

Title 37.
Chapter 1.
ARTICLE 6.
CIVIL UNIONS
§§1-5, 92, 95, 93,
94-C.37:1-28 to
37:1-36
§64 - C.2A:34-2.1
§91 - C.26:8A-4.1
§96 - Note

P.L. 2006, CHAPTER 103, *approved December 21, 2006*
Assembly, No. 3787 (*Second Reprint*)

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
17 comprehensive legislation prohibiting discrimination based on
18 affectional or sexual orientation and one of the first states to
19 formally recognize domestic partnerships by enacting the
20 "Domestic Partnership Act," P.L.2003, c.246 (C.26:8A-1 et seq.) on
21 January 12, 2004 thereby guaranteeing in law certain rights and
22 benefits to those individuals who enter into domestic partnerships;
23 d. Those rights and benefits afforded to same-sex couples
24 under the "Domestic Partnership Act" should be expanded by the
25 legal recognition of civil unions between same-sex couples in order
26 to 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

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.

²Assembly floor amendments adopted December 11, 2006.

1 counterparts. The Court stated that the “State can fulfill that
2 constitutional requirement in one of two ways. It can either amend
3 the marriage statutes to include same-sex couples or enact a parallel
4 statutory structure by another name, in which same-sex couples
5 would not only enjoy the rights and benefits, but also bear the
6 burdens and obligations of civil marriage.” *Id.* at 463.

7 f. The Legislature has chosen to establish civil unions by
8 amending the current marriage statute to include same-sex couples.
9 In doing so, the Legislature is continuing its longstanding history of
10 insuring equality under the laws for all New Jersey citizens by
11 providing same-sex couples with the same rights and benefits as
12 heterosexual couples who choose to marry.

13

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

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

17 “Civil union license or civil union certificate” means a document
18 that certifies that the persons named on the license or certificate
19 have established a civil union in this State in compliance with this
20 act.

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

25 “Commissioner” means the Commissioner of Health and Senior
26 Services.

27 ¹ **“Civil union partner”** ¹ “One partner in a civil union couple”¹
28 means a person who has established a civil union pursuant to the
29 provisions of this act.

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

32

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

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

38 b. Be of the same sex ¹ **“and therefore be excluded from the**
39 **marriage laws of this State or any other state”**¹;

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

42

43 4. (New section) a. ¹ **“Parties to a civil union”** Civil union
44 couples¹ shall have all of the same benefits, protections and
45 responsibilities under law, whether they derive from statute,
46 administrative or court rule, public policy, common law or any
47 other source of civil law, as are granted to spouses in a marriage.

- 1 b. The dissolution of civil unions shall follow the same
2 procedures and be subject to the same substantive rights and
3 obligations that are involved in the dissolution of marriage.
- 4 c. The laws of domestic relations, including annulment,
5 premarital agreements, separation, divorce, child custody and
6 support, property division and maintenance, and post-relationship
7 spousal support, shall apply to '[the parties to a civil union]civil
8 union couples'.
- 9 d. '[The parties to a civil union]Civil union couples' may
10 modify the terms, conditions or effects of their civil union in the
11 same manner and to the same extent as married person who execute
12 an antenuptial agreement or other agreement recognized and
13 enforceable under the law, setting forth particular understandings
14 with respect to their union.
- 15 e. The rights of '[the parties to a civil union] civil union
16 couples' with respect to a child of whom either becomes the parent
17 during the term of the civil union, shall be the same as those of a
18 married couple with respect to a child of whom either spouse 'or
19 partner in a civil union couple' becomes the parent during the
20 marriage.
- 21 f. All contracts made between persons in contemplation of a
22 civil union shall remain in full force after such civil union takes
23 place.
- 24 g. A copy of the record of the civil union received from the
25 local or State registrar shall be presumptive evidence of the civil
26 union in all courts.
- 27
- 28 5. (New section) The following list of legal benefits,
29 protections and responsibilities of spouses shall apply in like
30 manner to '[the parties to a]' civil union 'couples', but shall not be
31 construed to be an exclusive list of such benefits, protections and
32 responsibilities:
- 33 a. laws relating to title, tenure, descent and distribution,
34 intestate succession, '[waiver of will,]' survivorship, or other
35 incidents of the acquisition, ownership or transfer, inter vivos or at
36 death, of real or personal property, including but not limited to
37 eligibility to hold real and personal property as tenants by the
38 entirety;
- 39 b. causes of action related to or dependent upon spousal status,
40 including an action for wrongful death, emotional distress, loss of
41 consortium, or other torts or actions under contracts reciting, related
42 to, or dependent upon spousal status;
- 43 c. probate law and procedure, including nonprobate transfer;
- 44 d. adoption law and procedures;
- 45 e. laws relating to insurance, health and pension benefits;

- 1 f. domestic violence protections pursuant to the “Prevention of
2 Domestic Violence Act of 1991,” P.L.1991, c.261 (2C:25-17 et
3 seq.) and domestic violence programs;
- 4 g. prohibitions against discrimination based upon marital
5 status;
- 6 h. victim's compensation benefits, including but not limited to
7 compensation to spouse, children and relatives of homicide victims;
- 8 i. workers' compensation benefits pursuant to chapter 15 of
9 Title 34 of the Revised Statutes, including but not limited to
10 survivors' benefits and payment of back wages;
- 11 j. laws relating to emergency and nonemergency medical care
12 and treatment, hospital visitation and notification, and any rights
13 guaranteed to a hospital patient pursuant to P.L.1989,
14 c.170(C.26:2H-12.7 et seq.) or a nursing home resident pursuant to
15 P.L.1976, c.120 (C.30:13-1 et seq.);
- 16 k. advance directives for health care and designation as a health
17 care representative pursuant to P.L.1991, c.201 (C.26:2H-53 et
18 seq.);
- 19 l. family leave benefits pursuant to P.L.1989, c.261 (C.34:11B-
20 1 et seq.);
- 21 m. public assistance benefits under State law, including, but not
22 limited to: Work First New Jersey benefits pursuant to P.L.1997,
23 c.38 (C.44:10-55 et seq.); medical assistance pursuant to P.L.1968,
24 c.413 (C.30:4D-1 et seq.); Supplemental Security Income pursuant
25 to P.L.1973, c.256 (C.44:7-85 et seq.); pharmaceutical assistance
26 pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) and P.L.2001, c.96
27 (C.30:4D-43 et seq.); hearing aid assistance pursuant to P.L.1987,
28 c.298 (C.30:4D-36 et seq.); and utility benefits pursuant to
29 P.L.1979, c.197 (C.48:2-29.15 et seq.) and P.L.1981, c.210 (C.48:2-
30 29.30 et seq.);
- 31 n. laws relating to taxes imposed by the State or a municipality
32 **['other than estate taxes,']** including but not limited to homestead
33 rebate tax allowances, tax deductions based on marital status or
34 exemptions from realty transfer tax based on marital status;
- 35 o. laws relating to immunity from compelled testimony and the
36 marital communication privilege;
- 37 p. the home ownership rights of a surviving spouse;
- 38 q. the right of a spouse to a surname change without petitioning
39 the court;
- 40 r. laws relating to the making of, revoking and objecting to
41 anatomical gifts pursuant to P.L.1969, c.161 (C.26:6-57 et seq.);
- 42 s. State pay for military service;
- 43 t. application for absentee ballots;
- 44 u. legal requirements for assignment of wages; and
- 45 v. laws related to tuition assistance for higher education for
46 surviving spouses or children.
- 47
- 48 6. R.S.37:1-1 is amended to read as follows:

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

2 a. A man shall not marry or enter into a civil union with any of
3 his ancestors or descendants, or his sister or brother, or the daughter
4 or son of his brother or sister, or the sister or brother of his father or
5 mother, whether such collateral kindred be of the whole or half
6 blood.

7 b. A woman shall not marry or enter into a civil union with any
8 of her ancestors or descendants, or her sister or brother, or the
9 daughter or son of her brother or sister, or the sister or brother of
10 her father or mother, whether such collateral kindred be of the
11 whole or half blood.

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

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

15

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

17 37:1-2. Necessity of marriage or civil union license; "licensing
18 officer" defined.

19 Before a marriage or a civil union can be lawfully performed in
20 this **State**, the persons intending to be married or to enter
21 into a civil union shall obtain a marriage or civil union license from
22 the licensing officer and deliver it to the person who is to officiate,
23 but if the marriage or civil union is to be performed by or before
24 any religious society, institution or organization, the license shall be
25 delivered to such religious society, institution or organization, or
26 any officer thereof.

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

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

32

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

34 37:1-3. Where marriage or civil union license to be obtained.

35 The **licensing officer shall issue the** marriage or civil union
36 license **which** shall be **obtained**:

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

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

41 c. In the municipality in which the proposed marriage is to be
42 performed, if both parties are nonresidents of this state] issued by
43 the licensing officer in the municipality in which either party
44 resides or, if neither party is a resident of the State, in the
45 municipality in which the proposed marriage or civil union is to be
46 performed.

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

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

2 37:1-4. Issuance of marriage or civil union license, emergencies,
3 validity.

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

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

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

16

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

18 37:1-6. A marriage or civil union license shall not be issued to a
19 minor under the age of 18 years, unless the parents or guardian of
20 the minor, if there be any, first certify under their hands and seals,
21 in the presence of two reputable witnesses, their consent thereto,
22 which consent shall be delivered to the licensing officer issuing the
23 license. If the parents, or either of them, or guardian of any such
24 minor shall be of unsound mind, the consent of such parent or
25 guardian to the proposed marriage or civil union shall not be
26 required.

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

31 The licensing officer shall transmit to the State Bureau of Vital
32 Statistics all such consents, orders, and approvals so received by
33 him in the same manner and subject to the same penalty as in the
34 case of certificates of marriage or civil union and marriage or civil
35 union licenses.

36 [If any such male applicant for a license to marry shall be a
37 minor under the age of 18 years, and shall have been arrested on the
38 charge of sexual intercourse with a single, widowed or divorced
39 female of good repute for chastity who has thereby become
40 pregnant, a license to marry the female may be immediately issued
41 by any licensing officer to the minor upon his application therefor,
42 without the consent or approval required by this section.]

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

44

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

46 37:1-7. Issuing of license; remarriage or reaffirming a civil
47 union.

1 The licensing officer is hereby empowered to issue marriage or
 2 civil union licenses to the contracting parties who apply therefor
 3 and are entitled under the laws of this State to contract matrimony
 4 or establish a civil union , authorizing the marriage or civil union
 5 of such parties, which license shall be substantially in the
 6 following form:

7 "State of New Jersey. County of city, town or township of
 8 This is to certify that any person, religious society, institution or
 9 organization authorized by law to perform marriage or civil union
 10 ceremonies within the State of New Jersey to whom this may come,
 11 he or they not knowing any lawful impediment thereto, is hereby
 12 authorized and empowered to solemnize the rites of matrimony or
 13 the civil union between

14 A B of in the county of and State of and
 15 C D of , in the county of and State of , and to
 16 certify the same to be the said parties, or either of them, under his
 17 hand and seal in his ministerial or official capacity.

