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LAW/KR

P.L.2011, CHAPTER 179, *approved January 17, 2012*
Senate, No. 299 (*First Reprint*)

1 AN ACT authorizing marriage ¹and entry into a civil union¹ by proxy
2 under certain conditions, ¹amending R.S.26:8-41 and¹ amending
3 and supplementing Title 37 of the Revised Statutes.

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

7
8 1. R.S.26:8-41 is amended to read as follows:

9 26:8-41. Transmission of marriage and civil union licenses and
10 certificates. Every person or religious society, institution or
11 organization solemnizing a marriage or civil union shall, within 5
12 days thereafter, transmit the certificate of marriage or civil union
13 and the marriage or civil union license to the local registrar of the
14 registration district in which the marriage or civil union occurs or to
15 the clerk of the county board of health. In the case of marriages ¹or
16 civil unions¹ performed pursuant to section 7 of P.L. , c.
17 (C.) (¹**[now]**¹ pending before the Legislature as this bill), the
18 person or religious society, institution or organization solemnizing
19 the marriage ¹or civil union¹, in addition to transmitting the
20 certificate of marriage ¹or civil union¹ and the marriage ¹or civil
21 union¹ license, shall also transmit the power of attorney.

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

26 (cf: P.L.2006, c.103, s.44)

27

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

29 37:1-2. Necessity of marriage or civil union license; “licensing
30 officer” defined.

31 Before a marriage or a civil union can be lawfully performed in
32 this State, the persons intending to be married or to enter into a civil
33 union¹ [, or, in the case of persons intending to be married pursuant
34 to section 7 of P.L. , c. (C.) (now pending before the
35 Legislature as this bill), one of the persons intending to be married
36 and the attorney-in-fact for the other person,]¹ shall obtain a
37 marriage or civil union license from the licensing officer and
38 deliver it to the person who is to officiate ¹[, but if] .

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted May 19, 2011.

1 In the case of persons intending to be married or to enter into a
2 civil union pursuant to section 7 of P.L. , c. (C.) (pending
3 before the Legislature as this bill), one of the persons intending to
4 be married or to enter into a civil union and the attorney-in-fact for
5 the other person shall obtain a marriage or civil union license and
6 deliver it to the person who is to officiate.

7 If¹ the marriage or civil union is to be performed by or before
8 any religious society, institution or organization, the license shall be
9 delivered to such religious society, institution or organization, or
10 any officer thereof.

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

15 (cf: P.L.2006, c.103, s.7)

16

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

18 37:1-7. Issuing of license; remarriage or reaffirming a civil
19 union.

20 The licensing officer is hereby empowered to issue marriage or
21 civil union licenses to the contracting parties who, either personally
22 or through an attorney-in-fact pursuant to section 7 of
23 P.L. , c. (C.) (now pending before the Legislature as this bill),
24 apply therefor and are entitled under the laws of this State to
25 contract matrimony or establish a civil union, authorizing the
26 marriage or civil union of such parties, which license shall be
27 substantially in the following form:

28 "State of New Jersey. County of city, town or township of
29 This is to certify that any person, religious society, institution or
30 organization authorized by law to perform marriage or civil union
31 ceremonies within the State of New Jersey to whom this may come,
32 he or they not knowing any lawful impediment thereto, is hereby
33 authorized and empowered to solemnize the rites of matrimony or
34 the civil union between

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

39 In testimony whereof, I have hereunto set my hand and affixed
40 the seal of said town, township or city at this day
41 of two thousand and

42 , (Name and official title)"

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

1 Nothing in this section shall be construed to prevent the
 2 remarriage of a couple already married to each other or to prevent a
 3 couple who has entered into a civil union to reaffirm their
 4 commitment to one another; provided, a new license is obtained and
 5 the marriage or civil union properly reported. Such license shall be
 6 plainly marked "Issued for remarriage--originally married to same
 7 mate at (state place) on (state date) or Issued for reaffirmation of a
 8 civil union-originally entered into a civil union to same mate at
 9 (state place) on (state date)." Such a license shall be issued without
 10 compliance with the provisions of R.S.37:1-4 and if applicable of
 11 the provisions of "An act concerning marriages" approved May
 12 third, one thousand nine hundred and thirty-eight (P.L.1938, c.126).
 13 (cf: P.L.2006, c.103, s.11)

14

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

16 37:1-8. Testimony under oath by applicants as to legality of
 17 proposed marriage or civil union; witnesses; perjury.

