

SENATE, No. 1894

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

“Linnette Lebron’s Law”; modifies procedures for marriage or civil union where a party is terminally ill.

CURRENT VERSION OF TEXT

As introduced.



S1894 CRUZ-PEREZ

2

1 AN ACT concerning marriage and civil union licenses, designated as
2 Linnette Lebron's Law, amending various sections of the statutory
3 law, and supplementing Title 37 of the Revised Statutes.

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

7
8 1. R.S.26:8-41 is amended to read as follows:

9 26:8-41. Transmission of marriage and civil union licenses and
10 certificates. Every person or religious society, institution or
11 organization solemnizing a marriage or civil union shall, within 5
12 days thereafter, transmit the certificate of marriage or civil union
13 and the marriage or civil union license to the local registrar of the
14 registration district in which the marriage or civil union occurs or to
15 the clerk of the county board of health. In the case of marriages or
16 civil unions performed pursuant to section 7 of P.L.2011, c.179
17 (C.37:1-17.3) or section 8 of P.L. , c. (C.) (pending before
18 the Legislature as this bill), the person or religious society,
19 institution or organization solemnizing the marriage or civil union,
20 in addition to transmitting the certificate of marriage or civil union
21 and the marriage or civil union license, shall also transmit the
22 power of attorney.

23 The local registrar or clerk of the county board of health shall
24 stamp every certificate of marriage or civil union so received with
25 the date of its receipt and the name of the registration district in
26 which it is filed.

27 (cf: P.L.2011, c.179, s.1)

28

29 2. R.S.37:1-2 is amended to read as follows:

30 37:1-2. Necessity of marriage or civil union license; "licensing
31 officer" defined.

32 Before a marriage or a civil union can be lawfully performed in
33 this State, the persons intending to be married or to enter into a civil
34 union shall obtain a marriage or civil union license from the
35 licensing officer and deliver it to the person who is to officiate.

36 In the case of persons intending to be married or to enter into a
37 civil union pursuant to section 7 of P.L.2011, c.179 (C.37:1-17.3),
38 one of the persons intending to be married or to enter into a civil
39 union and the attorney-in-fact for the other person shall obtain a
40 marriage or civil union license and deliver it to the person who is to
41 officiate.

42 In the case of persons intending to be married or to enter into a
43 civil union pursuant to section 8 of P.L. , c. (C.) (pending
44 before the Legislature as this bill), one of the persons intending to
45 be married or to enter into a civil union and the attorney-in-fact for

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 the hospitalized terminally ill person, or the attorneys-in-fact for
2 both persons, shall obtain a marriage or civil union license and
3 deliver it to the person who is to officiate.

4 If the marriage or civil union is to be performed by or before any
5 religious society, institution or organization, the license shall be
6 delivered to such religious society, institution or organization, or
7 any officer thereof.

8 As used in this chapter, "licensing officer" means, as to cities of
9 the first class, the city clerk; as to other municipalities, the State
10 registrar; or the deputy of any said official designated by him to
11 issue licenses during his absence.

12 (cf: P.L.2011, c.179, s.2)

13

14 3. R.S.37:1-4 is amended to read as follows:

15 37:1-4. Issuance of marriage or civil union license, emergencies,
16 validity.

17 The marriage or civil union license shall not be issued by a
18 licensing officer sooner than 72 hours after the application therefor
19 has been made; provided, however, that **【the】**:

20 a. The Superior Court may, by order, waive all or any part of
21 said 72-hour period in cases of emergency, upon satisfactory proof
22 being shown to it. Said order shall be filed with the licensing officer
23 and attached to the application for the license; and

24 b. The 72-hour period may be waived in a case involving a
25 hospitalized terminally ill person whose terminal illness is certified
26 to the licensing officer by the treating physician of the terminally ill
27 person. The licensing officer shall attach the certification from the
28 treating physician to the application for the license.

29 A marriage or civil union license, when properly issued as
30 provided in this article, shall be good and valid only for 30 days
31 after the date of the issuance thereof.

32 (cf: P.L.2018, c.42, s.1)

33

34 4. R.S.37:1-7 is amended to read as follows:

35 37:1-7. Issuing of license; remarriage or reaffirming a civil
36 union.

