 of the inquiries asked by the licensing officer shall be guilty of
45 perjury.

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

47

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

1 37:1-11. Illegal issuance of license a **【misdemeanor】** disorderly
2 persons offense.

3 Any licensing officer who issues a marriage or civil union
4 license except as provided in this chapter shall be guilty of a
5 **【misdemeanor】** disorderly persons offense.

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

7
8 14. R.S.37:1-12 is amended to read as follows:

9 37:1-12. Fees; disposition in cities of first class.

10 For issuing a marriage or civil union license, the licensing officer
11 shall be entitled to receive from the applicants the sum of three
12 dollars (\$3.00). **【All fees so received by the city clerk in cities of**
13 **the first class shall be paid into the treasury of such city to be used**
14 **for the relief of its poor.】**

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

16
17 15. Section 1 of P.L.1981, c.382 (C.37:1-12.1) is amended to
18 read as follows:

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

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

25
26 16. Section 2 of P.L.1981, c.382 (C.37:1-12.2) is amended to
27 read as follows:

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

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

46
47 17. R.S.37:1-13 is amended to read as follows:

48 37:1-13 Authorization to solemnize marriages and civil unions.

1 Each judge of the United States Court of Appeals for the Third
2 Circuit, each judge of a federal district court, United States
3 magistrate, judge of a municipal court, judge of the Superior Court,
4 judge of a tax court, retired judge of the Superior Court or Tax
5 Court, or judge of the Superior Court or Tax Court, the former
6 County Court, the former County Juvenile and Domestic Relations
7 Court, or the former County District Court who has resigned in
8 good standing, surrogate of any county, county clerk and any mayor
9 or the deputy mayor when authorized by the mayor, or chairman of
10 any township committee or village president of this State, and every
11 minister of every religion, are hereby authorized to solemnize
12 marriage or civil union between such persons as may lawfully enter
13 into the matrimonial relation or civil union; and every religious
14 society, institution or organization in this State may join together in
15 marriage or civil union such persons according to the rules and
16 customs of the society, institution or organization.
17 (cf: P.L.2001, c.143, s.1)

18

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

20 37:1-15. Solemnizing without presentation of license;
21 **【misdemeanor】** disorderly persons offense .

22 Any person, not authorized by **【section】**R.S.37:1-13 **【of the**
23 **Revised Statutes】** to solemnize marriages or civil unions, who
24 solemnizes a marriage or civil union or any person or religious
25 society, institution or organization, authorized to solemnize
26 marriages or civil unions, who solemnizes a marriage or civil union
27 without the presentation of a license therefor, obtained in
28 accordance with the provisions of article two of this chapter (s.37:1-
29 2 et seq.), shall be guilty of a **【misdemeanor】** disorderly persons
30 offense, and punished by a fine not exceeding five hundred dollars
31 (\$500.00), or imprisonment not exceeding six months, or both.
32 (cf: P.L.1948, c.127, s.1).

33

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

35 37:1-16. Interrogation of applicants under oath; perjury.

36 Any person authorized to solemnize marriages or civil unions
37 may administer oaths to the parties applying to be married or to
38 enter into a civil union, and may require them, or either of them, to
39 make true answers to any inquiries made by him in order to
40 ascertain whether, in his judgment, any legal impediment to the
41 proposed marriage or civil union exists.

42 Any person who willfully makes false answers to any such
43 inquiries shall, if the answers are reduced to writing, signed by the
44 party making the same and attached to the certificate of marriage or
45 civil union, be deemed guilty of perjury pursuant to N.J.S.2C:28-1.
46 (cf: R.S. 37:1-16)

47

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

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

2 On the marriage or civil union license shall be the form for the
3 certificate of marriage or civil union in quadruplicate, to which the
4 licensing officer shall have set forth particularly therein the name,
5 age, parentage, birthplace, residence, Social Security number and
6 **[condition (whether single, widowed or divorced) of each of the**
7 **married persons,] domestic status of each party, whether single,**
8 **widowed, divorced, or a former ¹**[party to a] civil union or**
9 **domestic [partnership] partner**¹ and the names and county of birth
10 of their parents. The Social Security number shall be kept
11 confidential and may only be released for child support enforcement
12 purposes, and shall not be considered a public record pursuant to
13 P.L.1963, c.73 (C.47:1A-1 et seq.). The person by whom or the
14 religious society, institution, or organization by or before which, the
15 marriage or civil union was solemnized, shall personally or by
16 legally authorized agent subscribe where indicated on the form the
17 date and place of the marriage or civil union. Each certificate of
18 marriage or civil union shall also contain the signature and
19 residence of at least two witnesses who were present at the marriage
20 or civil union ceremony.**

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

22

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

25 2. License and certificate of marriage or civil union; transmittal
26 The license and the original certificate shall be transmitted
27 pursuant to R.S.26:8-41. One copy of the certificate shall be
28 retained by the local registrar and one copy shall be given to the
29 persons contracting the marriage or civil union. The remaining copy
30 shall be retained by the person solemnizing the marriage or civil
31 union.

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

33

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

36 37:1-17.2. Delayed reports; filing; contents; affidavits; evidence.

37 Any marriage or civil union which has occurred or which may
38 hereafter occur and which is not recorded with the State Registrar
39 as required by this chapter, may be recorded by filing a delayed
40 report with the State Registrar, documented by a copy of the
41 application for the license. The delayed report shall contain an
42 affidavit of the person performing the marriage or civil union or if
43 he is deceased or not available, of one or both witnesses to the
44 marriage or civil union ceremony confirming that the ceremony was
45 performed and the date and place of the marriage or civil union.

46 When it is impossible to secure the affidavit of the officiant or
47 either of the witnesses, the affidavit may be made by a person who
48 was present at the marriage or civil union ceremony, or the

1 contracting parties, provided additional documentary evidence is
2 presented.

3 The State Registrar may require evidence of the correctness of
4 the information in a delayed report and may refuse to accept a
5 delayed report if the evidence is not submitted.

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

7

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

9 37:1-18. Penalty for false certificate.

10 Any person, religious society, institution or organization
11 authorized to solemnize marriages or civil unions, who makes and
12 false certificate of marriage or civil union, shall be liable to a
13 penalty of **one hundred dollars** \$100.00.

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

15

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

17 37:1-19. Penalty; how recovered.

18 Any penalty incurred under any of the provisions of this article
19 may be recovered with costs, in an action at law by and in the name
20 of the local board of health of the municipality where the marriage
21 or civil union occurred, or by and in the name of the **state**
22 **department of health** Department of Health and Senior Services.

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

24

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

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

29 A licensing officer or other person issuing marriage or civil
30 union licenses shall make information available to applicants
31 concerning places where such applicants may be tested for genetic
32 diseases including, but not limited to Cooley's Anemia, Sickle Cell
33 Anemia, and Tay-Sachs Disease. Literature containing such
34 information which has been prepared and provided by private
35 organizations may be distributed to applicants by a licensing
36 officer or other person issuing marriage or civil union licenses.

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

38

39 26. R.S.37:2-31 is amended to read as follows to read as
40 follows:

41 37. 2-31. This article shall be known and may be cited as the
42 "Uniform Premarital and Pre-Civil Union Agreement Act." Source:
43 New.

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

45

46 27. R.S.37:2-32 is amended to read as follows to read as
47 follows:

48 37:2-32. As used in this article:

1 a. "Premarital or pre-civil union agreement" means an agreement
2 between prospective spouses or partners ¹in a civil union
3 couple¹ made in contemplation of marriage or a civil union and to be
4 effective upon marriage or upon the parties establishing a civil
5 union;

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

9 c. "Unconscionable premarital or pre-civil union agreement"
10 means an agreement, either due to a lack of property or
11 unemployability:

12 (1) Which would render a spouse or partner ¹in a civil union
13 couple¹ without a means of reasonable support;

14 (2) Which would make a spouse or partner ¹in a civil union
15 couple¹ a public charge; or

16 (3) Which would provide a standard of living far below that
17 which was enjoyed before the marriage or civil union.

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

19

20 28. R.S.37:2-33 is amended to read as follows:

21 37:2-33. Formalities; consideration.

22 A premarital or pre-civil union agreement shall be in writing,
23 with a statement of assets annexed thereto, signed by both parties,
24 and it is enforceable without consideration.

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

26

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

28 37:2-34. Contents of premarital or pre-civil union agreement. .

