

# SENATE, No. 427

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Senators Vitale, Bateman, Codey, Gordon, Cruz-Perez, Diegnan, Turner, Scutari, Ruiz, Brown, Stack, T.Kean and O'Scanlon**

**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: 4/6/2018)**

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**【**,  
46 unless such marriage be confirmed by her or him after arriving at  
47 such age**】**.

**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 f. Allowable under the general equity jurisdiction of the  
2 Superior Court.
- 3 (2) Judgments of nullity of a civil union may be rendered in all  
4 cases, when:
- 5 a. Either of the parties has another wife, husband, partner in a  
6 civil union couple or domestic partner living at the time of  
7 establishing the new civil union.
- 8 b. The parties are within the degrees prohibited by the law  
9 from entering into a marriage or establishing a civil union or  
10 domestic partnership. If any such civil union shall not have been  
11 annulled during the lifetime of the parties the validity thereof shall  
12 not be inquired into after the death of either party.
- 13 c. The parties, or either of them, lacked capacity to enter into a  
14 civil union due to want of understanding because of mental  
15 condition, or the influence of intoxicants, drugs, or similar agents;  
16 or where there was a lack of mutual assent to the civil union;  
17 duress; or fraud as to the essentials of a civil union; and has not  
18 subsequently ratified the civil union.
- 19 d. The demand for such a judgment is by the party who was  
20 under the age of 18 years at the time of the civil union【, unless such  
21 civil union be confirmed by him after arriving at such age】.
- 22 e. Allowable under the general equity jurisdiction of the  
23 Superior Court.  
24 (cf: P.L.2006, c.103, s.63).  
25
- 26 3. R.S.37:1-6 is amended to read as follows:  
27 37:1-6. A marriage or civil union license shall not be issued to  
28 a minor under the age of 18 years【, unless the parents or guardian  
29 of the minor, if any, first certify, in the presence of two reputable  
30 witnesses, consent thereto, which shall be delivered to the licensing  
31 officer issuing the license. Consent to the proposed marriage or  
32 civil union by a parent or guardian who is mentally incapacitated  
33 shall not be required.
- 34 When a minor is under the age of 16 years, the consent required  
35 by this section must be approved in writing by a judge of the  
36 Superior Court, Chancery Division, Family Part and filed with the  
37 licensing officer.
- 38 The licensing officer shall transmit to the State registrar all  
39 consents, orders, and approvals subject to the same penalty as in the  
40 case of marriage or civil union certificates or licenses【.】  
41 (cf: P.L.2013, c.103, s.105)  
42
- 43 4. Section 3 of P.L.2006, c.103 (C.37:1-30) is amended to read  
44 as follows:
- 45 3. For two persons to establish a civil union in this State, it  
46 shall be necessary that they satisfy all of the following criteria:
- 47 a. Not be a party to another civil union, domestic partnership or  
48 marriage in this State;

- 1       b. Be of the same sex; and  
2       c. Be at least 18 years of age【, except as provided in section 10  
3 of this act】.  
4 (cf: P.L.2006, c.103, s.3)

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6       5. This act shall take effect immediately.

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STATEMENT

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

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