18 In testimony whereof, I have hereunto set my hand and affixed
 19 the seal of said town, township or city at this day
 20 of **【one thousand nine hundred】** two thousand and
 21 , (Name and official title)"

22 If the contracting parties desire both a civil and a religious
 23 marriage or civil union ceremony, the licensing officer shall issue a
 24 license in duplicate, marking one as "issued for civil marriage or
 25 civil union ceremony" and one as "issued for religious marriage or
 26 civil union ceremony."

27 Nothing in this section shall be construed to prevent the
 28 remarriage of a couple already married to each other or to prevent a
 29 couple who has entered into a civil union to reaffirm their
 30 commitment to one another; provided, a new license is obtained and
 31 the marriage or civil union properly reported. Such license shall be
 32 plainly marked "Issued for remarriage--originally married to same
 33 mate at (state place) on (state date) or Issued for reaffirmation of a
 34 civil union—originally entered into a civil union to same mate at
 35 (state place) on (state date)." Such a license shall be issued without
 36 compliance with the provisions of **【section】** R.S.37:1-4 **【of the**
 37 **Revised Statutes】** and if applicable of the provisions of "An act
 38 concerning marriages" approved May third, one thousand nine
 39 hundred and thirty-eight (P.L.1938, c.126). **‘【When such marriage**
 40 or civil union report is received by the State registrar he shall, if an
 41 original marriage or civil union certificate is recorded, make a
 42 notation thereon of the remarriage or reaffirmation and its date and
 43 place. **】’**

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

45

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

47 37:1-8. Testimony under oath by applicants as to legality of
 48 proposed marriage or civil union; witnesses; perjury

1 A licensing officer shall, before issuing a marriage or civil union
2 license, require the contracting parties to appear before him and
3 subscribe and swear to an oath attesting the truth of the facts
4 respecting the legality of the proposed marriage or civil union as set
5 forth in the form supplied by the State ¹**【Bureau of Vital Statistics】**
6 Registrar¹. Said testimony shall be verified by a witness of legal
7 age. A licensing officer shall issue a license only if it is thus made
8 to appear before him that no legal impediment to the marriage or
9 civil union exists. Every licensing officer may administer oaths to
10 the contracting parties and their identifying witness.

11 Any identifying witness or applicant applying for a marriage or
12 civil union license who shall knowingly make false answers to any
13 of the inquiries asked by the licensing officer shall be guilty of
14 perjury.

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

16

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

18 37:1-11. Illegal issuance of license a **【misdemeanor】** disorderly
19 persons offense.

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

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

24

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

26 37:1-12. Fees; disposition in cities of first class.

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

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

33

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

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

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

42

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

45 2. The Department of Human Services shall establish a trust
46 fund for the deposit of the fees received pursuant to section 1 of
47 **【this act】** of P.L.1981, c.382 (C.37:1-12.1). The moneys from the
48 trust fund shall be used for the specific purpose of establishing and

1 maintaining shelters for the victims of domestic violence, or a. for
2 providing grants-in-aid to such shelters established by local
3 governments or private nonprofit organizations; or b. for providing
4 grants-in-aid to non-residential agencies whose primary purpose is
5 to serve victims of domestic violence in those counties which do not
6 have emergency residential shelters for victims; or c. for providing
7 grants-in-aid to any nonprofit, Statewide coalition whose
8 membership includes a majority of the programs for battered
9 women in New Jersey and whose board membership includes a
10 majority of representatives of these programs and whose purpose is
11 to provide services, community education, and technical assistance
12 to these programs to establish and maintain shelter and related
13 services for victims of domestic violence and their children.
14 (cf: P.L.1992, c.136, s.2).

15

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

17 37:1-13 Authorization to solemnize marriages and civil unions.

18 Each judge of the United States Court of Appeals for the Third
19 Circuit, each judge of a federal district court, United States
20 magistrate, judge of a municipal court, judge of the Superior Court,
21 judge of a tax court, retired judge of the Superior Court or Tax
22 Court, or judge of the Superior Court or Tax Court, the former
23 County Court, the former County Juvenile and Domestic Relations
24 Court, or the former County District Court who has resigned in
25 good standing, surrogate of any county, county clerk and any mayor
26 or the deputy mayor when authorized by the mayor, or chairman of
27 any township committee or village president of this State, and every
28 minister of every religion, are hereby authorized to solemnize
29 marriage or civil union between such persons as may lawfully enter
30 into the matrimonial relation or civil union; and every religious
31 society, institution or organization in this State may join together in
32 marriage or civil union such persons according to the rules and
33 customs of the society, institution or organization.

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

35

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

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

39 Any person, not authorized by **【section】**R.S.37:1-13 **【of the**
40 **Revised Statutes】** to solemnize marriages or civil unions, who
41 solemnizes a marriage or civil union or any person or religious
42 society, institution or organization, authorized to solemnize
43 marriages or civil unions, who solemnizes a marriage or civil union
44 without the presentation of a license therefor, obtained in
45 accordance with the provisions of article two of this chapter (s.37:1-
46 2 et seq.), shall be guilty of a **【misdemeanor】** disorderly persons
47 offense, and punished by a fine not exceeding five hundred dollars

1 (\$500.00), or imprisonment not exceeding six months, or both.
2 (cf: P.L.1948, c.127, s.1).

3

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

5 37:1-16. Interrogation of applicants under oath; perjury.

6 Any person authorized to solemnize marriages or civil unions
7 may administer oaths to the parties applying to be married or to
8 enter into a civil union, and may require them, or either of them, to
9 make true answers to any inquiries made by him in order to
10 ascertain whether, in his judgment, any legal impediment to the
11 proposed marriage or civil union exists.

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

17

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

19 37:1-17. Marriage or civil union license; information provided.

20 On the marriage or civil union license shall be the form for the
21 certificate of marriage or civil union in quadruplicate, to which the
22 licensing officer shall have set forth particularly therein the name,
23 age, parentage, birthplace, residence, Social Security number and
24 **[condition (whether single, widowed or divorced) of each of the**
25 **married persons,]** domestic status of each party, whether single,
26 widowed, divorced, or a former ¹**[party to a]** civil union or
27 domestic [partnership] partner¹ and the names and county of birth
28 of their parents. The Social Security number shall be kept
29 confidential and may only be released for child support enforcement
30 purposes, and shall not be considered a public record pursuant to
31 P.L.1963, c.73 (C.47:1A-1 et seq.). The person by whom or the
32 religious society, institution, or organization by or before which, the
33 marriage or civil union was solemnized, shall personally or by
34 legally authorized agent subscribe where indicated on the form the
35 date and place of the marriage or civil union. Each certificate of
36 marriage or civil union shall also contain the signature and
37 residence of at least two witnesses who were present at the marriage
38 or civil union ceremony.

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

40

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

43 2. License and certificate of marriage or civil union; transmittal

44 The license and the original certificate shall be transmitted
45 pursuant to R.S.26:8-41. One copy of the certificate shall be
46 retained by the local registrar and one copy shall be given to the
47 persons contracting the marriage or civil union. The remaining copy
48 shall be retained by the person solemnizing the marriage or civil

1 union.

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

3

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

6 37:1-17.2. Delayed reports; filing; contents; affidavits; evidence.

7 Any marriage or civil union which has occurred or which may
8 hereafter occur and which is not recorded with the State Registrar
9 as required by this chapter, may be recorded by filing a delayed
10 report with the State Registrar, documented by a copy of the
11 application for the license. The delayed report shall contain an
12 affidavit of the person performing the marriage or civil union or if
13 he is deceased or not available, of one or both witnesses to the
14 marriage or civil union ceremony confirming that the ceremony was
15 performed and the date and place of the marriage or civil union.

16 When it is impossible to secure the affidavit of the officiant or
17 either of the witnesses, the affidavit may be made by a person who
18 was present at the marriage or civil union ceremony, or the
19 contracting parties, provided additional documentary evidence is
20 presented.

21 The State Registrar may require evidence of the correctness of
22 the information in a delayed report and may refuse to accept a
23 delayed report if the evidence is not submitted.

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

25

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

27 37:1-18. Penalty for false certificate.

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

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

33

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

35 37:1-19. Penalty; how recovered.

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

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

42

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

45 37:1-27. Tests; information; distribution by issuer of marriage or
46 civil union licenses.

47 A licensing officer or other person issuing marriage or civil
48 union licenses shall make information available to applicants

1 concerning places where such applicants may be tested for genetic
2 diseases including, but not limited to Cooley's Anemia, Sickle Cell
3 Anemia, and Tay-Sachs Disease. Literature containing such
4 information which has been prepared and provided by private
5 organizations may be distributed to applicants by a licensing officer
6 or other person issuing marriage or civil union licenses.
7 (cf: P.L.1977, c.282, s.1)

8
9 26. R.S.37:2-31 is amended to read as follows to read as
10 follows:

11 37:2-31. This article shall be known and may be cited as the
12 "Uniform Premarital and Pre-Civil Union Agreement Act." Source:
13 New.
14 (cf: P.L.1988, c.99, s.1).

15
16 27. R.S.37:2-32 is amended to read as follows to read as
17 follows:

18 37:2-32. As used in this article:

19 a. "Premarital or pre-civil union agreement" means an
20 agreement between prospective spouses or partners ¹in a civil union
21 couple¹ made in contemplation of marriage or a civil union and to be
22 effective upon marriage or upon the parties establishing a civil
23 union;

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

27 c. "Unconscionable premarital or pre-civil union agreement"
28 means an agreement, either due to a lack of property or
29 unemployability:

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

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

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

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

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

39 37:2-33. Formalities; consideration.

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

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

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

46 37:2-34. Contents of premarital or pre-civil union agreement. .

47 Parties to a premarital or pre-civil union agreement may contract
48 with respect to:

- 1 a. The rights and obligations of each of the parties in any of the
2 property of either or both of them whenever and wherever acquired
3 or located;
- 4 b. The right to buy, sell, use, transfer, exchange, abandon,
5 lease, consume, expend, assign, create a security interest in,
6 mortgage, encumber, dispose of, or otherwise manage and control
7 property;
- 8 c. The disposition of property upon separation, marital
9 dissolution, dissolution of a civil union, death, or the occurrence or
10 nonoccurrence of any other event;
- 11 d. The modification or elimination of spousal or **'[civil union**
12 **partner]** one partner in a civil union couple¹ support;
- 13 e. The making of a will, trust, or other arrangement to carry out
14 the provisions of the agreement;
- 15 f. The ownership rights in and disposition of the death benefit
16 from a life insurance policy;
- 17 g. The choice of law governing the construction of the
18 agreement; and
- 19 h. Any other matter, including their personal rights and
20 obligations, not in violation of public policy.
- 21 (cf: P.L.1988, c.99, s.1)

22

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

24 37:2-35. Premarital or pre-civil union agreement not to adversely
25 affect right of child support .

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

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

29

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

31 37:2-35. When premarital or pre-civil union agreement becomes
32 effective,

33 A premarital or pre-civil union agreement becomes effective
34 upon marriage of the parties or upon the parties establishing a civil
35 union.