18 A licensing officer shall, before issuing a marriage or civil union
 19 license, require the contracting parties or, in the case of persons
 20 who intend to be married 'or to enter into a civil union' pursuant to
 21 section 7 of P.L. , c. ('[now]' pending before the Legislature
 22 as this bill), one of the contracting parties and the attorney-in-fact
 23 for the other party, to appear before him and subscribe and swear to
 24 an oath attesting the truth of the facts respecting the legality of the
 25 proposed marriage or civil union as set forth in the form supplied by
 26 the State registrar. Said testimony shall be verified by a witness of
 27 legal age. A licensing officer shall issue a license only if it is thus
 28 made to appear before him that no legal impediment to the marriage
 29 or civil union exists. Every licensing officer may administer oaths
 30 to the contracting parties or, in the case of persons who intend to be
 31 married 'or to enter into a civil union' pursuant to section 7 of
 32 P.L. , c. ('[now]' pending before the Legislature as this bill), to
 33 one of the contracting parties and to the attorney-in-fact for the
 34 other contracting party and their identifying witness.

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

39 (cf: P.L.2006, c.103, s.12)

40

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

42 37:1-16. Interrogation of applicants under oath; perjury.

43 Any person authorized to solemnize marriages or civil unions
 44 may administer oaths to the parties applying to be married or to
 45 enter into a civil union or, in the case of '[parties] persons'
 46 applying to be married 'or to enter into a civil union' pursuant to
 47 section 7 of P.L. , c. ('[now]' pending before the Legislature as

1 this bill), to one of the contracting parties and to the attorney-in-fact
2 for the other contracting party, and may require them, or either of
3 them, to make true answers to any inquiries made by him in order to
4 ascertain whether, in his judgment, any legal impediment to the
5 proposed marriage or civil union exists.

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

11 (cf: P.L.2006, c.103, s.19)

12
13 6. Section 2 of P.L.1980, c.128 (C.37:1-17.1) is amended to read
14 as follows:

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

16 The license and the original certificate shall be transmitted
17 pursuant to R.S.26:8-41. One copy of the certificate shall be
18 retained by the local registrar and one copy shall be given to the
19 persons contracting the marriage or civil union. In the case of
20 '[parties] 'persons who have' married 'or entered into a civil
21 union' pursuant to section 7 of P.L. , c. (C.) ('[now]'
22 pending before the Legislature as this bill), one copy of the
23 certificate shall be retained by the local registrar and one copy shall
24 be given to one of the contracting '[parties] persons' and to the
25 attorney-in-fact for the other contracting '[party] person' . The
26 remaining copy shall be retained by the person solemnizing the
27 marriage or civil union.

28 (cf: P.L.2006, c.103, s.21)

29
30 7. (New section) A member of the Armed Forces of the United
31 States or the National Guard who is stationed overseas and serving
32 in a conflict or a war and is unable to appear for the licensure and
33 solemnization of his marriage 'or civil union' may enter into that
34 marriage 'or civil union' by the appearance of an attorney-in-fact,
35 commissioned and empowered in writing for that purpose through a
36 power of attorney. The attorney-in-fact must personally appear
37 before the licensing officer with the person who is not serving
38 overseas, and present the original power of attorney duly signed by
39 the party stationed overseas and acknowledged by a notary or
40 witnessed by two officers of the United States Armed Forces or the
41 National Guard. The power of attorney shall state the legal names
42 of the parties to be married 'or enter into a civil union', and shall
43 state that the power of attorney is solely for the purpose of
44 authorizing the attorney-in-fact to obtain a marriage 'or civil union'
45 license on the person's behalf and to participate in the solemnization
46 of the marriage 'or civil union'. The original power of attorney

1 shall be a part of the marriage 'or civil union' certificate upon
2 registration.

3

4 8. This act shall take effect immediately.

5

6

7

8

9 Authorizes marriage and entry into a civil union by proxy for
10 certain persons serving overseas in the Armed Forces or National
11 Guard.

SENATE, No. 299

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator DIANE B. ALLEN

District 7 (Burlington and Camden)

Senator BILL BARONI

District 14 (Mercer and Middlesex)

SYNOPSIS

Authorizes marriages by proxy for certain persons serving overseas in the Armed Forces or National Guard.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT authorizing marriage by proxy under certain conditions,
2 amending and supplementing Title 37 of the Revised Statutes.

