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REPORTS: No

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NEWSPAPER ARTICLES: Yes

Derek Hall - For Times of Trenton, 'Law protects interracial marriage', *Times, The* (online), 7 Sep 2023 001

Derek Hall - For The Star-Ledger, 'Interracial marriage now protected by state law Murphy signs legislation prompted by concerns raised when Roe v. Wade was struck down.', *Star-Ledger, The* (online), 6 Sep 2023 013

CL/JA

P.L. 2023, CHAPTER 154, *approved September 5, 2023*
Assembly, No. 4939

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.

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 Accordingly, New Jersey has never had to reverse, in statutory or
2 case law, invidious discrimination in marriage or civil union status
3 on the basis of race.

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

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

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

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

30

31

32

33

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

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)

Senator M. TERESA RUIZ

District 29 (Essex)

Senator RENEE C. BURGESS

District 28 (Essex)

Co-Sponsored by:

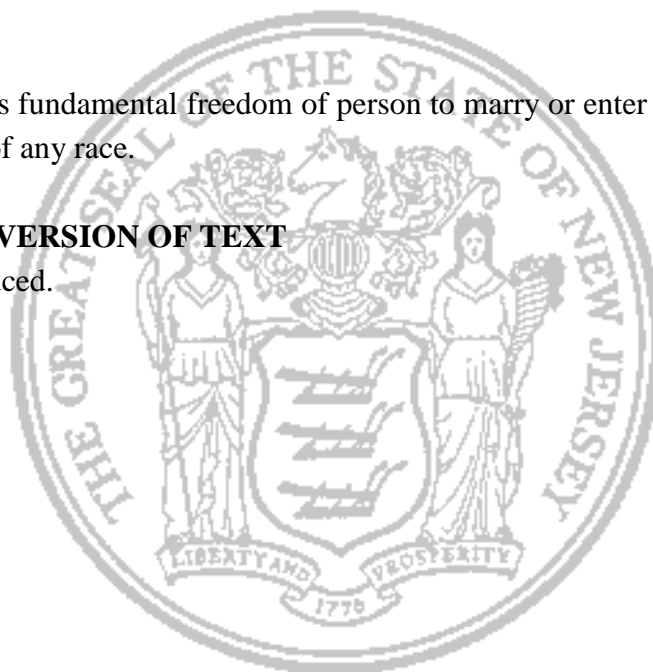
Assemblymen Danielsen, Freiman, Stanley, Assemblywomen Reynolds-Jackson, Park, Assemblymen Karabinchak, Moen, Assemblywomen Lopez, Piperno, Quijano, Eulner and Senator Stack

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: 6/20/2023)

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:
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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.
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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)
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35 4. This act shall take effect immediately.
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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.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4939

STATE OF NEW JERSEY

DATED: FEBRUARY 16, 2023

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4939.

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

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

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

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

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4939

STATE OF NEW JERSEY

DATED: JUNE 12, 2023

The Senate Judiciary Committee reports favorably Assembly Bill No. 4939.

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

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

This bill would codify in statute the constitutional right for persons of different races to marry or enter into a civil union, declaring that “the right to marry or enter into a civil union with a person of any race, including the same or different race, is a fundamental right and that race shall not be declared a prohibiting factor” for marriage or entering into a civil union.

This bill, as reported, is identical to Senate Bill No. 3719, also reported today by the committee.

SENATE, No. 3719

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 13, 2023

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator RENEE C. BURGESS

District 28 (Essex)

Co-Sponsored by:

Senator Stack

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: 6/20/2023)

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29 child of the person's sibling, or the sibling of the person's parent,
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33 (cf: P.L.2021, c.343, s.2)

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5 guilty, were sentenced, in a Virginia state court, to one year in jail
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10 this clause. The effect of the ruling was to legalize interracial
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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.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3719

STATE OF NEW JERSEY

DATED: JUNE 12, 2023

The Senate Judiciary Committee reports favorably Senate Bill No. 3719.

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

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

This bill would codify in statute the constitutional right for persons of different races to marry or enter into a civil union, declaring that “the right to marry or enter into a civil union with a person of any race, including the same or different race, is a fundamental right and that race shall not be declared a prohibiting factor” for marriage or entering into a civil union.

This bill, as reported, is identical to Assembly Bill No. 4939, also reported today by the committee.

Governor Murphy Signs Legislation Protecting Interracial Marriage in New Jersey Statutory Law

09/5/2023

TRENTON – Governor Phil Murphy today signed legislation (A-4939/S-3719) affirming the fundamental right of a person to marry or enter into a civil union with a person of any race. Today's signing ensures that interracial marriage in New Jersey is protected even if the United States Supreme Court decides that the federal Constitution no longer protects the right to marry someone of a different race.

