

Diocese of Newark CIVIL UNION TASK FORCE



INTERIM REPORT

December 1, 2007

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INTRODUCTION

The Civil Union Task Force is a response to the State of New Jersey's passing of the Civil Union law defining a legal relationship for Gay and Lesbian couples. The Civil Union Task Force recognizes both the legal benefits of Civil Union and, at the same time, its inherent inequality compared to legal marriage. The inequality of Civil Union and Marriage is an issue of justice.

In response to a query in the diocese, 65 civil unions have been reported by the clergy, but there are indications that several dozen more have been performed.

The Task Force was created by the Diocesan Council of Newark. Bishop Beckwith appointed Ms. Barbara Conroy and the Rev. Phillip Dana Wilson as co-chairs in March, 2007. Members of the Task Force were sought to widely represent the Diocese and bring legal expertise to the group. The following are the members of the Civil Union Task Force:

Barbara Conroy and Phillip Wilson: Co-Chairs

John Simonelli: Secretary

Matthew Piermatti: Chair Policy & Procedures Committee

Stuart Smith: Chair Liturgy and Pastoral Committee

Joseph Harmon, Chair of the Education Committee

Melissa Hall: Member

Sky Howell Henley: Member

Kathryn King: Member

Geri Livengood, Member

Greg Perez: Member

The work of the Task Force is still in progress and incomplete at this time. We will continue into 2008.

The goals of the Task Force are as follows:

1. To support and assist same sex couples in committed relationships to claim the benefits of Civil Union and to celebrate their sacred commitment publicly and with the support and blessing of the church.
2. To educate and assist the Bishop and the Clergy of the Diocese of Newark so that they can better understand and conduct civil unions.
3. To educate people and parishes of the Diocese of Newark as to the meaning, value and theological underpinnings of Civil Union.

To advance these goals the Civil Union Task Force has done the following:

1. Established a Civil Union Policy and Procedures Committee to review the New Jersey Civil Union law and the Canon of the Episcopal Church related to marriage.
2. Established a Liturgy and Pastoral Committee to address pastoral and liturgical issues particular to the Civil Unions.
3. Established an Education Committee to draft information documents and events for parishes, websites and educational forums.
4. Created a possible liturgy for a Civil Union that is available along with others that have been created in different places.
5. Developed a Checklist of concerns in performing a Civil Union.
6. Conducted a survey among the clergy to determine the number of civil unions performed to date.
7. Produced Reports, when possible, to be presented at the 2008 Diocesan Convention.

The work of the Civil Union Task Force has just begun. There is much more work to be done as we live into a new reality and learn as we go. This is a work in progress and new questions will certainly arise as we continue this ministry.

A THEOLOGICAL PREMISE FOR THE WORK OF THE DIOCESE OF NEWARK CIVIL UNION TASK FORCE

We are followers of Jesus Christ called to have the mind of Christ: to see as Christ sees and to love as Christ loves. The prophetic injunction to do justice and show mercy compels our pastoral response to gay and lesbian partners in loving, faithful, committed relationships seeking God's blessing of their same-gender unions and the Church's participation in officiating civil unions. Our Baptismal Covenant commits us to "strive for justice and peace among all people, and [to] respect the dignity of every human being."¹ Therefore, the Diocese of Newark embraces the celebration and blessing of the loving, faithful and committed unions of all people drawn to one another in heart, body and mind as we join with them in witnessing to the unconditional love of God in our lives and in the world. In this way the Diocese of Newark endeavors to be a vital voice for the Church and our society and a catalyst to "let justice roll down like waters, and righteousness like an ever-flowing stream."²

1 From the Baptismal Covenant, Book of Common Prayer, p. 305.

2 Amos 5:24 NRSV

PASTORAL CONCERNS

The following suggestions are offered in response to some of the Pastoral Concerns identified in our work.

Participation by Diocesan Clergy in performing Civil Unions

As is the custom for responding to requests to officiate at marriages, we believe that the Cleric has the right and duty to decide how to address requests to officiate. We hope and believe that each Cleric will treat all persons as Children of God and handle ALL requests without prejudicial discrimination but with loving guidance and counsel to determine the couple's commitment and intention so that each couple seeking the blessing of the church in a legal union will be treated with equality and compassion.

Pre-Wedding Preparation

We hope that all of our Clergy will engage each couple in preparation for life together and address such issues that are commonly presented in such a relationship, being sensitive to unique issues which may be present in their lives. We believe that such preparation should include but not be limited to the following. The comments following each subject are offered for help in addressing issues that might be specific to partners entering Civil Unions.

