

CHAPTER 103
(CORRECTED COPY)

AN ACT concerning marriage and civil unions, establishing a commission and revising and supplementing various parts of the statutory law.

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

C.37:1-28 Findings, declarations concerning civil unions.

1. The Legislature finds and declares that:

a. Same-sex couples in New Jersey live together in committed relationships without the benefits and rights afforded to heterosexual couples who choose to marry;

b. Promoting such stable and durable relationships as well as eliminating obstacles and hardships these couples may face is necessary and proper and reaffirms this State's obligation to insure equality for all the citizens of New Jersey;

c. New Jersey was one of the first states to adopt comprehensive legislation prohibiting discrimination based on affectional or sexual orientation and one of the first states to formally recognize domestic partnerships by enacting the "Domestic Partnership Act," P.L.2003, c.246 (C.26:8A-1 et al.) on January 12, 2004 thereby guaranteeing in law certain rights and benefits to those individuals who enter into domestic partnerships;

d. Those rights and benefits afforded to same-sex couples under the "Domestic Partnership Act" should be expanded by the legal recognition of civil unions between same-sex couples in order to provide these couples with all the rights and benefits that married heterosexual couples enjoy;

e. It is the intent of the Legislature to comply with the constitutional mandate set forth by the New Jersey Supreme Court in the recent landmark decision of *Lewis v. Harris* 188 N.J. 415, (October 25, 2006) wherein the Court held that the equal protection guarantee of Article I, paragraph 1 of the State Constitution was violated by denying rights and benefits to committed same-sex couples which were statutorily given to their heterosexual counterparts. The Court stated that the "State can fulfill that constitutional requirement in one of two ways. It can either amend the marriage statutes to include same-sex couples or enact a parallel statutory structure by another name, in which same-sex couples would not only enjoy the rights and benefits, but also bear the burdens and obligations of civil marriage." *Id.* at 463.

f. The Legislature has chosen to establish civil unions by amending the current marriage statute to include same-sex couples. In doing so, the Legislature is continuing its longstanding history of insuring equality under the laws for all New Jersey citizens by providing same-sex couples with the same rights and benefits as heterosexual couples who choose to marry.

C.37:1-29 Definitions relative to civil unions.

2. As used in this act:

"Civil union couple" means two persons who have established a civil union pursuant to this act.

"Civil union license or civil union certificate" means a document that certifies that the persons named on the license or certificate have established a civil union in this State in compliance with this act.

"Civil union" means the legally recognized union of two eligible individuals of the same sex established pursuant to this act. Parties to a civil union shall receive the same benefits and protections and be subject to the same responsibilities as spouses in a marriage.

"Commissioner" means the Commissioner of Health and Senior Services.

“One partner in a civil union couple” means a person who has established a civil union pursuant to the provisions of this act.

C.37:1-30 Requirements to establish a civil union.

3. For two persons to establish a civil union in this State, it shall be necessary that they satisfy all of the following criteria:

- a. Not be a party to another civil union, domestic partnership or marriage in this State;
- b. Be of the same sex; and
- c. Be at least 18 years of age, except as provided in section 10 of this act.

C.37:1-31 Legal benefits, protections, responsibilities of civil union couples equal to those of married couples.

4. a. Civil union couples shall have all of the same benefits, protections and responsibilities under law, whether they derive from statute, administrative or court rule, public policy, common law or any other source of civil law, as are granted to spouses in a marriage.

b. The dissolution of civil unions shall follow the same procedures and be subject to the same substantive rights and obligations that are involved in the dissolution of marriage.

c. The laws of domestic relations, including annulment, premarital agreements, separation, divorce, child custody and support, property division and maintenance, and post-relationship spousal support, shall apply to civil union couples.

d. Civil union couples may modify the terms, conditions or effects of their civil union in the same manner and to the same extent as married persons who execute an antenuptial agreement or other agreement recognized and enforceable under the law, setting forth particular understandings with respect to their union.

e. The rights of civil union couples with respect to a child of whom either becomes the parent during the term of the civil union, shall be the same as those of a married couple with respect to a child of whom either spouse or partner in a civil union couple becomes the parent during the marriage.

f. All contracts made between persons in contemplation of a civil union shall remain in full force after such civil union takes place.

g. A copy of the record of the civil union received from the local or State registrar shall be presumptive evidence of the civil union in all courts.

C.37:1-32 Legal benefits, protections, responsibilities of marrieds which apply in like manner to civil union couples; list not exclusive.

5. The following list of legal benefits, protections and responsibilities of spouses shall apply in like manner to civil union couples, but shall not be construed to be an exclusive list of such benefits, protections and responsibilities:

a. laws relating to title, tenure, descent and distribution, intestate succession, survivorship, or other incidents of the acquisition, ownership or transfer, inter vivos or at death, of real or personal property, including but not limited to eligibility to hold real and personal property as tenants by the entirety;

b. causes of action related to or dependent upon spousal status, including an action for wrongful death, emotional distress, loss of consortium, or other torts or actions under contracts reciting, related to, or dependent upon spousal status;

c. probate law and procedure, including nonprobate transfer;

d. adoption law and procedures;

- e. laws relating to insurance, health and pension benefits;
- f. domestic violence protections pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) and domestic violence programs;
- g. prohibitions against discrimination based upon marital status;
- h. victim's compensation benefits, including but not limited to compensation to spouse, children and relatives of homicide victims;
- i. workers' compensation benefits pursuant to chapter 15 of Title 34 of the Revised Statutes, including but not limited to survivors' benefits and payment of back wages;
- j. laws relating to emergency and nonemergency medical care and treatment, hospital visitation and notification, and any rights guaranteed to a hospital patient pursuant to P.L.1989, c.170 (C.26:2H-12.7 et seq.) or a nursing home resident pursuant to P.L.1976, c.120 (C.30:13-1 et seq.);
- k. advance directives for health care and designation as a health care representative pursuant to P.L.1991, c.201 (C.26:2H-53 et al.);
- l. family leave benefits pursuant to P.L.1989, c.261 (C.34:11B-1 et seq.);
- m. public assistance benefits under State law, including, but not limited to: Work First New Jersey benefits pursuant to P.L.1997, c.38 (C.44:10-55 et seq.); medical assistance pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.); Supplemental Security Income pursuant to P.L.1973, c.256 (C.44:7-85 et seq.); pharmaceutical assistance pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.) and P.L.2001, c.96 (C.30:4D-43 et seq.); hearing aid assistance pursuant to P.L.1987, c.298 (C.30:4D-36 et seq.); and utility benefits pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.) and P.L.1981, c.210 (C.48:2-29.30 et al.);
- n. laws relating to taxes imposed by the State or a municipality including but not limited to homestead rebate tax allowances, tax deductions based on marital status or exemptions from realty transfer tax based on marital status;
- o. laws relating to immunity from compelled testimony and the marital communication privilege;
- p. the home ownership rights of a surviving spouse;
- q. the right of a spouse to a surname change without petitioning the court;
- r. laws relating to the making of, revoking and objecting to anatomical gifts pursuant to P.L.1969, c.161 (C.26:6-57 et seq.);
- s. State pay for military service;
- t. application for absentee ballots;
- u. legal requirements for assignment of wages; and
- v. laws related to tuition assistance for higher education for surviving spouses or children.

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

Certain marriages or civil unions prohibited.

37:1-1. Certain marriages or civil unions prohibited.

a. A man shall not marry or enter into a civil union with any of his ancestors or descendants, or his sister or brother, or the daughter or son of his brother or sister, or the sister or brother of his father or mother, whether such collateral kindred be of the whole or half blood.

b. A woman shall not marry or enter into a civil union with any of her ancestors or descendants, or her sister or brother, or the daughter or son of her brother or sister, or the

sister or brother of her father or mother, whether such collateral kindred be of the whole or half blood.

c. A marriage or civil union in violation of any of the foregoing provisions shall be absolutely void.

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

Necessity of marriage or civil union license; "licensing officer" defined.

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

Before a marriage or a civil union can be lawfully performed in this State, the persons intending to be married or to enter into a civil union shall obtain a marriage or civil union license from the licensing officer and deliver it to the person who is to officiate, but if the marriage or civil union is to be performed by or before any religious society, institution or organization, the license shall be delivered to such religious society, institution or organization, or any officer thereof.

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

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

Where marriage or civil union license to be obtained.

37:1-3. Where marriage or civil union license to be obtained.

The marriage or civil union license shall be issued by the licensing officer in the municipality in which either party resides or, if neither party is a resident of the State, in the municipality in which the proposed marriage or civil union is to be performed.

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

Issuance of marriage or civil union license, emergencies, validity.

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

Except as provided in R.S.37:1-6, the marriage or civil union license shall not be issued by a licensing officer sooner than 72 hours after the application therefor has been made; provided, however, that the Superior Court may, by order, waive all or any part of said 72-hour period in cases of emergency, upon satisfactory proof being shown to it. Said order shall be filed with the licensing officer and attached to the application for the license.

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

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

Consent for minors; requirements.

37:1-6. A marriage or civil union license shall not be issued to a minor under the age of 18 years, unless the parents or guardian of the minor, if there be any, first certify under their hands and seals, in the presence of two reputable witnesses, their consent thereto, which consent shall be delivered to the licensing officer issuing the license. If the parents, or either of them, or guardian of any such minor shall be of unsound mind, the consent of such parent or guardian to the proposed marriage or civil union shall not be required.

When a minor is under the age of 16 years, the consent required by this section must be approved in writing by any judge of the Superior Court, Chancery Division, Family Part. Said approval shall be filed with the licensing officer.

The licensing officer shall transmit to the State registrar all such consents, orders, and approvals so received by him in the same manner and subject to the same penalty as in the case of certificates of marriage or civil union and marriage or civil union licenses.

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

Issuing of license; remarriage or reaffirming a civil union.

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

The licensing officer is hereby empowered to issue marriage or civil union licenses to the contracting parties who apply therefor and are entitled under the laws of this State to contract matrimony or establish a civil union, authorizing the marriage or civil union of such parties, which license shall be substantially in the following form:

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

This is to certify that any person, religious society, institution or organization authorized by law to perform marriage or civil union ceremonies within the State of New Jersey to whom this may come, he or they not knowing any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony or the civil union between _____

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

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

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

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

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

Testimony under oath by applicants as to legality of proposed marriage or civil union; witnesses; perjury.

37:1-8. Testimony under oath by applicants as to legality of proposed marriage or civil union; witnesses; perjury.

A licensing officer shall, before issuing a marriage or civil union license, require the contracting parties to appear before him and subscribe and swear to an oath attesting the truth

of the facts respecting the legality of the proposed marriage or civil union as set forth in the form supplied by the State registrar. Said testimony shall be verified by a witness of legal age. A licensing officer shall issue a license only if it is thus made to appear before him that no legal impediment to the marriage or civil union exists. Every licensing officer may administer oaths to the contracting parties and their identifying witness.