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

37

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

39 37:2-37. Amendment or revocation of premarital or pre-civil
40 union agreement .

41 After marriage of the parties or the parties establishing a civil
42 union, a premarital or pre-civil union agreement may be amended or
43 revoked only by a written agreement signed by the parties, and the
44 amended agreement or revocation is enforceable without
45 consideration.

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

47

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

1 37:2-38. Enforcement of premarital or pre-civil union agreement;
2 generally.

3 The burden of proof to set aside a premarital or pre-civil union
4 agreement shall be upon the party alleging the agreement to be
5 unenforceable. A premarital or pre-civil union agreement shall not
6 be enforceable if the party seeking to set aside the agreement
7 proves, by clear and convincing evidence, that:

8 a. The party executed the agreement involuntarily; or

9 b. The agreement was unconscionable at the time enforcement
10 was sought; or

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

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

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

17 (3) Did not have, or reasonably could not have had, an adequate
18 knowledge of the property or financial obligations of the other
19 party; or

20 (4) Did not consult with independent legal counsel and did not
21 voluntarily and expressly waive, in writing, the opportunity to
22 consult with independent legal counsel.

23 d. The issue of unconscionability of a premarital or pre-civil
24 union agreement shall be determined by the court as a matter of
25 law.

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

27

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

29 37:2-39. Enforcement of premarital or pre-civil union agreement;
30 marriage or civil union determined void

31 If a marriage or civil union is determined to be void, an
32 agreement that would otherwise have been a premarital or pre-civil
33 union agreement is enforceable only to the extent necessary to
34 avoid an inequitable result.

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

36

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

38 37:2-40. Construction of article.

39 ¹a.¹ This article shall be construed to effectuate its general
40 purpose to make uniform the law with respect to the subject of the
41 article among states enacting the "Uniform Premarital ¹[or Pre-
42 Civil Union]¹ Agreement Act."

43 ¹b. This article shall be construed to apply to pre-civil union
44 agreements executed on and after the effective date of P.L. ,

45 c. (C.) (pending before the Legislature as this bill).¹

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

47

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

1 37:2-41. Application of article.

2 This article shall apply to premarital agreements executed on and
3 after its effective date.

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

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

9

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

11 26:8-1. As used in this chapter:

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

15 "Vital records" means the birth, death, fetal death, marriage, civil
16 union and domestic partnership records from which vital statistics
17 are produced.

18 "State registrar" means the State registrar of vital statistics;
19 "Local registrar" or "registrar" means the local registrar of vital
20 statistics of any district; and "registration district" or "district"
21 means a registration district as constituted by this article.

22 "Live birth" or "birth" means the complete expulsion or
23 extraction from its mother of a product of conception, irrespective
24 of the duration of pregnancy, which, after such separation, breathes
25 or shows any other evidence of life such as beating of the heart,
26 pulsation of the umbilical cord, or definite movement of voluntary
27 muscles, whether or not the umbilical cord has been cut or the
28 placenta attached.

29 "Authentication" means the entry by the State Medical Examiner
30 or a county medical examiner, funeral director or physician into the
31 New Jersey Electronic Death Registration System of a personal
32 identification code, digital signature or other identifier unique to
33 that user, by which the information entered into the system by the
34 user is authenticated by the user who assumes responsibility for its
35 accuracy. "Authentication" also means the process by which the
36 State registrar or a local registrar, deputy registrar, alternate deputy
37 registrar or subregistrar indicates that person's review and approval
38 of information entered into the system by the State Medical
39 Examiner or a county medical examiner, funeral director or
40 physician.

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

47 "New Jersey Electronic Death Registration System" or "NJ-
48 EDRS" is an electronic registration system for completing a

1 certification of death or fetal death record that is authorized,
2 designed and maintained by the State registrar.

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

4

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

6 26:8-4. Duty to furnish information relative to birth, death,
7 marriage, civil union, domestic partnership. Upon demand of the
8 State registrar in person, by mail, by means of the NJ-EDRS, or
9 through the local registrar, every physician, midwife, informant,
10 funeral director, or other person having knowledge of the facts
11 relative to any birth, death, fetal death, marriage, civil union or
12 domestic partnership, shall supply such information as he may
13 possess, upon a form provided by the State registrar, or through the
14 NJ-EDRS, or upon the original birth, death, fetal death, marriage,
15 civil union or domestic partnership certificate or its electronic
16 facsimile or digitized form thereof.

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

18

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

20 26:8-17. The local registrar, immediately upon acceptance of the
21 appointment, shall appoint a deputy to assist in the normal, day-to-
22 day operation of the office and whose duty shall be to act in the
23 registrar's stead in case of absence, disability or death of the
24 registrar. In case of death of the local registrar the deputy shall act
25 as local registrar until a new local registrar has been appointed and
26 qualified.

27 In addition to a deputy registrar, the local registrar may appoint
28 one or two alternate deputy registrars if the local registrar deems
29 such an appointment to be necessary for the office to function
30 efficiently and to provide quality service to the public. The deputy
31 registrar and alternate deputy registrar shall have the authority to
32 receive birth certificates and death certificates; to issue burial
33 permits, and copies of birth, death, marriage, civil union and
34 domestic partnership certificates; to take the oath on marriage and
35 civil union license applications; and to issue marriage and civil
36 union licenses and register domestic partnerships. The deputy
37 registrar and alternate deputy registrar shall receive instructions
38 from and perform their duties under the direct supervision of the
39 registrar, who shall be the final authority with the responsibility of
40 fulfilling the duties of the local registrar outlined in R.S.26:8-25.
41 The deputy registrar and any alternate deputy registrar shall serve at
42 the pleasure of the local registrar.

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

44

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

46 26:8-23. The Department of Health and Senior Services shall
47 have charge of the registration of births, deaths, fetal deaths,
48 marriages, civil unions and domestic partnerships and shall procure

1 the prompt and accurate registration of the same in each registration
2 district and in the department. The department may promulgate any
3 rule or regulation which it deems necessary for the uniform and
4 thorough enforcement of this section.

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

8

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

10 26:8-24. The State registrar shall:

11 a. Have general supervision throughout the State of the
12 registration of vital records;

13 b. Have supervisory power over local registrars, deputy local
14 registrars, alternate deputy local registrars, and subregistrars, in the
15 enforcement of the law relative to the disposal of dead bodies and
16 the registration of vital records;

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

22 d. Carefully examine the certificates or electronic files received
23 periodically from the local registrars or originating from their
24 jurisdiction; and, if any are incomplete or unsatisfactory, require
25 such further information to be supplied as may be necessary to
26 make the record complete and satisfactory;

27 e. Arrange or bind, and permanently preserve the certificates of
28 vital records, or the information comprising those records, in a
29 systematic manner and in a form that is deemed most consistent
30 with contemporary and developing standards of vital statistical
31 archival record keeping;

32 f. Prepare and maintain a comprehensive and continuous index
33 of all vital records registered, the index to be arranged
34 alphabetically;

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

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

38 3. In the case of marriages, by the surname of the husband and
39 also by the maiden name of the wife;

40 4. In the case of civil union, by the surname of each of the
41 parties to the civil union;

42 5. In the case of domestic partnerships, by the surname of each
43 of the partners; and

44 g. Mark the birth certificate of a missing child when notified by
45 the Missing Persons Unit in the Department of Law and Public
46 Safety pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c);
47 and

48 h. Develop and provide to local registrars an education and

1 training program, which the State registrar may require each local
2 registrar to complete as a condition of retaining that position, and
3 which may be offered to deputy local registrars, alternate deputy
4 local registrars and subregistrars at the discretion of the State
5 registrar, that includes material designed to implement the NJ-
6 EDRS and to familiarize local registrars with the statutory
7 requirements applicable to their duties and any rules and regulations
8 adopted pursuant thereto, as deemed appropriate by the State
9 registrar.
10 (cf: P.L.2003, c.246, s.18)

11

12 42. R.S.26:8-25 is amended to read as follows:

13 26:8-25. The local registrar, under the supervision and direction
14 of the State registrar, shall:

15 a. Strictly and thoroughly enforce the law relative to the
16 disposal of dead bodies and the registration of vital records in his
17 registration district;

18 b. Supply blank forms of certificates to such persons as require
19 them;

20 c. Supply to every physician, midwife, and funeral director a
21 copy of the law relative to the registration of vital records and the
22 disposal of dead bodies, together with such rules and regulations as
23 may be prepared by the State registrar relative to their enforcement;

24 d. Sign his name and insert the date of filing on each certificate
25 of birth, marriage, civil union, domestic partnership and death or
26 otherwise authenticate the local registrar's identity through the NJ-
27 EDRS as prescribed by the State registrar;

28 e. Examine each certificate of birth, marriage, civil union,
29 domestic partnership or death when presented for record in order to
30 ascertain whether or not it has been made in accordance with law
31 and the instructions of the State registrar; and if incomplete and
32 unsatisfactory, have the same corrected;

33 f. At the expense of the municipality make a complete and
34 accurate copy of each birth, marriage, civil union, domestic
35 partnership and death certificate registered by him on a form or in a
36 manner prescribed by the State registrar, to be preserved in his
37 office as the local record or in the NJ-EDRS as prescribed by the
38 State registrar;

39 g. On the tenth day of each month or sooner if requested by the
40 department, transmit to the State registrar all original birth,
41 marriage, civil union, domestic partnership and death certificates
42 received by him for the preceding month, except that a record
43 created on the NJ-EDRS as prescribed by the State registrar shall be
44 deemed to have been transmitted. If no births, marriages, civil
45 union, domestic partnerships or deaths occurred in any month, he
46 shall, on or before the tenth day of the following month, report that
47 fact to the State registrar on a card provided for such purpose;

48 h. Make an immediate report to the State registrar of any

1 violation of R.S.26:6-1 et seq., R.S.26:8-1 et seq., or R.S.37:1-1 et
2 seq. or P.L. , c. (C.)(pending before the Legislature as this
3 amendatory and supplementary bill) coming to his knowledge;

4 i. In the case of any birth in his registration district to parents
5 who are residents of another registration district or of the marriage
6 or civil union in his registration district of any couple who obtained
7 the marriage or civil union license in another registration district, or
8 of the death in his registration district of any person who at the time
9 of death was a resident of another registration district notify the
10 registrar of the other registration district, within five days of the
11 birth, marriage, civil union, or death, on forms prescribed by the
12 State registrar. All entries relating to cause of death on the original
13 certificate shall be entered on the death form sent to the registrar of
14 the other registration district. A record created on the NJ-EDRS as
15 prescribed by the State registrar shall be deemed to have been
16 transmitted to the registrar of the other registration district;

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

20 k. Make computer facilities with access to the NJ-EDRS
21 available to funeral directors and physicians registered with the NJ-
22 EDRS, within the regular established business hours of the local
23 registrar, for the purpose of providing information necessary to
24 complete a death record.

