ASSEMBLY, No. 2864

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:
Assemblyman RONALD S. DANCER
District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS
Provides religious exemption for clergy and religious organizations concerning same-sex marriages and civil unions.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning marriage and civil unions and supplementing
Title 37 of the Revised Statutes.

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

1. The Legislature finds and declares:
   a. Same-sex marriages began in New Jersey on October 21,
      2013 pursuant to an order of the New Jersey Superior Court in
      2013). Same-sex civil unions had previously been authorized in
      New Jersey by the enactment of P.L.2006, c.103.
   b. On June 26, 2015 the United States Supreme Court
      mandated that the states accept, recognize, and provide for same-
      sex marriage. In Obergefell v. Hodges, 135 S.Ct. 2584 (2015), the
      court ruled that same-sex couples have a fundamental right to
      marry, pursuant to the due process and equal protection clauses of
      the Fourteenth Amendment.
   c. The Obergefell opinion specified that it does not affect the
      constitutional rights of religious organizations and religious persons
      to refrain from recognizing marriages that violate religious beliefs:
      “[I]t must be emphasized that religions, and those who adhere to
      religious doctrines, may continue to advocate with utmost, sincere
      conviction that, by divine precepts, same-sex marriage should not
      be condoned. The First Amendment ensures that religious
      organizations and persons are given proper protection as they seek
      to teach the principles that are so fulfilling and so central to their
      lives and faiths, and to their own deep aspirations to continue the
      family structure they have long revered.”
   d. It is the intent of the Legislature in enacting this bill to
      reiterate this guarantee of the free exercise of religion set forth in
      the First Amendment to the United States Constitution and in
      Article I, paragraph 4 of the New Jersey Constitution.

2. a. No member of the clergy of any religion and no religious
   society, institution or organization in this State shall be required to
   solemnize any marriage or civil union in violation of the free
   exercise of religion guaranteed by the First Amendment to the
   United States Constitution or by Article I, paragraph 4 of the New
   Jersey Constitution.
   b. No religious society, institution, or organization in this State
      shall, other than when providing a place of public accommodation
      as defined in section 5 of P.L.1945, c.169 (C.10:5-5), be compelled
      to provide space, services, advantages, goods, or privileges related
      to the solemnization, celebration, or promotion of a marriage or
      civil union if such solemnization, celebration, or promotion of a
      marriage or civil union is in violation of the beliefs of such
      religious society, institution, or organization.
c. No civil claim or cause of action against any religious society, institution, or organization, or any employee thereof, shall arise out of any refusal to provide space, services, advantages, goods, or privileges pursuant to this section, other than when providing a place of public accommodation as defined in section 5 of P.L.1945, c.169 (C.10:5-5). No State action to penalize or withhold benefits from any such religious society, institution, or organization, or any employee thereof, shall result from any refusal to provide space, services, advantages, goods, or privileges pursuant to this section.

3. This act shall take effect immediately.

STATEMENT

This bill would set out a religious exemption for clergy and religious organizations concerning same-sex marriages and civil unions.

The findings and declarations section of the bill notes that same-sex marriages began in New Jersey on October 21, 2013 pursuant to an order of the New Jersey Superior Court in Garden State Equality et al. v. Dow, 434 N.J. Super. 163 (Law Div. 2013), and that same-sex civil unions had previously been authorized in New Jersey by the enactment of P.L.2006, c.103.

On June 26, 2015 the United States Supreme Court mandated that the states accept, recognize, and provide for same-sex marriage. In Obergefell v. Hodges, 135 S.Ct. 2584 (2015), the court ruled that same-sex couples have a fundamental right to marry, pursuant to the due process and equal protection clauses of the Fourteenth Amendment.

The Obergefell opinion specified that it does not affect the constitutional rights of religious organizations and religious persons to refrain from recognizing marriages that violate religious beliefs: “[I]t must be emphasized that religions, and those who adhere to religious doctrines, may continue to advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned. The First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths, and to their own deep aspirations to continue the family structure they have long revered.”

The findings and declarations section of the bill further provides that it is the intent of the Legislature in enacting the bill to reiterate this guarantee of the free exercise of religion set forth in the First Amendment to the United States Constitution and in Article I, paragraph 4 of the New Jersey Constitution.
Under the bill, no member of the clergy of any religion and no religious society, institution, or organization in this State would be required to solemnize any marriage or civil union in violation of the free exercise of religion guaranteed by the First Amendment to the United States Constitution or by Article I, paragraph 4 of the New Jersey Constitution.

The bill provides that no religious society, institution, or organization in this State could, other than when providing a place of public accommodation as defined in section 5 of P.L.1945, c.169 (C.10:5-5), be compelled to provide space, services, advantages, goods, or privileges related to the solemnization, celebration or promotion of a marriage or civil union if such solemnization, celebration or promotion is in violation of the beliefs of such religious society, institution, or organization.

The bill further provides that no civil claim or cause of action against any religious society, institution, or organization, or any employee thereof, could arise out of any such refusal to provide space, services, advantages, goods, or privileges, other than when providing a place of public accommodation, and no State action to penalize or withhold benefits from any such religious society, institution, or organization, or any employee thereof, could result from any refusal to provide such space, services, advantages, goods, or privileges.