

# ASSEMBLY, No. 709

## STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblywoman MARION CRECCO**

**District 34 (Essex and Passaic)**

**Assemblyman FRANCIS L. BODINE**

**District 8 (Atlantic, Burlington and Camden)**

**SYNOPSIS**

Requires marriage license applicants to be tested for AIDS.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT requiring AIDS testing for marriage license applicants and  
2 supplementing chapter 1 of 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. a. Before any person, who is now or hereafter authorized by  
8 law to issue marriage licenses, shall issue a license, each applicant  
9 therefor shall file with him a certificate signed by a physician licensed  
10 in this State or any other state or in any other territory of the United  
11 States, or the District of Columbia, or by a commissioned medical  
12 officer on active duty with the Armed Forces of the United States or  
13 with the Public Health Service, which certificate shall state that the  
14 applicant has submitted to an approved test for the presence of HIV  
15 infection and that the physician has notified the applicant in writing of  
16 the result of this test. The certificate shall be on a form prescribed by  
17 the Department of Health and Senior Services pursuant to subsection  
18 c. of this section. The physician signing the certificate shall set forth  
19 his office address therein and the certificate shall be valid for 30 days  
20 from the date of the HIV test.

21 A physician licensed in this State may submit to the person  
22 authorized by law to issue marriage licenses, in lieu of a certificate, a  
23 statement over his signature that the female applicant for the license  
24 is near the termination of her pregnancy or the death of one or both  
25 applicants is imminent and that he has taken blood samples adequate  
26 for HIV testing from the applicant, excepting those whose death is  
27 imminent, and forwarded same to the department's laboratory, in  
28 which case a certificate shall not be required of the applicant prior to  
29 issuance of a license.

30 b. The certificate shall contain a statement signed by the person in  
31 charge of the laboratory making the test, or other person authorized  
32 by the laboratory to sign the certificate, setting forth the test  
33 performed, the date thereof, the name and address of the person whose  
34 blood was tested, and certifying that the laboratory is approved for the  
35 performance of tests for the presence of the HIV infection by the  
36 Department of Health and Senior Services or the Armed Forces of the  
37 United States or the Public Health Service, or by the department of  
38 health of the District of Columbia, or of the territory or state in which  
39 the laboratory is situated. The applicant shall also sign a statement on  
40 the certificate setting forth that he is the applicant referred to therein.

41 c. The certificate shall be on a form to be provided and distributed  
42 by the Department of Health and Senior Services to approved  
43 laboratories in the State or on a form approved for use in this State by  
44 the department. A notice to the applicant of the result of the approved  
45 test for the presence of HIV infection, required by subsection a. of this  
46 section and as prescribed by the department, shall be attached to the  
47 form. The notice shall include information concerning the implications

1 of a positive test result.

2 d. For the purpose of this act, a test for the presence of the HIV  
3 infection means a test to determine if an infection with the human  
4 immunodeficiency virus or any related virus identified as a probable  
5 causative agent of AIDS is present, performed in a laboratory in this  
6 State approved to make such tests by the Department of Health and  
7 Senior Services, a health department of a state or territory of the  
8 United States, or the District of Columbia, wherein the laboratory is  
9 located, or in a laboratory of the Armed Forces of the United States  
10 or the United States Public Health Service.

11 The laboratory test required by this act may be performed in the  
12 laboratories of the Department of Health and Senior Services.

13 e. Any applicant for a marriage license, physician, or representative  
14 of a laboratory who misrepresents any of the facts called for by the  
15 certificate required pursuant to subsection a. of this section or a  
16 physician's statement, submitted in lieu thereof, or the notice to the  
17 applicant concerning the test for the presence of the HIV infection  
18 prescribed by this act; or any licensing officer who fails to receive the  
19 certificate, or a physician's statement, submitted in lieu thereof, or who  
20 shall have reason to believe that any of the facts thereon has been so  
21 misrepresented, and shall nevertheless issue a marriage license; or any  
22 person who shall otherwise fail to comply with the provisions of this  
23 act shall be subject to a penalty of not less than \$10 nor more than  
24 \$100, to be recovered with costs in a civil action by and in the name  
25 of the local board of health of the municipality where the marriage  
26 license was issued, or by and in the name of the Department of Health  
27 and Senior Services.

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29 2. Nothing in this act shall prohibit a licensing officer from issuing  
30 a marriage license to an applicant with a positive result to the test for  
31 the presence of the HIV infection.

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33 3. This act shall take effect on the 30th day after enactment.

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#### STATEMENT

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38 This bill requires that applicants for a marriage license obtain a test  
39 for the presence of the HIV infection. Licensed physicians shall sign  
40 a certificate approved by the Department of Health and Senior  
41 Services stating that the applicant has submitted to an approved test  
42 for the presence of HIV infection. The physician shall also notify each  
43 applicant in writing of the result of the test, including information  
44 concerning the implications of a positive test result. The bill does not  
45 prohibit persons with a positive test result from obtaining a marriage  
46 license.