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

26

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

28 26:8-27. Inquiries to applicants for marriage or civil union
29 license. The department shall issue to each local registrar and to
30 city clerks of cities of the first class, the form and substance of the
31 several inquiries to be made of applicants for a marriage license or a
32 civil union license and their witnesses for the purpose of
33 ascertaining whether any legal impediment to any proposed
34 marriage or civil union exists.

35 The form shall not contain any inquiries or information which
36 concerns the race of an applicant for a marriage or civil union
37 license.

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

39

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

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

43 Every person or religious society, institution or organization
44 solemnizing a marriage or '【performing a】' civil union shall,
45 within 5 days thereafter, transmit the certificate of marriage or civil
46 union and the marriage or civil union license to the local registrar of
47 the registration district in which the marriage or civil union occurs
48 or to the clerk of the county board of health.

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

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

6

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

8 26:8-42. The local registrar who receives the certificate of a
9 marriage or the certificate of a civil union within the district under
10 his jurisdiction, the license for which was issued in another
11 registration district, shall, within 5 days after receipt of the marriage
12 or civil union certificate, copy the names of the persons married or
13 the '[parties to a civil union]partners in a civil union couple'; the
14 date of marriage or civil union; the place of marriage or the civil
15 union and the marriage or civil union license number upon a form
16 provided by the State registrar and transmit it by mail to the officer
17 legally designated to receive certificates of marriage or civil union
18 in the registration district in which the license was issued.

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

20

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

22 26:8-43. Transmission of marriage and civil union certificates
23 and licenses to state registrar.

24 Each local registrar and the clerk of the county board of health
25 shall, on or before the tenth of each calendar month, or sooner if
26 requested by the department, transmit by mail, express or
27 messenger to the State registrar in an envelope or package marked
28 "vital statistics" all the certificates of marriages and civil unions,
29 marriage and civil union licenses and consents to the marriage or
30 civil union of minors received by them.

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

32

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

34 26:8-44. The State registrar shall cause all certificates of
35 marriages and civil unions and marriage and civil union licenses
36 received to be alphabetically indexed and shall cause to be
37 transcribed or otherwise recorded from the certificates such of the
38 vital facts appearing thereon as the department may deem necessary
39 or useful.

40 The certificates of marriage and civil union shall be so tabulated
41 as to present in separate and distinct classes the record of each
42 county or registration district of over 5,000 inhabitants, which
43 record shall be preserved as a public record and the original
44 certificates shall be preserved in the archives of the department.

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

46

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

48 26:8-45. Cancellation of records of marriages and civil unions

1 declared void.

2 If a marriage or a civil union has been declared void by the
3 Superior Court in an action instituted for that purpose and the court
4 is satisfied by the proof taken before the final judgment or by
5 affidavit or otherwise after the final judgment that a record of the
6 marriage or civil union is filed with the State registrar, it may order
7 the record to be canceled.

8 It shall not be necessary to make the custodian of the record a
9 party to the cause.

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

16

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

18 26:8-46. Upon presenting a certified copy of said order to the
19 State Registrar, he shall indorse on the return of the marriage or
20 civil union the following words: "This marriage or civil union
21 declared void by the Superior Court. See order hereto annexed" and
22 shall annex the certified copy to the return.
23 (cf: P.L.1953, c.26, p.483, s.59)

24

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

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

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

37 All certificates of marriages or civil unions and marriage or civil
38 union licenses shall be written upon the said blanks or blanks
39 approved by the department and shall not contain any inquiries or
40 information which concerns the race of an applicant for a marriage
41 or civil union license.

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

43

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

45 26:8-48. A certificate of birth, fetal death, marriage, civil union,
46 domestic partnership or death heretofore or hereafter filed with the
47 State registrar shall not be altered or changed otherwise than by
48 amendments properly signed, dated and witnessed, or as otherwise

1 recorded and authenticated on the NJ-EDRS as prescribed by the
2 State registrar.

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

4

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

6 26:8-50. Correcting marriage or civil union licenses

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

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

10

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

12 26:8-51. Corrections to marriage, civil union, domestic
13 partnership certificates. Corrections to marriage, civil union or
14 domestic partnership certificates shall be signed by the person who
15 signed the certificate or by any other person having personal
16 knowledge of the matters sought to be corrected which other person
17 shall state such matters on his oath.

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

19

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

21 26:8-55. Any person knowingly submitting a certificate pursuant
22 to this article containing incorrect particulars relating to any birth,
23 marriage, civil union, domestic partnership or death shall be subject
24 to a penalty of not more than \$500, which shall be recovered with
25 costs in a summary proceeding in the name of the department.

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

27

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

29 26:8-60. Each local registrar shall be entitled to receive from the
30 proper disbursing officer of the municipality or county the sum of
31 \$1 for each marriage, civil union or domestic partnership certificate
32 properly transmitted to the State Registrar.

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

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

38

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

40 26:8-61. Fee for cancellation of marriage or civil union record.

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

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

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

2 26:8-62. a. The State registrar or local registrar shall, upon
3 request, supply to a person who establishes himself as one of the
4 following: the subject of the record of a birth, death, fetal death,
5 certificate of birth resulting in stillbirth, domestic partnership, civil
6 union or marriage, as applicable; the subject's parent, legal guardian
7 or other legal representative; the subject's spouse, '[civil union
8 partner] one partner in a civil union couple¹, child, grandchild or
9 sibling, if of legal age, or the subject's legal representative; an
10 agency of State or federal government for official purposes; a
11 person possessing an order of a court of competent jurisdiction; or a
12 person who is authorized under other emergent circumstances as
13 determined by the commissioner, a certified copy, or release of the
14 data and information of that record registered under the provisions
15 of R.S.26:8-1 et seq., or P.L. _____, c. (C. _____)(pending before the
16 Legislature as this bill) or any domestic partnership registered under
17 the provisions of P.L.2003, c.246 (C.26:8A-1 et al.), for any of
18 which, except as provided by R.S.26:8-63, the State registrar shall
19 be entitled to a search fee, if any, as provided by R.S.26:8-64, to be
20 paid by the person. A certification may be issued in other
21 circumstances and shall state that it is for informational purposes
22 only, and is not to be used for identification purposes. The registrar
23 shall authenticate the identity of the requestor and the requestor's
24 relationship with the subject of the vital record. For the purposes of
25 this subsection, any employee of a mortuary registered pursuant to
26 P.L.1952, c.340 (C.45:7-32 et seq.), or a funeral director licensed
27 pursuant to that act who is affiliated with a registered mortuary, if
28 the mortuary was recorded on the original certificate of death, shall
29 be construed to be the subject's legal representative and entitled to
30 obtain full and complete copies of death certificates or certifications
31 thereof.

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

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

1 while in the military or naval or maritime or merchant marine
2 service of the United States whose death is recorded pursuant to
3 section 1 of P.L.1950, c.299 (C.26:6-5.2). The State registrar shall
4 deposit the proceeds from the recording fee into the New Jersey
5 Electronic Death Registration Support Fund established pursuant to
6 section 17 of P.L.2003, c.221 (C.26:8-24.2).

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

17 The commissioner may issue and enforce orders to implement
18 the provisions of this subsection.

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

20
21 58. R.S.26:8-63 is amended to read as follows:

22 26:8-63. The State registrar shall:

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

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

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

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

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

42
43 59. R.S.26:8-64 is amended to read as follows:

44 26:8-64. a. For any 'genealogical'¹ search of the files and records
45 of births, deaths, marriages, civil unions or domestic partnerships
46 when 'information required on the application for a certification or
47 certified copy of a vital record, and'¹ the correct year only is
48 supplied by the applicant, whether or not a certification or a

1 certified copy is made, the State Registrar shall be entitled to a
2 minimum fee of \$4, plus a fee of \$1 for each additional year
3 searched, which fee shall be paid by the applicant, except as
4 provided by R.S.26:8-63. The fee for each additional copy ¹of the
5 same record ordered at the same time¹ shall be \$2.

6 b. ¹~~For all searches of the New Jersey State census records,~~
7 ~~except as otherwise provided herein, the State Registrar shall be~~
8 ~~entitled to a fee of \$2 for each address searched in any census~~
9 ~~year.] ¹For any non-genealogical search of the files and records of
10 births, deaths, marriages, civil unions or domestic partnerships
11 when the exact date of the event is supplied, along with all other
12 information required on the application for a certification or
13 certified copy of a vital record, whether or not a certification or
14 certified copy is made, the State Registrar shall be entitled to a
15 minimum fee of \$4, which shall be paid by the applicant, except as
16 provided by R.S.26:8-63. The fee for each additional copy of the
17 same record ordered at the same time shall be \$2.¹~~

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

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

22

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

24 26:8-66. The State registrar either personally or by accredited
25 representative, may investigate any case of irregularity or violation
26 of ~~this chapter, or chapter 6 of this Title (s. 26:6-1 et seq.), as well~~
27 ~~as chapter 1 of Title 37 of the Revised Statutes] R.S.26:6-1 et seq.,~~
28 ~~R.S.8-1 et seq., R.S.37:1-1 et seq., or P.L. , c. (C.) (pending~~
29 ~~before the Legislature as this bill, and every local registrar shall aid~~
30 ~~him in such investigation.~~

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

32

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

34 26:8-67. Duty of ~~prosecutor of the pleas] county prosecutor.~~

35 When the State registrar shall deem it necessary, he shall report
36 any violation of any provision of ~~this chapter or chapter 6 of this~~
37 ~~Title (s. 26:6-1 et seq.), as well as chapter 1 of Title 37 of the~~
38 ~~Revised Statutes] R.S.26:6-1 et seq., R.S.26:8-1 et seq., R.S.37:1-1~~
39 ~~et seq. or P.L. , c. (C.) (pending before the Legislature as this~~
40 ~~bill), to the county prosecutor [of the pleas of the proper county],~~
41 ~~with a statement of the facts and circumstances. Upon such report,~~
42 ~~the county prosecutor [of the pleas] shall forthwith institute and~~
43 ~~prosecute the necessary proceedings for such alleged violation.~~

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

45

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

47 26:8-68. Upon request of the State registrar, the Attorney

1 General shall assist in the enforcement of the provisions of [this
2 chapter and chapter 6 of this Title (s. 26:6-1 et seq.), as well as
3 chapter 1 of Title 37 of the Revised Statutes] R.S.26:6-1 et seq.,
4 R.S.26:8-1 et seq., R.S.37:1-1 et seq. or P.L. _____, c. (C. _____)
5 (pending before the Legislature as this bill), or the State registrar
6 may direct that local registrars institute proceedings or civil actions
7 in the name of the State department. Such a proceeding or action
8 may be instituted in any court of competent jurisdiction.
9 (cf: P.L.1965, c.78, s.77)

10

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

12 2A:34-1. Causes for judgments of nullity.