Any identifying witness or applicant applying for a marriage or civil union license who shall knowingly make false answers to any of the inquiries asked by the licensing officer shall be guilty of perjury.

13. R.S.37:1-11 is amended to read as follows:

Illegal issuance of license a disorderly persons offense.

37:1-11. Illegal issuance of license a disorderly persons offense.

Any licensing officer who issues a marriage or civil union license except as provided in this chapter shall be guilty of a disorderly persons offense.

14. R.S.37:1-12 is amended to read as follows:

Fees; disposition in cities of first class.

37:1-12. Fees; disposition in cities of first class.

For issuing a marriage or civil union license, the licensing officer shall be entitled to receive from the applicants the sum of three dollars (\$3.00).

15. Section 1 of P.L.1981, c.382 (C.37:1-12.1) is amended to read as follows:

C.37:1-12.1 Additional fee.

1. In addition to the fee for issuing a marriage or civil union license authorized pursuant to R.S.37:1-12, each licensing officer shall collect a fee of \$25 from the marriage license or civil union license applicants which shall be forwarded on a quarterly basis to the Department of Human Services.

16. Section 2 of P.L.1981, c.382 (C.37:1-12.2) is amended to read as follows:

C.37:1-12.2 Trust fund to aid victims of domestic violence.

2. The Department of Human Services shall establish a trust fund for the deposit of the fees received pursuant to section 1 of P.L.1981, c.382 (C.37:1-12.1). The moneys from the trust fund shall be used for the specific purpose of establishing and maintaining shelters for the victims of domestic violence, or a. for providing grants-in-aid to such shelters established by local governments or private nonprofit organizations; or b. for providing grants-in-aid to non-residential agencies whose primary purpose is to serve victims of domestic violence in those counties which do not have emergency residential shelters for victims; or c. for providing grants-in-aid to any nonprofit, Statewide coalition whose membership includes a majority of the programs for battered women in New Jersey and whose board membership includes a majority of representatives of these programs and whose purpose is to provide services, community education, and technical assistance to these programs to establish and maintain shelter and related services for victims of domestic violence and their children.

17. R.S.37:1-13 is amended to read as follows:

Authorization to solemnize marriages and civil unions.

37:1-13. Authorization to solemnize marriages and civil unions.

Each judge of the United States Court of Appeals for the Third Circuit, each judge of a federal district court, United States magistrate, judge of a municipal court, judge of the Superior Court, judge of a tax court, retired judge of the Superior Court or Tax Court, or judge of the Superior Court or Tax Court, the former County Court, the former County Juvenile and Domestic Relations Court, or the former County District Court who has resigned in good standing, surrogate of any county, county clerk and any mayor or the deputy mayor when authorized by the mayor, or chairman of any township committee or village president of this State, and every minister of every religion, are hereby authorized to solemnize marriages or civil unions between such persons as may lawfully enter into the matrimonial relation or civil union; and every religious society, institution or organization in this State may join together in marriage or civil union such persons according to the rules and customs of the society, institution or organization.

18. R.S.37:1-15 is amended to read as follows:

Solemnizing without presentation of license; disorderly persons offense.

37:1-15. Solemnizing without presentation of license; disorderly persons offense.

Any person, not authorized by R.S.37:1-13 to solemnize marriages or civil unions, who solemnizes a marriage or civil union or any person or religious society, institution or organization, authorized to solemnize marriages or civil unions, who solemnizes a marriage or civil union without the presentation of a license therefor, obtained in accordance with the provisions of article two of this chapter (R.S.37:1-2 et seq.), shall be guilty of a disorderly persons offense, and punished by a fine not exceeding five hundred dollars (\$500.00), or imprisonment not exceeding six months, or both.

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

Interrogation of applicants under oath; perjury.

37:1-16. Interrogation of applicants under oath; perjury.

Any person authorized to solemnize marriages or civil unions may administer oaths to the parties applying to be married or to enter into a civil union, and may require them, or either of them, to make true answers to any inquiries made by him in order to ascertain whether, in his judgment, any legal impediment to the proposed marriage or civil union exists.

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

20. R.S.37:1-17 is amended to read as follows:

Marriage or civil union license; information provided.

37:1-17. Marriage or civil union license; information provided.

On the marriage or civil union license shall be the form for the certificate of marriage or civil union in quadruplicate, to which the licensing officer shall have set forth particularly therein the name, age, parentage, birthplace, residence, Social Security number and domestic status of each party, whether single, widowed, divorced, or a former civil union or domestic partner and the names and county of birth of their parents. The Social Security number shall

be kept confidential and may only be released for child support enforcement purposes, and shall not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). The person by whom or the religious society, institution, or organization by or before which, the marriage or civil union was solemnized, shall personally or by legally authorized agent subscribe where indicated on the form the date and place of the marriage or civil union. Each certificate of marriage or civil union shall also contain the signature and residence of at least two witnesses who were present at the marriage or civil union ceremony.

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

C.37:1-17.1 License and certificate of marriage or civil union; transmittal.

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

The license and the original certificate shall be transmitted pursuant to R.S.26:8-41. One copy of the certificate shall be retained by the local registrar and one copy shall be given to the persons contracting the marriage or civil union. The remaining copy shall be retained by the person solemnizing the marriage or civil union.

22. Section 3 of P.L.1980, c.128 (C.37:1-17.2) is amended to read as follows:

C.37:1-17.2 Delayed reports; filing; contents; affidavits; evidence.

3. Delayed reports; filing; contents; affidavits; evidence.

Any marriage or civil union which has occurred or which may hereafter occur and which is not recorded with the State Registrar as required by this chapter, may be recorded by filing a delayed report with the State Registrar, documented by a copy of the application for the license. The delayed report shall contain an affidavit of the person performing the marriage or civil union or if he is deceased or not available, of one or both witnesses to the marriage or civil union ceremony confirming that the ceremony was performed and the date and place of the marriage or civil union.

When it is impossible to secure the affidavit of the officiant or either of the witnesses, the affidavit may be made by a person who was present at the marriage or civil union ceremony, or the contracting parties, provided additional documentary evidence is presented.

The State Registrar may require evidence of the correctness of the information in a delayed report and may refuse to accept a delayed report if the evidence is not submitted.

23. R.S.37:1-18 is amended to read as follows:

Penalty for false certificate.

37:1-18. Penalty for false certificate.

Any person, religious society, institution or organization authorized to solemnize marriages or civil unions, who makes any false certificate of marriage or civil union, shall be liable to a penalty of \$100.00.

24. R.S.37:1-19 is amended to read as follows:

Penalty; how recovered.

37:1-19. Penalty; how recovered.

Any penalty incurred under any of the provisions of this article may be recovered with costs, in an action at law by and in the name of the local board of health of the municipality

where the marriage or civil union occurred, or by and in the name of the Department of Health and Senior Services.

25. Section 1 of P.L.1977, c.282 (C.37:1-27) is amended to read as follows:

C.37:1-27 Tests; information; distribution by issuer of marriage or civil union licenses.

1. Tests; information; distribution by issuer of marriage or civil union licenses. A licensing officer or other person issuing marriage or civil union licenses shall make information available to applicants concerning places where such applicants may be tested for genetic diseases including, but not limited to Cooley's Anemia, Sickle Cell Anemia, and Tay-Sachs Disease. Literature containing such information which has been prepared and provided by private organizations may be distributed to applicants by a licensing officer or other person issuing marriage or civil union licenses.

26. R.S.37:2-31 is amended to read as follows:

Short title.

37:2-31. This article shall be known and may be cited as the "Uniform Premarital and Pre-Civil Union Agreement Act." Source: New.

27. R.S.37:2-32 is amended to read as follows:

Definitions.

37:2-32. As used in this article:

a. "Premarital or pre-civil union agreement" means an agreement between prospective spouses or partners in a civil union couple made in contemplation of marriage or a civil union and to be effective upon marriage or upon the parties establishing a civil union;

b. "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings;

c. "Unconscionable premarital or pre-civil union agreement" means an agreement, either due to a lack of property or unemployment:

(1) Which would render a spouse or partner in a civil union couple without a means of reasonable support;

(2) Which would make a spouse or partner in a civil union couple a public charge; or

(3) Which would provide a standard of living far below that which was enjoyed before the marriage or civil union.

28. R.S.37:2-33 is amended to read as follows:

Formalties; consideration.

37:2-33. Formalities; consideration.

A premarital or pre-civil union agreement shall be in writing, with a statement of assets annexed thereto, signed by both parties, and it is enforceable without consideration.

29. R.S.37:2-34 is amended to read as follows:

Contents of premarital or pre-civil union agreement.

37:2-34. Contents of premarital or pre-civil union agreement.

Parties to a premarital or pre-civil union agreement may contract with respect to:

- a. The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;
- b. The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;
- c. The disposition of property upon separation, marital dissolution, dissolution of a civil union, death, or the occurrence or nonoccurrence of any other event;
- d. The modification or elimination of spousal or one partner in a civil union couple support;
- e. The making of a will, trust, or other arrangement to carry out the provisions of the agreement;
- f. The ownership rights in and disposition of the death benefit from a life insurance policy;
- g. The choice of law governing the construction of the agreement; and
- h. Any other matter, including their personal rights and obligations, not in violation of public policy.

30. R.S.37:2-35 is amended to read as follows:

Premarital or pre-civil union agreement not to adversely affect right of child support.

37:2-35. Premarital or pre-civil union agreement not to adversely affect right of child support.

A premarital or pre-civil union agreement shall not adversely affect the right of a child to support.

31. R.S.37:2-36 is amended to read as follows:

When premarital or pre-civil union agreement becomes effective.

37:2-36. When premarital or pre-civil union agreement becomes effective.

A premarital or pre-civil union agreement becomes effective upon marriage of the parties or upon the parties establishing a civil union.

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

Amendment or revocation of premarital or pre-civil union agreement.

37:2-37. Amendment or revocation of premarital or pre-civil union agreement.

After marriage of the parties or the parties establishing a civil union, a premarital or pre-civil union agreement may be amended or revoked only by a written agreement signed by the parties, and the amended agreement or revocation is enforceable without consideration.

33. R.S.37:2-38 is amended to read as follows:

Enforcement of premarital or pre-civil union agreement; generally.

37:2-38. Enforcement of premarital or pre-civil union agreement; generally.

The burden of proof to set aside a premarital or pre-civil union agreement shall be upon the party alleging the agreement to be unenforceable. A premarital or pre-civil union

agreement shall not be enforceable if the party seeking to set aside the agreement proves, by clear and convincing evidence, that:

- a. The party executed the agreement involuntarily; or
- b. The agreement was unconscionable at the time enforcement was sought; or
- c. That party, before execution of the agreement:
 - (1) Was not provided full and fair disclosure of the earnings, property and financial obligations of the other party;
 - (2) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided;
 - (3) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party; or
 - (4) Did not consult with independent legal counsel and did not voluntarily and expressly waive, in writing, the opportunity to consult with independent legal counsel.
- d. The issue of unconscionability of a premarital or pre-civil union agreement shall be determined by the court as a matter of law.