In 1967, the United States Supreme Court ruled in *Loving v. Virginia* that the federal Constitution prohibits state laws that ban interracial marriage, as Virginia did at the time. Over the last several years, however, the new majority on the Supreme Court has overturned numerous precedents protecting liberty and equality. When the Supreme Court overturned *Roe v. Wade* last year in *Dobbs v. Jackson Women's Health Org.*, the Justices discussed whether the decision to eliminate the federal constitutional right to an abortion also threatened other well-established precedents like *Loving*. This legislation addresses such concerns by enshrining the fundamental right of interracial marriage in New Jersey statutory law.

"In New Jersey, we will continue to stand on the right side of history, ensuring that people have the freedom to marry the person they love," said **Governor Murphy**. "In June of 2022, the Supreme Court's right-wing majority erased a woman's long-held constitutional right to an abortion and made clear that they do not value the rights of women to make their own decisions about their bodies. As our country faces an era of uncertainty regarding the basic principles of equality and personal freedom, it is critical that we protect interracial marriage in New Jersey statutory law."

Concerns about the Supreme Court backtracking on constitutional protections are not limited to abortion and interracial marriage. In January 2022, Governor Murphy signed legislation which codified marriage equality for members of the LGBTQ+ community by providing that all New Jersey laws concerning marriage and civil union are to be read with gender neutral intent.

Primary sponsors of A-4939/S-3719 include Senators M. Teresa Ruiz and Renee C. Burgess, and Assemblymembers John F. McKeon, Raj Mukherji, and Carol A. Murphy.

"The Dobbs Decision not only gutted *Roe v. Wade*, but also opened the door for the court to reconsider various other decisions recognizing fundamental rights under the U.S. Constitution," said **Senate Majority Leader Ruiz**. "While it should not be a question that interracial marriage is a fundamental right, this legislation will safeguard our residents, should the US Supreme Court strike down *Loving v. Virginia*. This law reaffirms our strongly-rooted belief that love is love and people have a right to marry who they want."

"Based on recent rulings it's clear we cannot rely on Supreme Court precedents, we must safeguard our basic rights," said **Senator Burgess**. "While there is no immediate challenge to *Loving v. Virginia*, this legislation makes clear that regardless of what SCOTUS may rule in the future, interracial marriage is here to stay in New Jersey."

"The United States Supreme Court decision to overturn *Roe v. Wade* has opened the door to further erosion of rights such as marriage equality, access to contraception, and yes, interracial marriage. The threat may seem theoretical but the concern is very real. Given the risk that other federally protected personal decisions could be returned to individual state for determination, including the right of persons of different racial or ethnic backgrounds to marry, it is necessary to protect interracial marriage in New Jersey statutory law," said **Assemblyman McKeon**. "Through this law, we will ensure that in our State, a couple's right to enter into a marriage of their choosing - where race is not a prohibiting factor - will remain their right if ever the Supreme Court decides to repeal the 1967 landmark decision of *Loving v. Virginia*."

"It seems crazy that in 2023 we would have to worry about this, but this law closes a dangerous door that was left ajar when the U.S. Supreme Court overturned the landmark *Roe v. Wade* decision, potentially jeopardizing the precedent set by *Loving v. Virginia*," said **Assemblyman Mukherji**. "By resolutely moving to ensure the sanctuary of interracial unions within New Jersey's embrace, we remove any doubt that these cherished rights and safeguards could be eroded if this decision is left to individual states."

"It's important to ensure the rights and liberties of New Jersey residents are protected, regardless of what occurs at the federal level," said **Assemblywoman Murphy**. "We shouldn't be having this conversation in 2023; however, from what we have seen from the U.S. Supreme Court, it appears all civil liberties could be at risk. We owe it to our residents to safeguard their rights with our state laws so that they may retain the right to enter into a marriage or enter into a civil union with whomever they wish."

"The New Jersey State Bar Association believes that the right to marry or enter into civil unions is a fundamental right for which race should not be a factor," said **Timothy F. McGoughran, Esq., President of the New Jersey State Bar Association**. "The United States Supreme Court declared this right fundamental under the Equal Protection Clause in *Loving v. Virginia* and this bill ensures that New Jersey takes the important step to ensure that remains true in our state on this day and in the future. This is an important measure that will statutorily ensure and make clear the protection of interracial marriage and civil unions in New Jersey. We are pleased to have supported this measure and gratified that Governor Murphy has signed this bill into law."