29 Parties to a premarital or pre-civil union agreement may contract
30 with respect to:

31 a. The rights and obligations of each of the parties in any of the
32 property of either or both of them whenever and wherever acquired
33 or located;

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

37 c. The disposition of property upon separation, marital
38 dissolution, dissolution of a civil union, death, or the occurrence or
39 nonoccurrence of any other event;

40 d. The modification or elimination of spousal or ¹[civil union
41 partner] one partner in a civil union couple¹ support;

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

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

46 g. The choice of law governing the construction of the
47 agreement; and

1 h. Any other matter, including their personal rights and
2 obligations, not in violation of public policy.
3 (cf: P.L.1988, c.99, s.1)

4
5 30. R.S.37:2-35 is amended to read as follows:

6 37:2-35. Premarital or pre-civil union agreement not to adversely
7 affect right of child support .

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

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

11
12 31. R.S.37:2-36 is amended to read as follows:

13 37:2-35. When premarital or pre-civil union agreement becomes
14 effective,

15 A premarital or pre-civil union agreement becomes effective
16 upon marriage of the parties or upon the parties establishing a civil
17 union.

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

19
20 32. R.S.37:2-37 is amended to read as follows:

21 37:2-37. Amendment or revocation of premarital or pre-civil
22 union agreement .

23 After marriage of the parties or the parties establishing a civil
24 union, a premarital or pre-civil union agreement may be amended or
25 revoked only by a written agreement signed by the parties, and the
26 amended agreement or revocation is enforceable without
27 consideration.

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

29
30 33. R.S.37:2-38 is amended to read as follows:

31 37:2-38. Enforcement of premarital or pre-civil union agreement;
32 generally.

33 The burden of proof to set aside a premarital or pre-civil union
34 agreement shall be upon the party alleging the agreement to be
35 unenforceable. A premarital or pre-civil union agreement shall not
36 be enforceable if the party seeking to set aside the agreement
37 proves, by clear and convincing evidence, that:

38 a. The party executed the agreement involuntarily; or

39 b. The agreement was unconscionable at the time enforcement
40 was sought; or

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

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

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

47 (3) Did not have, or reasonably could not have had, an adequate
48 knowledge of the property or financial obligations of the other
49 party; or

1 (4) Did not consult with independent legal counsel and did not
2 voluntarily and expressly waive, in writing, the opportunity to
3 consult with independent legal counsel.

4 d. The issue of unconscionability of a premarital or pre-civil
5 union agreement shall be determined by the court as a matter of
6 law.

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

8
9 34. R.S.37:2-39 is amended to read as follows:

10 37:2-39. Enforcement of premarital or pre-civil union agreement;
11 marriage or civil union determined void

12 If a marriage or civil union is determined to be void, an
13 agreement that would otherwise have been a premarital or pre-civil
14 union agreement is enforceable only to the extent necessary to
15 avoid an inequitable result.

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

17
18 35. R.S.37:2-40 is amended to read as follows:

19 37:2-40. Construction of article.

20 'a.' This article shall be construed to effectuate its general
21 purpose to make uniform the law with respect to the subject of the
22 article among states enacting the "Uniform Premarital 'or Pre-
23 Civil Union]' Agreement Act."

24 'b. This article shall be construed to apply to pre-civil union
25 agreements executed on and after the effective date of P.L. .c.
26 (C.)(pending before the Legislature as this bill).'

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

28
29 36. R.S.37:2-41 is amended to read as follows:

30 37:2-41. Application of article.

31 This article shall apply to premarital agreements executed on and
32 after its effective date.

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

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

38
39 37. R.S.26:8-1 is amended to read as follows:

40 26:8-1. As used in this chapter:

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

44 "Vital records" means the birth, death, fetal death, marriage, civil
45 union and domestic partnership records from which vital statistics
46 are produced.

47 "State registrar" means the State registrar of vital statistics;
48 "Local registrar" or "registrar" means the local registrar of vital

1 statistics of any district; and "registration district" or "district"
2 means a registration district as constituted by this article.

3 "Live birth" or "birth" means the complete expulsion or
4 extraction from its mother of a product of conception, irrespective
5 of the duration of pregnancy, which, after such separation, breathes
6 or shows any other evidence of life such as beating of the heart,
7 pulsation of the umbilical cord, or definite movement of voluntary
8 muscles, whether or not the umbilical cord has been cut or the
9 placenta attached.

10 "Authentication" means the entry by the State Medical Examiner
11 or a county medical examiner, funeral director or physician into the
12 New Jersey Electronic Death Registration System of a personal
13 identification code, digital signature or other identifier unique to
14 that user, by which the information entered into the system by the
15 user is authenticated by the user who assumes responsibility for its
16 accuracy. "Authentication" also means the process by which the
17 State registrar or a local registrar, deputy registrar, alternate deputy
18 registrar or subregistrar indicates that person's review and approval
19 of information entered into the system by the State Medical
20 Examiner or a county medical examiner, funeral director or
21 physician.

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

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

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

33

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

35 26:8-4. Duty to furnish information relative to birth, death,
36 marriage, civil union, domestic partnership. Upon demand of the
37 State registrar in person, by mail, by means of the NJ-EDRS, or
38 through the local registrar, every physician, midwife, informant,
39 funeral director, or other person having knowledge of the facts
40 relative to any birth, death, fetal death, marriage, civil union or
41 domestic partnership, shall supply such information as he may
42 possess, upon a form provided by the State registrar, or through the
43 NJ-EDRS, or upon the original birth, death, fetal death, marriage,
44 civil union or domestic partnership certificate or its electronic
45 facsimile or digitized form thereof.

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

47

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

49 26:8-17. The local registrar, immediately upon acceptance of the

1 appointment, shall appoint a deputy to assist in the normal, day-to-
2 day operation of the office and whose duty shall be to act in the
3 registrar's stead in case of absence, disability or death of the
4 registrar. In case of death of the local registrar the deputy shall act
5 as local registrar until a new local registrar has been appointed and
6 qualified.

7 In addition to a deputy registrar, the local registrar may appoint
8 one or two alternate deputy registrars if the local registrar deems
9 such an appointment to be necessary for the office to function
10 efficiently and to provide quality service to the public. The deputy
11 registrar and alternate deputy registrar shall have the authority to
12 receive birth certificates and death certificates; to issue burial
13 permits, and copies of birth, death, marriage, civil union and
14 domestic partnership certificates; to take the oath on marriage and
15 civil union license applications; and to issue marriage and civil
16 union licenses and register domestic partnerships. The deputy
17 registrar and alternate deputy registrar shall receive instructions
18 from and perform their duties under the direct supervision of the
19 registrar, who shall be the final authority with the responsibility of
20 fulfilling the duties of the local registrar outlined in R.S.26:8-25.
21 The deputy registrar and any alternate deputy registrar shall serve at
22 the pleasure of the local registrar.

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

24

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

26 26:8-23. The Department of Health and Senior Services shall
27 have charge of the registration of births, deaths, fetal deaths,
28 marriages, civil unions and domestic partnerships and shall procure
29 the prompt and accurate registration of the same in each registration
30 district and in the department. The department may promulgate any
31 rule or regulation which it deems necessary for the uniform and
32 thorough enforcement of this section.

33 The department may decline permission to examine any record
34 except in the presence of an officer or employee of the department.

35 (cf: P.L.2003, c.246, s.17).

