

SENATE, No. 1315

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

The “Full Marriage Recognition for Civil Union Couples Act”; recognizes certain civil unions as marriages dating back to inception of such civil unions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning civil unions and designated the “Full Marriage
2 Recognition for Civil Union Couples Act,” and supplementing
3 Title 37 of the Revised Statutes.

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

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8 1. a. The Legislature finds and declares that:

9 (1) In 2006, the New Jersey Supreme Court ruled in Lewis v.
10 Harris, 188 N.J. 415 (2006) that our State Constitution guarantees
11 committed same-sex couples the same rights and benefits, and with
12 them such corresponding burdens and obligations, as married
13 opposite-sex couples;

14 (2) Thereafter, the Legislature established civil unions with the
15 enactment of P.L.2006, c.103 (C.37:1-28 et al.) in order to provide
16 committed same-sex couples all of the same rights, benefits,
17 burdens, and obligations provided to married opposite-sex couples;

18 (3) This equality, however, ceased to exist in the wake of the
19 June 26, 2013 decision in United States v. Windsor, 570 U.S. 744,
20 133 S. Ct. 2675 (2013), in which the United States Supreme Court
21 struck down section 3 of the federal “Defense of Marriage Act,” 1
22 U.S.C. s.7, defining “marriage” as only a legal union between
23 opposite-sex couples; while the decision meant the federal
24 government could no longer deny federal benefits for same-sex
25 married couples who were lawfully wed pursuant to their respective
26 state laws, it did not extend this newly recognized equality to civil
27 unions and other forms of marriage-like same-sex relationships
28 established in New Jersey and other states;

29 (4) Recognizing the unconstitutional inequality now facing civil
30 union couples in New Jersey who, because they could not marry,
31 had no access to the variety of federal benefits enjoyed by opposite-
32 sex married couples in this State, the Superior Court ruled in
33 Garden State Equality v. Dow, 434 N.J Super. 163 (Law Div. 2013),
34 that the State must allow same-sex couples to be married, and such
35 marriages have occurred in this State since October 21, 2013;

36 (5) Since same-sex couples now have the right to marry, it is no
37 longer necessary for such couples to solemnize their relationship
38 with a civil union;

39 (6) However, while the right to be married is now enjoyed by all
40 committed same-sex couples, those who previously joined in civil
41 union prior to October 21, 2013 and henceforth are joining in
42 marriage do not have any means to back date their marriage to the
43 beginning date of their civil union, when these couples first joined
44 in their recognized committed relationship intended by the
45 Legislature to have all of the same rights, benefits, burdens, and
46 obligations of marriage; and

1 (7) In order to completely fulfill the Legislature's intent of full
2 marital equality, the Legislature is now taking action to grant
3 retroactive marital status to such civil union couples.

4 b. On and after the effective date of this section, no new civil
5 unions shall be established pursuant to P.L.2006, c.103 (C.37:1-28
6 et al.).

7 c. (1) Partners in a civil union couple who seek to obtain a
8 marriage license pursuant to R.S.37:1-1 et seq. on or after the
9 effective date of this section shall not be required to pay any fee for
10 the license, or be subject to the 72-hour waiting period set forth
11 under R.S.37:1-4 before obtaining the license.

12 (2) (a) By operation of law, partners in a civil union couple
13 from this or another jurisdiction, or the equivalent of a civil union
14 couple entered into in another jurisdiction, who subsequently enter
15 into a marriage between the same partners shall, after the
16 solemnization of the marriage and upon the filing of the marriage
17 license and certificate of marriage with the appropriate municipal
18 clerk, whether the marriage occurred before, on, or after the
19 effective date of this section, be deemed to be married as of the
20 earlier date of their civil union or their civil union equivalent from
21 another jurisdiction.

22 (b) The partners may at any time obtain a marriage certificate
23 with the date of the marriage amended to the earlier date of the civil
24 union or the civil union equivalent from another jurisdiction, by
25 providing proof of that earlier date to the municipal clerk where the
26 marriage license was filed.

27 (3) Nothing in this section shall be deemed to invalidate agreed-
28 upon terms of a prenuptial agreement pursuant to the "Uniform
29 Premarital and Pre-Civil Union Agreement Act," R.S.37:2-31 et
30 seq., or preclude persons from seeking or obtaining any equitable
31 relief otherwise available to them in seeking a divorce or separate
32 maintenance.

33
34 2. This act shall take effect immediately.
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37 STATEMENT

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39 This bill, titled the "Full Marriage Recognition for Civil Union
40 Couples Act," would, with respect to civil unions:

41 - prohibit the formation of any new civil unions pursuant to
42 P.L.2006, c.103 (C.37:1-28 et al.), since same-sex couples now
43 have the right to marry, as stated in the Superior Court decision of
44 Garden State Equality v. Dow, 434 N.J. Super. 163 (Law Div.
45 2013);

46 - permit existing civil union couples to obtain marriage licenses
47 pursuant to R.S.37:1-1 et seq. without paying any license fees;

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1 - permit these couples to immediately marry by waiving the
2 standard 72-hour waiting period before the marriage license is
3 issued, as normally required under R.S.37:1-4; and
4 - provide, by operation of law, that a civil union couple from this
5 or another jurisdiction (or legally equivalent couple from another
6 jurisdiction), who subsequently enters into a marriage together
7 would, after the solemnization of the marriage and upon the filing
8 of the marriage license and certificate of marriage with the
9 appropriate municipal clerk, whether the marriage occurred before,
10 on, or after the effective date of the bill, be deemed to be married as
11 of the earlier date of their civil union. The couple could also at any
12 time obtain a marriage certificate with the date of the marriage
13 amended to the earlier date of the civil union (or equivalent from
14 another jurisdiction), by providing proof of that earlier date to the
15 municipal clerk where the marriage license was filed.