Previous Relationships:

Address their prior relationship[s] and how they affect the new relationship. Officiant will need to see documentation of the dissolution of the prior relationship.

If either or both of the parties has been involved in a previous legal contract [marriage, civil union or equivalent, or domestic partnership] now dissolved, permission for the cleric to officiate is required from the Bishop before the union can take place. Included in the request should be the date of dissolution, evidence of healing, and evidence of care and welfare provided for the former spouse/partner and children [if any]. Officiant will need to see documentation of the disillusionment of the relationship prior to writing the Bishop.

[see also Procedures for Preparing Couples for Marriage in the Practical Interpretations Section of this document]

Duration:

Christian commitment is intended to be life-long with discussion concerning how that intention may be lived out. For Civil Unions, the Cleric needs to be sensitive to the duration of the relationship prior to the ability to legalize it. The cleric and couple may want to treat the celebration of an ongoing commitment like a renewal of vows now meeting the legal requirement.

Children:

Discuss the mutuality of desire for children and the implications of children [of this relationship and/or of prior ones], being especially sensitive to those implications in Civil Unions.

Finances:

Discuss how finances are intended to be handled, especially about property or resources already owned by one of the parties.

Fidelity:

Discuss the importance of fidelity and the trust inherent and needed in such a relationship, including issues of intimacy. For Civil Unions, a discussion of how the couple defines fidelity in terms of their sexuality and their relationship may be important in a mutual definition of commitment.

Family:

Discuss how the families of each person may impact their relationship, of how to be inclusive and welcoming. It is important to discuss how the families accept [or not] the couple's relationship and to investigate what family issues and/or cultural dynamics need to be addressed.

Banns:

Banns should be published for all unions according to the custom of the Cleric and the Faith Community.

Privacy & Location & Customs:

While celebrations of relationships are generally thought of as being part of the fabric of the Faith Community, with the couple being encouraged to be a part of the congregation, the Cleric and couple should mutually decide what is best for the specific celebration. It is vitally important that the cultural backgrounds of the parties and any significant issues unique to this specific union be considered.

BACKGROUND AS TO THE STATE OF CIVIL UNIONS, BOTH IN THE EPISCOPAL CHURCH AND IN THE STATE OF NEW JERSEY

It is not too much of an overstatement to characterize the status of Civil Unions in New Jersey as in a state of revolution. In a relatively short time we went from “just friends” to “registered domestic partners” to “civil unionists”. To most it would seem that, now we have heard from the Legislature in the form of legislation establishing Civil Unions which are purported to insure to same sex couples the same benefits and responsibilities as marriage, the matter is settled. It is far from settled. New Legislation is always subject to interpretation by the Courts. Also, increasingly, there are reports that New Jersey Civil Unions are NOT working. The purposes for which the Court ordered the legislature to enact the legislation seem, at times, to be frustrated. Finally, many have chosen to wait until a full marriage is offered by New Jersey.

This Report is an attempt to give a background as to the state of Civil Unions, both in the Episcopal Church and in the State of New Jersey. It covers the landmark case of Lewis v. Harris, a guide to the New Jersey State statute that grew out of the case, the Canon Law concerning marriage and an overview of the existing practical interpretations and applications of the canonical provisions governing the solemnization of Holy Matrimony in the Diocese of Newark.

Matthew Daniel Piermatti, II, Esq.

Chair, Subcommittee on Policy and Procedures, Diocese of Newark Task Force on Civil Unions

BRIEF ON LEWIS v. HARRIS

Submitted by Matthew Daniel Piermatti, II, Esq

Mark Lewis and Dennis Winslow, et al. v. Gwendolyn L. Harris, etc., et al.

Argued February 15, 2006 - Decided October 25, 2006

Seven same sex couples, each in committed relationships for more than 10 years seek to marry. They were denied marriage licenses.

The Complaint filed by them sought a declaration that the laws denying same sex marriage violated the liberty and equal protection guarantees of Article 1, paragraph 1 of the New Jersey Constitution.

Procedural History

The Superior Court (trial court) dismissed the Plaintiffs' Complaint.

The Plaintiffs appealed

The Appellate Division affirmed the trial court. There was a dissenting opinion.

The Plaintiffs appealed

The Supreme Court of New Jersey reversed.

In a Syllabus released by the Office of the Clerk for the Court, but not as part of the decision said:

Denying committed same-sex couples the financial and social benefits and privileges given to their married heterosexual counterparts bears no substantial relationship to a legitimate governmental purpose. The Court holds that under the equal protection guarantee of Article 1, Paragraph 1 of the New Jersey Constitution, committed same-sex couples must be afforded on equal terms the same rights and benefits enjoyed by opposite-sex couples under the civil marriage statutes. The name to be given to the statutory scheme that provides full rights and benefits to same-sex couples, whether marriage or some other term, is a matter left to the democratic process.

