

# ASSEMBLY, No. 4327

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JULY 30, 2018

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

The “Marriage Equality Act”; codifies same-sex marriage.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning marriage, supplementing Title 37 of the  
2 Revised Statutes and repealing section 94 of P.L.2006, c.103.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. This act shall be known and may be cited as the “Marriage  
8 Equality Act.”

9  
10 2. The Legislature finds and declares that:

11 a. On September 27, 2013 a judge of the New Jersey Superior  
12 Court ruled in Garden State Equality et al. v. Dow, 434 N.J. Super.  
13 163 (Law Div. 2013) that same-sex couples have a constitutional  
14 right to marry, and that denying them that right violates the equal  
15 protection guarantee of the New Jersey Constitution.

16 b. The State did not appeal this trial court decision, and the  
17 first same-sex marriages in New Jersey took place on October 21,  
18 2013.

19 c. On June 26, 2015, the United States Supreme Court ruled in  
20 a 5-4 decision that same-sex marriage is a fundamental right and  
21 that all states are required to issue marriage licenses to same-sex  
22 couples. Obergefell et al. v. Hodges, Director, Ohio Department of  
23 Health, et al., 135 S. Ct. 2584, 192 L. Ed. 2d. 609, 2015 U.S.  
24 LEXIS 4250 (2015).

25 d. In enacting this legislation to grant same-sex marriage  
26 statutory recognition, it is the intent of the Legislature to codify the  
27 ruling of Garden State Equality et al. v. Dow and to declare that it is  
28 the public policy of this State that same-sex marriage is a  
29 fundamental right.

30  
31 3. “Marriage” means the legally recognized union of two  
32 consenting persons in a committed relationship. Whenever the term  
33 “marriage” occurs or the term “man,” “woman,” “husband” or  
34 “wife” occurs in the context of marriage or any reference is made  
35 thereto in any law, statute, rule, regulation or order, the same shall  
36 be deemed to mean or refer to the union of two persons pursuant to  
37 P.L. , c. (C. ) (pending before the Legislature as this bill).  
38 “Marriage” does not include a civil union as statutorily recognized  
39 pursuant to P.L.2006, c.103 (C.37:1-28 et al.).

40  
41 4. A marriage of two persons of the same sex entered into  
42 outside this State which is valid under the laws of the jurisdiction in  
43 which the marriage was entered shall be valid in this State.

44  
45 5. It is the intent of the Legislature that P.L. , c. (C. )  
46 (pending before the Legislature as this bill) be interpreted  
47 consistently with the guarantees of the First Amendment to the

1 United States Constitution and of Article I, paragraph 4 of the New  
2 Jersey Constitution.

3  
4 6. Nothing in P.L. , c. (C. ) (pending before the  
5 Legislature as this bill) shall affect the right of two persons to enter  
6 into a civil union pursuant to P.L.2006, c.103 (C.37:1-28 et al.).  
7

8 7. Section 94 of P.L.2006, c.103 (C.37:1-36) is repealed.  
9

10 8. This act shall take effect immediately.  
11  
12

### 13 STATEMENT 14

15 This bill, the “Marriage Equality Act,” would codify same-sex  
16 marriage in the statutes. Same-sex marriage has been authorized in  
17 New Jersey since October 21, 2013, through Garden State Equality  
18 et al. v. Dow, 434 N.J. Super. 163 (Law Div. 2013).

19 The bill’s “findings and declarations” provide that:

20 a. On September 27, 2013 a judge of the New Jersey Superior  
21 Court ruled in Garden State Equality et al. v. Dow, 434 N.J. Super.  
22 163 (Law Div. 2013) that same-sex couples have a constitutional  
23 right to marry, and that denying them that right violates the equal  
24 protection guarantee of the New Jersey Constitution.

25 b. The State did not appeal this trial court decision, and the  
26 first same-sex marriages in New Jersey took place on October 21,  
27 2013.

28 c. On June 26, 2015, the United States Supreme Court ruled in  
29 a 5-4 decision that same-sex marriage is a fundamental right and  
30 that all states are required to issue marriage licenses to same-sex  
31 couples. Obergefell et al. v. Hodges, Director, Ohio Department of  
32 Health, et al., 135 S. Ct. 2584, 192 L. Ed. 2d. 609, 2015 U.S.  
33 LEXIS 4250 (2015).

34 d. In enacting this legislation to grant same-sex marriage  
35 statutory recognition, it is the intent of the Legislature to codify the  
36 ruling of Garden State Equality et al. v. Dow and to declare that it is  
37 the public policy of this State that same-sex marriage is a  
38 fundamental right.

39 The bill provides that the term “marriage” means the legally  
40 recognized union of two consenting persons in a committed  
41 relationship. Under the bill, whenever the term “marriage” occurs or  
42 the term “man,” “woman,” “husband” or “wife” occurs in the  
43 context of marriage or any reference is made thereto in any law,  
44 statute, rule, regulation or order, the same would be deemed to  
45 mean or refer to the union of two persons pursuant to the bill. The  
46 bill provides that the term “marriage” does not include a civil union  
47 as statutorily recognized pursuant to P.L.2006, c.103 (C.37:1-28 et  
48 al.).

1       The bill specifies that a marriage of two persons of the same sex  
2 entered into outside this State which is valid under the laws of the  
3 jurisdiction in which the marriage was entered would be valid in  
4 this State.

5       The bill also specifies that it is the intent of the Legislature that it  
6 be interpreted consistently with the guarantees of the First  
7 Amendment to the United States Constitution and of Article I,  
8 paragraph 4 of the New Jersey Constitution.

9       The bill provides that nothing in the bill would affect the right of  
10 two persons to enter into a civil union pursuant to P.L.2006, c.103  
11 (C.37:1-28 et al.).

12       Finally, the bill repeals section 94 of P.L.2006, c.103  
13 (C.37:1-36), which had established the now-defunct New Jersey  
14 Civil Union Review Commission. The function of the commission  
15 was to evaluate the operation and effectiveness of P.L.2006, c.103,  
16 which had authorized same-sex civil unions in this State. The  
17 commission concluded in its December 2008 final report that the  
18 civil union law was inadequate and discriminatory, and that the law  
19 should be changed to allow same-sex couples to marry.