34. R.S.37:2-39 is amended to read as follows:

Enforcement of premarital or pre-civil union agreement; marriage or civil union determined void.

37:2-39. Enforcement of premarital or pre-civil union agreement; marriage or civil union determined void.

If a marriage or civil union is determined to be void, an agreement that would otherwise have been a premarital or pre-civil union agreement is enforceable only to the extent necessary to avoid an inequitable result.

35. R.S.37:2-40 is amended to read as follows:

Construction of article.

37:2-40. Construction of article.

a. This article shall be construed to effectuate its general purpose to make uniform the law with respect to the subject of the article among states enacting the "Uniform Premarital Agreement Act."

b. This article shall be construed to apply to pre-civil union agreements executed on and after the effective date of P.L.2006, c.103 (C.37:1-28 et al.).

36. R.S.37:2-41 is amended to read as follows:

Application of article.

37:2-41. Application of article.

This article shall apply to premarital agreements executed on and after its effective date.

This article as amended by P.L.2006, c.103 (C.37:1-28 et al.) shall apply to pre-civil union agreements executed on and after the effective date of P.L.2006, c.103 (C.37:1-28 et al.).

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

Definitions.

26:8-1. As used in this chapter:

"Vital statistics" means statistics concerning births, deaths, fetal deaths, marriages, civil unions and domestic partnerships established pursuant to P.L.2003, c.246 (C.26:8A-1 et al.).

"Vital records" means the birth, death, fetal death, marriage, civil union and domestic partnership records from which vital statistics are produced.

"State registrar" means the State registrar of vital statistics; "Local registrar" or "registrar" means the local registrar of vital statistics of any district; and "registration district" or "district" means a registration district as constituted by this article.

"Live birth" or "birth" means the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta attached.

"Authentication" means the entry by the State Medical Examiner or a county medical examiner, funeral director or physician into the New Jersey Electronic Death Registration System of a personal identification code, digital signature or other identifier unique to that user, by which the information entered into the system by the user is authenticated by the user who assumes responsibility for its accuracy. "Authentication" also means the process by which the State registrar or a local registrar, deputy registrar, alternate deputy registrar or subregistrar indicates that person's review and approval of information entered into the system by the State Medical Examiner or a county medical examiner, funeral director or physician.

"Electronic registration system" means any electronic method, including, but not limited to, one based on Internet technology, of collecting, transmitting, recording and authenticating information from one or more responsible parties, which is necessary to complete a vital record, and is designed to replace a manual, paper-based data collection, recordation and signature system.

"New Jersey Electronic Death Registration System" or "NJ-EDRS" is an electronic registration system for completing a certification of death or fetal death record that is authorized, designed and maintained by the State registrar.

38. R.S.26:8-4 is amended to read as follows:

Duty to furnish information relative to birth, death, marriage, civil union, domestic partnership.

26:8-4. Duty to furnish information relative to birth, death, marriage, civil union, domestic partnership. Upon demand of the State registrar in person, by mail, by means of the NJ-EDRS, or through the local registrar, every physician, midwife, informant, funeral director, or other person having knowledge of the facts relative to any birth, death, fetal death, marriage, civil union or domestic partnership, shall supply such information as he may possess, upon a form provided by the State registrar, or through the NJ-EDRS, or upon the original birth, death, fetal death, marriage, civil union or domestic partnership certificate or its electronic facsimile or digitized form thereof.

39. R.S.26:8-17 is amended to read as follows:

Local registrar; appointment of deputy, alternate deputy registrar.

26:8-17. The local registrar, immediately upon acceptance of the appointment, shall

appoint a deputy to assist in the normal, day-to-day operation of the office and whose duty shall be to act in the registrar's stead in case of absence, disability or death of the registrar. In case of death of the local registrar the deputy shall act as local registrar until a new local registrar has been appointed and qualified.

In addition to a deputy registrar, the local registrar may appoint one or two alternate deputy registrars if the local registrar deems such an appointment to be necessary for the office to function efficiently and to provide quality service to the public. The deputy registrar and alternate deputy registrar shall have the authority to receive birth certificates and death certificates; to issue burial permits, and copies of birth, death, marriage, civil union and domestic partnership certificates; to take the oath on marriage and civil union license applications; and to issue marriage and civil union licenses and register domestic partnerships. The deputy registrar and alternate deputy registrar shall receive instructions from and perform their duties under the direct supervision of the registrar, who shall be the final authority with the responsibility of fulfilling the duties of the local registrar outlined in R.S.26:8-25. The deputy registrar and any alternate deputy registrar shall serve at the pleasure of the local registrar.

40. R.S.26:8-23 is amended to read as follows:

Duty of the department; examination of records.

26:8-23. The Department of Health and Senior Services shall have charge of the registration of births, deaths, fetal deaths, marriages, civil unions and domestic partnerships and shall procure the prompt and accurate registration of the same in each registration district and in the department. The department may promulgate any rule or regulation which it deems necessary for the uniform and thorough enforcement of this section.

The department may decline permission to examine any record except in the presence of an officer or employee of the department.

41. R.S.26:8-24 is amended to read as follows:

Duties, responsibilities of State Registrar.

26:8-24. The State registrar shall:

- a. Have general supervision throughout the State of the registration of vital records;
- b. Have supervisory power over local registrars, deputy local registrars, alternate deputy local registrars, and subregistrars, in the enforcement of the law relative to the disposal of dead bodies and the registration of vital records;
- c. Prepare, print, and supply to all registrars, upon request therefor, all blanks and forms used in registering the records required by said law, and provide for and prescribe the use of the NJ-EDRS. No other blanks or methods of registration shall be used than those supplied or approved by the State registrar;
- d. Carefully examine the certificates or electronic files received periodically from the local registrars or originating from their jurisdiction; and, if any are incomplete or unsatisfactory, require such further information to be supplied as may be necessary to make the record complete and satisfactory;
- e. Arrange or bind, and permanently preserve the certificates of vital records, or the information comprising those records, in a systematic manner and in a form that is deemed most consistent with contemporary and developing standards of vital statistical archival record keeping;

f. Prepare and maintain a comprehensive and continuous index of all vital records registered, the index to be arranged alphabetically:

1. In the case of deaths, by the name of the decedent;

2. In the case of births, by the name of child, if given, and if not, then by the name of father or mother;

3. In the case of marriages, by the surname of the husband and also by the maiden name of the wife;

4. In the case of civil unions, by the surname of each of the parties to the civil union;

5. In the case of domestic partnerships, by the surname of each of the partners;

g. Mark the birth certificate of a missing child when notified by the Missing Persons Unit in the Department of Law and Public Safety pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c); and

h. Develop and provide to local registrars an education and training program, which the State registrar may require each local registrar to complete as a condition of retaining that position, and which may be offered to deputy local registrars, alternate deputy local registrars and subregistrars at the discretion of the State registrar, that includes material designed to implement the NJ-EDRS and to familiarize local registrars with the statutory requirements applicable to their duties and any rules and regulations adopted pursuant thereto, as deemed appropriate by the State registrar.

42. R.S.26:8-25 is amended to read as follows:

Duties, responsibilities of local registrar.

26:8-25. The local registrar, under the supervision and direction of the State registrar, shall:

a. Strictly and thoroughly enforce the law relative to the disposal of dead bodies and the registration of vital records in his registration district;

b. Supply blank forms of certificates to such persons as require them;

c. Supply to every physician, midwife, and funeral director a copy of the law relative to the registration of vital records and the disposal of dead bodies, together with such rules and regulations as may be prepared by the State registrar relative to their enforcement;

d. Sign his name and insert the date of filing on each certificate of birth, marriage, civil union, domestic partnership and death or otherwise authenticate the local registrar's identity through the NJ-EDRS as prescribed by the State registrar;

e. Examine each certificate of birth, marriage, civil union, domestic partnership or death when presented for record in order to ascertain whether or not it has been made in accordance with law and the instructions of the State registrar; and if incomplete and unsatisfactory, have the same corrected;

f. At the expense of the municipality make a complete and accurate copy of each birth, marriage, civil union, domestic partnership and death certificate registered by him on a form or in a manner prescribed by the State registrar, to be preserved in his office as the local record or in the NJ-EDRS as prescribed by the State registrar;

g. On the tenth day of each month or sooner if requested by the department, transmit to the State registrar all original birth, marriage, civil union, domestic partnership and death certificates received by him for the preceding month, except that a record created on the NJ-EDRS as prescribed by the State registrar shall be deemed to have been transmitted. If no births, marriages, civil unions, domestic partnerships or deaths occurred in any month, he shall, on or before the tenth day of the following month, report that fact to the State registrar

on a card provided for such purpose;

h. Make an immediate report to the State registrar of any violation of R.S.26:6-1 et seq., R.S.26:8-1 et seq., R.S.37:1-1 et seq. or P.L.2006, c.103 (C.37:1-28 et al.) coming to his knowledge;

i. In the case of any birth in his registration district to parents who are residents of another registration district or of the marriage or civil union in his registration district of any couple who obtained the marriage or civil union license in another registration district, or of the death in his registration district of any person who at the time of death was a resident of another registration district notify the registrar of the other registration district, within five days of the birth, marriage, civil union, or death, on forms prescribed by the State registrar. All entries relating to cause of death on the original certificate shall be entered on the death form sent to the registrar of the other registration district. A record created on the NJ-EDRS as prescribed by the State registrar shall be deemed to have been transmitted to the registrar of the other registration district;

j. Mark the birth certificate of a missing child born in his registration district when notified by the State registrar pursuant to section 3 of P.L.1995, c.395 (C.52:17B-9.8c); and

k. Make computer facilities with access to the NJ-EDRS available to funeral directors and physicians registered with the NJ-EDRS, within the regular established business hours of the local registrar, for the purpose of providing information necessary to complete a death record.

43. R.S.26:8-27 is amended to read as follows:

Inquiries to applicants for marriage or civil union license.

26:8-27. Inquiries to applicants for marriage or civil union license. The department shall issue to each local registrar and to city clerks of cities of the first class, the form and substance of the several inquiries to be made of applicants for a marriage license or a civil union license and their witnesses for the purpose of ascertaining whether any legal impediment to any proposed marriage or civil union exists.

The form shall not contain any inquiries or information which concerns the race of an applicant for a marriage or civil union license.

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

Transmission of marriage and civil union licenses and certificates.

26:8-41. Transmission of marriage and civil union licenses and certificates.

Every person or religious society, institution or organization solemnizing a marriage or civil union shall, within 5 days thereafter, transmit the certificate of marriage or civil union and the marriage or civil union license to the local registrar of the registration district in which the marriage or civil union occurs or to the clerk of the county board of health.

