

**ASSEMBLY, No. 865**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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**SYNOPSIS**

Bars persons under age 18 from marrying or entering into a civil union.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 5/8/2018)

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 marriage or civil union license shall not be issued to a  
30 minor under the age of 18 years【, unless the parents or guardian of  
31 the minor, if any, first certify, in the presence of two reputable  
32 witnesses, consent thereto, which shall be delivered to the licensing  
33 officer issuing the license. Consent to the proposed marriage or  
34 civil union by a parent or guardian who is mentally incapacitated  
35 shall not be required.

36 When a minor is under the age of 16 years, the consent required  
37 by this section must be approved in writing by a judge of the  
38 Superior Court, Chancery Division, Family Part and filed with the  
39 licensing officer.

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

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

44

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

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

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

5 b. Be of the same sex; and

6 c. Be at least 18 years of age<sup>1</sup>, except as provided in section 10  
7 of this act<sup>2</sup>.

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

9

10 5. This act shall take effect immediately.

11

12

### 13 STATEMENT

14

15 This bill would bar persons under the age of 18 from marrying or  
16 entering into a civil union. Under current law, marriage or civil union  
17 licenses may be issued to a minor who is 16 or 17 years of age, if the  
18 minor’s parents or guardian, if any, consent to the proposed marriage  
19 or civil union. If the minor is under the age of 16, a judge of the  
20 Superior Court must also consent to the proposed marriage or civil  
21 union. The bill would eliminate the authority for these third parties to  
22 consent to the proposed marriage or civil union of a minor, thus only  
23 permitting the issuance of marriage or civil union licenses to persons  
24 who are at least 18 years of age.

25 The bill also removes an outdated cross-reference to R.S.37:1-6,  
26 which previously permitted the immediate, emergency issuance of a  
27 marriage license to a male under the age of 18, without the need for  
28 third party consent and the passing of the standard 72-hour waiting  
29 period, if that male was arrested on the charge of sexual intercourse  
30 with a female “of good repute for chastity who has thereby become  
31 pregnant.” Such emergency application was deleted from the law over  
32 a decade ago by section 10 of P.L.2006, c.103, thereby eliminating any  
33 need for the cross-reference.