

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.



1 AN ACT concerning marriage and civil unions and supplementing
2 Title 37 of the Revised Statutes.

3

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

6

7 1. The Legislature finds and declares:

8 a. Same-sex marriages began in New Jersey on October 21,
9 2013 pursuant to an order of the New Jersey Superior Court in
10 Garden State Equality et al. v. Dow, 434 N.J. Super. 163 (Law Div.
11 2013). Same-sex civil unions had previously been authorized in
12 New Jersey by the enactment of P.L.2006, c.103.

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

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

30 d. It is the intent of the Legislature in enacting this bill to
31 reiterate this guarantee of the free exercise of religion set forth in
32 the First Amendment to the United States Constitution and in
33 Article I, paragraph 4 of the New Jersey Constitution.

34

35 2. a. No member of the clergy of any religion and no religious
36 society, institution or organization in this State shall be required to
37 solemnize any marriage or civil union in violation of the free
38 exercise of religion guaranteed by the First Amendment to the
39 United States Constitution or by Article I, paragraph 4 of the New
40 Jersey Constitution.

41 b. No religious society, institution, or organization in this State
42 shall, other than when providing a place of public accommodation
43 as defined in section 5 of P.L.1945, c.169 (C.10:5-5), be compelled
44 to provide space, services, advantages, goods, or privileges related
45 to the solemnization, celebration, or promotion of a marriage or
46 civil union if such solemnization, celebration, or promotion of a
47 marriage or civil union is in violation of the beliefs of such
48 religious society, institution, or organization.

1 c. No civil claim or cause of action against any religious
2 society, institution, or organization, or any employee thereof, shall
3 arise out of any refusal to provide space, services, advantages,
4 goods, or privileges pursuant to this section, other than when
5 providing a place of public accommodation as defined in section 5
6 of P.L.1945, c.169 (C.10:5-5). No State action to penalize or
7 withhold benefits from any such religious society, institution, or
8 organization, or any employee thereof, shall result from any refusal
9 to provide space, services, advantages, goods, or privileges pursuant
10 to this section.

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12 3. This act shall take effect immediately.

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STATEMENT

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

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

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

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

43 The findings and declarations section of the bill further provides
44 that it is the intent of the Legislature in enacting the bill to reiterate
45 this guarantee of the free exercise of religion set forth in the First
46 Amendment to the United States Constitution and in Article I,
47 paragraph 4 of the New Jersey Constitution.

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1 Under the bill, no member of the clergy of any religion and no
2 religious society, institution, or organization in this State would be
3 required to solemnize any marriage or civil union in violation of the
4 free exercise of religion guaranteed by the First Amendment to the
5 United States Constitution or by Article I, paragraph 4 of the New
6 Jersey Constitution.

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

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