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

45. R.S.26:8-42 is amended to read as follows:

License issued in other registration district; transmission of information on form provided.

26:8-42. The local registrar who receives the certificate of a marriage or the certificate of

a civil union within the district under his jurisdiction, the license for which was issued in another registration district, shall, within 5 days after receipt of the marriage or civil union certificate, copy the names of the persons married or the partners in a civil union couple; the date of marriage or civil union; the place of marriage or the civil union and the marriage or civil union license number upon a form provided by the State registrar and transmit it by mail to the officer legally designated to receive certificates of marriage or civil union in the registration district in which the license was issued.

46. R.S.26:8-43 is amended to read as follows:

Transmission of marriage and civil union certificates and licenses to State registrar.

26:8-43. Transmission of marriage and civil union certificates and licenses to State registrar.

Each local registrar and the clerk of the county board of health shall, on or before the tenth of each calendar month, or sooner if requested by the department, transmit by mail, express or messenger to the State registrar in an envelope or package marked "vital statistics" all the certificates of marriages and civil unions, marriage and civil union licenses and consents to the marriage or civil union of minors received by them.

47. R.S.26:8-44 is amended to read as follows:

Indexing, tabulation and preservation of records by State Registrar.

26:8-44. The State registrar shall cause all certificates of marriages and civil unions and marriage and civil union licenses received to be alphabetically indexed and shall cause to be transcribed or otherwise recorded from the certificates such of the vital facts appearing thereon as the department may deem necessary or useful.

The certificates of marriage and civil union shall be so tabulated as to present in separate and distinct classes the record of each county or registration district of over 5,000 inhabitants, which record shall be preserved as a public record and the original certificates shall be preserved in the archives of the department.

48. R.S.26:8-45 is amended to read as follows:

Cancellation of records of marriages and civil unions declared void.

26:8-45. Cancellation of records of marriages and civil unions declared void.

If a marriage or a civil union has been declared void by the Superior Court in an action instituted for that purpose and the court is satisfied by the proof taken before the final judgment or by affidavit or otherwise after the final judgment that a record of the marriage or civil union is filed with the State registrar, it may order the record to be canceled.

It shall not be necessary to make the custodian of the record a party to the cause.

The order need only recite that there was a ceremony of marriage or civil union between parties to the cause (naming them), performed on (date) by (naming the officer) and that by a final judgment entered on (date), the marriage or civil union was declared void and may then direct that the said record be canceled.

49. R.S.26:8-46 is amended to read as follows:

Indorsement of record upon cancellation.

26:8-46. Upon presenting a certified copy of said order to the State Registrar, he shall indorse on the return of the marriage or civil union the following words: "This marriage or civil union declared void by the Superior Court. See order hereto annexed" and shall annex the certified copy to the return.

50. R.S.26:8-47 is amended to read as follows:

Preparation of forms for marriage and civil union licenses, certificates.

26:8-47. Preparation of forms for marriage and civil union licenses, certificates.

The department shall cause to be prepared blank forms of certificates of marriages or civil unions and marriage or civil union licenses corresponding to the requirements of R.S.37:1-7 and R.S.37:1-17. The forms, together with such sections of the laws concerning marriages or civil unions and such instructions and explanations thereof as the department may deem useful to persons having duties to perform under such laws shall be printed and supplied upon request therefor to the local registrars and to the city clerks of cities of the first class.

All certificates of marriages or civil unions and marriage or civil union licenses shall be written upon the said blanks or blanks approved by the department and shall not contain any inquiries or information which concerns the race of an applicant for a marriage or civil union license.

51. R.S.26:8-48 is amended to read as follows:

Amendments to certificate, recording, authentication.

26:8-48. A certificate of birth, fetal death, marriage, civil union, domestic partnership or death heretofore or hereafter filed with the State registrar shall not be altered or changed otherwise than by amendments properly signed, dated and witnessed, or as otherwise recorded and authenticated on the NJ-EDRS as prescribed by the State registrar.

52. R.S.26:8-50 is amended to read as follows:

Correcting marriage or civil union licenses.

26:8-50. Correcting marriage or civil union licenses.

Correction to marriage or civil union licenses shall be signed by the person who issued the license or his successor in office.

53. R.S.26:8-51 is amended to read as follows:

Corrections to marriage, civil union, domestic partnership certificates.

26:8-51. Corrections to marriage, civil union, domestic partnership certificates. Corrections to marriage, civil union or domestic partnership certificates shall be signed by the person who signed the certificate or by any other person having personal knowledge of the matters sought to be corrected which other person shall state such matters on his oath.

54. R.S.26:8-55 is amended to read as follows:

Submitting false certificate; penalty.

26:8-55. Any person knowingly submitting a certificate pursuant to this article containing incorrect particulars relating to any birth, marriage, civil union, domestic partnership or

death shall be subject to a penalty of not more than \$500, which shall be recovered with costs in a summary proceeding in the name of the department.

55. R.S.26:8-60 is amended to read as follows:

Fee for transmitting certificate.

26:8-60. Each local registrar shall be entitled to receive from the proper disbursing officer of the municipality or county the sum of \$1 for each marriage, civil union or domestic partnership certificate properly transmitted to the State Registrar.

In any registration district, the body appointing local registrars may, in lieu of fees, provide that officers performing the above service shall receive a fixed compensation to be determined by such body.

56. R.S.26:8-61 is amended to read as follows:

Fee for cancellation of marriage or civil union record.

26:8-61. Fee for cancellation of marriage or civil union record.

The person procuring the cancellation of a marriage or civil union record pursuant to R.S.26:8-45 and R.S.26:8-46 shall first pay to the State Registrar the sum of \$2.00 and the State Registrar shall pay the same over to the State Treasurer. Such fee may be included in the taxable costs in the annulment suit.

57. R.S.26:8-62 is amended to read as follows:

Certification, certified copy of records, search fee; uniform forms for vital records.

26:8-62. a. The State registrar or local registrar shall, upon request, supply to a person who establishes himself as one of the following: the subject of the record of a birth, death, fetal death, certificate of birth resulting in stillbirth, domestic partnership, civil union or marriage, as applicable; the subject's parent, legal guardian or other legal representative; the subject's spouse, one partner in a civil union couple, child, grandchild or sibling, if of legal age, or the subject's legal representative; an agency of State or federal government for official purposes; a person possessing an order of a court of competent jurisdiction; or a person who is authorized under other emergent circumstances as determined by the commissioner, a certified copy, or release of the data and information of that record registered under the provisions of R.S.26:8-1 et seq., or P.L.2006, c.103 (C.37:1-28 et al.) or any domestic partnership registered under the provisions of P.L.2003, c.246 (C.26:8A-1 et al.), for any of which, except as provided by R.S.26:8-63, the State registrar shall be entitled to a search fee, if any, as provided by R.S.26:8-64, to be paid by the person. A certification may be issued in other circumstances and shall state that it is for informational purposes only, and is not to be used for identification purposes. The registrar shall authenticate the identity of the requestor and the requestor's relationship with the subject of the vital record. For the purposes of this subsection, any employee of a mortuary registered pursuant to P.L.1952, c.340 (C.45:7-32 et seq.), or a funeral director licensed pursuant to that act who is affiliated with a registered mortuary, if the mortuary was recorded on the original certificate of death, shall be construed to be the subject's legal representative and entitled to obtain full and complete copies of death certificates or certifications thereof.

b. The State registrar shall, upon request, supply to any applicant a certified transcript of any entry contained in the records of the New Jersey State census for which, except as

provided by R.S.26:8-63, he shall be entitled to a search fee as provided by R.S.26:8-64, to be paid by the applicant.

c. For each death registration initiated on the NJ-EDRS on or after the first day of the first month following the date of enactment of P.L.2003, c.221 but before the first day of the thirty-seventh month following the date of enactment of P.L.2003, c.221, the State registrar shall be paid a recording fee for each record filed, whether by means of the current paper process or electronically, in an amount to be determined by the State registrar but not exceeding \$10, from the account of the funeral home, which may include this amount in the funeral expenses charged to the estate or person accepting responsibility for the disposition of the deceased's human remains and the costs associated therewith; provided however, this fee shall not apply to the death registration of a person who died while in the military or naval or maritime or merchant marine service of the United States whose death is recorded pursuant to section 1 of P.L.1950, c.299 (C.26:6-5.2). The State registrar shall deposit the proceeds from the recording fee into the New Jersey Electronic Death Registration Support Fund established pursuant to section 17 of P.L.2003, c.221 (C.26:8-24.2).

d. Notwithstanding any other provision of this section to the contrary, the Commissioner of Health and Senior Services shall designate specifications for uniform forms for the issuance of all vital records, which shall be used by registrars beginning on a date established by the commissioner. The form designated for certified copies of vital records shall contain safety features for authentication purposes and to deter forgery, and shall be readily distinguishable from the form designated for certifications of vital records. Local registrars may include in the fee for a certified copy the additional cost of the form containing such safety features.

The commissioner may issue and enforce orders to implement the provisions of this subsection.

58. R.S.26:8-63 is amended to read as follows:

Free certified copies.

26:8-63. The State registrar shall:

a. Furnish a certification or certified copy of a birth, marriage, civil union, domestic partnership, fetal death or death certificate without fee in the prosecution of any claim for public pension or for military or naval enlistment purposes; and

b. Furnish the United States Public Health Service without expense to the State, microfilm or photocopy images of birth, marriage, civil union, domestic partnership, fetal death and death certificates without payment of the fees prescribed in this article; and

c. Furnish a certified transcript of any entry in the records of the New Jersey State census without fee for certification in the prosecution of any claim for public pension, for military or naval enlistment purposes; and

d. Furnish without fee upon request for administrative use by any city, State or federal agency a certified transcript of any New Jersey State census entry, or a certification or certified copy of a birth, death, fetal death, marriage, civil union or domestic partnership certificate.

59. R.S.26:8-64 is amended to read as follows:

Search of files, records, fee.

26:8-64. a. For any genealogical search of the files and records of births, deaths,

marriages, civil unions or domestic partnerships when information required on the application for a certification or certified copy of a vital record, and the correct year only is supplied by the applicant, whether or not a certification or a certified copy is made, the State Registrar shall be entitled to a minimum fee of \$4, plus a fee of \$1 for each additional year searched, which fee shall be paid by the applicant, except as provided by R.S.26:8-63. The fee for each additional copy of the same record ordered at the same time shall be \$2.

b. For any non-genealogical search of the files and records of births, deaths, marriages, civil unions or domestic partnerships when the exact date of the event is supplied, along with all other information required on the application for a certification or certified copy of a vital record, whether or not a certification or certified copy is made, the State Registrar shall be entitled to a minimum fee of \$4, which shall be paid by the applicant, except as provided by R.S.26:8-63. The fee for each additional copy of the same record ordered at the same time shall be \$2.

c. Conduct without fee upon request for administrative use by any city, state, or federal agency, a search for any New Jersey State census entry.