1. As this case presents no factual dispute, the Court addresses solely questions of law. The court perceives plaintiffs' equal protection claim to have two components: whether committed same-sex couples have a constitutional right to the benefits and privileges afforded to married heterosexual couples, and, if so, whether they have a constitutional right to have their relationship recognized by the name of marriage.
2. In attempting to discern the substantive rights that are "fundamental" under Article 1, Paragraph 1, of the state constitution, the Court has followed the general standard adopted by the United States Supreme Court in construing the Due Process Clause of the Fourteenth Amendment. First, the asserted fundamental liberty interest must be clearly identified. In this case, the identified right is the right of same-sex couples to marry. Second, the liberty interest in same-sex marriage must be objectively and deeply rooted in the traditions, history and conscience of the people of the State.
3. New Jersey's marriage laws, which were first enacted in 1912, limit marriage to heterosexual couples. The recently enacted Domestic Partnership Act explicitly acknowledges that same-sex couples cannot marry. Although today there is a national debate over whether same-sex marriages should be authorized by the states, the framers of the 1947 New Jersey Constitution could not have imagined that the liberty right protected by Article 1, Paragraph 1 embraced same-sex marriage.
4. Times and attitudes have changed. There has been a developing understanding that discrimination against gays and lesbians is no longer acceptable in this State. On the federal level, the United States Supreme Court has struck down laws that have unconstitutionally targeted gays and lesbians for disparate treatment. Although plaintiffs rely on the federal cases to support the argument that they have a fundamental right to marry under our State Constitution, those case fall far short of establishing a fundamental right to same-sex marriage "deeply rooted in the traditions, history, and conscience of the people of this State." Despite the rich diversity of this State, the tolerance and goodness of its people, and the many recent advances made by gays and les-

bians toward achieving social acceptance and equality under the law, the Court cannot find that the right to same-sex marriage is a fundamental right under our constitution.

5. The Court has construed the expansive language of Article 1, Paragraph 1 to embrace the fundamental guarantee of equal protection, thereby requiring the Court to determine whether the State's marriage laws permissibly distinguish between same-sex and heterosexual couples. The test the Court has applied to equal protection claims is a flexible one that includes three factors: the nature of the right at stake, the extent to which the challenged statutory scheme restricts that right, and the public need for the statutory restriction.
6. In conducting its equal protection analysis, the Court discerns two distinct issues. The first is whether same-sex couples have the right to the statutory benefits and privileges conferred on heterosexual married couples. Assuming that right, the next issue is whether committed same-sex partners have a constitutional right to define their relationship by the name of marriage.
7. New Jersey's courts and its Legislature have been at the forefront of combating sexual orientation discrimination and advancing equality of treatment toward gays and lesbians. In 1992, through an amendment to the Law Against Discrimination (LAD), New Jersey became the fifth state to prohibit discrimination on the basis of "affect ional or sexual orientation." In making sexual orientation a protected category the Legislature committed New Jersey to the goal of eradicating discrimination against gays and lesbians. In 2004, the Legislature added "domestic partnership status" to the categories protected by the LAD.
8. Discrimination on the basis of sexual orientation is also outlawed in our criminal law and public contracts law. The Legislature, moreover, created the New Jersey Human Relations Council to promote educational programs aimed at reducing bias and bias-related acts, identifying sexual orientation as a protected category. In 2004, the Legislature passed the Domestic Partnership Act, which confers certain benefits and rights on same-sex partners who enter into a partnership under the Act.
9. The Domestic Partnership Act has failed to bridge the inequality gap between committed same-sex couples and married opposite-sex couples. Significantly, the economic and financial inequities that are borne by same-sex domestic partners are also borne by their children. Further, even though same-sex couples are provided fewer benefits and rights by the Act, they are subject to more stringent requirements to enter into a domestic partnership than opposite-sex couples entering a marriage.
10. At this point the Court does not consider whether committed same-sex couples should be allowed to marry, but only whether those couples are entitled to the same rights and benefits afforded to married heterosexual couples. Cast in that light, the issue is not about the transformation of the traditional definition of marriage, but about the unequal dispensation of benefits and privileges to one of two similarly situated classes of people.
11. The State does not argue that limiting marriage to the union of a man and a woman is needed to encourage procreation or to create the optimal living environment for children. Other than sustaining the traditional definition of marriage, which is not implicat-

ed in this discussion, the State has not articulated any legitimate public need for depriving committed same-sex couples of the host of benefits and privileges that are afforded to married heterosexual couples. There is, on the one hand, no rational basis for giving gays and lesbians full civil rights as individuals while, on the other hand, giving them an incomplete set of rights when they enter into committed same-sex relationships. To the extent that families are strengthened by encouraging monogamous relationships, whether heterosexual or homosexual, the Court cannot discern a public need that would justify the legal disabilities that now afflict same-sex domestic partnerships.