3

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

6

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

8 26:8-41. Transmission of marriage and civil union licenses and
9 certificates. Every person or religious society, institution or
10 organization solemnizing a marriage or civil union shall, within 5
11 days thereafter, transmit the certificate of marriage or civil union
12 and the marriage or civil union license to the local registrar of the
13 registration district in which the marriage or civil union occurs or to
14 the clerk of the county board of health. In the case of marriages
15 performed pursuant to section 7 of P.L. , c. (C.) (now
16 pending before the Legislature as this bill), the person or religious
17 society, institution or organization solemnizing the marriage, in
18 addition to transmitting the certificate of marriage and the marriage
19 license, shall also transmit the power of attorney.

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

24 (cf: P.L.2006, c.103, s.44)

25

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

27 37:1-2. Necessity of marriage or civil union license; "licensing
28 officer" defined. Before a marriage or a civil union can be lawfully
29 performed in this State, the persons intending to be married or to
30 enter into a civil union, or, in the case of persons intending to be
31 married pursuant to section 7 of P.L. , c. (C.) (now pending
32 before the Legislature as this bill), one of the persons intending to
33 be married and the attorney-in-fact for the other person, shall obtain
34 a marriage or civil union license from the licensing officer and
35 deliver it to the person who is to officiate, but if the marriage or
36 civil union is to be performed by or before any religious society,
37 institution or organization, the license shall be delivered to such
38 religious society, institution or organization, or any officer thereof.

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

43 (cf: P.L.2006, c.103, s.7)

44

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

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 37:1-7. Issuing of license; remarriage or reaffirming a civil
2 union. The licensing officer is hereby empowered to issue marriage
3 or civil union licenses to the contracting parties who, either
4 personally or through an attorney-in-fact pursuant to section 7 of
5 P.L. , c. (C.) (now pending before the Legislature as this bill),
6 apply therefor and are entitled under the laws of this State to
7 contract matrimony or establish a civil union, authorizing the
8 marriage or civil union of such parties, which license shall be
9 substantially in the following form:

10 "State of New Jersey. County of city, town or township of
11 This is to certify that any person, religious society, institution or
12 organization authorized by law to perform marriage or civil union
13 ceremonies within the State of New Jersey to whom this may come,
14 he or they not knowing any lawful impediment thereto, is hereby
15 authorized and empowered to solemnize the rites of matrimony or
16 the civil union between

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

21 In testimony whereof, I have hereunto set my hand and affixed
22 the seal of said town, township or city at this day of
23 two thousand and

24 , (Name and official title)"

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

30 Nothing in this section shall be construed to prevent the
31 remarriage of a couple already married to each other or to prevent a
32 couple who has entered into a civil union to reaffirm their
33 commitment to one another; provided, a new license is obtained and
34 the marriage or civil union properly reported. Such license shall be
35 plainly marked "Issued for remarriage--originally married to same
36 mate at (state place) on (state date) or Issued for reaffirmation of a
37 civil union-originally entered into a civil union to same mate at
38 (state place) on (state date)." Such a license shall be issued without
39 compliance with the provisions of R.S.37:1-4 and if applicable of
40 the provisions of "An act concerning marriages" approved May
41 third, one thousand nine hundred and thirty-eight (P.L.1938, c.126).
42 (cf: P.L.2006, c.103, s.11)

43
44 4. R.S.37:1-8 is amended to read as follows:

45 37:1-8. Testimony under oath by applicants as to legality of
46 proposed marriage or civil union; witnesses; perjury. A licensing
47 officer shall, before issuing a marriage or civil union license,

1 require the contracting parties or, in the case of persons who intend
2 to be married pursuant to section 7 of P.L. , c. (now pending
3 before the Legislature as this bill), one of the contracting parties
4 and the attorney-in-fact for the other party, to appear before him
5 and subscribe and swear to an oath attesting the truth of the facts
6 respecting the legality of the proposed marriage or civil union as set
7 forth in the form supplied by the State registrar. Said testimony
8 shall be verified by a witness of legal age. A licensing officer shall
9 issue a license only if it is thus made to appear before him that no
10 legal impediment to the marriage or civil union exists. Every
11 licensing officer may administer oaths to the contracting parties or,
12 in the case of persons who intend to be married pursuant to section
13 7 of P.L. , c. (now pending before the Legislature as this bill), to
14 one of the contracting parties and to the attorney-in-fact for the
15 other contracting party and their identifying witness.