36

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

38 26:8-24. The State registrar shall:

39 a. Have general supervision throughout the State of the
40 registration of vital records;

41 b. Have supervisory power over local registrars, deputy local
42 registrars, alternate deputy local registrars, and subregistrars, in the
43 enforcement of the law relative to the disposal of dead bodies and
44 the registration of vital records;

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

- 1 d. Carefully examine the certificates or electronic files received
2 periodically from the local registrars or originating from their
3 jurisdiction; and, if any are incomplete or unsatisfactory, require
4 such further information to be supplied as may be necessary to
5 make the record complete and satisfactory;
- 6 e. Arrange or bind, and permanently preserve the certificates of
7 vital records, or the information comprising those records, in a
8 systematic manner and in a form that is deemed most consistent
9 with contemporary and developing standards of vital statistical
10 archival record keeping;
- 11 f. Prepare and maintain a comprehensive and continuous index
12 of all vital records registered, the index to be arranged
13 alphabetically;
- 14 1. In the case of deaths, by the name of the decedent;
- 15 2. In the case of births, by the name of child, if given, and if not,
16 then by the name of father or mother;
- 17 3. In the case of marriages, by the surname of the husband and
18 also by the maiden name of the wife;
- 19 4. In the case of civil union, by the surname of each of the parties
20 to the civil union;
- 21 5. In the case of domestic partnerships, by the surname of each
22 of the partners; and
- 23 g. Mark the birth certificate of a missing child when notified by
24 the Missing Persons Unit in the Department of Law and Public
25 Safety pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c);
26 and
- 27 h. Develop and provide to local registrars an education and
28 training program, which the State registrar may require each local
29 registrar to complete as a condition of retaining that position, and
30 which may be offered to deputy local registrars, alternate deputy
31 local registrars and subregistrars at the discretion of the State
32 registrar, that includes material designed to implement the NJ-
33 EDRS and to familiarize local registrars with the statutory
34 requirements applicable to their duties and any rules and regulations
35 adopted pursuant thereto, as deemed appropriate by the State
36 registrar.
37 (cf: P.L.2003, c.246, s.18)
38
- 39 42. R.S.26:8-25 is amended to read as follows:
40 26:8-25. The local registrar, under the supervision and direction
41 of the State registrar, shall:
- 42 a. Strictly and thoroughly enforce the law relative to the
43 disposal of dead bodies and the registration of vital records in his
44 registration district;
- 45 b. Supply blank forms of certificates to such persons as require
46 them;
- 47 c. Supply to every physician, midwife, and funeral director a
48 copy of the law relative to the registration of vital records and the
49 disposal of dead bodies, together with such rules and regulations as

- 1 may be prepared by the State registrar relative to their enforcement;
- 2 d. Sign his name and insert the date of filing on each certificate
3 of birth, marriage, civil union, domestic partnership and death or
4 otherwise authenticate the local registrar's identity through the NJ-
5 EDRS as prescribed by the State registrar;
- 6 e. Examine each certificate of birth, marriage, civil union,
7 domestic partnership or death when presented for record in order to
8 ascertain whether or not it has been made in accordance with law
9 and the instructions of the State registrar; and if incomplete and
10 unsatisfactory, have the same corrected;
- 11 f. At the expense of the municipality make a complete and
12 accurate copy of each birth, marriage, civil union, domestic
13 partnership and death certificate registered by him on a form or in a
14 manner prescribed by the State registrar, to be preserved in his
15 office as the local record or in the NJ-EDRS as prescribed by the
16 State registrar;
- 17 g. On the tenth day of each month or sooner if requested by the
18 department, transmit to the State registrar all original birth,
19 marriage, civil union, domestic partnership and death certificates
20 received by him for the preceding month, except that a record
21 created on the NJ-EDRS as prescribed by the State registrar shall be
22 deemed to have been transmitted. If no births, marriages, civil
23 union, domestic partnerships or deaths occurred in any month, he
24 shall, on or before the tenth day of the following month, report that
25 fact to the State registrar on a card provided for such purpose;
- 26 h. Make an immediate report to the State registrar of any
27 violation of R.S.26:6-1 et seq., R.S.26:8-1 et seq., or R.S.37:1-1 et
28 seq. or P.L. , c. (C.)(pending before the Legislature as this
29 amendatory and supplementary bill) coming to his knowledge;
- 30 i. In the case of any birth in his registration district to parents
31 who are residents of another registration district or of the marriage
32 or civil union in his registration district of any couple who obtained
33 the marriage or civil union license in another registration district, or
34 of the death in his registration district of any person who at the time
35 of death was a resident of another registration district notify the
36 registrar of the other registration district, within five days of the
37 birth, marriage, civil union, or death, on forms prescribed by the
38 State registrar. All entries relating to cause of death on the original
39 certificate shall be entered on the death form sent to the registrar of
40 the other registration district. A record created on the NJ-EDRS as
41 prescribed by the State registrar shall be deemed to have been
42 transmitted to the registrar of the other registration district;
- 43 j. Mark the birth certificate of a missing child born in his
44 registration district when notified by the State registrar pursuant to
45 section 3 of P.L.1995, c.395 (C.52:17B-9.8c); and
- 46 k. Make computer facilities with access to the NJ-EDRS
47 available to funeral directors and physicians registered with the NJ-
48 EDRS, within the regular established business hours of the local
49 registrar, for the purpose of providing information necessary to

1 complete a death record.
2 (cf:P.L.2003, c.246, s.19).

3
4 43. R.S.26:8-27 is amended to read as follows:

5 26:8-27. Inquiries to applicants for marriage or civil union
6 license. The department shall issue to each local registrar and to
7 city clerks of cities of the first class, the form and substance of the
8 several inquiries to be made of applicants for a marriage license or a
9 civil union license and their witnesses for the purpose of
10 ascertaining whether any legal impediment to any proposed
11 marriage or civil union exists.

12 The form shall not contain any inquiries or information which
13 concerns the race of an applicant for a marriage or civil union
14 license.

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

16

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

18 26:8-41. Transmission of marriage and civil union licenses and
19 certificates.

20 Every person or religious society, institution or organization
21 solemnizing a marriage or ¹[performing a] civil union shall,
22 within 5 days thereafter, transmit the certificate of marriage or civil
23 union and the marriage or civil union license to the local registrar of
24 the registration district in which the marriage or civil union occurs
25 or to the clerk of the county board of health.

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

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

31

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

33 26:8-42. The local registrar who receives the certificate of a
34 marriage or the certificate of a civil union within the district under
35 his jurisdiction, the license for which was issued in another
36 registration district, shall, within 5 days after receipt of the marriage
37 or civil union certificate, copy the names of the persons married or
38 the ¹[parties to a civil union]partners in a civil union couple¹; the
39 date of marriage or civil union; the place of marriage or the civil
40 union and the marriage or civil union license number upon a form
41 provided by the State registrar and transmit it by mail to the officer
42 legally designated to receive certificates of marriage or civil union
43 in the registration district in which the license was issued.

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

45

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

47 26:8-43. Transmission of marriage and civil union certificates
48 and licenses to state registrar.

49 Each local registrar and the clerk of the county board of health

1 shall, on or before the tenth of each calendar month, or sooner if
2 requested by the department, transmit by mail, express or
3 messenger to the State registrar in an envelope or package marked
4 "vital statistics" all the certificates of marriages and civil unions,
5 marriage and civil union licenses and consents to the marriage or
6 civil union of minors received by them.

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

8

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

10 26:8-44. The State registrar shall cause all certificates of
11 marriages and civil unions and marriage and civil union licenses
12 received to be alphabetically indexed and shall cause to be
13 transcribed or otherwise recorded from the certificates such of the
14 vital facts appearing thereon as the department may deem necessary
15 or useful.

16 The certificates of marriage and civil union shall be so tabulated
17 as to present in separate and distinct classes the record of each
18 county or registration district of over 5,000 inhabitants, which
19 record shall be preserved as a public record and the original
20 certificates shall be preserved in the archives of the department.

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

22

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

24 26:8-45. Cancellation of records of marriages and civil unions
25 declared void.

26 If a marriage or a civil union has been declared void by the
27 Superior Court in an action instituted for that purpose and the court
28 is satisfied by the proof taken before the final judgment or by
29 affidavit or otherwise after the final judgment that a record of the
30 marriage or civil union is filed with the State registrar, it may order
31 the record to be canceled.

32 It shall not be necessary to make the custodian of the record a
33 party to the cause.

34 The order need only recite that there was a ceremony of marriage
35 or civil union between parties to the cause (naming them),
36 performed on (date) by (naming the officer) and that by a final
37 judgment entered on (date), the marriage or civil union was
38 declared void and may then direct that the said record be canceled.

39 (cf: P.L.1965, c.78, s.63)

40

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

42 26:8-46. Upon presenting a certified copy of said order to the
43 State Registrar, he shall indorse on the return of the marriage or
44 civil union the following words: "This marriage or civil union
45 declared void by the Superior Court. See order hereto annexed" and
46 shall annex the certified copy to the return.

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

48

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

1 26:8-47. Preparation of forms for marriage and civil union
2 licenses, certificates.

3 The department shall cause to be prepared blank forms of
4 certificates of marriages or civil unions and marriage or civil union
5 licenses corresponding to the requirements of R.S.37:1-7 and
6 R.S.37:1-17. The forms, together with such sections of the laws
7 concerning marriages or civil unions and such instructions and
8 explanations thereof as the department may deem useful to persons
9 having duties to perform under such laws shall be printed and
10 supplied upon request therefor to the local registrars and to the city
11 clerks of cities of the first class.