37 The licensing officer is hereby empowered to issue marriage or
38 civil union licenses to the contracting parties who, either personally
39 or through an attorney-in-fact pursuant to section 7 of P.L.2011,
40 c.179 (C.37:1-17.3) , or pursuant to section 8 of P.L. _____,
41 c. (C. _____) (pending before the Legislature as this bill), apply
42 therefor and are entitled under the laws of this State to contract
43 matrimony or establish a civil union, authorizing the marriage or
44 civil union of such parties, which license shall be substantially in
45 the following form:

46 "State of New Jersey. County of _____ city, town or township of

47 This is to certify that any person, religious society, institution or
48 organization authorized by law to perform marriage or civil union

1 ceremonies within the State of New Jersey to whom this may come,
2 he or they not knowing any lawful impediment thereto, is hereby
3 authorized and empowered to solemnize the rites of matrimony or
4 the civil union between

5 A B of , in the county of and State of and
6 C D of , in the county of and State of , and to
7 certify the same to be the said parties, or either of them, under his
8 hand and seal in his ministerial or official capacity.

9 In testimony whereof, I have hereunto set my hand and affixed
10 the seal of said town, township or city
11 at this day of two thousand and
12 , (Name and official title)"

13 If the contracting parties desire both a civil and a religious
14 marriage or civil union ceremony, the licensing officer shall issue a
15 license in duplicate, marking one as "issued for civil marriage or
16 civil union ceremony" and one as "issued for religious marriage or
17 civil union ceremony."

18 Nothing in this section shall be construed to prevent the
19 remarriage of a couple already married to each other or to prevent a
20 couple who has entered into a civil union to reaffirm their
21 commitment to one another; provided, a new license is obtained and
22 the marriage or civil union properly reported. Such license shall be
23 plainly marked "Issued for remarriage--originally married to same
24 mate at (state place) on (state date) or Issued for reaffirmation of a
25 civil union-originally entered into a civil union to same mate at
26 (state place) on (state date)." Such a license shall be issued without
27 compliance with the provisions of R.S.37:1-4 and if applicable of
28 the provisions of "An act concerning marriages" approved May
29 third, one thousand nine hundred and thirty-eight (P.L.1938, c.126).
30 (cf: P.L.2011, c.179, s.3)

31

32 5. R.S.37:1-8 is amended to read as follows:

33 37:1-8. Testimony under oath by applicants or attorneys-in-fact
34 as to legality of proposed marriage or civil union; witnesses;
35 perjury.

36 A licensing officer shall, before issuing a marriage or civil union
37 license, require the contracting parties or, in the case of persons
38 who intend to be married or to enter into a civil union pursuant to
39 section 7 of P.L.2011, c.179 (C.37:1-17.3), one of the contracting
40 parties and the attorney-in-fact for the other party, or, in the case of
41 persons who intend to be married or enter into a civil union
42 pursuant to section 8 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), the contracting party who is not terminally
44 ill and the attorney-in-fact for the hospitalized terminally ill party,
45 or the attorneys-in-fact for both parties, to appear before him and
46 subscribe and swear to an oath attesting the truth of the facts
47 respecting the legality of the proposed marriage or civil union as set
48 forth in the form supplied by the State registrar. Said testimony

1 shall be verified by a witness of legal age. A licensing officer shall
2 issue a license only if it is thus made to appear before him that no
3 legal impediment to the marriage or civil union exists. Every
4 licensing officer may administer oaths to:

5 a. the contracting parties [or,] and their identifying witness; or

6 b. in the case of persons who intend to be married or to enter
7 into a civil union pursuant to section 7 of P.L.2011, c.179 (C.37:1-
8 17.3), to one of the contracting parties and to the attorney-in-fact
9 for the other contracting party and their identifying witness ; or

10 c. in the case of persons who intend to be married or to enter
11 into a civil union pursuant to section 8 of P.L. , c. (C.)
12 (pending before the Legislature as this bill), to the contracting party
13 who is not terminally ill and the attorney-in-fact for the terminally
14 ill party, or the attorneys-in-fact for both parties, and their
15 identifying witness.

16 Any identifying witness, applicant applying for a marriage or
17 civil union license or attorney-in-fact who shall knowingly make
18 false answers to any of the inquiries asked by the licensing officer
19 shall be guilty of perjury.

20 (cf: P.L.2011, c.179, s.4)

21

22 6. R.S.37:1-16 is amended to read as follows:

23 37:1-16. Interrogation of applicants or attorneys-in-fact under
24 oath; perjury.