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

20 (cf: P.L.2006, c.103, s.12)

21

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

23 37:1-16. Interrogation of applicants under oath; perjury. Any
24 person authorized to solemnize marriages or civil unions may
25 administer oaths to the parties applying to be married or to enter
26 into a civil union or, in the case of parties applying to be married
27 pursuant to section 7 of P.L. , c. (now pending before the
28 Legislature as this bill), to one of the contracting parties and to the
29 attorney-in-fact for the other contracting party, and may require
30 them, or either of them, to make true answers to any inquiries made
31 by him in order to ascertain whether, in his judgment, any legal
32 impediment to the proposed marriage or civil union exists.

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

38 (cf: P.L.2006, c.103, s.19)

39

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

42 2. License and certificate of marriage or civil union; transmittal.
43 The license and the original certificate shall be transmitted pursuant
44 to R.S.26:8-41. One copy of the certificate shall be retained by the
45 local registrar and one copy shall be given to the persons
46 contracting the marriage or civil union. In the case of parties
47 married pursuant to section 7 of P.L. , c. (C.) (now pending

1 before the Legislature as this bill), one copy of the certificate shall
2 be retained by the local registrar and one copy shall be given to one
3 of the contracting parties and to the attorney-in-fact for the other
4 contracting party. The remaining copy shall be retained by the
5 person solemnizing the marriage or civil union.
6 (cf: P.L.2006, c.103, s.21)
7

8 7. (New section) A member of the Armed Forces of the United
9 States or the National Guard who is stationed overseas and serving
10 in a conflict or a war and is unable to appear for the licensure and
11 solemnization of his marriage may enter into that marriage by the
12 appearance of an attorney-in-fact, commissioned and empowered in
13 writing for that purpose through a power of attorney. The attorney-
14 in-fact must personally appear before the licensing officer with the
15 person who is not serving overseas, and present the original power
16 of attorney duly signed by the party stationed overseas and
17 acknowledged by a notary or witnessed by two officers of the
18 United States Armed Forces or the National Guard. The power of
19 attorney shall state the legal names of the parties to be married, and
20 shall state that the power of attorney is solely for the purpose of
21 authorizing the attorney-in-fact to obtain a marriage license on the
22 person's behalf and to participate in the solemnization of the
23 marriage. The original power of attorney shall be a part of the
24 marriage certificate upon registration.
25

26 8. This act shall take effect immediately.
27
28

29 STATEMENT
30

31 This bill would authorize marriage by proxy for persons whose
32 military service in a war or conflict prevents them from appearing
33 in person to obtain the marriage license and participate in the
34 ceremony. Under the bill, a member of the Armed Forces or
35 National Guard who is stationed overseas and serving in a conflict
36 or a war and is unable to appear for the licensure and solemnization
37 of his marriage may enter into that marriage by the appearance of
38 an attorney-in-fact, commissioned and empowered in writing for
39 that purpose through a power of attorney. The attorney-in-fact must
40 personally appear before the licensing officer with the person who
41 is not serving overseas, and present the original power of attorney
42 signed by the party stationed overseas and acknowledged by a
43 notary or witnessed by two officers of the United States Armed
44 Forces or the National Guard.

45 The power of attorney would state that it is solely for the purpose
46 of authorizing the attorney-in-fact to obtain a marriage license on
47 the person's behalf and to participate in the solemnization of the
48 marriage. The original power of attorney would be a part of the

S299 ALLEN, BARONI

6

1 marriage certificate upon registration.

2 This bill is modeled on a California enactment, Chapter 476 of

3 2004.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 299

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 19, 2011

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 299.

This bill as amended would authorize marriage by proxy and civil union by proxy for persons whose military service in a war or conflict prevents them from appearing in person to obtain the marriage or civil union license and participate in the ceremony.

Under the bill, a member of the Armed Forces or 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 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 would state that it 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 would be a part of the marriage or civil union certificate upon registration.

This bill is modeled on a California enactment, Chapter 476 of 2004.

As introduced, this bill had authorized marriage by proxy but did not address same-sex civil unions, which were established in this State by P.L.2006, c.103. The committee amendments added civil unions to the bill.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 299

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2011

The Assembly Judiciary Committee reports favorably Senate Bill No. 299(1R).