12. In arguing to uphold the system of disparate treatment that disfavors same-sex couples, the State offers as a justification the interest in uniformity with other states' laws. Our current laws concerning same-sex couples are more in line with those of Vermont, Massachusetts, and Connecticut than the majority of other states. Equality of treatment is a dominant theme of our laws and a central guarantee of our State Constitution. This is fitting for a state with so diverse a population. Article 1, Paragraph 1 protects not only the rights of the majority but also the rights of the disfavored and the disadvantaged; they too are promised a fair opportunity of "pursuing and obtaining safety and happiness."
13. The equal protection requirement of Article 1, Paragraph 1 leaves the Legislature with two apparent options. The Legislature could simply amend the marriage statutes to include same-sex couples, or it could create a separate statutory structure, such as a civil union. Because this State has no experience with civil union construct, the Court will not speculate that identical schemes offering equal rights and benefits would create a distinction that would offend Article 1, Paragraph 1, and will not presume that a difference in name is of constitutional magnitude. New language is developing to describe new social and familial relationships, and in time will find a place in our common vocabulary. However the legislature may act, same-sex couples will be free to call their relationships by the name they choose and to sanctify their relationships in religious ceremonies in houses of worship.
14. In the last two centuries, the institution of marriage has reflected society's changing social mores and values. Legislatures, along with courts, have played a major role in ushering marriage into the modern era of equality of partners. The great engine for social change in this country has always been the democratic process. Although courts can ensure equal treatment, they cannot guarantee social acceptance, which must come through the evolving ethos of a maturing society. Plaintiffs' quest does not end here. They must now appeal to their fellow citizens whose voices are heard through their popularly elected representatives.
15. To bring the State into compliance with Article 1, Paragraph 1 so that plaintiffs can exercise their full constitutional rights, the Legislature must either amend the marriage statutes or enact an appropriate statutory structure within 180 days of the date of this decision.

The Chief Justice of the New Jersey Supreme Court, Deborah Poritz, filed a separate concurring and dissenting opinion. Justices Long and Zazzali joined in the opinion. Justice

Poritz concurred that denying the rights and benefits to committed same-sex couples that are given by statute to heterosexual couples violates the equal protection guarantee of Article 1, Paragraph 1 of the New Jersey State Constitution. Poritz dissents that there is no fundamental due process right to same-sex marriage encompassed within the concept of “liberty” guaranteed by the same article and paragraph. She states that persons who exercise their autonomous liberty interest to choose same-sex partners have a fundamental right to participate in a state-sanctioned civil marriage.

In almost poetic terms, Chief Justice Poritz said, “Labels set people apart as surely as physical separation on a bus or in school facilities. Labels are used to perpetuate prejudice about differences that, in this case, are embedded in the law. By excluding same-sex couples from civil marriage, the State declares that it is legitimate to differentiate between their commitments and the commitments of heterosexual couples. Ultimately, the message is that what same-sex couples have is not as important or as significant as “real” marriage, that such lesser relationships cannot have the name of marriage.”

REPORT ON NEW JERSEY CIVIL UNION LEGISLATION

Submitted by Geri Livengood

The Civil Union legislation approved by the 212th Legislature of New Jersey expands the rights formerly afforded to same-sex couples under the “Domestic Partnership Act.” In expanding these rights, the legislature chose to “establish civil unions by amending the current marriage statute to include same-sex couples” (2).

This means that civil unions, which are defined as “the legally recognized union of two eligible individuals of the same sex” (3), afford all of the rights of marriage, without exception. The act offers this statement of legislative intent: “The bill provides that parties to a civil union would have all 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 spouses in a marriage” (58, lines 26-30).

The act outlines the rights afforded to couples who enter civil unions. The act says that:

- Parties to a civil union 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.
- 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.
- 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 the parties to a civil union.
- The parties to a civil union may modify the terms, conditions or effects of their civil union in the same manner and to the same extent as married person who execute an ante nuptial agreement or other agreement recognized and enforceable under the law, setting forth particular understandings with respect to their union.

- The rights of the parties to a civil union 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 becomes the parent during the marriage.
- All contracts made between persons in contemplation of a civil union shall remain in full force after such civil union takes place.
- 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.