13 (1) Judgments of nullity of marriage may be rendered in all
14 cases, when:15 a. Either of the parties has another wife ¹[or],¹ husband ¹,
16 partner in a civil union couple or domestic partner¹ living at the time
17 of a second or other marriage;18 b. The parties are within the degrees prohibited by law. If any
19 such marriage shall not have been annulled during the lifetime of
20 the parties the validity thereof shall not be inquired into after the
21 death of either party.22 c. The parties, or either of them, were at the time of marriage
23 physically and incurably impotent, provided the party making the
24 application shall have been ignorant of such impotency or
25 incapability at the time of the marriage, and has not subsequently
26 ratified the marriage.27 d. The parties, or either of them, lacked capacity to marry due
28 to want of understanding because of mental condition, or the
29 influence of intoxicants, drugs, or similar agents; or where there
30 was a lack of mutual assent to the marital relationship; duress; or
31 fraud as to the essentials of marriage; and has not subsequently
32 ratified the marriage.33 e. The demand for such a judgment is by the wife or husband
34 who was under the age of 18 years at the time of the marriage,
35 unless such marriage be confirmed by her or him after arriving at
36 such age.37 f. Allowable under the general equity jurisdiction of the
38 Superior Court.39 (2) Judgments of nullity of a civil union may be rendered in all
40 cases, when:41 a. Either of the parties has another wife, husband, ¹[civil union
42 partner] partner in a civil union couple¹ or domestic partner living
43 at the time of establishing the new civil union or;44 b. The parties are within the degrees prohibited by the law
45 from entering into a marriage or establishing a civil union or
46 domestic partnership. If any such civil union shall not have been
47 annulled during the lifetime of the parties the validity thereof shall
48 not be inquired into after the death of either party.

1 c. The parties, or either of them, lacked capacity to enter into a
2 civil union due to want of understanding because of mental
3 condition, or the influence of intoxicants, drugs, or similar agents;
4 or where there was a lack of mutual assent to the civil union;
5 duress; or fraud as to the essentials of a civil union; and has not
6 subsequently ratified the civil union.

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

10 e. Allowable under the general equity jurisdiction of the
11 Superior Court.

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

13
14 64. (New section). The dissolution of a civil union may be
15 adjudged for the following causes:

16 a. voluntary sexual intercourse between a person who is in a
17 civil union and an individual other than the person's ¹['civil union
18 partner'] partner in a civil union couple¹;

19 b. willful and continued desertion for a period of 12 or more
20 consecutive months, which may be established by satisfactory proof
21 that the parties have ceased to cohabit as ¹['civil union']¹ partners
22 'in a civil union couple¹;

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

30 d. separation, provided that the ¹['civil union']¹ partners ¹'in a
31 civil union couple¹ have lived separate and apart in different
32 habitations for a period of at least 18 or more consecutive months
33 and there is no reasonable prospect of reconciliation; and provided
34 further that, after the 18-month period, there shall be a presumption
35 that there is no reasonable prospect of reconciliation;

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

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

46 g. imprisonment of the defendant for 18 or more consecutive
47 months after establishment of the civil union, provided that where
48 the action is not commenced until after the defendant's release, the

1 parties have not resumed cohabitation following the imprisonment.

2

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

4 2A:34-3. Causes for divorce from bed and board or legal
5 separation from '[civil union partner] partner in a civil union
6 couple'.

7 a. Divorce from bed and board may be adjudged for the same
8 causes as divorce from the bonds of matrimony whenever both
9 parties petition or join in requesting such relief and they or either of
10 them present sufficient proof of such cause or causes to warrant the
11 entry of a judgment of divorce from the bonds of matrimony,
12 provided further that in the case of a reconciliation thereafter the
13 parties may apply for a revocation or suspension of the judgment,
14 and provided further that the granting of a bed and board divorce
15 shall in no way prejudice either party from thereafter applying to
16 the court for a conversion of said divorce to a divorce from the
17 bonds of matrimony, which application shall be granted as a matter
18 of right.

19 b. Legal separation from a '[civil union partner] partner in a
20 civil union couple' may be adjudged for the same causes as
21 dissolution of a civil union whenever both parties petition or join in
22 requesting such relief and they or either of them present sufficient
23 proof of such cause or causes to warrant the entry of a judgment of
24 dissolution of a civil union, provided further that in the case of a
25 reconciliation thereafter the parties may apply for a revocation or
26 suspension of the judgment, and provided further that the granting
27 of a legal separation from a '[civil union partner] partner in a civil
28 union couple' shall in no way prejudice either party from thereafter
29 applying to the court for a conversion of said legal separation from
30 a '[civil union partner] partner in a civil union couple' to a
31 dissolution of a civil union, which application shall be granted as a
32 matter of right.

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

34

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

36 2A:34-6. Divorce from bed and board or legal separation from a
37 civil union; property rights

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

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

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

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

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

3 Recrimination, condonation and the clean hands doctrine are
4 hereby abolished as defenses to divorce from the bonds of
5 matrimony **[or from]** , dissolution of a civil union, divorce from
6 bed and board or legal separation from a **'[civil union partner]**
7 partner in a civil union couple¹, and if both parties make out
8 grounds for a divorce, dissolution or legal separation a decree may
9 be granted to each; provided that nothing herein shall preclude or
10 abrogate the responsibility of a party for the penalty provided by
11 law for perjury or the subornation of perjury.

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

13

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

15 2A:34-8. Jurisdiction stated.

16 The Superior Court shall have jurisdiction of all causes of
17 divorce, dissolution of a civil union, bed and board divorce, legal
18 separation from a **'[civil union partner]** partner in a civil union
19 couple¹ or nullity when either party is a bona fide resident of this
20 State. The Superior Court shall have jurisdiction of an action for
21 alimony and maintenance when the defendant is subject to the
22 personal jurisdiction of the court, is a resident of this State, or has
23 tangible or intangible real or personal property within the
24 jurisdiction of the court. The Superior Court may afford incidental
25 relief as in other cases of an equitable nature and by rule of court
26 may determine the venue of matrimonial and civil union actions.

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

28

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

30 2A:34-9. Jurisdiction in nullity proceedings or dissolution
31 proceedings; residence requirements; service of process

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

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

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

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

39

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

41 2A:34-10. Jurisdiction in divorce proceedings, dissolution of a
42 civil union, legal separation from a **'[civil union partner]** partner in
43 a civil union couple¹; service of process; residence requirements

44 Jurisdiction in actions for divorce, either absolute or from bed
45 and board, and in actions for dissolution of a civil union or legal
46 separation from a **'[civil union partner]** partner in a civil union

1 couple¹ may be acquired when process is served upon the defendant
2 as prescribed by the rules of the Supreme Court, and

3 1. When, at the time the cause of action arose, either party was
4 a bona fide resident of this State, and has continued so to be down
5 to the time of the commencement of the action; except that no
6 action for absolute divorce or dissolution of a civil union shall be
7 commenced for any cause other than adultery, unless one of the
8 parties has been for the 1 year next preceding the commencement of
9 the action a bona fide resident of this State; or

10 2. When, since the cause of action arose, either party has
11 become, and for at least 1 year next preceding the commencement
12 of the action has continued to be, a bona fide resident of this State.
13 (cf: P.L.1971, c.212, s.6).

14

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

16 2A:34-11. Jurisdiction by acknowledgment of service of process,
17 appearance, etc.

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

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

26

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

28 2A:34-12. Counterclaims.

29 Whenever the court shall have acquired jurisdiction of any action
30 under the provisions of this chapter or P.L. __, c. (C. __) (pending
31 before the Legislature as this bill), the defendant therein may, by
32 counterclaim, state any cause of action under this chapter or P.L. __,
33 c. (C. __)(pending before the Legislature as this bill) which exists
34 at the time of the service of the counterclaim.

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

36

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

38 2A:34-13. Matrimonial or civil union action.

39 A person who has attained the age of 16 years may prosecute or
40 defend any matrimonial or civil union action in person or by
41 attorney.

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

43

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

45 2A:34-14. Parent or guardian may prosecute or defend.

46 A parent or guardian shall not be precluded by the provisions of
47 this chapter from prosecuting or defending any action respecting the

1 marriage or civil union status or relation of his minor child or ward.
2 (cf: N.J.S.2A:34-14)

3

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

5 2A:34-15. Co-respondent in adultery or dissolution of a civil
6 union actions

7 Where a person is named as co-respondent in a charge of
8 adultery or in a charge giving rise to a cause of action for
9 dissolution of a civil union pursuant to subsection a. of section
10 '[53] 64' of P.L. , c. (C.)(pending before the Legislature
11 as this bill), the party making the charge shall give the co-
12 respondent written notice of the charge within the time and in the
13 manner prescribed by the rules of the [supreme court]Supreme
14 Court.

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

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

18

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

20 2A:34-18. Final judgment; appeal

21 If after the hearing of any cause the court shall determine that the
22 plaintiff or counterclaimant is entitled to a judgment of nullity of
23 marriage or nullity of a civil union or a judgment for divorce from
24 the bonds of matrimony or judgment for dissolution of a civil union,
25 a final judgment shall be entered.

26 Appeals shall be taken only from the final judgment.

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

28

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

30 2A:34-21. Surname.

31 The court, upon or after granting a divorce from the bonds of
32 matrimony to either spouse or dissolution of a civil union to either
33 partner 'in a civil union couple', may allow either spouse or partner
34 'in a civil union couple' to resume any name used by the spouse or
35 partner 'in a civil union couple' before the marriage or civil union,
36 or to assume any surname.

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

38

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

40 2A:34-23 Alimony, maintenance.

41 Pending any matrimonial action or action for dissolution of a
42 civil union brought in this State or elsewhere, or after judgment of
43 divorce or dissolution or maintenance, whether obtained in this
44 State or elsewhere, the court may make such order as to the alimony
45 or maintenance of the parties, and also as to the care, custody,
46 education and maintenance of the children, or any of them, as the
47 circumstances of the parties and the nature of the case shall render
48 fit, reasonable and just, and require reasonable security for the due

1 observance of such orders, including, but not limited to, the creation
2 of trusts or other security devices, to assure payment of reasonably
3 foreseeable medical and educational expenses. Upon neglect or
4 refusal to give such reasonable security, as shall be required, or
5 upon default in complying with any such order, the court may
6 award and issue process for the immediate sequestration of the
7 personal estate, and the rents and profits of the real estate of the
8 party so charged, and appoint a receiver thereof, and cause such
9 personal estate and the rents and profits of such real estate, or so
10 much thereof as shall be necessary, to be applied toward such
11 alimony and maintenance as to the said court shall from time to
12 time seem reasonable and just; or the performance of the said orders
13 may be enforced by other ways according to the practice of the
14 court. Orders so made may be revised and altered by the court from
15 time to time as circumstances may require.

16 The court may order one party to pay a retainer on behalf of the
17 other for expert and legal services when the respective financial
18 circumstances of the parties make the award reasonable and just. In
19 considering an application, the court shall review the financial
20 capacity of each party to conduct the litigation and the criteria for
21 award of counsel fees that are then pertinent as set forth by court
22 rule. Whenever any other application is made to a court which
23 includes an application for pendente lite or final award of counsel
24 fees, the court shall determine the appropriate award for counsel
25 fees, if any, at the same time that a decision is rendered on the other
26 issue then before the court and shall consider the factors set forth in
27 the court rule on counsel fees, the financial circumstances of the
28 parties, and the good or bad faith of either party.