60. R.S.26:8-66 is amended to read as follows:

Investigation of violation.

26:8-66. The State registrar either personally or by accredited representative, may investigate any case of irregularity or violation of R.S.26:6-1 et seq., R.S.26:8-1 et seq., R.S.37:1-1 et seq., or P.L.2006, c.103 (C.37:1-28 et al.), and every local registrar shall aid him in such investigation.

61. R.S.26:8-67 is amended to read as follows:

Duty of county prosecutor.

26:8-67. Duty of county prosecutor.

When the State registrar shall deem it necessary, he shall report any violation of any provision of R.S.26:6-1 et seq., R.S.26:8-1 et seq., R.S.37:1-1 et seq. or P.L.2006, c.103 (C.37:1-28 et al.), to the county prosecutor, with a statement of the facts and circumstances. Upon such report, the county prosecutor shall forthwith institute and prosecute the necessary proceedings for such alleged violation.

62. R.S.26:8-68 is amended to read as follows:

Duty of attorney general; proceedings by local registrar.

26:8-68. Upon request of the State registrar, the Attorney General shall assist in the enforcement of the provisions of R.S.26:6-1 et seq., R.S.26:8-1 et seq., R.S.37:1-1 et seq. or P.L.2006, c.103 (C.37:1-28 et al.), or the State registrar may direct that local registrars institute proceedings or civil actions in the name of the State department. Such a proceeding or action may be instituted in any court of competent jurisdiction.

63. N.J.S.2A:34-1 is amended to read as follows:

Causes for judgments of nullity.

2A:34-1. Causes for judgments of nullity.

(1) Judgments of nullity of marriage may be rendered in all cases, when:

a. Either of the parties has another wife, husband, partner in a civil union couple or domestic partner living at the time of a second or other marriage.

b. The parties are within the degrees prohibited by law. If any such marriage shall not have been annulled during the lifetime of the parties the validity thereof shall not be inquired into after the death of either party.

c. The parties, or either of them, were at the time of marriage physically and incurably impotent, provided the party making the application shall have been ignorant of such impotency or incapability at the time of the marriage, and has not subsequently ratified the marriage.

d. The parties, or either of them, lacked capacity to marry due to want of understanding because of mental condition, or the influence of intoxicants, drugs, or similar agents; or where there was a lack of mutual assent to the marital relationship; duress; or fraud as to the essentials of marriage; and has not subsequently ratified the marriage.

e. The demand for such a judgment is by the wife or husband who was under the age of 18 years at the time of the marriage, unless such marriage be confirmed by her or him after arriving at such age.

f. Allowable under the general equity jurisdiction of the Superior Court.

(2) Judgments of nullity of a civil union may be rendered in all cases, when:

a. Either of the parties has another wife, husband, partner in a civil union couple or domestic partner living at the time of establishing the new civil union.

b. The parties are within the degrees prohibited by the law from entering into a marriage or establishing a civil union or domestic partnership. If any such civil union shall not have been annulled during the lifetime of the parties the validity thereof shall not be inquired into after the death of either party.

c. The parties, or either of them, lacked capacity to enter into a civil union due to want of understanding because of mental condition, or the influence of intoxicants, drugs, or similar agents; or where there was a lack of mutual assent to the civil union; duress; or fraud as to the essentials of a civil union; and has not subsequently ratified the civil union.

d. The demand for such a judgment is by the party who was under the age of 18 years at the time of the civil union, unless such civil union be confirmed by him after arriving at such age.

e. Allowable under the general equity jurisdiction of the Superior Court.

C.2A:34-2.1 Dissolution of a civil union, causes.

64. The dissolution of a civil union may be adjudged for the following causes:

a. voluntary sexual intercourse between a person who is in a civil union and an individual other than the person's partner in a civil union couple;

b. willful and continued desertion for a period of 12 or more consecutive months, which may be established by satisfactory proof that the parties have ceased to cohabit as partners in a civil union couple;

c. extreme cruelty, which is defined as including any physical or mental cruelty that endangers the safety or health of the plaintiff or makes it improper or unreasonable to expect the plaintiff to continue to cohabit with the defendant; except that no complaint for termination shall be filed until after three months from the date of the last act of cruelty complained of in the complaint, but this provision shall not be held to apply to any counterclaim;

d. separation, provided that the partners in a civil union couple have lived separate and apart in different habitations for a period of at least 18 or more consecutive months and there

is no reasonable prospect of reconciliation; and provided further that, after the 18-month period, there shall be a presumption that there is no reasonable prospect of reconciliation;

e. voluntarily induced addiction or habituation to any narcotic drug, as defined in section 2 of the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-2) or in N.J.S.2C:34-2 of the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al., or habitual drunkenness for a period of 12 or more consecutive months subsequent to establishment of the civil union and next preceding the filing of the complaint;

f. institutionalization for mental illness for a period of 24 or more consecutive months subsequent to establishment of the civil union and next preceding the filing of the complaint; or

g. imprisonment of the defendant for 18 or more consecutive months after establishment of the civil union, provided that where the action is not commenced until after the defendant's release, the parties have not resumed cohabitation following the imprisonment.

65. N.J.S.2A:34-3 is amended to read as follows:

Causes for divorce from bed and board or legal separation from partner in a civil union couple.

2A:34-3. Causes for divorce from bed and board or legal separation from partner in a civil union couple.

a. Divorce from bed and board may be adjudged for the same causes as divorce from the bonds of matrimony whenever both parties petition or join in requesting such relief and they or either of them present sufficient proof of such cause or causes to warrant the entry of a judgment of divorce from the bonds of matrimony, provided further that in the case of a reconciliation thereafter the parties may apply for a revocation or suspension of the judgment, and provided further that the granting of a bed and board divorce shall in no way prejudice either party from thereafter applying to the court for a conversion of said divorce to a divorce from the bonds of matrimony, which application shall be granted as a matter of right.

b. Legal separation from a partner in a civil union couple may be adjudged for the same causes as dissolution of a civil union whenever both parties petition or join in requesting such relief and they or either of them present sufficient proof of such cause or causes to warrant the entry of a judgment of dissolution of a civil union, provided further that in the case of a reconciliation thereafter the parties may apply for a revocation or suspension of the judgment, and provided further that the granting of a legal separation from a partner in a civil union couple shall in no way prejudice either party from thereafter applying to the court for a conversion of said legal separation from a partner in a civil union couple to a dissolution of a civil union, which application shall be granted as a matter of right.

66. N.J.S.2A:34-6 is amended to read as follows:

Divorce from bed and board or legal separation from a civil union; property rights.

2A:34-6. Divorce from bed and board or legal separation from a civil union; property rights.

For and during the time that any judgment for divorce from bed and board or legal separation from a partner in a civil union couple shall remain in force and effect all property rights of the parties shall be as though a judgment of absolute divorce or dissolution had been entered.

In any property transaction by either of the parties in such status the fact of the existence of such judgment shall be distinctly recited and reference to the public record thereof shall be clearly set forth.

67. N.J.S.2A:34-7 is amended to read as follows:

Certain defenses abolished.

2A:34-7. Certain defenses abolished.

Recrimination, condonation and the clean hands doctrine are hereby abolished as defenses to divorce from the bonds of matrimony, dissolution of a civil union, divorce from bed and board or legal separation from a partner in a civil union couple, and if both parties make out grounds for a divorce, dissolution or legal separation, a decree may be granted to each; provided that nothing herein shall preclude or abrogate the responsibility of a party for the penalty provided by law for perjury or the subornation of perjury.

68. N.J.S.2A:34-8 is amended to read as follows:

Jurisdiction stated.

2A:34-8. Jurisdiction stated.

The Superior Court shall have jurisdiction of all causes of divorce, dissolution of a civil union, bed and board divorce, legal separation from a partner in a civil union couple or nullity when either party is a bona fide resident of this State. The Superior Court shall have jurisdiction of an action for alimony and maintenance when the defendant is subject to the personal jurisdiction of the court, is a resident of this State, or has tangible or intangible real or personal property within the jurisdiction of the court. The Superior Court may afford incidental relief as in other cases of an equitable nature and by rule of court may determine the venue of matrimonial and civil union actions.

69. N.J.S.2A:34-9 is amended to read as follows:

Jurisdiction in nullity proceedings or dissolution proceedings; residence requirements; service of process.

2A:34-9. Jurisdiction in nullity proceedings or dissolution proceedings; residence requirements; service of process.

Jurisdiction in actions for nullity of marriage or dissolution of a civil union may be acquired when:

- a. Either party is a bona fide resident of this State at the time of the commencement of the action; and
- b. Process is served upon the defendant as prescribed by the rules of the Supreme Court.

70. N.J.S.2A:34-10 is amended to read as follows:

Jurisdiction in divorce proceedings, dissolution of a civil union, legal separation from a partner in a civil union couple; service of process; residence requirements.

2A:34-10. Jurisdiction in divorce proceedings, dissolution of a civil union, legal separation from a partner in a civil union couple; service of process; residence requirements.

Jurisdiction in actions for divorce, either absolute or from bed and board, and in actions for dissolution of a civil union or legal separation from a partner in a civil union couple may

be acquired when process is served upon the defendant as prescribed by the rules of the Supreme Court, and

1. When, at the time the cause of action arose, either party was a bona fide resident of this State, and has continued so to be down to the time of the commencement of the action; except that no action for absolute divorce or dissolution of a civil union shall be commenced for any cause other than adultery, unless one of the parties has been for the 1 year next preceding the commencement of the action a bona fide resident of this State; or

2. When, since the cause of action arose, either party has become, and for at least 1 year next preceding the commencement of the action has continued to be, a bona fide resident of this State.

71. N.J.S.2A:34-11 is amended to read as follows:

Jurisdiction by acknowledgment of service of process, appearance, etc.

2A:34-11. Jurisdiction by acknowledgment of service of process, appearance, etc.

In divorce, dissolution and nullity actions, the jurisdiction of the court over the defendant's person for all purposes of the action shall be fully established by the filing of an acknowledgment of service of process, or of an appearance, or of an answer by the defendant pro se, or on his behalf by a duly authorized attorney, in such manner as may be prescribed by rules of the Supreme Court.

72. N.J.S.2A:34-12 is amended to read as follows:

Counterclaims.

2A:34-12. Counterclaims.

Whenever the court shall have acquired jurisdiction of any action under the provisions of this chapter or P.L.2006, c.103 (C.37:1-28 et al.), the defendant therein may, by counterclaim, state any cause of action under this chapter or P.L.2006, c.103 (C.37:1-28 et al.) which exists at the time of the service of the counterclaim.

73. N.J.S.2A:34-13 is amended to read as follows:

Matrimonial or civil union action.

2A:34-13. Matrimonial or civil union action.