12 All certificates of marriages or civil unions and marriage or civil
13 union licenses shall be written upon the said blanks or blanks
14 approved by the department and shall not contain any inquiries or
15 information which concerns the race of an applicant for a marriage
16 or civil union license.

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

18

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

20 26:8-48. A certificate of birth, fetal death, marriage, civil union,
21 domestic partnership or death heretofore or hereafter filed with the
22 State registrar shall not be altered or changed otherwise than by
23 amendments properly signed, dated and witnessed, or as otherwise
24 recorded and authenticated on the NJ-EDRS as prescribed by the
25 State registrar.

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

27

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

29 26:8-50. Correcting marriage or civil union licenses

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

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

33

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

35 26:8-51. Corrections to marriage, civil union, domestic
36 partnership certificates. Corrections to marriage, civil union or
37 domestic partnership certificates shall be signed by the person who
38 signed the certificate or by any other person having personal
39 knowledge of the matters sought to be corrected which other person
40 shall state such matters on his oath.

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

42

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

44 26:8-55. Any person knowingly submitting a certificate pursuant
45 to this article containing incorrect particulars relating to any birth,
46 marriage, civil union, domestic partnership or death shall be subject
47 to a penalty of not more than \$500, which shall be recovered with
48 costs in a summary proceeding in the name of the department.

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

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

2 26:8-60. Each local registrar shall be entitled to receive from the
3 proper disbursing officer of the municipality or county the sum of
4 \$1 for each marriage, civil union or domestic partnership certificate
5 properly transmitted to the State Registrar.

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

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

11

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

13 26:8-61. Fee for cancellation of marriage or civil union record.

14 The person procuring the cancellation of a marriage or civil
15 union record pursuant to **[sections]**R.S.26:8-45 and R.S.26:8-46
16 **[of this Title]** shall first pay to the State Registrar the sum of \$2.00
17 and the State Registrar shall pay the same over to the State
18 Treasurer. Such fee may be included in the taxable costs in the
19 annulment suit.

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

21

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

23 26:8-62. a. The State registrar or local registrar shall, upon
24 request, supply to a person who establishes himself as one of the
25 following: the subject of the record of a birth, death, fetal death,
26 certificate of birth resulting in stillbirth, domestic partnership, civil
27 union or marriage, as applicable; the subject's parent, legal guardian
28 or other legal representative; the subject's spouse, **'[civil union**
29 **partner]** one partner in a civil union couple¹, child, grandchild or
30 sibling, if of legal age, or the subject's legal representative; an
31 agency of State or federal government for official purposes; a
32 person possessing an order of a court of competent jurisdiction; or a
33 person who is authorized under other emergent circumstances as
34 determined by the commissioner, a certified copy, or release of the
35 data and information of that record registered under the provisions
36 of R.S.26:8-1 et seq., or P.L. , c. (C.)(pending before the
37 Legislature as this bill) or any domestic partnership registered under
38 the provisions of P.L.2003, c.246 (C.26:8A-1 et al.), for any of
39 which, except as provided by R.S.26:8-63, the State registrar shall
40 be entitled to a search fee, if any, as provided by R.S.26:8-64, to be
41 paid by the person. A certification may be issued in other
42 circumstances and shall state that it is for informational purposes
43 only, and is not to be used for identification purposes. The registrar
44 shall authenticate the identity of the requestor and the requestor's
45 relationship with the subject of the vital record. For the purposes of
46 this subsection, any employee of a mortuary registered pursuant to
47 P.L.1952, c.340 (C.45:7-32 et seq.), or a funeral director licensed
48 pursuant to that act who is affiliated with a registered mortuary, if
49 the mortuary was recorded on the original certificate of death, shall

1 be construed to be the subject's legal representative and entitled to
2 obtain full and complete copies of death certificates or certifications
3 thereof.

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

9 c. For each death registration initiated on the NJ-EDRS on or
10 after the first day of the first month following the date of enactment
11 of P.L.2003, c.221 but before the first day of the thirty-seventh
12 month following the date of enactment of P.L.2003, c.221, the State
13 registrar shall be paid a recording fee for each record filed, whether
14 by means of the current paper process or electronically, in an
15 amount to be determined by the State registrar but not exceeding
16 \$10, from the account of the funeral home, which may include this
17 amount in the funeral expenses charged to the estate or person
18 accepting responsibility for the disposition of the deceased's human
19 remains and the costs associated therewith; provided however, this
20 fee shall not apply to the death registration of a person who died
21 while in the military or naval or maritime or merchant marine
22 service of the United States whose death is recorded pursuant to
23 section 1 of P.L.1950, c.299 (C.26:6-5.2). The State registrar shall
24 deposit the proceeds from the recording fee into the New Jersey
25 Electronic Death Registration Support Fund established pursuant to
26 section 17 of P.L.2003, c.221 (C.26:8-24.2).

27 d. Notwithstanding any other provision of this section to the
28 contrary, the Commissioner of Health and Senior Services shall
29 designate specifications for uniform forms for the issuance of all
30 vital records, which shall be used by registrars beginning on a date
31 established by the commissioner. The form designated for certified
32 copies of vital records shall contain safety features for
33 authentication purposes and to deter forgery, and shall be readily
34 distinguishable from the form designated for certifications of vital
35 records. Local registrars may include in the fee for a certified copy
36 the additional cost of the form containing such safety features.

37 The commissioner may issue and enforce orders to implement
38 the provisions of this subsection.

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

40

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

42 26:8-63. The State registrar shall:

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

47 b. Furnish the United States Public Health Service without
48 expense to the State, microfilm or photocopy images of birth,
49 marriage, civil union, domestic partnership, fetal death and death

1 certificates without payment of the fees prescribed in this article;
2 and

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

7 d. Furnish without fee upon request for administrative use by
8 any city, State or Federal agency a certified transcript of any New
9 Jersey State census entry, or a certification or certified copy of a
10 birth, death, fetal death, marriage, civil union or domestic
11 partnership certificate.

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

13

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

15 26:8-64. a. For any 'genealogical' search of the files and records
16 of births, deaths, marriages, civil unions or domestic partnerships
17 when 'information required on the application for a certification or
18 certified copy of a vital record, and' the correct year only is
19 supplied by the applicant, whether or not a certification or a
20 certified copy is made, the State Registrar shall be entitled to a
21 minimum fee of \$4, plus a fee of \$1 for each additional year
22 searched, which fee shall be paid by the applicant, except as
23 provided by R.S.26:8-63. The fee for each additional copy 'of the
24 same record ordered at the same time' shall be \$2.

25 b. '[For all searches of the New Jersey State census records,
26 except as otherwise provided herein, the State Registrar shall be
27 entitled to a fee of \$2 for each address searched in any census
28 year.] 'For any non-genealogical search of the files and records of
29 births, deaths, marriages, civil unions or domestic partnerships
30 when the exact date of the event is supplied, along with all other
31 information required on the application for a certification or
32 certified copy of a vital record, whether or not a certification or
33 certified copy is made, the State Registrar shall be entitled to a
34 minimum fee of \$4, which shall be paid by the applicant, except as
35 provided by R.S.26:8-63. The fee for each additional copy of the
36 same record ordered at the same time shall be \$2.'

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

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

41

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

43 26:8-66. The State registrar either personally or by accredited
44 representative, may investigate any case of irregularity or violation
45 of **[this chapter, or chapter 6 of this Title (s. 26:6-1 et seq.), as well**
46 **as chapter 1 of Title 37 of the Revised Statutes]** R.S.26:6-1 et seq.,
47 R.S.8-1 et seq., R.S.37:1-1 et seq., or P.L. , c. (C.)(pending
48 before the Legislature as this bill, and every local registrar shall aid

1 him in such investigation.

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

3

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

5 26:8-67. Duty of **[prosecutor of the pleas]** county prosecutor.