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

33 (1) Needs of the child;

34 (2) Standard of living and economic circumstances of each
35 parent;

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

37 (4) Earning ability of each parent, including educational
38 background, training, employment skills, work experience,
39 custodial responsibility for children including the cost of providing
40 child care and the length of time and cost of each parent to obtain
41 training or experience for appropriate employment;

42 (5) Need and capacity of the child for education, including
43 higher education;

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

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

46 (8) Responsibility of the parents for the court-ordered support of
47 others;

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

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

2 The obligation to pay support for a child who has not been
3 emancipated by the court shall not terminate solely on the basis of
4 the child's age if the child suffers from a severe mental or physical
5 incapacity that causes the child to be financially dependent on a
6 parent. The obligation to pay support for that child shall continue
7 until the court finds that the child is relieved of the incapacity or is
8 no longer financially dependent on the parent. However, in
9 assessing the financial obligation of the parent, the court shall
10 consider, in addition to the factors enumerated in this section, the
11 child's eligibility for public benefits and services for people with
12 disabilities and may make such orders, including an order involving
13 the creation of a trust, as are necessary to promote the well-being of
14 the child.

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

18 b. In all actions brought for divorce, dissolution of a civil
19 union, divorce from bed and board, legal separation from a ¹[civil
20 union partner] partner in a civil union couple¹ or nullity the court
21 may award one or more of the following types of alimony:
22 permanent alimony; rehabilitative alimony; limited duration
23 alimony or reimbursement alimony to either party. In so doing the
24 court shall consider, but not be limited to, the following factors:

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

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

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

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

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

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

35 (7) The parental responsibilities for the children;

36 (8) The time and expense necessary to acquire sufficient
37 education or training to enable the party seeking maintenance to
38 find appropriate employment, the availability of the training and
39 employment, and the opportunity for future acquisitions of capital
40 assets and income;

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

45 (10) The equitable distribution of property ordered and any
46 payouts on equitable distribution, directly or indirectly, out of
47 current income, to the extent this consideration is reasonable, just
48 and fair;

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

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

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

7 When a share of a retirement benefit is treated as an asset for
8 purposes of equitable distribution, the court shall not consider
9 income generated thereafter by that share for purposes of
10 determining alimony.

11 c. In any case in which there is a request for an award of
12 permanent alimony, the court shall consider and make specific
13 findings on the evidence about the above factors. If the court
14 determines that an award of permanent alimony is not warranted,
15 the court shall make specific findings on the evidence setting out
16 the reasons therefor. The court shall then consider whether alimony
17 is appropriate for any or all of the following: (1) limited duration;
18 (2) rehabilitative; (3) reimbursement. In so doing, the court shall
19 consider and make specific findings on the evidence about factors
20 set forth above. The court shall not award limited duration alimony
21 as a substitute for permanent alimony in those cases where
22 permanent alimony would otherwise be awarded.

23 An award of alimony for a limited duration may be modified
24 based either upon changed circumstances, or upon the
25 nonoccurrence of circumstances that the court found would occur at
26 the time of the award. The court may modify the amount of such an
27 award, but shall not modify the length of the term except in unusual
28 circumstances.

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

33 d. Rehabilitative alimony shall be awarded based upon a plan
34 in which the payee shows the scope of rehabilitation, the steps to be
35 taken, and the time frame, including a period of employment during
36 which rehabilitation will occur. An award of rehabilitative alimony
37 may be modified based either upon changed circumstances, or upon
38 the nonoccurrence of circumstances that the court found would
39 occur at the time of the rehabilitative award.

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

42 e. Reimbursement alimony may be awarded under
43 circumstances in which one party supported the other through an
44 advanced education, anticipating participation in the fruits of the
45 earning capacity generated by that education.

46 f. Nothing in this section shall be construed to limit the court's
47 authority to award permanent alimony, limited duration alimony,
48 rehabilitative alimony or reimbursement alimony, separately or in

1 any combination, as warranted by the circumstances of the parties
2 and the nature of the case.

3 g. In all actions for divorce or dissolution other than those
4 where judgment is granted solely on the ground of separation the
5 court may consider also the proofs made in establishing such
6 ground in determining an amount of alimony or maintenance that is
7 fit, reasonable and just. In all actions for divorce **[or]** dissolution
8 of civil union, divorce from bed and board, legal separation from a
9 '[civil union partner] partner in a civil union couple' where
10 judgment is granted on the ground of institutionalization for mental
11 illness the court may consider the possible burden upon the
12 taxpayers of the State as well as the ability of the party to pay in
13 determining an amount of maintenance to be awarded.

14 h. In all actions where a judgment of divorce **[or]** dissolution
15 of civil union, divorce from bed and board or legal separation from
16 a '[civil union partner] partner in a civil union couple' is entered
17 the court may make such award or awards to the parties, in addition
18 to alimony and maintenance, to effectuate an equitable distribution
19 of the property, both real and personal, which was legally and
20 beneficially acquired by them or either of them during the marriage
21 or civil union. However, all such property, real, personal or
22 otherwise, legally or beneficially acquired during the marriage or
23 civil union by either party by way of gift, devise, or intestate
24 succession shall not be subject to equitable distribution, except that
25 interspousal gifts or gifts between '[parties to a civil union]
26 partners in a civil union couple' shall be subject to equitable
27 distribution.

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

29

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

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

34 a. Upon filing of a complaint for an action for divorce,
35 dissolution, nullity or separate maintenance, where the custody,
36 visitation or support of a minor child is an issue, the party who has
37 maintained all existing insurance coverage or coverage traditionally
38 maintained during the marriage or civil union, including but not
39 limited to, all health, disability, home or life insurance, shall
40 continue to maintain or continue to share in the cost of maintaining
41 the coverage.

42 b. If a party who has maintained the existing insurance
43 coverage or has shared in the cost of maintaining the coverage has
44 had a voluntary or involuntary change in employment status, which
45 may cause the existing insurance coverage to terminate, then that
46 party shall notify the other party that it may be necessary to
47 reallocate the financial responsibilities of maintaining the coverage.

- 1 c. Upon receipt of this notice, the party may petition the court
2 to reallocate financial responsibilities.
- 3 d. The court may take any action it deems appropriate to
4 reallocate financial responsibilities including but not limited to
5 ordering a party to obtain comparable coverage or releasing a party
6 from the obligation or any other order.
7 (cf: P.L.1997, c.405, s.1)
8
- 9 80. '[N.J.S.2A:34-23.1]Section 4 of P.L.1988, c.153 (C.2A:34-
10 23.1)' is amended to read as follows:
- 11 '[2A:34-23.1 Equitable distribution criteria.]'
- 12 4. In making an equitable distribution of property, the court
13 shall consider, but not be limited to, the following factors:
- 14 a. The duration of the marriage or civil union;
- 15 b. The age and physical and emotional health of the parties;
- 16 c. The income or property brought to the marriage or civil
17 union by each party;
- 18 d. The standard of living established during the marriage or
19 civil union;
- 20 e. Any written agreement made by the parties before or during
21 the marriage or civil union concerning an arrangement of property
22 distribution;
- 23 f. The economic circumstances of each party at the time the
24 division of property becomes effective;
- 25 g. The income and earning capacity of each party, including
26 educational background, training, employment skills, work
27 experience, length of absence from the job market, custodial
28 responsibilities for children, and the time and expense necessary to
29 acquire sufficient education or training to enable the party to
30 become self-supporting at a standard of living reasonably
31 comparable to that enjoyed during the marriage or civil union;
- 32 h. The contribution by each party to the education, training or
33 earning power of the other;
- 34 i. The contribution of each party to the acquisition, dissipation,
35 preservation, depreciation or appreciation in the amount or value of
36 the marital property, or the property acquired during the civil union
37 as well as the contribution of a party as a homemaker;
- 38 j. The tax consequences of the proposed distribution to each
39 party;
- 40 k. The present value of the property;
- 41 l. The need of a parent who has physical custody of a child to
42 own or occupy the marital residence or residence shared by the
43 '[parties to a civil union] partners in a civil union couple' and to
44 use or own the household effects;
- 45 m. The debts and liabilities of the parties;
- 46 n. The need for creation, now or in the future, of a trust fund to
47 secure reasonably foreseeable medical or educational costs for a
48 spouse, partner 'in a civil union couple' or children;

1 o. The extent to which a party deferred achieving their career
2 goals; and

3 p. Any other factors which the court may deem relevant.

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

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

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

12

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

15 1. Court-ordered support, maintenance.

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

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

35

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

37 2A:34-25. If after the judgment of divorce or dissolution a
38 former spouse shall remarry or a former partner shall enter into a
39 new civil union, permanent and limited duration alimony shall
40 terminate as of the date of remarriage or new civil union except that
41 any arrearages that have accrued prior to the date of remarriage or
42 new civil union shall not be vacated or annulled. A former spouse
43 or '[civil union partner] former partner in a civil union couple'
44 who remarries 'or enters into a new civil union' shall promptly so
45 inform the spouse or partner paying permanent or limited duration
46 alimony as well as the collecting agency, if any. The court may
47 order such alimony recipient who fails to comply with the

1 notification provision of this act to pay any reasonable attorney fees
2 and court costs incurred by the recipient's former spouse or partner
3 as a result of such non-compliance.

4 The remarriage or establishment of a new civil union of a former
5 spouse or partner receiving rehabilitative or reimbursement alimony
6 shall not be cause for termination of such alimony by the court
7 unless the court finds that the circumstances upon which the award
8 was based have not occurred or unless the payer spouse or partner
9 demonstrates an agreement or good cause to the contrary.

10 Alimony shall terminate upon the death of the payer spouse or
11 partner, except that any arrearages that have accrued prior to the
12 date of the payer spouse's or partner's death shall not be vacated or
13 annulled.

14 Nothing in this act shall be construed to prohibit a court from
15 ordering either spouse or partner to maintain life insurance for the
16 protection of the former spouse, partner, or the children of the
17 marriage or civil union in the event of the payer spouse's or
18 partner's death.

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

20

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

22 2A:34-26. Attachment of property.

23 When a spouse or ¹**[civil union partner]** one partner in a civil
24 union couple¹ cannot be found within this State to be served with
25 process, the spouse's or partner's estate, property and effects within
26 this State and the rents and profits thereof may be attached to
27 compel the spouse's or partner's appearance and performance of any
28 judgment or order which may be made in the action. Where the
29 proceedings are by process of attachment and the defendant does
30 not appear, the judgment shall be enforceable only out of and
31 against the property attached.

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

33

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

35 22A:2-10. Chancery Division of Superior Court; costs awarded.