A person who has attained the age of 16 years may prosecute or defend any matrimonial or civil union action in person or by attorney.

74. N.J.S.2A:34-14 is amended to read as follows:

Parent or guardian may prosecute or defend.

2A:34-14. Parent or guardian may prosecute or defend.

A parent or guardian shall not be precluded by the provisions of this chapter from prosecuting or defending any action respecting the marriage or civil union status or relation of his minor child or ward.

75. N.J.S.2A:34-15 is amended to read as follows:

Co-respondent in adultery or dissolution of a civil union actions.

2A:34-15. Co-respondent in adultery or dissolution of civil union actions.

Where a person is named as co-respondent in a charge of adultery or in a charge giving rise to a cause of action for dissolution of a civil union pursuant to subsection a. of section 64 of P.L.2006, c.103 (C.2A:34-2.1), the party making the charge shall give the co-respondent written notice of the charge within the time and in the manner prescribed by the rules of the Supreme Court.

Any such co-respondent shall be entitled to intervene in the action on this particular issue.

76. N.J.S.2A:34-18 is amended to read as follows:

Final judgment; appeal.

2A:34-18. Final judgment; appeal.

If after the hearing of any cause the court shall determine that the plaintiff or counterclaimant is entitled to a judgment of nullity of marriage or nullity of a civil union or a judgment for divorce from the bonds of matrimony or judgment for dissolution of a civil union, a final judgment shall be entered.

Appeals shall be taken only from the final judgment.

77. N.J.S.2A:34-21 is amended to read as follows:

Surname.

2A:34-21. Surname.

The court, upon or after granting a divorce from the bonds of matrimony to either spouse or dissolution of a civil union to either partner in a civil union couple, may allow either spouse or partner in a civil union couple to resume any name used by the spouse or partner in a civil union couple before the marriage or civil union, or to assume any surname.

78. N.J.S.2A:34-23 is amended to read as follows:

Alimony, maintenance.

2A:34-23. Alimony, maintenance.

Pending any matrimonial action or action for dissolution of a civil union brought in this State or elsewhere, or after judgment of divorce or dissolution or maintenance, whether obtained in this State or elsewhere, the court may make such order as to the alimony or maintenance of the parties, and also as to the care, custody, education and maintenance of the children, or any of them, as the circumstances of the parties and the nature of the case shall render fit, reasonable and just, and require reasonable security for the due observance of such orders, including, but not limited to, the creation of trusts or other security devices, to assure payment of reasonably foreseeable medical and educational expenses. Upon neglect or refusal to give such reasonable security, as shall be required, or upon default in complying with any such order, the court may award and issue process for the immediate sequestration of the personal estate, and the rents and profits of the real estate of the party so charged, and appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate, or so much thereof as shall be necessary, to be applied toward such alimony and maintenance as to the said court shall from time to time seem reasonable and just; or the performance of the said orders may be enforced by other ways according to the practice of the court. Orders so made may be revised and altered by the court from time to time as circumstances may require.

The court may order one party to pay a retainer on behalf of the other for expert and legal services when the respective financial circumstances of the parties make the award reasonable and just. In considering an application, the court shall review the financial capacity of each party to conduct the litigation and the criteria for award of counsel fees that are then pertinent as set forth by court rule. Whenever any other application is made to a court which includes an application for pendente lite or final award of counsel fees, the court shall determine the appropriate award for counsel fees, if any, at the same time that a decision is rendered on the other issue then before the court and shall consider the factors set forth in the court rule on counsel fees, the financial circumstances of the parties, and the good or bad faith of either party.

a. In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court in those cases not governed by court rule shall consider, but not be limited to, the following factors:

- (1) Needs of the child;
- (2) Standard of living and economic circumstances of each parent;
- (3) All sources of income and assets of each parent;
- (4) Earning ability of each parent, including educational background, training, employment skills, work experience, custodial responsibility for children including the cost of providing child care and the length of time and cost of each parent to obtain training or experience for appropriate employment;
- (5) Need and capacity of the child for education, including higher education;
- (6) Age and health of the child and each parent;
- (7) Income, assets and earning ability of the child;
- (8) Responsibility of the parents for the court-ordered support of others;
- (9) Reasonable debts and liabilities of each child and parent; and
- (10) Any other factors the court may deem relevant.

The obligation to pay support for a child who has not been emancipated by the court shall not terminate solely on the basis of the child's age if the child suffers from a severe mental or physical incapacity that causes the child to be financially dependent on a parent. The obligation to pay support for that child shall continue until the court finds that the child is relieved of the incapacity or is no longer financially dependent on the parent. However, in assessing the financial obligation of the parent, the court shall consider, in addition to the factors enumerated in this section, the child's eligibility for public benefits and services for people with disabilities and may make such orders, including an order involving the creation of a trust, as are necessary to promote the well-being of the child.

As used in this section "severe mental or physical incapacity" shall not include a child's abuse of, or addiction to, alcohol or controlled substances.

b. In all actions brought for divorce, dissolution of a civil union, divorce from bed and board, legal separation from a partner in a civil union couple or nullity the court may award one or more of the following types of alimony: permanent alimony; rehabilitative alimony; limited duration alimony or reimbursement alimony to either party. In so doing the court shall consider, but not be limited to, the following factors:

- (1) The actual need and ability of the parties to pay;
- (2) The duration of the marriage or civil union;
- (3) The age, physical and emotional health of the parties;
- (4) The standard of living established in the marriage or civil union and the likelihood that each party can maintain a reasonably comparable standard of living;

(5) The earning capacities, educational levels, vocational skills, and employability of the parties;

(6) The length of absence from the job market of the party seeking maintenance;

(7) The parental responsibilities for the children;

(8) The time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, the availability of the training and employment, and the opportunity for future acquisitions of capital assets and income;

(9) The history of the financial or non-financial contributions to the marriage or civil union by each party including contributions to the care and education of the children and interruption of personal careers or educational opportunities;

(10) The equitable distribution of property ordered and any payouts on equitable distribution, directly or indirectly, out of current income, to the extent this consideration is reasonable, just and fair;

(11) The income available to either party through investment of any assets held by that party;

(12) The tax treatment and consequences to both parties of any alimony award, including the designation of all or a portion of the payment as a non-taxable payment; and

(13) Any other factors which the court may deem relevant.

When a share of a retirement benefit is treated as an asset for purposes of equitable distribution, the court shall not consider income generated thereafter by that share for purposes of determining alimony.

c. In any case in which there is a request for an award of permanent alimony, the court shall consider and make specific findings on the evidence about the above factors. If the court determines that an award of permanent alimony is not warranted, the court shall make specific findings on the evidence setting out the reasons therefor. The court shall then consider whether alimony is appropriate for any or all of the following: (1) limited duration; (2) rehabilitative; (3) reimbursement. In so doing, the court shall consider and make specific findings on the evidence about factors set forth above. The court shall not award limited duration alimony as a substitute for permanent alimony in those cases where permanent alimony would otherwise be awarded.

An award of alimony for a limited duration may be modified based either upon changed circumstances, or upon the nonoccurrence of circumstances that the court found would occur at the time of the award. The court may modify the amount of such an award, but shall not modify the length of the term except in unusual circumstances.

In determining the length of the term, the court shall consider the length of time it would reasonably take for the recipient to improve his or her earning capacity to a level where limited duration alimony is no longer appropriate.

d. Rehabilitative alimony shall be awarded based upon a plan in which the payee shows the scope of rehabilitation, the steps to be taken, and the time frame, including a period of employment during which rehabilitation will occur. An award of rehabilitative alimony may be modified based either upon changed circumstances, or upon the nonoccurrence of circumstances that the court found would occur at the time of the rehabilitative award.

This section is not intended to preclude a court from modifying permanent alimony awards based upon the law.

e. Reimbursement alimony may be awarded under circumstances in which one party supported the other through an advanced education, anticipating participation in the fruits of the earning capacity generated by that education.

f. Nothing in this section shall be construed to limit the court's authority to award permanent alimony, limited duration alimony, rehabilitative alimony or reimbursement alimony, separately or in any combination, as warranted by the circumstances of the parties and the nature of the case.

g. In all actions for divorce or dissolution other than those where judgment is granted solely on the ground of separation the court may consider also the proofs made in establishing such ground in determining an amount of alimony or maintenance that is fit, reasonable and just. In all actions for divorce, dissolution of civil union, divorce from bed and board, or legal separation from a partner in a civil union couple where judgment is granted on the ground of institutionalization for mental illness the court may consider the possible burden upon the taxpayers of the State as well as the ability of the party to pay in determining an amount of maintenance to be awarded.

h. In all actions where a judgment of divorce, dissolution of civil union, divorce from bed and board or legal separation from a partner in a civil union couple is entered the court may make such award or awards to the parties, in addition to alimony and maintenance, to effectuate an equitable distribution of the property, both real and personal, which was legally and beneficially acquired by them or either of them during the marriage or civil union. However, all such property, real, personal or otherwise, legally or beneficially acquired during the marriage or civil union by either party by way of gift, devise, or intestate succession shall not be subject to equitable distribution, except that interspousal gifts or gifts between partners in a civil union couple shall be subject to equitable distribution.

79. Section 1 of P.L.1997, c.405 (C.2A:34-23d) is amended to read as follows:

C.2A:34-23d Maintenance of certain insurance coverage in action for divorce or dissolution.

1. Maintenance of certain insurance coverage in action for divorce or dissolution.

a. Upon filing of a complaint for an action for divorce, dissolution, nullity or separate maintenance, where the custody, visitation or support of a minor child is an issue, the party who has maintained all existing insurance coverage or coverage traditionally maintained during the marriage or civil union, including but not limited to, all health, disability, home or life insurance, shall continue to maintain or continue to share in the cost of maintaining the coverage.

b. If a party who has maintained the existing insurance coverage or has shared in the cost of maintaining the coverage has had a voluntary or involuntary change in employment status, which may cause the existing insurance coverage to terminate, then that party shall notify the other party that it may be necessary to reallocate the financial responsibilities of maintaining the coverage.

c. Upon receipt of this notice, the party may petition the court to reallocate financial responsibilities.

d. The court may take any action it deems appropriate to reallocate financial responsibilities including but not limited to ordering a party to obtain comparable coverage or releasing a party from the obligation or any other order.

80. Section 4 of P.L.1988, c.153 (C.2A:34-23.1) is amended to read as follows:

C.2A:34-23.1 Equitable distribution criteria.