This bill would authorize marriage and civil union by proxy for persons whose military service in a war or conflict prevents them from appearing in person to obtain the marriage or civil union license and participate in the ceremony.

Under the bill, a member of the United States Armed Forces or National Guard who is unable to appear for the licensure and solemnization of his marriage or civil union because he is stationed overseas and serving in a conflict or a war 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, which must be 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 would state that it 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 would be a part of the marriage or civil union certificate upon registration.

This bill is modeled on California Family Code sec. 420, enacted as Chapter 476 of 2004.

This bill is identical to Assembly Bill No. 4170.

ASSEMBLY, No. 4170

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 27, 2011

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblyman Caputo, Assemblywoman Wagner and Assemblyman O'Donnell

SYNOPSIS

Authorizes marriage and entry into a civil union by proxy for certain persons serving overseas in the Armed Forces or National Guard.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/10/2012)

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

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

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12 days thereafter, transmit the certificate of marriage or civil union
13 and the marriage or civil union license to the local registrar of the
14 registration district in which the marriage or civil union occurs or to
15 the clerk of the county board of health. In the case of marriages or
16 civil unions performed pursuant to section 7 of P.L. , c. (C.)
17 (pending before the Legislature as this bill), the person or religious
18 society, institution or organization solemnizing the marriage or civil
19 union, in addition to transmitting the certificate of marriage or civil
20 union and the marriage or civil union license, shall also transmit the
21 power of attorney.

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

26 (cf: P.L.2006, c.103, s.44)

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

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31 Before a marriage or a civil union can be lawfully performed in
32 this State, the persons intending to be married or to enter into a civil
33 union shall obtain a marriage or civil union license from the
34 licensing officer and deliver it to the person who is to officiate[, but
35 if].

36 In the case of persons intending to be married or to enter into a
37 civil union pursuant to section 7 of P.L. , c. (C.) (pending
38 before the Legislature as this bill), one of the persons intending to
39 be married or to enter into a civil union and the attorney-in-fact for
40 the other person shall obtain a marriage or civil union license and
41 deliver it to the person who is to officiate.

42 If the marriage or civil union is to be performed by or before any
43 religious society, institution or organization, the license shall be
44 delivered to such religious society, institution or organization, or
45 any officer thereof.

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 As used in this chapter, "licensing officer" means, as to cities of
2 the first class, the city clerk; as to other municipalities, the State
3 registrar; or the deputy of any said official designated by him to
4 issue licenses during his absence.
5 (cf: P.L.2006, c.103, s.7)

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

8 37:1-7. Issuing of license; remarriage or reaffirming a civil
9 union.

10 The licensing officer is hereby empowered to issue marriage or
11 civil union licenses to the contracting parties who, either personally
12 or through an attorney-in-fact pursuant to section 7 of
13 P.L. , c. (C.) (now pending before the Legislature as this bill),
14 apply therefor and are entitled under the laws of this State to
15 contract matrimony or establish a civil union, authorizing the
16 marriage or civil union of such parties, which license shall be
17 substantially in the following form:

18 "State of New Jersey. County of city, town or township of
19 This is to certify that any person, religious society, institution or
20 organization authorized by law to perform marriage or civil union
21 ceremonies within the State of New Jersey to whom this may come,
22 he or they not knowing any lawful impediment thereto, is hereby
23 authorized and empowered to solemnize the rites of matrimony or
24 the civil union between

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

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

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

38 Nothing in this section shall be construed to prevent the
39 remarriage of a couple already married to each other or to prevent a
40 couple who has entered into a civil union to reaffirm their
41 commitment to one another; provided, a new license is obtained and
42 the marriage or civil union properly reported. Such license shall be
43 plainly marked "Issued for remarriage--originally married to same
44 mate at (state place) on (state date) or Issued for reaffirmation of a
45 civil union-originally entered into a civil union to same mate at
46 (state place) on (state date)." Such a license shall be issued without
47 compliance with the provisions of R.S.37:1-4 and if applicable of
48 the provisions of "An act concerning marriages" approved May

1 third, one thousand nine hundred and thirty-eight (P.L.1938, c.126).
2 (cf: P.L.2006, c.103, s.11)

3

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

5 37:1-8. Testimony under oath by applicants as to legality of
6 proposed marriage or civil union; witnesses; perjury.

