

ASSEMBLY, No. 4883

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED JUNE 1, 2017

Sponsored by:

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

SYNOPSIS

Bars all minors under age 16 from marrying or entering into a civil union; allows marriage and civil unions of minors aged 16 and 17 with parental consent and judicial approval.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning marriage and civil unions and amending
2 various sections of the statutory law.

3

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

6

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

8 37:1-4. Issuance of marriage or civil union license, emergencies,
9 validity.

10 **【Except as provided in R.S.37:1-6, the】** The marriage or civil
11 union license shall not be issued by a licensing officer sooner than
12 72 hours after the application therefor has been made; provided,
13 however, that the Superior Court may, by order, waive all or any
14 part of said 72-hour period in cases of emergency, upon satisfactory
15 proof being shown to it. Said order shall be filed with the licensing
16 officer and attached to the application for the license.

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

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

21

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

23 2A:34-1. Causes for judgments of nullity.

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

26 a. Either of the parties has another wife, husband, partner in a
27 civil union couple or domestic partner living at the time of a second
28 or other marriage.

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

33 c. The parties, or either of them, were at the time of marriage
34 physically and incurably impotent, provided the party making the
35 application shall have been ignorant of such impotency or
36 incapability at the time of the marriage, and has not subsequently
37 ratified the marriage.

38 d. The parties, or either of them, lacked capacity to marry due
39 to want of understanding because of mental condition, or the
40 influence of intoxicants, drugs, or similar agents; or where there
41 was a lack of mutual assent to the marital relationship; duress; or
42 fraud as to the essentials of marriage; and has not subsequently
43 ratified the marriage.

44 e. The demand for such a judgment is by the wife or husband
45 who was under the age of 18 years at the time of the marriage**【,**

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

Matter underlined thus is new matter.

1 unless such marriage be confirmed by her or him after arriving at
2 such age】.

3 f. Allowable under the general equity jurisdiction of the
4 Superior Court.

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

7 a. Either of the parties has another wife, husband, partner in a
8 civil union couple or domestic partner living at the time of
9 establishing the new civil union.

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

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

21 d. The demand for such a judgment is by the party who was
22 under the age of 18 years at the time of the civil union【, unless such
23 civil union be confirmed by him after arriving at such age】.

24 e. Allowable under the general equity jurisdiction of the
25 Superior Court.

26 (cf: P.L.2006, c.103, s.63).

27

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

29 37:1-6. a. A marriage or civil union license shall not be issued to
30 a minor under the age of 16 years.

31 b. A marriage or civil union license 【shall not】 may be issued
32 to a minor over the age of 16 years and under the age of 18 years【,
33 unless】 only if:

34 (1) the parents or guardian of the minor, if any, first certify, in
35 the presence of two reputable witnesses, consent thereto, which
36 shall be delivered to the licensing officer issuing the license.
37 Consent to the proposed marriage or civil union by a parent or
38 guardian who is mentally incapacitated shall not be required【.

39 When a minor is under the age of 16 years, the consent required
40 by this section must be approved in writing by【; and

41 (2) a judge of the Superior Court, Chancery Division, Family
42 Part finds by clear and convincing evidence that denial of the
43 license would result in substantial harm to the minor. The applicant
44 for the license shall have the burden of proof. If the judge makes
45 such a finding, the judge shall approve the issuance of the license in
46 writing and the approval shall be filed with the licensing officer.

1 The licensing officer shall transmit to the State registrar all
2 consents, orders, and approvals subject to the same penalty as in the
3 case of marriage or civil union certificates or licenses.

4 (cf: P.L.2013, c.103, s.105)

5
6 4. Section 3 of P.L.2006, c.103 (C.37:1-30) is amended to read
7 as follows:

8 3. For two persons to establish a civil union in this State, it
9 shall be necessary that they satisfy all of the following criteria:

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

12 b. Be of the same sex; and

13 c. Be at least 18 years of age, except as provided in [section 10
14 of this act] R.S.37:1-6.

15 (cf: P.L.2006, c.103, s.3)

16
17 5. This act shall take effect immediately.
18
19

20 STATEMENT
21

22 Under current law, marriage or civil union licenses may be
23 issued to a minor under the age of 18 only under certain
24 circumstances. A license may be issued to a minor who is at least
25 16 but less than 18 years old if the minor's parents or guardian, if
26 any, consent to the proposed marriage or civil union. If the minor is
27 under the age of 16, in addition to the consent of the minor's
28 parents or guardian, the minor must also obtain the written approval
29 of a judge of the Superior Court.

30 This bill would bar the marriages and civil unions of minors
31 under the age of 16 under all circumstances. In the case of a minor
32 who is at least 16 years old but less than 18, the bill would allow
33 marriage or civil union only with the consent of the parents or
34 guardian and approval by a judge of the Superior Court. Under the
35 bill, the judge could not approve the issuance of a license for a
36 minor who is at least 16 but less than 18 unless the judge finds by
37 clear and convincing evidence that denial of the license would
38 result in substantial harm to the minor. The applicant for the license
39 would have the burden of proof.

40 The bill also amends N.J.S.2A:34-1, concerning annulments, to
41 make it easier for a person who entered into a marriage or civil
42 union under the age of 18 to later annul the marriage or civil union.
43 Currently, the statute allows such annulments on the grounds that
44 the person was under age, unless the person "confirmed" the
45 marriage or civil union after reaching the age of 18. The bill
46 removes the exception for marriages and civil unions that have been
47 "confirmed," allowing annulments without this restriction.

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1 The bill also makes a technical correction to remove an outdated
2 cross-reference to R.S.37:1-6. This statute had previously permitted
3 the immediate, emergency issuance of a marriage license to a male
4 under the age of 18, without the need for third party consent or the
5 standard 72-hour waiting period, if that male was arrested “on the
6 charge of sexual intercourse with a single, widowed or divorced
7 female of good repute for chastity who has thereby become
8 pregnant.” Such emergency application was deleted from the law
9 over a decade ago by section 10 of P.L.2006, c.103, thereby making
10 the cross-reference moot.