25 Any person authorized to solemnize marriages or civil unions
26 may administer oaths to the parties applying to be married or to
27 enter into a civil union or, in the case of persons applying to be
28 married or to enter into a civil union pursuant to section 7 of
29 P.L.2011, c.179 (C.37:1-17.3), to one of the contracting parties and
30 to the attorney-in-fact for the other contracting party, or, pursuant to
31 section 8 of P.L. , c. (C.) (pending before the Legislature
32 as this bill), to the contracting party who is not terminally ill and the
33 attorney-in-fact for the terminally ill party, or the attorneys-in-fact
34 for both parties, and may require them, or either of them, to make
35 true answers to any inquiries made by him in order to ascertain
36 whether, in his judgment, any legal impediment to the proposed
37 marriage or civil union exists.

38 Any person who willfully makes false answers to any such
39 inquiries shall, if the answers are reduced to writing, signed by
40 the person making the same and attached to the certificate of
41 marriage or civil union, be deemed guilty of perjury pursuant to
42 N.J.S.2C:28-1.

43 (cf: P.L.2011, c.179, s.5)

44

45 7. Section 2 of P.L.1980, c.128 (C.37:1-17.1) is amended to
46 read as follows:

47 2. License and certificate of marriage or civil union;
48 transmittal.

1 The license and the original certificate shall be transmitted
2 pursuant to R.S.26:8-41. One copy of the certificate shall be
3 retained by the local registrar and one copy shall be given to the
4 persons contracting the marriage or civil union. In the case of
5 persons who have married or entered into a civil union pursuant to
6 section 7 of P.L.2011, c.179 (C.37:1-17.3), one copy of the
7 certificate shall be retained by the local registrar and one copy shall
8 be given to one of the contracting persons and to the attorney-in-
9 fact for the other contracting person. In the case of persons who
10 have married or entered into a civil union pursuant to section 8 of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 one copy of the certificate shall be retained by the local registrar
13 and one copy shall be given to the contracting party who is not
14 terminally ill and to the attorney-in-fact for the terminally ill party,
15 or to the attorneys-in-fact for both parties. The remaining copy shall
16 be retained by the person solemnizing the marriage or civil union.
17 (cf: P.L.2011, c.179, s.6)

18

19 8. (New section) a. A hospitalized terminally ill person who is
20 unable to appear for the licensure of his marriage or civil union may
21 obtain licensure for that marriage or civil union by:

22 (1) the appearance of an attorney-in-fact, commissioned and
23 empowered in writing for that purpose through a power of attorney,
24 pursuant to the provisions of subsection b. of this section; or

25 (2) the appearance of attorneys-in-fact for both parties,
26 commissioned and empowered in writing for that purpose through
27 powers of attorney, pursuant to the provisions of subsection b. of
28 this section; or

29 (3) by telephonic communication with the licensing officer,
30 pursuant to the provisions of subsection c. of this section.

31 b. Pursuant to subparagraphs (1) or (2) of subsection a. of this
32 section, the attorney-in-fact must personally appear before the
33 licensing officer with the person who is not terminally ill, and
34 present the original power of attorney duly signed by the terminally
35 ill person and acknowledged by a notary, except that the person
36 who is not terminally ill may be excused from appearing before the
37 licensing officer if that person executes a separate power of
38 attorney, acknowledged by a notary, permitting an attorney-in-fact
39 to appear on his behalf as well. Each power of attorney shall state
40 the legal names of the parties to be married or enter into a civil
41 union, and shall state that the power of attorney is solely for the
42 purpose of authorizing the attorney-in-fact to obtain a marriage or
43 civil union license on behalf of the terminally ill person and, where
44 a power of attorney has also been executed by the person who is not
45 terminally ill, on behalf of that person. Each power of attorney shall
46 be accompanied by a certification by the terminally ill person's
47 treating physician. Each original power of attorney and

1 accompanying certification shall be a part of the marriage or civil
2 union certificate upon registration.

3 c. Pursuant to subparagraph (3) of subsection a. of this section,
4 in lieu of the appearance of an attorney-in-fact on behalf of the
5 hospitalized terminally ill patient or attorneys-in-fact for both
6 parties, the licensing officer shall, before issuing a marriage or civil
7 union license, require the contracting to communicate by telephone
8 with him and subscribe and swear to an oath attesting the truth of
9 the facts respecting the legality of the proposed marriage or civil
10 union as set forth in the form supplied by the State registrar. Said
11 testimony shall be verified by a witness of legal age who is in the
12 presence of the contracting parties. A licensing officer shall issue a
13 license only if it is thus made to appear before him that no legal
14 impediment to the marriage or civil union exists. Every licensing
15 officer may administer oaths to the contracting parties.

