

ASSEMBLY, No. 4939

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED DECEMBER 5, 2022

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Co-Sponsored by:

Assemblymen Danielsen, Freiman, Stanley, Assemblywomen Reynolds-Jackson, Park, Assemblymen Karabinchak, Moen, Assemblywomen Lopez, Piperno, Quijano and Eulner

SYNOPSIS

Establishes fundamental freedom of person to marry or enter into civil union with person of any race.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/27/2023)

1 AN ACT concerning the fundamental right to marry or enter into a
2 civil union with a person of any race and amending and
3 supplementing R.S.37:1-1.

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

7
8 1. (New section) The Legislature finds and declares that New
9 Jersey has never enacted a statute prohibiting marriage between
10 persons of different races and, accordingly, has never had to reverse
11 invidious discrimination in marriage or civil union status on the
12 basis of race. The Legislature further finds and declares that the
13 right to marry or enter into a civil union with a person of any race,
14 including the same or a different race, is a fundamental right and
15 that race shall not be declared to be a prohibiting factor.

16
17 2. (New section) The State, any governmental entity, or any
18 other institution shall not infringe on the fundamental right of a
19 person to marry or enter into a civil union with a person of any race.

20
21 3. R.S.37:1-1 is amended to read as follows:
22 37:1-1. Marriages and civil unions.

23 a. (Deleted by amendment, P.L.2021, c.343)

24 b. (Deleted by amendment, P.L.2021, c.343)

25 c. Laws concerning marriage and civil union shall be read with
26 gender and race neutral intent.

27 d. No person shall marry or enter into a civil union with any of
28 the person's ancestors or descendants, or the person's sibling, or the
29 child of the person's sibling, or the sibling of the person's parent,
30 whether such collateral kindred be of the whole or half blood.

31 e. A marriage or civil union in violation of subsection d. of this
32 section shall be absolutely void.

33 (cf: P.L.2021, c.343, s.2)

34
35 4. This act shall take effect immediately.

36

37

38 STATEMENT

39

40 New Jersey has never enacted a statute prohibiting
41 miscegenation, or marriage between persons of different races.
42 Accordingly, New Jersey has never had to reverse, in statutory or
43 case law, invidious discrimination in marriage or civil union status
44 on the basis of race.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 In 1967, the United States Supreme Court in Loving v. Virginia,
2 388 U.S. 1 (1967), overturned the convictions of a husband, a white
3 person, and wife, a black person, who married in the District of
4 Columbia, and returned to Virginia, where, upon their plea of
5 guilty, were sentenced, in a Virginia state court, to one year in jail
6 for violating Virginia's ban on interracial marriages. In overturning
7 the Virginia statute, the Supreme Court analyzed the statute under
8 the Equal Protection Clause of the federal constitution and found
9 that the racial classifications then in existence in Virginia violated
10 this clause. The effect of the ruling was to legalize interracial
11 marriages nationwide.

12 In June 2022, the United States Supreme Court, in Dobbs v.
13 Jackson Women's Health Org., 142 S. Ct. 2228 (2022), overturned
14 the Court's 1973 decision in Roe v. Wade, 410 U.S. 113 (1973),
15 which established the constitutional right to an abortion, on the
16 grounds that there are no privacy rights guaranteed under the United
17 States Constitution. The effect of the ruling is that abortion is a
18 matter to be decided by individual states.

19 Given the risk that other personal decisions, currently protected
20 under the federal constitution, could be returned to individual states
21 for determination, including the right of persons of different racial
22 or ethnic backgrounds to marry, it is prudent to protect interracial
23 marriage in New Jersey statutory law.

24 This bill declares the right of a person to marry or enter into a
25 civil union with a person of any race is fundamental and that race is
26 not a prohibiting factor.