6 When the State registrar shall deem it necessary, he shall report
7 any violation of any provision of **[this chapter or chapter 6 of this**
8 **Title (s. 26:6-1 et seq.), as well as chapter 1 of Title 37 of the**
9 **Revised Statutes]** R.S.26:6-1 et seq., R.S.26:8-1 et seq., R.S.37:1-1
10 et seq. or P.L. , c. (C.)(pending before the Legislature as this
11 bill), to the county prosecutor **[of the pleas of the proper county]**,
12 with a statement of the facts and circumstances. Upon such report,
13 the county prosecutor **[of the pleas]** shall forthwith institute and
14 prosecute the necessary proceedings for such alleged violation.

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

16

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

18 26:8-68. Upon request of the State registrar, the Attorney
19 General shall assist in the enforcement of the provisions of **[this**
20 **chapter and chapter 6 of this Title (s. 26:6-1 et seq.), as well as**
21 **chapter 1 of Title 37 of the Revised Statutes]** R.S.26:6-1 et seq.,
22 R.S.26:8-1 et seq., R.S.37:1-1 et seq. or P.L. , c. (C.)(pending
23 before the Legislature as this bill), or the State registrar may direct
24 that local registrars institute proceedings or civil actions in the
25 name of the State department. Such a proceeding or action may be
26 instituted in any court of competent jurisdiction.

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

28

29 63. N.J.S.2A:34-1 is amended to read as follows:

30 2A:34-1. Causes for judgments of nullity.

31 (1) Judgments of nullity of marriage may be rendered in all
32 cases, when:

33 a. Either of the parties has another wife ¹ **[or],** ¹ husband ¹ ,
34 partner in a civil union couple or domestic partner¹ living at the time
35 of a second or other marriage;

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

40 c. The parties, or either of them, were at the time of marriage
41 physically and incurably impotent, provided the party making the
42 application shall have been ignorant of such impotency or
43 incapability at the time of the marriage, and has not subsequently
44 ratified the marriage.

45 d. The parties, or either of them, lacked capacity to marry due to
46 want of understanding because of mental condition, or the
47 influence of intoxicants, drugs, or similar agents; or where there
48 was a lack of mutual assent to the marital relationship; duress; or

1 fraud as to the essentials of marriage; and has not subsequently
2 ratified the marriage.

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

7 f. Allowable under the general equity jurisdiction of the
8 Superior Court.

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

11 a. Either of the parties has another wife, husband, '[civil union
12 partner]' partner in a civil union couple¹ or domestic partner living
13 at the time of establishing the new civil union or;

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

19 c. The parties, or either of them, lacked capacity to enter into a
20 civil union due to want of understanding because of mental
21 condition, or the influence of intoxicants, drugs, or similar agents;
22 or where there was a lack of mutual assent to the civil union;
23 duress; or fraud as to the essentials of a civil union; and has not
24 subsequently ratified the civil union.

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

28 e. Allowable under the general equity jurisdiction of the Superior
29 Court.

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

31

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

34 a. voluntary sexual intercourse between a person who is in a
35 civil union and an individual other than the person's '[civil union
36 partner]' partner in a civil union couple¹;

37 b. 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 'in a civil union couple¹;

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

- 1 d. separation, provided that the '[civil union]' partners 'in a
2 civil union couple' have lived separate and apart in different
3 habitations for a period of at least 18 or more consecutive months
4 and there is no reasonable prospect of reconciliation; and provided
5 further that, after the 18-month period, there shall be a presumption
6 that there is no reasonable prospect of reconciliation;
- 7 e. voluntarily induced addiction or habituation to any narcotic
8 drug, as defined in the "New Jersey Controlled Dangerous
9 Substances Act," P.L.1970, c.226 (C.24:21-2) or the
10 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.,
11 or habitual drunkenness for a period of 12 or more consecutive
12 months subsequent to establishment of the civil union and next
13 preceding the filing of the complaint;
- 14 f. institutionalization for mental illness for a period of 24 or
15 more consecutive months subsequent to establishment of the civil
16 union and next preceding the filing of the complaint; or
- 17 g. imprisonment of the defendant for 18 or more consecutive
18 months after establishment of the civil union, provided that where
19 the action is not commenced until after the defendant's release, the
20 parties have not resumed cohabitation following the imprisonment.

21

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

23 2A:34-3. Causes for divorce from bed and board or legal
24 separation from '[civil union partner] partner in a civil union
25 couple'.

26 a. Divorce from bed and board may be adjudged for the same
27 causes as divorce from the bonds of matrimony whenever both
28 parties petition or join in requesting such relief and they or either of
29 them present sufficient proof of such cause or causes to warrant the
30 entry of a judgment of divorce from the bonds of matrimony,
31 provided further that in the case of a reconciliation thereafter the
32 parties may apply for a revocation or suspension of the judgment,
33 and provided further that the granting of a bed and board divorce
34 shall in no way prejudice either party from thereafter applying to
35 the court for a conversion of said divorce to a divorce from the
36 bonds of matrimony, which application shall be granted as a matter
37 of right.

38 b. Legal separation from a '[civil union partner] partner in a
39 civil union couple' may be adjudged for the same causes as
40 dissolution of a civil union whenever both parties petition or join in
41 requesting such relief and they or either of them present sufficient
42 proof of such cause or causes to warrant the entry of a judgment of
43 dissolution of a civil union, provided further that in the case of a
44 reconciliation thereafter the parties may apply for a revocation or
45 suspension of the judgment, and provided further that the granting
46 of a legal separation from a '[civil union partner] partner in a civil
47 union couple' shall in no way prejudice either party from thereafter
48 applying to the court for a conversion of said legal separation from

1 a '[civil union partner] partner in a civil union couple' to a
2 dissolution of a civil union, which application shall be granted as a
3 matter of right.

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

5

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

7 2A:34-6. Divorce from bed and board or legal separation from a
8 civil union; property rights

9 For and during the time that any judgment for divorce from bed
10 and board or legal separation from a '[civil union partner] partner
11 in a civil union couple' shall remain in force and effect all property
12 rights of the parties shall be as though a judgment of absolute
13 divorce or dissolution had been entered.

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

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

19

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

21 2A:34-7. Certain defenses abolished.

22 Recrimination, condonation and the clean hands doctrine are
23 hereby abolished as defenses to divorce from the bonds of
24 matrimony **[or from]** , dissolution of a civil union, divorce from
25 bed and board or legal separation from a '[civil union partner]
26 partner in a civil union couple', and if both parties make out
27 grounds for a divorce, dissolution or legal separation a decree may
28 be granted to each; provided that nothing herein shall preclude or
29 abrogate the responsibility of a party for the penalty provided by
30 law for perjury or the subornation of perjury.

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

32

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

34 2A:34-8. Jurisdiction stated.

35 The Superior Court shall have jurisdiction of all causes of
36 divorce, dissolution of a civil union, bed and board divorce, legal
37 separation from a '[civil union partner] partner in a civil union
38 couple' or nullity when either party is a bona fide resident of this
39 State. The Superior Court shall have jurisdiction of an action for
40 alimony and maintenance when the defendant is subject to the
41 personal jurisdiction of the court, is a resident of this State, or has
42 tangible or intangible real or personal property within the
43 jurisdiction of the court. The Superior Court may afford incidental
44 relief as in other cases of an equitable nature and by rule of court
45 may determine the venue of matrimonial and civil union actions.

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

47

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

1 2A:34-9. Jurisdiction in nullity proceedings or dissolution
2 proceedings; residence requirements; service of process

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

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

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

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

10

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

12 2A:34-10. Jurisdiction in divorce proceedings, dissolution of a
13 civil union, legal separation from a **'[civil union partner]** partner in
14 a civil union couple¹; service of process; residence requirements

15 Jurisdiction in actions for divorce, either absolute or from bed
16 and board, and in actions for dissolution of a civil union or legal
17 separation from a **'[civil union partner]** partner in a civil union
18 couple¹ may be acquired when process is served upon the defendant
19 as prescribed by the rules of the Supreme Court, and

20 1. When, at the time the cause of action arose, either party was a
21 bona fide resident of this State, and has continued so to be down to
22 the time of the commencement of the action; except that no action
23 for absolute divorce or dissolution of a civil union shall be
24 commenced for any cause other than adultery, unless one of the
25 parties has been for the 1 year next preceding the commencement of
26 the action a bona fide resident of this State; or

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

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

31

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

33 2A:34-11. Jurisdiction by acknowledgment of service of process,
34 appearance, etc.

35 In divorce, dissolution and nullity actions, the jurisdiction of the
36 court over the defendant's person for all purposes of the action shall
37 be fully established by the filing of an acknowledgment of service
38 of process, or of an appearance, or of an answer by the defendant
39 pro se, or on his behalf by a duly authorized attorney, in such
40 manner as may be prescribed by rules of the **[supreme court]**
41 Supreme Court.