The author continues, expanding on the legal benefits of civil unions, but notes that “The following list of legal benefits, protections and responsibilities of spouses shall apply in like manner to the parties to a civil union, but shall not be construed to be an exclusive list of such benefits, protections and responsibilities” (4).

The legal benefits that are enumerated are as follows:

- Laws relating to title, tenure, descent and distribution, intestate succession, waiver of will, 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
- 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
- probate law and procedure, including non-probate transfer
- adoption law and procedures
- laws relating to insurance, health and pension benefits
- domestic violence protections pursuant to the “Prevention of Domestic Violence Act of 1991,” P.L.1991, c.261 (2C:25-17 et 27 seq.) and domestic violence programs
- prohibitions against discrimination based upon marital status
- victim’s compensation benefits, including but not limited to compensation to spouse, children and relatives of homicide victims
- 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
- laws relating to emergency and non-emergency 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.)
- advance directives for health care and designation as a health care representative pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.)
- family leave benefits pursuant to P.L.1989, c.261 (C.34:11B-1 et seq.)

- 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 seq.)
- laws relating to taxes imposed by the State or a municipality other than estate taxes, 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
- laws relating to immunity from compelled testimony and the marital communication privilege
- the home ownership rights of a surviving spouse
- the right of a spouse to a surname change without petitioning the court
- 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.)
- State pay for military service
- application for absentee ballots
- legal requirements for assignment of wages
- laws related to tuition assistance for higher education for surviving spouses or children.

The act goes on to detail the ways in which all laws related to pre-marital agreements, contracts entered into during marriage, conditions of annulment and divorce, care of children, and responsibility in cases of illness and death are the same for civil unions as they are for marriage.

Where any question about the rights guaranteed by a civil union exists, we can look to the statement of legislative intent, which makes clear that all “benefits, protections and responsibilities” afforded by marriage are afforded by civil unions.

A REVIEW OF CANONS OF THE EPISCOPAL CHURCH RESPECTING HOLY MATRIMONY

Submitted by The Rev. Joseph A. Harmon, Esq.

This memorandum is a summary of the canonical provisions governing the solemnization of Holy Matrimony and other regulations respecting Holy Matrimony found in the Canons of The Episcopal Church.¹ The Canons of the Diocese of Newark are silent regarding Holy Matrimony.

I. Canon I.18: Of the Solemnization of Holy Matrimony

Canon I.18 provides direction to members of the clergy² officiating at the solemnization of a marriage to:

- A. conform to the laws of the state in which the marriage is solemnized;
- B. ascertain certain prerequisites before undertaking the solemnization of a marriage;
- C. comply with certain procedures before solemnizing a marriage; and
- D. have discretion to decline to solemnize any marriage.

A. Conform to secular laws

Section one provides that officiating clergy “shall conform to the laws of the State governing the creation of the civil status of marriage” as well as the canons governing the solemnization of Holy Matrimony. A relevant question arises when the laws of the State provide for the marital equivalent in civil unions for persons of the same sex. A further question arises when the laws of the State provide that any or every minister of every religion may officiate at the solemnization of marriages and civil unions³

1 Canons I.18 and I.19.

2 The term “member of the clergy” is a term of art used throughout the Canons of the Episcopal Church. It is defined in only one place and that definition arguably applies only to the use of the term within that canon. Canon IV.15 (Of Terminology Used in This Title) provides that “Except as otherwise expressly provided or unless the context otherwise requires, as used in this Title the following terms and phrases shall have the following meanings: * * * Member of the Clergy shall mean Bishops, Priests and Deacons of this Church unless the context shall exclude a Bishop.” It is generally understood that the term “Member of the Clergy” refers to the three orders of ordained ministry identified in Canon IV.15, and that the same understanding applies to the use of the term, unless otherwise qualified, elsewhere in the Canons of The Episcopal Church. Canons I.18 and I.19 refer to “Member of the Clergy” throughout. The Book of Common Prayer, however, anticipates that “[a] priest or a bishop normally presides at the Celebration and Blessing of a Marriage, because such ministers alone have the function of pronouncing the nuptial blessing, and of celebrating the Holy Eucharist.” Book of Common Prayer (“BCP”), p. 422.

3 NJ A 3787 (February 2007) revised N.J. REV. STAT. B 37:1-13 to authorize, amongst others, “every minister of every religion” to solemnize marriages and civil unions. The previous authorization to solemnize marriages was extended to civil unions. Although Canon I.18 broadly applies to “every Member of the Clergy,” the Book of Common Prayer provides that “[w]here it is permitted by civil law that deacons may perform marriages, and no priest or bishop is available,” a deacon may officiate, “omitting the nuptial blessing which follows the Lord’s Prayer.” BCP, p. 422.

