

CHAPTER 179

AN ACT authorizing marriage and entry into a civil union by proxy under certain conditions, amending R.S.26:8-41 and amending and supplementing Title 37 of the Revised Statutes.

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

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

Transmission of marriage and civil union licenses and certificates, power of attorney.

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. In the case of marriages or civil unions performed pursuant to section 7 of P.L.2011, c.179 (C.37:1-17.3), the person or religious society, institution or organization solemnizing the marriage or civil union, in addition to transmitting the certificate of marriage or civil union and the marriage or civil union license, shall also transmit the power of attorney.

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.

2. 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.

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

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.

3. 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, either personally or through an attorney-in-fact pursuant to section 7 of P.L.2011, c.179 (C.37:1-17.3), 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 of _____ and 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).

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

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

5. 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 or, in the case of persons applying to be married or to enter into a civil union pursuant to section 7 of P.L.2011, c.179 (C.37:1-17.3), to one of the contracting parties and to the attorney-in-fact for the other contracting party, 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 person 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.

6. 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. In the case of persons who have married or entered into a civil union pursuant to section 7 of P.L.2011, c.179 (C.37:1-17.3), one copy of the certificate shall be retained by the local registrar and one copy shall be given to one of the contracting persons and to the attorney-in-fact for the other contracting person. The remaining copy shall be retained by the person solemnizing the marriage or civil union.

C.37:1-17.3 Entry into marriage, civil union by proxy under certain conditions.

7. A member of the Armed Forces of the United States or the National Guard who is stationed overseas and serving in a conflict or a war and is unable to appear for the licensure and solemnization of his marriage or civil union may enter into that marriage or civil union by the appearance of an attorney-in-fact, commissioned and empowered in writing for that purpose through a power of attorney. The attorney-in-fact must personally appear before the licensing officer with the person who is not serving overseas, and present the original power of attorney duly signed by the party stationed overseas and acknowledged by a notary or witnessed by two officers of the United States Armed Forces or the National Guard. The power of attorney shall state the legal names of the parties to be married or enter into a civil union, and shall state that the power of attorney is solely for the purpose of authorizing the attorney-in-fact to obtain a marriage or civil union license on the person's behalf and to participate in the solemnization of the marriage or civil union. The original power of attorney shall be a part of the marriage or civil union certificate upon registration.

8. This act shall take effect immediately.

Approved January 17, 2012.