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

43

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

45 2A:34-12. Counterclaims.

46 Whenever the court shall have acquired jurisdiction of any action
47 under the provisions of this chapter or P.L. ,c. (C.) (pending
48 before the Legislature as this bill), the defendant therein may, by

1 counterclaim, state any cause of action under this chapter or P.L. ,
2 c. (C.)(pending before the Legislature as this bill) which exists
3 at the time of the service of the counterclaim.

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

5

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

7 2A:34-13. Matrimonial or civil union action.

8 A person who has attained the age of 16 years may prosecute or
9 defend any matrimonial or civil union action in person or by
10 attorney.

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

12

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

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

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

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

19

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

21 2A:34-15. Co-respondent in adultery or dissolution of a civil
22 union actions

23 Where a person is named as co-respondent in a charge of
24 adultery or in a charge giving rise to a cause of action for
25 dissolution of a civil union pursuant to subsection a. of section
26 '[53] 64¹ of P.L. , c. (C.)(pending before the Legislature
27 as this bill), the party making the charge shall give the co-
28 respondent written notice of the charge within the time and in the
29 manner prescribed by the rules of the **[supreme court]**Supreme
30 Court.

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

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

34

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

36 2A:34-18. Final judgment; appeal

37 If after the hearing of any cause the court shall determine that the
38 plaintiff or counterclaimant is entitled to a judgment of nullity of
39 marriage or nullity of a civil union or a judgment for divorce from
40 the bonds of matrimony or judgment for dissolution of a civil union,
41 a final judgment shall be entered.

42 Appeals shall be taken only from the final judgment.

43 (cf: P.L.1969, c.82, s.1)

44

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

46 2A:34-21. Surname.

47 The court, upon or after granting a divorce from the bonds of
48 matrimony to either spouse or dissolution of a civil union to either

1 partner 'in a civil union couple', may allow either spouse or partner
2 'in a civil union couple' to resume any name used by the spouse or
3 partner 'in a civil union couple' before the marriage or civil union,
4 or to assume any surname.
5 (cf: P.L.1988,c.153,s.2)

6
7 78. N.J.S.2A:34-23 is amended to read as follows:

8 2A:34-23 Alimony, maintenance.

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

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

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

49 (1) Needs of the child;

- 1 (2) Standard of living and economic circumstances of each
2 parent;
- 3 (3) All sources of income and assets of each parent;
- 4 (4) Earning ability of each parent, including educational
5 background, training, employment skills, work experience,
6 custodial responsibility for children including the cost of providing
7 child care and the length of time and cost of each parent to obtain
8 training or experience for appropriate employment;
- 9 (5) Need and capacity of the child for education, including
10 higher education;
- 11 (6) Age and health of the child and each parent;
- 12 (7) Income, assets and earning ability of the child;
- 13 (8) Responsibility of the parents for the court-ordered support of
14 others;
- 15 (9) Reasonable debts and liabilities of each child and parent; and
16 (10) Any other factors the court may deem relevant.

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

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

33 b. In all actions brought for divorce, dissolution of a civil
34 union, divorce from bed and board, legal separation from a ¹[civil
35 union partner] partner in a civil union couple¹ or nullity the court
36 may award one or more of the following types of alimony:
37 permanent alimony; rehabilitative alimony; limited duration
38 alimony or reimbursement alimony to either party. In so doing the
39 court shall consider, but not be limited to, the following factors:

- 40 (1) The actual need and ability of the parties to pay;
- 41 (2) The duration of the marriage or civil union;
- 42 (3) The age, physical and emotional health of the parties;
- 43 (4) The standard of living established in the marriage or civil
44 union and the likelihood that each party can maintain a reasonably
45 comparable standard of living;
- 46 (5) The earning capacities, educational levels, vocational skills,
47 and employability of the parties;
- 48 (6) The length of absence from the job market of the party
49 seeking maintenance;

1 (7) The parental responsibilities for the children;

2 (8) The time and expense necessary to acquire sufficient
3 education or training to enable the party seeking maintenance to
4 find appropriate employment, the availability of the training and
5 employment, and the opportunity for future acquisitions of capital
6 assets and income;

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

11 (10) The equitable distribution of property ordered and any
12 payouts on equitable distribution, directly or indirectly, out of
13 current income, to the extent this consideration is reasonable, just
14 and fair;

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

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

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

21 When a share of a retirement benefit is treated as an asset for
22 purposes of equitable distribution, the court shall not consider
23 income generated thereafter by that share for purposes of
24 determining alimony.

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

37 An award of alimony for a limited duration may be modified
38 based either upon changed circumstances, or upon the
39 nonoccurrence of circumstances that the court found would occur at
40 the time of the award. The court may modify the amount of such an
41 award, but shall not modify the length of the term except in unusual
42 circumstances.

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

47 d. Rehabilitative alimony shall be awarded based upon a plan
48 in which the payee shows the scope of rehabilitation, the steps to be
49 taken, and the time frame, including a period of employment during

1 which rehabilitation will occur. An award of rehabilitative alimony
2 may be modified based either upon changed circumstances, or upon
3 the nonoccurrence of circumstances that the court found would
4 occur at the time of the rehabilitative award.

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

7 e. Reimbursement alimony may be awarded under
8 circumstances in which one party supported the other through an
9 advanced education, anticipating participation in the fruits of the
10 earning capacity generated by that education.

11 f. Nothing in this section shall be construed to limit the court's
12 authority to award permanent alimony, limited duration alimony,
13 rehabilitative alimony or reimbursement alimony, separately or in
14 any combination, as warranted by the circumstances of the parties
15 and the nature of the case.

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

27 h. In all actions where a judgment of divorce **[or]** , dissolution
28 of civil union, divorce from bed and board or legal separation from
29 a '[civil union partner] partner in a civil union couple' is entered
30 the court may make such award or awards to the parties, in addition
31 to alimony and maintenance, to effectuate an equitable distribution
32 of the property, both real and personal, which was legally and
33 beneficially acquired by them or either of them during the marriage
34 or civil union. However, all such property, real, personal or
35 otherwise, legally or beneficially acquired during the marriage or
36 civil union by either party by way of gift, devise, or intestate
37 succession shall not be subject to equitable distribution, except that
38 interspousal gifts or gifts between '[parties to a civil union]
39 partners in a civil union couple' shall be subject to equitable
40 distribution.

41 (cf: P.L.2005, c.171, s.1)

42

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

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

47 a. Upon filing of a complaint for an action for divorce,
48 dissolution, nullity or separate maintenance, where the custody,

1 visitation or support of a minor child is an issue, the party who has
2 maintained all existing insurance coverage or coverage traditionally
3 maintained during the marriage or civil union, including but not
4 limited to, all health, disability, home or life insurance, shall
5 continue to maintain or continue to share in the cost of maintaining
6 the coverage.

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

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

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

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

20
21 80. ¹[N.J.S.2A:34-23.1]Section 4 of P.L.1988, c.153 (C.2A:34-
22 23.1)¹ is amended to read as follows:

23 ¹[2A:34-23.1 Equitable distribution criteria.]¹

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

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

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

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

30 d. The standard of living established during the marriage or
31 civil union;

32 e. Any written agreement made by the parties before or during
33 the marriage or civil union concerning an arrangement of property
34 distribution;

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

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

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

46 i. The contribution of each party to the acquisition, dissipation,
47 preservation, depreciation or appreciation in the amount or value of
48 the marital property, or the property acquired during the civil union
49 as well as the contribution of a party as a homemaker;

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

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

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

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

23

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

26 1. Court-ordered support, maintenance.

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

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

46

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

1 2A:34-25. If after the judgment of divorce or dissolution a
2 former spouse shall remarry or a former partner shall enter into a
3 new civil union, permanent and limited duration alimony shall
4 terminate as of the date of remarriage or new civil union except that
5 any arrearages that have accrued prior to the date of remarriage or
6 new civil union shall not be vacated or annulled. A former spouse
7 or ¹【civil union partner】 former partner in a civil union couple¹
8 who remarries ¹or enters into a new civil union¹ shall promptly so
9 inform the spouse or partner paying permanent or limited duration
10 alimony as well as the collecting agency, if any. The court may
11 order such alimony recipient who fails to comply with the
12 notification provision of this act to pay any reasonable attorney fees
13 and court costs incurred by the recipient's former spouse or partner
14 as a result of such non-compliance.