16 Any identifying witness, applicant applying for a marriage or
17 civil union license or attorney-in-fact who shall knowingly make
18 false answers to any of the inquiries asked by the licensing officer
19 shall be guilty of perjury.

20 As used in this section, "terminally ill" means having an illness
21 or injury that can reasonably be expected to result in death in 12
22 months or less as determined by the treating physician.

23

24 9. This act shall take effect immediately.

25

26

27

STATEMENT

28

29 This bill would modify the procedures for obtaining a marriage
30 or civil union license when a party is terminally ill. The bill is
31 designated "Linnette Lebron's Law."

32 Currently, persons intending to be married or to enter into a civil
33 union in New Jersey must first obtain a marriage or civil union
34 license from a licensing officer and deliver it to the person who is to
35 officiate. The statutes provide for a mandatory 72-hour waiting
36 period from the time the application is made until the issuance of
37 the license, unless all or part of that time has been waived by order
38 of the Superior Court. This bill addresses instances where one of
39 the parties is terminally ill and hospitalized. The bill is intended to
40 reduce the amount of time these couples must attend to
41 administrative matters, and to eliminate the 72-hour waiting period.

42 Under the bill, the waiting period may be waived in a case
43 involving a hospitalized terminally ill person whose terminal illness
44 is certified to the licensing officer by the person's treating
45 physician. The licensing officer would attach the certification from
46 the physician to the license application.

47 The bill also allows the terminally ill person, or both parties, to
48 obtain the marriage or civil union license through a power of

1 attorney instead of appearing in person before the licensing officer.
2 The parties could also obtain the license by a telephone conference
3 with the licensing officer.

4 The bill provides that a hospitalized terminally ill person who is
5 unable to appear before the licensing officer may obtain the
6 marriage or civil union license by:

7 (1) the appearance of an attorney-in-fact on the person's behalf,
8 commissioned and empowered in writing for that purpose through a
9 power of attorney; or

10 (2) the appearance of attorneys-in-fact for both parties,
11 commissioned and empowered in writing for that purpose through
12 powers of attorney; or

13 (3) telephonic communication with the licensing officer.

14 Under the bill, the attorney-in-fact must personally appear before
15 the licensing officer with the person who is not terminally ill, and
16 present the original power of attorney duly signed by the terminally
17 ill person and acknowledged by a notary, except that the person
18 who is not terminally ill may be excused from appearing before the
19 licensing officer if that person executes a separate power of
20 attorney, acknowledged by a notary, permitting an attorney-in-fact
21 to appear on his behalf as well. Each power of attorney would state
22 the legal names of the parties to be married or enter into a civil
23 union, and state that the power of attorney is solely for the purpose
24 of authorizing the attorney-in-fact to obtain a marriage or civil
25 union license on behalf of the terminally ill person and, where a
26 power of attorney has also been executed by the person who is not
27 terminally ill, on behalf of that person. Each power of attorney
28 would be accompanied by a certification of the terminally ill
29 person's treating physician. The power of attorney and
30 accompanying certification would be a part of the marriage or civil
31 union certificate upon registration.

32 The bill provides that, in lieu of the appearance of an attorney-in-
33 fact on behalf of the hospitalized terminally ill patient or attorneys-
34 in-fact for both parties, the parties could obtain a license by
35 telephone. In this case the licensing officer would require the
36 contracting parties communicating with him by telephone to
37 subscribe and swear to an oath attesting the truth of the facts
38 respecting the legality of the proposed marriage or civil union. The
39 parties' testimony would be verified by a witness of legal age who
40 is in the presence of the contracting parties.

41 Under current law, any identifying witness, license applicant, or
42 attorney-in-fact who knowingly makes false answers to any of the
43 inquiries asked by the licensing officer is guilty of perjury. The bill
44 as amended specifies that making knowingly false answers to
45 telephone inquiries asked by the licensing officer would constitute
46 perjury as well.

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1 The bill defines “terminally ill” as “having an illness or injury
2 that can reasonably be expected to result in death in 12 months or
3 less as determined by the treating physician.”

4 This bill is named after a Camden resident who passed away in
5 February, 2015. While Linnette Lebron was dying in the hospital,
6 her husband-to-be was forced to leave her side to go to court to try
7 to obtain a waiver of the 72-hour waiting period. They were
8 married in the hospital and she died the next day.