4. In making an equitable distribution of property, the court shall consider, but not be limited to, the following factors:

- a. The duration of the marriage or civil union;
- b. The age and physical and emotional health of the parties;
- c. The income or property brought to the marriage or civil union by each party;
- d. The standard of living established during the marriage or civil union;
- e. Any written agreement made by the parties before or during the marriage or civil union concerning an arrangement of property distribution;
- f. The economic circumstances of each party at the time the division of property becomes effective;
- g. The income and earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children, and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage or civil union;
- h. The contribution by each party to the education, training or earning power of the other;
- i. The contribution of each party to the acquisition, dissipation, preservation, depreciation or appreciation in the amount or value of the marital property, or the property acquired during the civil union as well as the contribution of a party as a homemaker;
- j. The tax consequences of the proposed distribution to each party;
- k. The present value of the property;
- l. The need of a parent who has physical custody of a child to own or occupy the marital residence or residence shared by the partners in a civil union couple and to use or own the household effects;
- m. The debts and liabilities of the parties;
- n. The need for creation, now or in the future, of a trust fund to secure reasonably foreseeable medical or educational costs for a spouse, partner in a civil union couple or children;
- o. The extent to which a party deferred achieving their career goals; and
- p. Any other factors which the court may deem relevant.

In every case, the court shall make specific findings of fact on the evidence relevant to all issues pertaining to asset eligibility or ineligibility, asset valuation, and equitable distribution, including specifically, but not limited to, the factors set forth in this section.

It shall be a rebuttable presumption that each party made a substantial financial or nonfinancial contribution to the acquisition of income and property while the party was married.

81. Section 1 of P.L.1954, c.187 (C.2A:34-24.1) is amended to read as follows:

C.2A:34-24.1 Court-ordered support, maintenance.

1. Court-ordered support, maintenance.

When a spouse or partner in a civil union couple has secured a judgment or decree of divorce, whether absolute or from bed and board, dissolution of a civil union, legal separation from a partner in a civil union couple, or of nullity or annulment of marriage or civil union, in an action whether brought in this State or elsewhere, wherein jurisdiction over the person of the other spouse or the other partner in a civil union couple was not obtained, the court may make the same orders and judgments touching the suitable support and maintenance to be paid and provided by the spouse or partner in a civil union couple, or to be made out of the spouse's or partner's property, for the other spouse or partner and their

children, or any of them, by their marriage or civil union and for such time, as the nature of the case and circumstances of the parties render suitable and proper, pursuant to the provisions of chapter 34 of Title 2A of the New Jersey Statutes notwithstanding the securing of such judgment or decree.

82. N.J.S.2A:34-25 is amended to read as follows:

Termination of alimony.

2A:34-25. If after the judgment of divorce or dissolution a former spouse shall remarry or a former partner shall enter into a new civil union, permanent and limited duration alimony shall terminate as of the date of remarriage or new civil union except that any arrearages that have accrued prior to the date of remarriage or new civil union shall not be vacated or annulled. A former spouse or former partner in a civil union couple who remarries or enters into a new civil union shall promptly so inform the spouse or partner paying permanent or limited duration alimony as well as the collecting agency, if any. The court may order such alimony recipient who fails to comply with the notification provision of this act to pay any reasonable attorney fees and court costs incurred by the recipient's former spouse or partner as a result of such non-compliance.

The remarriage or establishment of a new civil union of a former spouse or partner receiving rehabilitative or reimbursement alimony shall not be cause for termination of such alimony by the court unless the court finds that the circumstances upon which the award was based have not occurred or unless the payer spouse or partner demonstrates an agreement or good cause to the contrary.

Alimony shall terminate upon the death of the payer spouse or partner, except that any arrearages that have accrued prior to the date of the payer spouse's or partner's death shall not be vacated or annulled.

Nothing in this act shall be construed to prohibit a court from ordering either spouse or partner to maintain life insurance for the protection of the former spouse, partner, or the children of the marriage or civil union in the event of the payer spouse's or partner's death.

83. N.J.S.2A:34-26 is amended to read as follows:

Attachment of property.

2A:34-26. Attachment of property.

When a spouse or one partner in a civil union couple cannot be found within this State to be served with process, the spouse's or partner's estate, property and effects within this State and the rents and profits thereof may be attached to compel the spouse's or partner's appearance and performance of any judgment or order which may be made in the action. Where the proceedings are by process of attachment and the defendant does not appear, the judgment shall be enforceable only out of and against the property attached.

84. N.J.S.22A:2-10 is amended to read as follows:

Chancery Division of Superior Court; costs awarded.

22A:2-10. Chancery Division of Superior Court; costs awarded.

Upon the completion and determination of the following actions and proceedings in the Chancery Division of the Superior Court, the costs awarded to a party therein for the drawing of papers, including orders, writs and judgments, shall be as stated below:

Plaintiff's costs, foreclosure	\$50.00
Plaintiff's costs, partition	70.00
Plaintiff's and receiver's costs, receivership	125.00
Plaintiff's costs, receivership	62.50
Receiver's costs, receivership	62.50
Plaintiff's costs, divorce, dissolution of civil union, nullity, custody	30.00
Plaintiff's costs, causes of action for other relief	65.00
Plaintiff's costs, incompetency action ..	47.50
Plaintiff's costs, sale of lands of infant or incompetent	50.00
Plaintiff's costs, release of dower or curtesy ..	50.00
Plaintiff's costs, mortgage lands of an infant or incompetent	50.00
Plaintiff's costs, interpleader	35.00
Plaintiff's costs, appointment of tax receiver ..	27.50
Plaintiff's costs, actions for payment of money into court; to hold real estate; to limit creditors	22.50
Plaintiff's costs, action for appointment of trustee or substituted trustee	33.50
Costs on contempt proceedings .	25.00
Costs on application to fix dower or curtesy	22.50
Costs on application to pay moneys out of court	23.50
Costs on application for instructions, or to approve account ..	30.00
Costs on application for writ of execution	10.00
Costs on application for relief from final judgment or, in a matrimonial cause from judgment nisi or order	20.00
Costs on application for writ of possession	30.00
Costs on application for alimony pendente lite, attorney fee, suit money ..	20.00
Defendant's costs where final judgment is taken by him	30.00
Defendant's costs where final judgment is not taken by him	20.00
Costs upon any other litigated or special motion, subsidiary or interlocutory, not heretofore provided for	20.00

85. N.J.S.22A:2-12 is amended to read as follows:

Payment of fees in Chancery Division of Superior Court upon filing of first paper.

22A:2-12. Payment of fees in Chancery Division of Superior Court upon filing of first paper. Upon the filing of the first paper in any action or proceeding in the Chancery Division of the Superior Court, there shall be paid to the clerk of the court, for the use of the State, the

following fees, which, except as hereinafter provided, shall constitute the entire fees to be collected by the clerk for the use of the State, down to the final disposition of the cause:

Receivership and partition, \$200.00.

All other actions and proceedings except in probate cases and actions and proceedings for divorce or dissolution of a civil union, \$200.00.

Actions and proceedings for divorce or dissolution of a civil union, \$250.00, \$25.00 of which shall be forwarded by the Clerk of the Superior Court as provided in section 2 of P.L.1993, c.188 (C.52:27D-43.24a).

Any person filing a motion in any action or proceeding shall pay to the clerk \$30.00.

86. Section 2 of P.L.1993, c.188 (C.52:27D-43.24a) is amended to read as follows:

C.52:27D-43.24a Forwarding of filing fee.

2. Forwarding of filing fee. The Clerk of the Superior Court shall forward \$25.00 of the \$250.00 filing fee for a divorce or a dissolution of a civil union provided for in N.J.S.22A:2-12 on a quarterly basis to the Department of Community Affairs.

87. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as follows:

C.10:5-5 Definitions relative to discrimination.

5. As used in this act, unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of this act.

e. "Employer" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of this act, and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.

f. "Employee" does not include any individual employed in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by this act.

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by this act.

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post secondary school from using in good faith criteria other than race, creed, color, national origin, ancestry, gender identity or expression or affectional or sexual orientation in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303, P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. Nor does any provision under this act regarding discrimination on the basis of familial status apply with respect to housing for older persons.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof,

lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Disability" means physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean AIDS or HIV infection.

r. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lens or whose visual acuity is better than 20/200 if accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

s. "Guide dog" means a dog used to assist deaf persons or which is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person, and is used by a blind person who has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

t. "Guide or service dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as

reputable and competent to provide dogs with training, and who is actually involved in the training process.

u. "Housing accommodation" means any publicly assisted housing accommodation or any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

v. "Public facility" means any place of public accommodation and any street, highway, sidewalk, walkway, public building, and any other place or structure to which the general public is regularly, normally or customarily permitted or invited.

w. "Deaf person" means any person whose hearing is so severely impaired that the person is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on a supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to the requirements of a person with a disability including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items. This term shall include a "seizure dog" trained to alert or otherwise assist persons subject to epilepsy or other seizure disorders.

ee. "Qualified Medicaid applicant" means an individual who is a qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

ff. "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

gg. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

hh. "Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

ii. "Heterosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.

jj. "Homosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the same gender.

kk. "Bisexuality" means affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.

ll. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the resource family parent of a child, having a "parent and child relationship" with a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

mm. "Housing for older persons" means housing:

(1) provided under any State program that the Attorney General determines is specifically designed and operated to assist elderly persons (as defined in the State program); or provided under any federal program that the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the federal program); or

(2) intended for, and solely occupied by persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Attorney General shall adopt regulations which require at least the following factors:

(a) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing shall not fail to meet the requirements for housing for older persons by reason of: persons residing in such housing as of September 13, 1988 not meeting the age requirements of this subsection, provided that new occupants of such housing meet the age requirements of this subsection; or unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.

nn. "Genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

oo. "Genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or family member.

pp. "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

qq. "Domestic partnership" means a domestic partnership established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

rr. "Gender identity or expression" means having or being perceived as having a gender related identity or expression whether or not stereotypically associated with a person's assigned sex at birth.

ss. "Civil union" means a legally recognized union of two eligible individuals established pursuant to R.S.37:1-1 et seq. and P.L.2006, c.103 (C.37:1-28 et al.).

88. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read as follows:

C.10:5-12 Unlawful employment practices, discrimination.

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of any employee who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position, if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred retirement plan, or any combination of those plans, of the employer of that employee which equals in the aggregate at least \$27,000.00; and provided further that an employer may restrict employment to citizens of the United States where such restriction is required by federal law or is otherwise necessary to protect the national interest.

The provisions of subsections a. and b. of section 57 of P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

For the purposes of this subsection, a "bona fide executive" is a top level employee who exercises substantial executive authority over a significant number of employees and a large volume of business. A "high policy-making position" is a position in which a person plays a significant role in developing policy and in recommending the implementation thereof.

b. For a labor organization, because of the race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability or sex of any individual, or because of the liability for service in the Armed Forces of the United States or nationality of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members, against any applicant for, or individual included in, any apprentice or other training program or against any employer or any individual employed by an employer; provided, however, that nothing herein contained shall be construed to bar a labor organization from excluding from its apprentice or other training programs any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular apprentice or other training program.

c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex or liability of any applicant for employment for service in the Armed Forces of the United States, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

f. (1) For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality of such person, or that the patronage or custom thereof of any person of any particular race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner, lessee,

proprietor, superintendent or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained herein shall be construed to bar any place of public accommodation which is in its nature reasonably restricted exclusively to individuals of one sex, and which shall include but not be limited to any summer camp, day camp, or resort camp, bathhouse, dressing room, swimming pool, gymnasium, comfort station, dispensary, clinic or hospital, or school or educational institution which is restricted exclusively to individuals of one sex, provided individuals shall be admitted based on their gender identity or expression, from refusing, withholding from or denying to any individual of the opposite sex any of the accommodations, advantages, facilities or privileges thereof on the basis of sex; provided further, that the foregoing limitation shall not apply to any restaurant as defined in R.S.33:1-1 or place where alcoholic beverages are served.