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

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

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

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

31

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

33 2A:34-26. Attachment of property.

34 When a spouse or ¹【civil union partner】 one partner in a civil
35 union couple¹ cannot be found within this State to be served with
36 process, the spouse's or partner's estate, property and effects within
37 this State and the rents and profits thereof may be attached to
38 compel the spouse's or partner's appearance and performance of any
39 judgment or order which may be made in the action. Where the
40 proceedings are by process of attachment and the defendant does
41 not appear, the judgment shall be enforceable only out of and
42 against the property attached.

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

44

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

46 22A:2-10. Chancery Division of Superior Court; costs awarded.

47 Upon the completion and determination of the following actions
48 and proceedings in the Chancery Division of the Superior Court, the

1 costs awarded to a party therein for the drawing of papers, including
 2 orders, writs and judgments, shall be as stated below:

3	Plaintiff's costs, foreclosure	\$50 ₀₀
4	Plaintiff's costs, partition	70 ₀₀
5	Plaintiff's and receiver's costs, receivership	125 ₀₀
6	Plaintiff's costs, receivership	62 ₅₀
7	Receiver's costs, receivership	62 ₅₀
8	Plaintiff's costs, divorce, <u>dissolution of civil</u>	
9	<u>union</u> , nullity, custody	30 ₀₀
10	Plaintiff's costs, causes of action for other relief	65 ₀₀
11	Plaintiff's costs, incompetency action	47 ₅₀
12	Plaintiff's costs, sale of lands of infant or incompetent	50 ₀₀
13	Plaintiff's costs, release of dower or curtesy	50 ₀₀
14	Plaintiff's costs, mortgage lands of an infant or	
15	incompetent ...	50 ₀₀
16	Plaintiff's costs, interpleader	35 ₀₀
17	Plaintiff's costs, appointment of tax receiver	27 ₅₀
18	Plaintiff's costs, actions for payment of money	
19	into court; to hold real estate; to limit creditors	22 ₅₀
20	Plaintiff's costs, action for appointment of trustee	
21	or substituted trustee	33 ₅₀
22	Costs on contempt proceedings	25 ₀₀
23	Costs on application to fix dower or curtesy	22 ₅₀
24	Costs on application to pay moneys out of court	23 ₅₀
25	Costs on application for instructions, or to	
26	approve account	30 ₀₀
27	Costs on application for writ of execution	10 ₀₀
28	Costs on application for relief from final judgment	
29	or, in a matrimonial cause from judgment	
30	nisi or order..	20 ₀₀
31	Costs on application for writ of possession	30 ₀₀
32	Costs on application for alimony pendente lite,	
33	attorney fee, suit money	20 ₀₀
34	Defendant's costs where final judgment is taken by him ...	30 ₀₀
35	Defendant's costs where final judgment is not taken by him .	20 ₀₀
36	Costs upon any other litigated or special motion,	
37	subsidiary or interlocutory, not heretofore provided for ...	20 ₀₀
38	(cf: N.J.S.22A:2-10)	

39

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

41 22A:2-12. Payment of fees in Chancery Division of Superior
 42 Court upon filing of first paper. Upon the filing of the first paper in
 43 any action or proceeding in the Chancery Division of the Superior
 44 Court, there shall be paid to the clerk of the court, for the use of the
 45 State, the following fees, which, except as hereinafter provided,
 46 shall constitute the entire fees to be collected by the clerk for the
 47 use of the State, down to the final disposition of the cause:

48 Receivership and partition, \$200.00.

1 All other actions and proceedings except in probate cases and
2 actions and proceedings for divorce or dissolution of a civil union
3 union, \$200.00.

4 Actions and proceedings for divorce or dissolution of civil union,
5 \$250.00, \$25.00 of which shall be forwarded by the Clerk of the
6 Superior Court as provided in section 2 of P.L.1993, c.188
7 (C.52:27D-43.24a).

8 Any person filing a motion in any action or proceeding shall pay
9 to the clerk \$30.00.
10 (cf: P.L.2003, c.117, s.41)

11

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

14 2. Forwarding of filing fee. The Clerk of the Superior Court shall
15 forward \$25.00 of the \$250.00 filing fee for a divorce or a
16 dissolution of a civil union provided for in N.J.S.22A:2-12 on a
17 quarterly basis to the Department of Community Affairs.
18 (cf: P.L.2003, c.117, s.42)

19

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

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

24 a. "Person" includes one or more individuals, partnerships,
25 associations, organizations, labor organizations, corporations, legal
26 representatives, trustees, trustees in bankruptcy, receivers, and
27 fiduciaries.

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

30 c. "Labor organization" includes any organization which exists
31 and is constituted for the purpose, in whole or in part, of collective
32 bargaining, or of dealing with employers concerning grievances,
33 terms or conditions of employment, or of other mutual aid or
34 protection in connection with employment.

35 d. "Unlawful employment practice" and "unlawful
36 discrimination" include only those unlawful practices and acts
37 specified in section 11 of this act.

38 e. "Employer" includes all persons as defined in subsection a.
39 of this section unless otherwise specifically exempt under another
40 section of this act, and includes the State, any political or civil
41 subdivision thereof, and all public officers, agencies, boards or
42 bodies.

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

45 g. "Liability for service in the Armed Forces of the United
46 States" means subject to being ordered as an individual or member
47 of an organized unit into active service in the Armed Forces of the
48 United States by reason of membership in the National Guard, naval
49 militia or a reserve component of the Armed Forces of the United

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

1 whether or not secured by a mortgage, the repayment of which is
2 guaranteed or insured by the federal government or any agency
3 thereof.

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

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

47 p. "Real estate salesperson" includes any person who, for
48 compensation, valuable consideration or commission, or other thing
49 of value, or by reason of a promise or reasonable expectation

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

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

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

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

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

45 u. "Housing accommodation" means any publicly assisted
46 housing accommodation or any real property, or portion thereof,
47 which is used or occupied, or is intended, arranged, or designed to
48 be used or occupied, as the home, residence or sleeping place of one
49 or more persons, but shall not include any single family residence

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

- 1 ee. "Qualified Medicaid applicant" means an individual who is a
2 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 3 ff. "AIDS" means acquired immune deficiency syndrome as
4 defined by the Centers for Disease Control and Prevention of the
5 United States Public Health Service.
- 6 gg. "HIV infection" means infection with the human
7 immunodeficiency virus or any other related virus identified as a
8 probable causative agent of AIDS.
- 9 hh. "Affectional or sexual orientation" means male or female
10 heterosexuality, homosexuality or bisexuality by inclination,
11 practice, identity or expression, having a history thereof or being
12 perceived, presumed or identified by others as having such an
13 orientation.
- 14 ii. "Heterosexuality" means affectional, emotional or physical
15 attraction or behavior which is primarily directed towards persons
16 of the other gender.
- 17 jj. "Homosexuality" means affectional, emotional or physical
18 attraction or behavior which is primarily directed towards persons
19 of the same gender.
- 20 kk. "Bisexuality" means affectional, emotional or physical
21 attraction or behavior which is directed towards persons of either
22 gender.
- 23 ll. "Familial status" means being the natural parent of a child,
24 the adoptive parent of a child, the resource family parent of a child,
25 having a "parent and child relationship" with a child as defined by
26 State law, or having sole or joint legal or physical custody, care,
27 guardianship, or visitation with a child, or any person who is
28 pregnant or is in the process of securing legal custody of any
29 individual who has not attained the age of 18 years.
- 30 mm. "Housing for older persons" means housing:
- 31 (1) provided under any State program that the Attorney General
32 determines is specifically designed and operated to assist elderly
33 persons (as defined in the State program); or provided under any
34 federal program that the United States Department of Housing and
35 Urban Development determines is specifically designed and
36 operated to assist elderly persons (as defined in the federal
37 program); or
- 38 (2) intended for, and solely occupied by persons 62 years of age
39 or older; or
- 40 (3) intended and operated for occupancy by at least one person
41 55 years of age or older per unit. In determining whether housing
42 qualifies as housing for older persons under this subsection, the
43 Attorney General shall adopt regulations which require at least the
44 following factors:
- 45 (a) the existence of significant facilities and services
46 specifically designed to meet the physical or social needs of older
47 persons, or if the provision of such facilities and services is not
48 practicable, that such housing is necessary to provide important
49 housing opportunities for older persons; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 b. For a labor organization, because of the race, creed, color,
42 national origin, ancestry, age, marital status, civil union status,
43 domestic partnership status, affectional or sexual orientation,
44 disability or sex of any individual, or because of the liability for
45 service in the Armed Forces of the United States or nationality of
46 any individual, to exclude or to expel from its membership such
47 individual or to discriminate in any way against any of its members,
48 against any applicant for, or individual included in, any apprentice
49 or other training program or against any employer or any individual

1 employed by an employer; provided, however, that nothing herein
2 contained shall be construed to bar a labor organization from
3 excluding from its apprentice or other training programs any person
4 on the basis of sex in those certain circumstances where sex is a
5 bona fide occupational qualification reasonably necessary to the
6 normal operation of the particular apprentice or other training
7 program.