B. Clergy to ascertain certain prerequisites

Section two identifies five prerequisites clergy must ascertain before solemnizing a marriage. This Canon provides language arguably restricting Holy Matrimony to be “a union of a man and a woman.” See Canon I.18.2(b). Clergy must ascertain that:

1. both parties have the right to contract a marriage under state law;
2. “both parties understand that Holy Matrimony is a physical and spiritual union of a man and a woman, entered into within the community of faith, by mutual consent of heart, mind, and will, and with the intent that it be lifelong”;
3. there is free consent to the marriage, without mental reservation or “fraud, coercion, [or] mistake as to the identity of a partner”;
4. at least one party is already baptized; and
5. both parties have received instruction as to the “nature, meaning, and purpose of Holy Matrimony.” Canon I.18.2.

C. Procedures Required Before Solemnization of a Marriage

Canon I.18.3 requires clergy to follow four procedures in preparing to solemnize a marriage:

1. Parties must inform the clergy person of their intent to “contract marriage” at least 30 days before the service of solemnization, except that this requirement may be dispensed with, “for weighty cause . . . if one of the parties is a member of the congregation [of the clergy person], or can furnish satisfactory evidence of responsibility.” Canon I.18.3(a);
2. two witnesses must be present. Canon I.18.3(b);
3. the date, location of the marriage, names and ages of the parties, names of parents, and the names and residences of the witnesses must be recorded in the parish register and signed by the officiating clergy person. Canon I.18.3(c); and
4. the parties must sign a declaration setting forth their understanding that:
 - a. marriage is “a lifelong union of husband and wife[.]” Canon I.18.3(e);
 - b. marriage is a “union of husband and wife, in heart, body, and mind” that is divinely intended for their “mutual joy,” “help and comfort . . . in prosperity and adversity,” and for procreation “when it is God’s will[.]” Canon I.18.3(f); and
 - c. the parties intend to establish the marital relationship “and to seek God’s help thereto.” Canon I.18.3(g)

D. Clergy may decline to officiate

Section four provides the right of any Member of the Clergy “to decline to solemnize any marriage.” Canon I.18.4

II. Canon I.19: Of Regulations Respecting Holy Matrimony: Concerning Preservation of Marriage, Dissolution of Marriage, and Remarriage

Canon I.19 provides direction to clergy regarding the preservation of marriage, application for judgment on the marital status when a marriage is annulled or dissolved by civil action, and conditions for remarriage.

A. Preservation of Marriage

Section one first is directed to the parties to a marriage and encourages them to seek the council of a clergyperson when the marriage is “imperiled by dissension[.]” Clergy are directed to act to “protect and promote the physical and emotional safety of those involved and only then, if it be possible,” to seek reconciliation between the parties.

B. Judgment on the Marital Status

Where a civil court annuls or dissolves a marriage, a party may apply to the Bishop of the Diocese in which the party is legally or canonically resident for a judgment as to the party’s marital status before the Church. The ecclesiastical judgment may recognize the nullity or termination of the marriage but the judgment may not be construed to affect “the legitimacy of children or the civil validity of the former relationship.”⁴ Canon I.19.2(a).

Ecclesiastical judgments must be in writing and made a part of the diocesan archives. Canon I.19.2(b).

C. Conditions for Remarriage

Clergy may not officiate at the marriage of a previously married individual whose former spouse is still alive unless:

1. the clergyperson is given evidence of a final civil decree annulling or terminating the former marriage;
2. the clergyperson instructs the parties regarding the “continuing concern . . . for the well-being of the former spouse,” and of children in the prior marriage;
3. the clergyperson consults with and obtains the consent of the Bishop where the clergyperson is canonically resident or licensed to officiate and the clergyperson reports

4 While divorce pertains to the termination of an otherwise validly contracted marriage, annulment is a judgment of the nullity or non-existence of the marital relationship ab initio. Where provided in civil law, annulment may be granted on such grounds as consanguinity, minority of one of the contracting parties, bigamy, mental incompetence, fraud or deception, or inability to consummate the marriage.

the solemnization of the marriage to the Bishop. Canon I.19.3(c).⁵ If the marriage is solemnized in a jurisdiction outside that in which the consent was given, the clergy person must obtain affirmation of the consent by the Bishop in whose jurisdiction the marriage is to be solemnized. Canon I.19.3(d).

All remarriages must conform to the canonical requirements in Canon I.18. Canon I.19.4.