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

40	Plaintiff's costs, foreclosure	\$50 ₀₀
41	Plaintiff's costs, partition	70 ₀₀
42	Plaintiff's and receiver's costs, receivership	125 ₀₀
43	Plaintiff's costs, receivership	62 ₅₀
44	Receiver's costs, receivership	62 ₅₀
45	Plaintiff's costs, divorce, <u>dissolution of civil</u>	
46	<u>union</u> , nullity, custody	30 ₀₀
47	Plaintiff's costs, causes of action for other relief	65 ₀₀
48	Plaintiff's costs, incompetency action	47 ₅₀

1	Plaintiff's costs, sale of lands of infant or incompetent	50 ₀₀
2	Plaintiff's costs, release of dower or curtesy	50 ₀₀
3	Plaintiff's costs, mortgage lands of an infant or	
4	incompetent ...	50.00
5	Plaintiff's costs, interpleader	35 ₀₀
6	Plaintiff's costs, appointment of tax receiver	27 ₅₀
7	Plaintiff's costs, actions for payment of money	
8	into court; to hold real estate; to limit creditors	22 ₅₀
9	Plaintiff's costs, action for appointment of trustee	
10	or substituted trustee	33 ₅₀
11	Costs on contempt proceedings	25 ₀₀
12	Costs on application to fix dower or curtesy	22 ₅₀
13	Costs on application to pay moneys out of court	23 ₅₀
14	Costs on application for instructions, or to	
15	approve account	30 ₀₀
16	Costs on application for writ of execution	10 ₀₀
17	Costs on application for relief from final judgment	
18	or, in a matrimonial cause from judgment	
19	nisi or order..	20 ₀₀
20	Costs on application for writ of possession	30 ₀₀
21	Costs on application for alimony pendente lite,	
22	attorney fee, suit money	20 ₀₀
23	Defendant's costs where final judgment is taken by him ...	30 ₀₀
24	Defendant's costs where final judgment is not taken by him .	20 ₀₀
25	Costs upon any other litigated or special motion,	
26	subsidiary or interlocutory, not heretofore provided for ...	20 ₀₀
27	(cf: N.J.S.22A:2-10)	

28

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

30 22A:2-12. Payment of fees in Chancery Division of Superior
31 Court upon filing of first paper. Upon the filing of the first paper in
32 any action or proceeding in the Chancery Division of the Superior
33 Court, there shall be paid to the clerk of the court, for the use of the
34 State, the following fees, which, except as hereinafter provided,
35 shall constitute the entire fees to be collected by the clerk for the
36 use of the State, down to the final disposition of the cause:

37 Receivership and partition, \$200.00.

38 All other actions and proceedings except in probate cases and
39 actions and proceedings for divorce or dissolution of a civil union
40 union, \$200.00.

41 Actions and proceedings for divorce or dissolution of civil union,
42 \$250.00, \$25.00 of which shall be forwarded by the Clerk of the
43 Superior Court as provided in section 2 of P.L.1993, c.188
44 (C.52:27D-43.24a).

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

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

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

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

8

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

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

13 a. "Person" includes one or more individuals, partnerships,
14 associations, organizations, labor organizations, corporations, legal
15 representatives, trustees, trustees in bankruptcy, receivers, and
16 fiduciaries.

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

19 c. "Labor organization" includes any organization which exists
20 and is constituted for the purpose, in whole or in part, of collective
21 bargaining, or of dealing with employers concerning grievances,
22 terms or conditions of employment, or of other mutual aid or
23 protection in connection with employment.

24 d. "Unlawful employment practice" and "unlawful
25 discrimination" include only those unlawful practices and acts
26 specified in section 11 of this act.

27 e. "Employer" includes all persons as defined in subsection a.
28 of this section unless otherwise specifically exempt under another
29 section of this act, and includes the State, any political or civil
30 subdivision thereof, and all public officers, agencies, boards or
31 bodies.

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

34 g. "Liability for service in the Armed Forces of the United
35 States" means subject to being ordered as an individual or member
36 of an organized unit into active service in the Armed Forces of the
37 United States by reason of membership in the National Guard, naval
38 militia or a reserve component of the Armed Forces of the United
39 States, or subject to being inducted into such armed forces through
40 a system of national selective service.

41 h. "Division" means the "Division on Civil Rights" created by
42 this act.

43 i. "Attorney General" means the Attorney General of the State
44 of New Jersey or his representative or designee.

45 j. "Commission" means the Commission on Civil Rights
46 created by this act.

47 k. "Director" means the Director of the Division on Civil
48 Rights.

1 l. "A place of public accommodation" shall include, but not be
2 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
3 summer camp, day camp, or resort camp, whether for entertainment
4 of transient guests or accommodation of those seeking health,
5 recreation or rest; any producer, manufacturer, wholesaler,
6 distributor, retail shop, store, establishment, or concession dealing
7 with goods or services of any kind; any restaurant, eating house, or
8 place where food is sold for consumption on the premises; any
9 place maintained for the sale of ice cream, ice and fruit preparations
10 or their derivatives, soda water or confections, or where any
11 beverages of any kind are retailed for consumption on the premises;
12 any garage, any public conveyance operated on land or water, or in
13 the air, any stations and terminals thereof; any bathhouse,
14 boardwalk, or seashore accommodation; any auditorium, meeting
15 place, or hall; any theatre, motion-picture house, music hall, roof
16 garden, skating rink, swimming pool, amusement and recreation
17 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
18 pool parlor, or other place of amusement; any comfort station; any
19 dispensary, clinic or hospital; any public library; any kindergarten,
20 primary and secondary school, trade or business school, high
21 school, academy, college and university, or any educational
22 institution under the supervision of the State Board of Education, or
23 the Commissioner of Education of the State of New Jersey.
24 Nothing herein contained shall be construed to include or to apply
25 to any institution, bona fide club, or place of accommodation, which
26 is in its nature distinctly private; nor shall anything herein contained
27 apply to any educational facility operated or maintained by a bona
28 fide religious or sectarian institution, and the right of a natural
29 parent or one in loco parentis to direct the education and upbringing
30 of a child under his control is hereby affirmed; nor shall anything
31 herein contained be construed to bar any private secondary or post
32 secondary school from using in good faith criteria other than race,
33 creed, color, national origin, ancestry or affectional or sexual
34 orientation in the admission of students.

35 m. "A publicly assisted housing accommodation" shall include
36 all housing built with public funds or public assistance pursuant to
37 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
38 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
39 c.184, and all housing financed in whole or in part by a loan,
40 whether or not secured by a mortgage, the repayment of which is
41 guaranteed or insured by the federal government or any agency
42 thereof.

43 n. The term "real property" includes real estate, lands,
44 tenements and hereditaments, corporeal and incorporeal, and
45 leaseholds, provided, however, that, except as to publicly assisted
46 housing accommodations, the provisions of this act shall not apply
47 to the rental: (1) of a single apartment or flat in a two-family
48 dwelling, the other occupancy unit of which is occupied by the

1 owner as a residence; or (2) of a room or rooms to another person or
2 persons by the owner or occupant of a one-family dwelling
3 occupied by the owner or occupant as a residence at the time of
4 such rental. Nothing herein contained shall be construed to bar any
5 religious or denominational institution or organization, or any
6 organization operated for charitable or educational purposes, which
7 is operated, supervised or controlled by or in connection with a
8 religious organization, in the sale, lease or rental of real property,
9 from limiting admission to or giving preference to persons of the
10 same religion or denomination or from making such selection as is
11 calculated by such organization to promote the religious principles
12 for which it is established or maintained. Nor does any provision
13 under this act regarding discrimination on the basis of familial
14 status apply with respect to housing for older persons.

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

38 p. "Real estate salesperson" includes any person who, for
39 compensation, valuable consideration or commission, or other thing
40 of value, or by reason of a promise or reasonable expectation
41 thereof, is employed by and operates under the supervision of a
42 licensed real estate broker to sell or offer to sell, buy or offer to buy
43 or negotiate the purchase, sale or exchange of real estate, or offers
44 or attempts to negotiate a loan secured or to be secured by a
45 mortgage or other encumbrance upon or transfer of real estate, or to
46 lease or rent, or offer to lease or rent any real estate for others, or to
47 collect rents for the use of real estate, or to solicit for prospective
48 purchasers or lessees of real estate, or who is employed by a

1 licensed real estate broker to sell or offer to sell lots or other parcels
2 of real estate, at a stated salary, or upon a commission, or upon a
3 salary and commission, or otherwise to sell real estate, or any parts
4 thereof, in lots or other parcels.

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

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

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

32 t. "Guide or service dog trainer" means any person who is
33 employed by an organization generally recognized by agencies
34 involved in the rehabilitation of persons with disabilities as
35 reputable and competent to provide dogs with training, and who is
36 actually involved in the training process.

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

44 v. "Public facility" means any place of public accommodation
45 and any street, highway, sidewalk, walkway, public building, and
46 any other place or structure to which the general public is regularly,
47 normally or customarily permitted or invited.

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

- 1 gg. "HIV infection" means infection with the human
2 immunodeficiency virus or any other related virus identified as a
3 probable causative agent of AIDS.
- 4 hh. "Affectional or sexual orientation" means male or female
5 heterosexuality, homosexuality or bisexuality by inclination,
6 practice, identity or expression, having a history thereof or being
7 perceived, presumed or identified by others as having such an
8 orientation.
- 9 ii. "Heterosexuality" means affectional, emotional or physical
10 attraction or behavior which is primarily directed towards persons
11 of the other gender.
- 12 jj. "Homosexuality" means affectional, emotional or physical
13 attraction or behavior which is primarily directed towards persons
14 of the same gender.
- 15 kk. "Bisexuality" means affectional, emotional or physical
16 attraction or behavior which is directed towards persons of either
17 gender.
- 18 ll. "Familial status" means being the natural parent of a child,
19 the adoptive parent of a child, the resource family parent of a child,
20 having a "parent and child relationship" with a child as defined by
21 State law, or having sole or joint legal or physical custody, care,
22 guardianship, or visitation with a child, or any person who is
23 pregnant or is in the process of securing legal custody of any
24 individual who has not attained the age of 18 years.
- 25 mm. "Housing for older persons" means housing:
- 26 (1) provided under any State program that the Attorney General
27 determines is specifically designed and operated to assist elderly
28 persons (as defined in the State program); or provided under any
29 federal program that the United States Department of Housing and
30 Urban Development determines is specifically designed and
31 operated to assist elderly persons (as defined in the federal
32 program); or
- 33 (2) intended for, and solely occupied by persons 62 years of age
34 or older; or
- 35 (3) intended and operated for occupancy by at least one person
36 55 years of age or older per unit. In determining whether housing
37 qualifies as housing for older persons under this subsection, the
38 Attorney General shall adopt regulations which require at least the
39 following factors:
- 40 (a) the existence of significant facilities and services
41 specifically designed to meet the physical or social needs of older
42 persons, or if the provision of such facilities and services is not
43 practicable, that such housing is necessary to provide important
44 housing opportunities for older persons; and
- 45 (b) that at least 80 percent of the units are occupied by at least
46 one person 55 years of age or older per unit; and

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

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

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

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

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

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

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

30
31 88. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
32 read as follows:

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

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

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

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

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

40 b. For a labor organization, because of the race, creed, color,
41 national origin, ancestry, age, marital status, civil union status,
42 domestic partnership status, affectional or sexual orientation,
43 disability or sex of any individual, or because of the liability for
44 service in the Armed Forces of the United States or nationality of
45 any individual, to exclude or to expel from its membership such
46 individual or to discriminate in any way against any of its members,
47 against any applicant for, or individual included in, any apprentice
48 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,
32 superintendent, agent, or employee of any place of public
33 accommodation directly or indirectly to refuse, withhold from or
34 deny to any person any of the accommodations, advantages,
35 facilities or privileges thereof, or to discriminate against any person
36 in the furnishing thereof, or directly or indirectly to publish,
37 circulate, issue, display, post or mail any written or printed
38 communication, notice, or advertisement to the effect that any of
39 the accommodations, advantages, facilities, or privileges of any
40 such place will be refused, withheld from, or denied to any person
41 on account of the race, creed, color, national origin, ancestry,
42 marital status, civil union status, domestic partnership status, sex,
43 affectional or sexual orientation, disability or nationality of such
44 person, or that the patronage or custom thereof of any person of any
45 particular race, creed, color, national origin, ancestry, marital status,
46 civil union status, domestic partnership status, sex, affectional or
47 sexual orientation, disability or nationality is unwelcome,
48 objectionable or not acceptable, desired or solicited, and the

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

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

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

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

44 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
45 to deny to or withhold from any person or group of persons any real
46 property or part or portion thereof because of race, creed, color,
47 national origin, ancestry, marital status, civil union status, domestic
48 partnership status, sex, affectional or sexual orientation, familial

1 status, disability, nationality, or source of lawful income used for
2 rental or mortgage payments;

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

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

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

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

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

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

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

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

1 exclusively for and occupied exclusively by individuals of one sex
2 to any individual of the opposite sex on the basis of sex;

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

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

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

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

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

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

43 (4) To discriminate against any person or group of persons
44 because of the source of any lawful income received by the person
45 or the source of any lawful rent payment to be paid for the real
46 property; or

47 (5) To discriminate against any person or group of persons
48 because that person's family includes children under 18 years of

1 age, or to make an agreement or mortgage which provides that the
2 agreement or mortgage shall be rendered null and void upon the
3 birth of a child. This paragraph shall not apply to housing for older
4 persons as defined in subsection mm. of section 5 of P.L.1945,
5 c.169 (C.10:5-5).

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

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

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

44 m. For any person to:

45 (1) Grant or accept any letter of credit or other document which
46 evidences the transfer of funds or credit, or enter into any contract
47 for the exchange of goods or services, where the letter of credit,
48 contract, or other document contains any provisions requiring any

1 person to discriminate against or to certify that he, she or it has not
2 dealt with any other person on the basis of the race, creed, color,
3 national origin, ancestry, age, sex, affectional or sexual orientation,
4 marital status, civil union status, domestic partnership status,
5 disability, liability for service in the Armed Forces of the United
6 States, or nationality of such other person or of such other person's
7 spouse, partners, members, stockholders, directors, officers,
8 managers, superintendents, agents, employees, business associates,
9 suppliers, or customers.

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

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

23 n. For any person to aid, abet, incite, compel, coerce, or induce
24 the doing of any act forbidden by subsections l. and m. of section
25 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
26 do so. Such prohibited conduct shall include, but not be limited to:

27 (1) Buying from, selling to, leasing from or to, licensing,
28 contracting with, trading with, providing goods, services, or
29 information to, or otherwise doing business with any person
30 because that person does, or agrees or attempts to do, any such act
31 or any act prohibited by this subsection; or

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

41 o. For any multiple listing service, real estate brokers'
42 organization or other service, organization or facility related to the
43 business of selling or renting dwellings to deny any person access
44 to or membership or participation in such organization, or to
45 discriminate against such person in the terms or conditions of such
46 access, membership, or participation, on account of race, creed,
47 color, national origin, ancestry, age, marital status, civil union

1 status, domestic partnership status, familial status, sex, affectional
2 or sexual orientation, disability or nationality.

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

4

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

7 3. As used in this act:

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

10 (1) under 18 years of age; or

11 (2) 18 years of age or older but incapable of self-care because of
12 a mental or physical impairment.

13 b. "Director" means the Director of the Division on Civil
14 Rights.

15 c. "Division" means the Division on Civil Rights in the
16 Department of Law and Public Safety.

17 d. "Employ" means to suffer or permit to work for
18 compensation, and includes ongoing, contractual relationships in
19 which the employer retains substantial direct or indirect control
20 over the employee's employment opportunities or terms and
21 conditions of employment.

22 e. "Employee" means a person who is employed for at least 12
23 months by an employer, with respect to whom benefits are sought
24 under this act, for not less than 1,000 base hours during the
25 immediately preceding 12-month period.

26 f. "Employer" means a person or corporation, partnership,
27 individual proprietorship, joint venture, firm or company or other
28 similar legal entity which engages the services of an employee and
29 which:

30 (1) With respect to the period of time from the effective date of
31 this act until the 365th day following the effective date of this act,
32 employs 100 or more employees for each working day during each
33 of 20 or more calendar workweeks in the then current or
34 immediately preceding calendar year;

35 (2) With respect to the period of time from the 366th day
36 following the effective date of this act until the 1,095th day
37 following the effective date of this act, employs 75 or more
38 employees for each working day during each of 20 or more calendar
39 workweeks in the then current or immediately preceding calendar
40 year; and

41 (3) With respect to any time after the 1,095th day following the
42 effective date of this act, employs 50 or more employees for each
43 working day during each of 20 or more calendar workweeks in the
44 then current or immediately preceding calendar year. "Employer"
45 includes the State, any political subdivision thereof, and all public
46 offices, agencies, boards or bodies.

47 g. "Employment benefits" means all benefits and policies
48 provided or made available to employees by an employer, and

1 includes group life insurance, health insurance, disability insurance,
2 sick leave, annual leave, pensions, or other similar benefits.

3 h. "Parent" means a person who is the biological parent,
4 adoptive parent, resource family parent, step-parent, parent-in-law
5 or legal guardian, having a "parent-child relationship" with a child
6 as defined by law, or having sole or joint legal or physical custody,
7 care, guardianship, or visitation with a child.

8 i. "Family leave" means leave from employment so that the
9 employee may provide care made necessary by reason of:

10 (1) the birth of a child of the employee;

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

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

15 j. "Family member" means a child, parent, [or] ¹[.]¹ spouse,
16 or ¹[civil union partner] one partner in a civil union couple¹.

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

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

23 (1) inpatient care in a hospital, hospice, or residential medical
24 care facility; or

25 (2) continuing medical treatment or continuing supervision by a
26 health care provider.

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

28

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

31 2A:84A-17. Privilege of accused

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

34 (2) The spouse or ¹[civil union partner] one partner in a civil
35 union couple¹ of the accused in a criminal action shall not testify in
36 such action except to prove the fact of marriage or civil union
37 unless (a) such spouse or partner consents, or (b) the accused is
38 charged with an offense against the spouse or partner, a child of the
39 accused or of the spouse or partner, or a child to whom the accused
40 or the spouse or partner stands in the place of a parent, or (c) such
41 spouse or partner is the complainant.

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

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

1 91. (New section) On or after the effective date of this act, no
2 domestic partnerships shall be registered under P.L.2003, c. 246
3 (C.26:8A-1 et seq.), except that two persons who are each 62 years
4 of age or older '~~【and not of the same sex】~~'¹ may establish a
5 domestic partnership pursuant to the provisions of P.L.2003, c.246
6 (C.26:8A-1 et seq.). This act shall not alter the rights and
7 responsibilities of domestic partnerships existing before the
8 effective date of this act, except that eligible domestic partners shall
9 be given notice and opportunity to enter into a civil union pursuant
10 to the provisions of this act. Entry into a civil union, when joined
11 by both parties to an existing domestic partnership, shall operate to
12 terminate the domestic partnership.

13
14 92. (New section) Whenever in any law, rule, regulation,
15 judicial or administrative proceeding or otherwise, reference is
16 made to "marriage," "husband," "wife," "spouse," "family,"
17 "immediate family," "dependent," "next of kin," ¹"widow,"
18 "widower," "widowed"¹ or another word which in a specific
19 context denotes a marital or spousal relationship, the same shall
20 include a civil union pursuant to the provisions of this act.

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

30
31 94. a. There is hereby established the New Jersey Civil Union
32 Review Commission commencing on the effective date of P.L. ,
33 c. (C.) (pending before the Legislature as this bill).

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

- 1 c. It shall be the duty of the commission to study all aspects of
2 P.L. ,c. (C.)(pending before the Legislature as this bill)
3 which authorizes civil unions including, but not limited to:
- 4 (1) evaluate the implementation, operation and effectiveness of
5 the act;
 - 6 (2) collect information about the act's effectiveness from
7 members of the public, State agencies and private and public sector
8 businesses and organizations;
 - 9 (3) determine whether additional protections are needed;
 - 10 (4) collect information about the recognition and treatment of
11 civil unions by other states and jurisdictions including the
12 procedures for dissolution; ¹**[and]**¹
 - 13 (5) ¹evaluate the effect on same-sex couples, their children and
14 other family members of being provided civil unions rather than
15 marriage;
 - 16 (6) evaluate the financial impact on the State of New Jersey of
17 same-sex couples being provided civil unions rather than marriage;
18 and
 - 19 (7)¹ review the "Domestic Partnership Act," P.L.2003, c.246
20 (C.26:8A-1 et seq.) and make recommendations whether this act
21 should be repealed.
- 22 d. The commission shall organize as soon as possible after the
23 appointment of its members. The commission shall be established
24 for a term of three years and the members shall be appointed for the
25 full term of three years. Vacancies in the membership of the
26 commission shall be filled in the same manner as the original
27 appointment. The commission members shall choose a Chair from
28 among its members.
- 29 e. The members of the commission shall serve without
30 compensation, but may be reimbursed for necessary expenses
31 incurred in the performance of their duties, within the limits of
32 funds appropriated or otherwise made available to the commission
33 for its purposes.
- 34 f. The commission is entitled to the assistance and service of
35 the employees of any State, county or municipal department, board,
36 bureau, commission or agency as it may require and as may be
37 available to it for its purposes, and to employ stenographic and
38 clerical assistance and to incur traveling or other miscellaneous
39 expenses as may be necessary in order to perform its duties, within
40 the limits of funds appropriated or otherwise made available to it
41 for its purposes.
- 42 g. The commission shall report ¹**[annually]** semi-annually¹ its
43 findings and recommendations to the Legislature and the Governor.
- 44 h. The commission shall expire three years from the date of its
45 initial organizational meeting and upon submission of its ¹**[third**
46 **and]**¹ final report.

1 ¹95. (New section) A civil union relationship entered into
2 outside of this State, which is valid under the laws of the
3 jurisdiction under which the civil union relationship was created,
4 shall be valid in this State.¹

5
6 ¹[95.] 96.¹ This act shall take effect on the ²[30th]60th² day
7 after the enactment of this act, but the Commissioner of Health and
8 Senior Services and the Director of the Administrative Office of the
9 Courts may take such anticipatory administrative action in advance
10 as shall be necessary for the implementation of the act.

11

12

13

14

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