(2) Notwithstanding the definition of "public accommodation" as set forth in subsection l. of section 5 of P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor, manager, superintendent, agent, or employee of any private club or association to directly or indirectly refuse, withhold from or deny to any individual who has been accepted as a club member and has contracted for or is otherwise entitled to full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any member in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality of such person.

In addition to the penalties otherwise provided for a violation of P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of subsection f. of this section is the holder of an alcoholic beverage license issued under the provisions of R.S.33:1-12 for that private club or association, the matter shall be referred to the Director of the Division of Alcoholic Beverage Control who shall impose an appropriate penalty in accordance with the procedures set forth in R.S.33:1-31.

g. For any person, including but not limited to, any owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments;

(2) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, nationality or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease

of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex, provided individuals shall be qualified based on their gender identity or expression;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

h. For any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality;

(2) To discriminate against any person because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record

or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex, provided individuals shall be qualified based on their gender identity or expression;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution involved in the making or purchasing of any loan or extension of credit, for whatever purpose, whether secured by residential real estate or not, including but not limited to financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability, familial status or nationality, in the granting, withholding, extending, modifying, renewing, or purchasing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or purchase thereof or in the extension of services in connection therewith;

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability, familial status or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information;

(3) (Deleted by amendment, P.L.2003, c.180).

(4) To discriminate against any person or group of persons because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To discriminate against any person or group of persons because that person's family includes children under 18 years of age, or to make an agreement or mortgage which provides that the agreement or mortgage shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

j. For any person whose activities are included within the scope of this act to refuse to post or display such notices concerning the rights or responsibilities of persons affected by this act as the Attorney General may by regulation require.

k. For any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership, or organization, for the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, liability for service in the Armed Forces of the United States, disability, nationality, or source of lawful income used for rental or mortgage payments of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to:

(1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provisions requiring any person to discriminate against or to certify that he, she or it has not dealt with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

(2) Refuse to grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification.

The provisions of this subsection shall not apply to any letter of credit, contract, or other document which contains any provision pertaining to employee-employer collective bargaining, a labor dispute or an unfair labor practice, or made in connection with the protest of unlawful discrimination or an unlawful employment practice, if the other provisions of such letter of credit, contract, or other document do not otherwise violate the provisions of this subsection.

n. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsections l. and m. of section 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

(1) Buying from, selling to, leasing from or to, licensing, contracting with, trading with, providing goods, services, or information to, or otherwise doing business with any person because that person does, or agrees or attempts to do, any such act or any act prohibited by this subsection; or

(2) Boycotting, commercially blacklisting or refusing to buy from, sell to, lease from or to, license, contract with, provide goods, services or information to, or otherwise do business with any person because that person has not done or refuses to do any such act or any act prohibited by this subsection; provided that this subsection shall not prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

o. For any multiple listing service, real estate brokers' organization or other service, organization or facility related to the business of selling or renting dwellings to deny any person access to or membership or participation in such organization, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality.

p. Nothing in the provisions of this section shall affect the ability of an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards not precluded by other provisions of State or federal law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

89. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to read as follows:

C.34:11B-3 Definitions.

3. As used in this act:

a. "Child" means a biological, adopted, or resource family child, stepchild, legal ward, or child of a parent who is

(1) under 18 years of age; or

(2) 18 years of age or older but incapable of self-care because of a mental or physical impairment.

b. "Director" means the Director of the Division on Civil Rights.

c. "Division" means the Division on Civil Rights in the Department of Law and Public Safety.

d. "Employ" means to suffer or permit to work for compensation, and includes ongoing, contractual relationships in which the employer retains substantial direct or indirect control over the employee's employment opportunities or terms and conditions of employment.

e. "Employee" means a person who is employed for at least 12 months by an employer, with respect to whom benefits are sought under this act, for not less than 1,000 base hours during the immediately preceding 12-month period.

f. "Employer" means a person or corporation, partnership, individual proprietorship, joint venture, firm or company or other similar legal entity which engages the services of an employee and which:

(1) With respect to the period of time from the effective date of this act until the 365th day following the effective date of this act, employs 100 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year;

(2) With respect to the period of time from the 366th day following the effective date of this act until the 1,095th day following the effective date of this act, employs 75 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year; and

(3) With respect to any time after the 1,095th day following the effective date of this act, employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year. "Employer" includes the State, any political subdivision thereof, and all public offices, agencies, boards or bodies.

g. "Employment benefits" means all benefits and policies provided or made available to employees by an employer, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, pensions, or other similar benefits.

h. "Parent" means a person who is the biological parent, adoptive parent, resource family parent, step-parent, parent-in-law or legal guardian, having a "parent-child relationship" with a child as defined by law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child.

i. "Family leave" means leave from employment so that the employee may provide care made necessary by reason of:

(1) the birth of a child of the employee;

(2) the placement of a child with the employee in connection with adoption of such child by the employee; or

(3) the serious health condition of a family member of the employee.

j. "Family member" means a child, parent, spouse, or one partner in a civil union couple.

k. "Reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours worked per workweek but not for fewer than an employee's usual number of hours worked per workday, unless agreed to by the employee and the employer.

l. "Serious health condition" means an illness, injury, impairment, or physical or mental condition which requires:

(1) inpatient care in a hospital, hospice, or residential medical care facility; or

(2) continuing medical treatment or continuing supervision by a health care provider.

90. Section 17 of P.L.1960, c.52 (C.2A:84A-17) is amended to read as follows:

C.2A:84A-17 Privilege of accused.

2A:84A-17. Privilege of accused.

(1) Every person has in any criminal action in which he is an accused a right not to be called as a witness and not to testify.

(2) The spouse or one partner in a civil union couple of the accused in a criminal action shall not testify in such action except to prove the fact of marriage or civil union unless (a) such spouse or partner consents, or (b) the accused is charged with an offense against the spouse or partner, a child of the accused or of the spouse or partner, or a child to whom the accused or the spouse or partner stands in the place of a parent, or (c) such spouse or partner is the complainant.

(3) An accused in a criminal action has no privilege to refuse when ordered by the judge, to submit his body to examination or to do any act in the presence of the judge or the trier of the fact, except to refuse to testify.

C.26:8A-4.1 Limitation on domestic partnerships on or after February 19, 2007; effect of law establishing civil unions.

91. On or after the effective date of this act, no domestic partnerships shall be registered under P.L.2003, c. 246 (C.26:8A-1 et al.), except that two persons who are each 62 years of age or older may establish a domestic partnership pursuant to the provisions of P.L.2003, c.246 (C.26:8A-1 et al.). This act shall not alter the rights and responsibilities of domestic partnerships existing before the effective date of this act, except that eligible domestic partners shall be given notice and opportunity to enter into a civil union pursuant to the provisions of this act. Entry into a civil union, when joined by both parties to an existing domestic partnership, shall operate to terminate the domestic partnership.

C.37:1-33 References to marital or spousal relationships to include civil unions.

92. Whenever in any law, rule, regulation, judicial or administrative proceeding or otherwise, reference is made to "marriage," "husband," "wife," "spouse," "family," "immediate family," "dependent," "next of kin," "widow," "widower," "widowed" or another word which in a specific context denotes a marital or spousal relationship, the same shall include a civil union pursuant to the provisions of this act.

C.37:1-35 Rules and regulations; guidance on replying to form questions.

93. The Commissioner of Health and Senior Services in consultation with the Director of the Administrative Office of the Courts, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations necessary to effectuate the purposes of this act. These rules and regulations shall address the issue of how partners in a civil union couple may legally answer questions on forms, governmental and private, concerning their status as partners in a civil union couple.

C.37:1-36 New Jersey Civil Union Review Commission, establishment; membership; duties; reports; expiration.

94. a. There is hereby established the New Jersey Civil Union Review Commission commencing on the effective date of P.L.2006, c.103 (C.37:1-28 et al.).

b. The commission shall be composed of 13 members to be appointed as follows: the Attorney General or his designee, the Commissioner of the Department of Banking and Insurance or his designee, the Commissioner of Health and Senior Services or his designee, the Commissioner of Human Services or his designee, the Commissioner of the Department

of Children and Families or his designee, the Director of the Division of Civil Rights in the Department of Law and Public Safety or his designee, one public member appointed by the President of the Senate, one public member appointed by the Speaker of the General Assembly, and five public members appointed by the Governor, with the advice and consent of the Senate, no more than three who shall be of the same political party.

c. It shall be the duty of the commission to study all aspects of P.L.2006, c.103 (C.37:1-28 et al.) which authorizes civil unions including, but not limited to:

- (1) evaluate the implementation, operation and effectiveness of the act;
- (2) collect information about the act's effectiveness from members of the public, State agencies and private and public sector businesses and organizations;
- (3) determine whether additional protections are needed;
- (4) collect information about the recognition and treatment of civil unions by other states and jurisdictions including the procedures for dissolution;
- (5) evaluate the effect on same-sex couples, their children and other family members of being provided civil unions rather than marriage;
- (6) evaluate the financial impact on the State of New Jersey of same-sex couples being provided civil unions rather than marriage; and
- (7) review the "Domestic Partnership Act," P.L.2003, c.246 (C.26:8A-1 et al.) and make recommendations whether this act should be repealed.

d. The commission shall organize as soon as possible after the appointment of its members. The commission shall be established for a term of three years and the members shall be appointed for the full term of three years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointment. The commission members shall choose a Chair from among its members.

e. The members of the commission shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

f. The commission is entitled to the assistance and service of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes, and to employ stenographic and clerical assistance and to incur traveling or other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

g. The commission shall report semi-annually its findings and recommendations to the Legislature and the Governor.

h. The commission shall expire three years from the date of its initial organizational meeting and upon submission of its final report.

C.37:1-34 Validity of civil unions entered into in foreign jurisdictions.

95. A civil union relationship entered into outside of this State, which is valid under the laws of the jurisdiction under which the civil union relationship was created, shall be valid in this State.

96. This act shall take effect on the 60th day after the enactment of this act, but the Commissioner of Health and Senior Services and the Director of the Administrative Office of the Courts may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved December 21, 2006.