PRACTICAL INTERPRETATIONS AND APPLICATIONS OF THE CANONICAL PROVISIONS GOVERNING THE SOLEMNIZATION OF HOLY MATRIMONY AS IT APPLIES TO THE DIOCESE OF NEWARK

Submitted by The Rev. Melissa Hall

This is an overview of the existing practical interpretations and applications of the canonical provisions governing the solemnization of Holy Matrimony as it applies to the Diocese of Newark.

The Diocese relies on the regulations regarding Holy Matrimony found in the Canons of The Episcopal Church (Canons 1.18 & 1:19) as the practical rules of order for performing marriages and civil unions, and as such does not have individual Canons that interpret the regulations of the National Church.

Much of the information obtained in this report regarding the application of the Canons is anecdotal and comes as a result of random polling and interview of clergy and parishes across the Diocese of Newark. Some churches have extensive information on their individual websites regarding marriage requirements, others websites do not.

Canon I.18: Of the Solemnization of Holy Matrimony

Canon I.19: Of Regulations Respecting Holy Matrimony: Concerning Preservation of Marriage, Dissolution of Marriage, and Remarriage

The overall outcome of this fact-finding suggests the practices in the Diocese seem consistent and dedicated to these two canons in meeting the secular and legal requirements of the state, as well as the regulations of the Church.

There is consistent adherence with the rules and regulations on the requirements of the clergy person in interpreting the appropriateness of two individuals to enter into marriage.

5 Most Diocesan Bishops provide regulations to assist clergy in complying with Canon I.19.3. In March 2001, the Ninth Bishop of Newark established policy providing that consent for remarriage must be sought at least 30 days prior to the proposed remarriage date and required written assurance that the provisions of Canon I.19.3 (a) & (b) are met and, additionally, a statement of “the actual or potential relationship that one or both of the parties has with [the clergy person’s] congregation and why the Church should bless this union.” The policy also provided that in cases “where one or both parties have been divorced two or more times,” the clergy person should refer the couple to a trained counselor or therapist, unless the clergy person herself or himself is so trained. The Rt. Rev. John Palmer Croneberger, Marriage Consents for Divorced Persons, March 2001.

However, a significant finding of these interviews revealed a variety of expression and interpretation of these regulations in the performance of the clergy's responsibilities in the preparation of these individuals for matrimony.

For example the standard number of meetings between the clergy and the intended couple seems to be three to four meetings prior to the ceremony. This number can vary either up or down depending on the clergy person.

In some instances clergy meet with the couples together and also on an individual basis. Some clergy reported that they only meet with the couples.

The structure and format of these meetings varies from parish to parish. Some clergy utilize the Meyers Briggs Psychological Profile instrument as a basis of discussion with the couples. Other clergy rely on family system paradigms as a format of discussion. Many clergy have devised their own questionnaires for couples based on "their years of experience" in performing marriages.

Some Clergy expressed that when they prepare congregation members known to them, their process of preparation may vary for members who come from outside of their church community.

Church membership

In discussion of the application of the canons for the requirements for marriage it was noted that in some instances there existed additional local requirements for marriage as applied by individual churches.

Although the canons do not specifically require it, some clergy require that couples, who are not church members, begin to attend church services consistently. These couples must demonstrate a genuine commitment to participating in the community. They are advised as to the requirements of church membership including the responsibilities of stewardship. In these cases it is expected that after marriage the couple continue their relationship with the church as active members.

The success of this approach was reported as inconsistent.

Other clergy expressed that they do not require couples that come for the solemnization of marriage from outside the church community to attend the church. However, they do advise them that they should consider attending services in order to understand the liturgy and culture of worship at that particular church.

Fees

Although not pertinent to the question at hand, it is noted that fee schedules for the preparation and performance of marriages varies from church to church, and clergy member to clergy member. These fees also varied greatly in regards to church members versus non-church members.

Location of marriage

Although there was an expressed preference by clergy that marriages be performed in the church proper, it was consistently expressed that ceremonies outside of the church are not unusual.

In regards to the Blessing of Same Sex couples there is an understanding that it may be difficult for gay and lesbian couples to feel comfortable in this setting. This is particularly true if in the past they have experienced the pain of ostracism from within the Church. Therefore, there is flexibility on the part of some clergy to honor the requests of the couple.

However, it should be noted that a ceremony within the church that affords respect and dignity to the couple and their union could serve to begin repair that damaged relationship

In the Event of Having to Decline Couples for Marriage.

Although this seemed to be a rare event, there was expressed need for direction and guidelines in the event that the clergy person determines that the couple should not be married.

Same Sex Blessings

The response to this question was all over the board. Some clergy utilize the Book of Common Prayer and the existing marriage ceremony as their guideline while others improvise the service with consideration of the desires of the couple.