7 A licensing officer shall, before issuing a marriage or civil union
8 license, require the contracting parties or, in the case of persons
9 who intend to be married or to enter into a civil union pursuant to
10 section 7 of P.L. , c. (pending before the Legislature as this
11 bill), one of the contracting parties and the attorney-in-fact for the
12 other party, to appear before him and subscribe and swear to an oath
13 attesting the truth of the facts respecting the legality of the proposed
14 marriage or civil union as set forth in the form supplied by the State
15 registrar. Said testimony shall be verified by a witness of legal age.
16 A licensing officer shall issue a license only if it is thus made to
17 appear before him that no legal impediment to the marriage or civil
18 union exists. Every licensing officer may administer oaths to the
19 contracting parties or, in the case of persons who intend to be
20 married or to enter into a civil union pursuant to section 7 of
21 P.L. , c. (pending before the Legislature as this bill), to one of
22 the contracting parties and to the attorney-in-fact for the other
23 contracting party and their identifying witness.

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

28 (cf: P.L.2006, c.103, s.12)

29

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

31 37:1-16. Interrogation of applicants under oath; perjury.

32 Any person authorized to solemnize marriages or civil unions
33 may administer oaths to the parties applying to be married or to
34 enter into a civil union or, in the case of persons applying to be
35 married or to enter into a civil union pursuant to section 7 of
36 P.L. , c. (pending before the Legislature as this bill), to one of the
37 contracting parties and to the attorney-in-fact for the other
38 contracting party, and may require them, or either of them, to make
39 true answers to any inquiries made by him in order to ascertain
40 whether, in his judgment, any legal impediment to the proposed
41 marriage or civil union exists.

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

47 (cf: P.L.2006, c.103, s.19)

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

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

5 The license and the original certificate shall be transmitted
6 pursuant to R.S.26:8-41. One copy of the certificate shall be
7 retained by the local registrar and one copy shall be given to the
8 persons contracting the marriage or civil union. In the case of
9 persons who have married or entered into a civil union pursuant to
10 section 7 of P.L. , c. (C.) (pending before the Legislature as
11 this bill), one copy of the certificate shall be retained by the local
12 registrar and one copy shall be given to one of the contracting
13 persons and to the attorney-in-fact for the other contracting person.
14 The remaining copy shall be retained by the person solemnizing the
15 marriage or civil union.

16 (cf: P.L.2006, c.103, s.21)

17

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

36

37 8. This act shall take effect immediately.

38

39

40

STATEMENT

41

42 This bill would authorize marriage and civil union by proxy for
43 persons whose military service in a war or conflict prevents them
44 from appearing in person to obtain the marriage or civil union
45 license and participate in the ceremony.

46 Under the bill, a member of the Armed Forces or National Guard
47 who is stationed overseas and serving in a conflict or a war and is
48 unable to appear for the licensure and solemnization of his marriage

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6

1 or civil union may enter into that marriage or civil union by the
2 appearance of an attorney-in-fact, commissioned and empowered in
3 writing for that purpose through a power of attorney. The attorney-
4 in-fact must personally appear before the licensing officer with the
5 person who is not serving overseas, and present the original power
6 of attorney signed by the party stationed overseas and
7 acknowledged by a notary or witnessed by two officers of the
8 United States Armed Forces or the National Guard.

9 The power of attorney would state that it is solely for the purpose
10 of authorizing the attorney-in-fact to obtain a marriage or civil
11 union license on the person's behalf and to participate in the
12 solemnization of the marriage or civil union. The original power of
13 attorney would be a part of the marriage or civil union certificate
14 upon registration.

15 This bill is modeled on a California enactment, Chapter 476 of
16 2004.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4170

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2011

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4170.

This bill would authorize marriage and civil union by proxy for persons whose military service in a war or conflict prevents them from appearing in person to obtain the marriage or civil union license and participate in the ceremony.

Under the bill, a member of the United States Armed Forces or National Guard who is unable to appear for the licensure and solemnization of his marriage or civil union because he is stationed overseas and serving in a conflict or a war 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, which must be 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 would state that it 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 would be a part of the marriage or civil union certificate upon registration.

This bill is modeled on California Family Code sec. 420, enacted as Chapter 476 of 2004.

This bill is identical to Senate Bill No. 299 (1R).