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

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

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

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

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

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

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

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

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

1 (2) To discriminate against any person or group of persons
2 because of race, creed, color, national origin, ancestry, marital
3 status, civil union status, domestic partnership status, sex,
4 affectional or sexual orientation, familial status, disability,
5 nationality or source of lawful income used for rental or mortgage
6 payments in the terms, conditions or privileges of the sale, rental or
7 lease of any real property or part or portion thereof or in the
8 furnishing of facilities or services in connection therewith;

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

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

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

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

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

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

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

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

47 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
48 to deny to or withhold from any person or group of persons any real
49 property or part or portion thereof because of the source of any

1 lawful income received by the person or the source of any lawful
2 rent payment to be paid for the real property; or

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

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

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

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

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

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

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

1 j. For any person whose activities are included within the
2 scope of this act to refuse to post or display such notices concerning
3 the rights or responsibilities of persons affected by this act as the
4 Attorney General may by regulation require.

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

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

39 m. For any person to:

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

1 spouse, partners, members, stockholders, directors, officers,
2 managers, superintendents, agents, employees, business associates,
3 suppliers, or customers.

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

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

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

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

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

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

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

45

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

48 3. As used in this act:

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

- 1 i. "Family leave" means leave from employment so that the
2 employee may provide care made necessary by reason of:
3 (1) the birth of a child of the employee;
4 (2) the placement of a child with the employee in connection
5 with adoption of such child by the employee; or
6 (3) the serious health condition of a family member of the
7 employee.
- 8 j. "Family member" means a child, parent, [or] ¹ spouse,
9 or ¹ ['civil union partner] one partner in a civil union couple¹.
- 10 k. "Reduced leave schedule" means leave scheduled for fewer
11 than an employee's usual number of hours worked per workweek
12 but not for fewer than an employee's usual number of hours worked
13 per workday, unless agreed to by the employee and the employer.
- 14 l. "Serious health condition" means an illness, injury,
15 impairment, or physical or mental condition which requires:
16 (1) inpatient care in a hospital, hospice, or residential medical
17 care facility; or
18 (2) continuing medical treatment or continuing supervision by a
19 health care provider.
20 (cf: P.L.2004, c.130, s.111).

21
22 90. Section 17 of P.L.1960, c.52 (C.2A:84A-17) is amended to
23 read as follows:

24 2A:84A-17. Privilege of accused

- 25 (1) Every person has in any criminal action in which he is an
26 accused a right not to be called as a witness and not to testify.
- 27 (2) The spouse or ¹ ['civil union partner] one partner in a civil
28 union couple¹ of the accused in a criminal action shall not testify in
29 such action except to prove the fact of marriage or civil union
30 unless (a) such spouse or partner consents, or (b) the accused is
31 charged with an offense against the spouse or partner, a child of the
32 accused or of the spouse or partner, or a child to whom the accused
33 or the spouse or partner stands in the place of a parent, or (c) such
34 spouse or partner is the complainant.
- 35 (3) An accused in a criminal action has no privilege to refuse
36 when ordered by the judge, to submit his body to examination or to
37 do any act in the presence of the judge or the trier of the fact, except
38 to refuse to testify.
39 (cf: P.L.1992, c.142, s.1)

40
41 91. (New section) On or after the effective date of this act, no
42 domestic partnerships shall be registered under P.L.2003, c. 246
43 (C.26:8A-1 et seq.), except that two persons who are each 62 years
44 of age or older ¹ ['and not of the same sex']¹ may establish a
45 domestic partnership pursuant to the provisions of P.L.2003, c.246
46 (C.26:8A-1 et seq.). This act shall not alter the rights and
47 responsibilities of domestic partnerships existing before the
48 effective date of this act, except that eligible domestic partners shall

1 be given notice and opportunity to enter into a civil union pursuant
2 to the provisions of this act. Entry into a civil union, when joined
3 by both parties to an existing domestic partnership, shall operate to
4 terminate the domestic partnership.

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

13
14 93. The Commissioner of Health and Senior Services in
15 consultation with the Director of the Administrative Office of the
16 Courts, pursuant to the "Administrative Procedure Act," P.L.1968,
17 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations
18 necessary to effectuate the purposes of this act. These rules and
19 regulations shall address the issue of how partners in a civil union
20 couple may legally answer questions on forms, governmental and
21 private, concerning their status as partners in a civil union couple.¹

22
23 94. a. There is hereby established the New Jersey Civil Union
24 Review Commission commencing on the effective date of P.L. ,c.
25 (C.) (pending before the Legislature as this bill).

26 b. The commission shall be composed of 13 members to be
27 appointed as follows: the Attorney General or his designee, the
28 Commissioner of the Department of Banking and Insurance or his
29 designee, the Commissioner of Health and Senior Services or his
30 designee, the Commissioner of Human Services or his designee, the
31 Commissioner of the Department of Children and Families or his
32 designee, the Director of the Division of Civil Rights in the
33 Department of Law and Public Safety of his designee, one public
34 member appoint by the President of the Senate, one public member
35 appointed by the Speaker of the General Assembly, and five public
36 members appointed by the Governor, with the advise and consent of
37 the Senate, no more than three who shall be of the same political
38 party.

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

42 (1) evaluate the implementation, operation and effectiveness of
43 the act;

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

47 (3) determine whether additional protections are needed;

1 (4) collect information about the recognition and treatment of
2 civil unions by other states and jurisdictions including the
3 procedures for dissolution; **'[and]'**

4 (5) 'evaluate the effect on same-sex couples, their children and
5 other family members of being provided civil unions rather than
6 marriage;

7 (6) evaluate the financial impact on the State of New Jersey of
8 same-sex couples being provided civil unions rather than marriage;
9 and

10 (7)¹ review the "Domestic Partnership Act," P.L.2003, c.246
11 (C.26:8A-1 et seq.) and make recommendations whether this act
12 should be repealed.

13 d. The commission shall organize as soon as possible after the
14 appointment of its members. The commission shall be established
15 for a term of three years and the members shall be appointed for the
16 full term of three years. Vacancies in the membership of the
17 commission shall be filled in the same manner as the original
18 appointment. The commission members shall choose a Chair from
19 among its members.

20 e. The members of the commission shall serve without
21 compensation, but may be reimbursed for necessary expenses
22 incurred in the performance of their duties, within the limits of
23 funds appropriated or otherwise made available to the commission
24 for its purposes.

25 f. The commission is entitled to the assistance and service of the
26 employees of any State, county or municipal department, board,
27 bureau, commission or agency as it may require and as may be
28 available to it for its purposes, and to employ stenographic and
29 clerical assistance and to incur traveling or other miscellaneous
30 expenses as may be necessary in order to perform its duties, within
31 the limits of funds appropriated or otherwise made available to it
32 for its purposes.

33 g. The commission shall report **'[annually] semi-annually'** its
34 findings and recommendations to the Legislature and the Governor.

35 h. The commission shall expire three years from the date of its
36 initial organizational meeting and upon submission of its **'[third**
37 **and]'** final report.

38
39 '95. (New section) A civil union relationship entered into outside
40 of this State, which is valid under the laws of the jurisdiction under
41 which the civil union relationship was created, shall be valid in this
42 State.'

43
44 **'[95.] 96.'** This act shall take effect on the 30th day after the
45 enactment of this act, but the Commissioner of Health and Senior
46 Services and the Director of the Administrative Office of the Courts
47 may take such anticipatory administrative action in advance as shall
48 be necessary for the implementation of the act.