Language

At this time the Canons of the National Church place a difficult restriction on language that can be used during a blessing of same sex couples and on the blessing of a civil union. The caveat that marriage is “between one man and one woman” precludes the use of the word marriage within the ceremony. The current “Blessing of a Civil Union” in the Book of Common Prayer assumes that the union is between a man and a woman. This is inconsistent with the secular laws of the State of New Jersey.

Some clergy have modified language, respectful to the rite and the couple, to include the use of the term “Holy Union” during the solemnization of the Civil Union.

Conclusion

Clergy in the Diocese of Newark have been both attentive to the canons of the national church and creative in their interpretations in the gray zones of liturgical practice. It is expected that this commission will continue to evaluate and make recommendations for consistent practice in the Diocese of Newark.

Procedures for Preparing Couples for Matrimony

Please note that with the exception of the items that are mandated according to Canon Law, much of this procedure reflects individual interpretation according to the discretion of the clergy member. These items refer to the current practices in place for Holy Matrimony.

1. Couples thinking about marriage should contact a member of the clergy before plans for the ceremony are made. At least thirty days must be allowed before the solemnization. At least one member of the couple needs to be a baptized individual.
2. A tentative date may be requested, but the date can only be confirmed following a review and the approval of the Rector.
3. Should either member of the couple be divorced or annulled, an original divorce or annulment paper must be submitted at the time of the request for review.
4. There will be an initial meeting with a member of the clergy to discuss the couple's request and to confirm a date. Additionally, clergy will provide the couple with the necessary materials and questionnaires for preparation. These documents will conform to the requirements of Canon 1.18.3. A rehearsal date and time will also be established.
5. In the event of divorce or annulment, clergy must determine that the well being of the spouse and any children of the dissolved marriage has been attended to.
6. In the event of divorce or annulment written permission of the Bishop of Newark must be obtained.
7. If the wedding is to occur outside of the Diocese written permission of the Bishop in whose jurisdiction the marriage is to be solemnized must be obtained.
8. Fees are also discussed at the initial meeting. The fees are based upon use of the Church, the clergy, the organist, and the Altar Guild. The normal fee for a wedding ceremony varies congregation to congregation and clergy to clergy. Oftentimes the organist is paid separately from the church fee.
9. In some congregations the Church fee may be waived for active pledging members of the congregation. If the couple are not church members, but are seeking the sacrament the priest should rigorously counsel the couple in the importance and value of church membership. Some clergy require regular attendance and commitment to the congregation as a pre-requisite to marriage within the Church.
10. There will be two additional meetings with the couple of about 90 minutes each to discuss the deeper meaning of marriage.
11. There will also be an individual meeting of about 40 minutes with each person.
12. If during these individual or group sessions the priest determines that there may be significant issues that require more intensive follow up a referral may be recommended to an outside therapy source.
13. The couple should be advised to obtain their civil marriage license as soon as the law allows. The marriage license should be presented to the clergy person at least three days prior to the marriage.

14. A final meeting with the couple will be held approximately two weeks prior to the marriage to discuss the Order of Service, readings and the music chosen. The clergy person will assess the expected stress levels of the couple and if needed offer spiritual and emotional support at this time.
15. The couple and the witnesses will sign the Parish register immediately after the service. If the couple wishes they may make the signing of the register part of the service.
16. Immediately after the wedding service the officiant will complete the marriage license and obtain the appropriate signatures of the witnesses. The document will be mailed to the municipality as soon as possible after the service.

SUGGESTED WORK AND TASKS FOR THE EDUCATION COMMITTEE OF THE DIOCESE OF NEWARK CIVIL UNION TASK FORCE

Work of the Education Committee

1. To provide accurate and concise information regarding the New Jersey Civil Union statute and its application within the Diocese of Newark.
2. To provide forums for the discussion of pastoral concerns regarding blessing same-gender unions in the Diocese of Newark.
3. To craft appropriate written material (brochures, handouts, etc.) that address the social justice dimensions of the Church's role in blessing same-gender unions and its participation in officiating civil unions.

Short Term Tasks of the Education Committee

1. Present an informational display booth at the 2008 Diocesan Convention that summarizes the work and recommendations of the Task Force to date.
2. Host two Diocesan forums, open to all interested persons, to invite discussion and sharing of concerns and other information regarding the blessing of same-gender couples and the Church's role in officiating civil unions.
3. Host at least one event for clergy on the pastoral and psychosocial issues and concerns unique to same-gender couples.

A SUGGESTED RITE FOR THE BLESSING OF CIVIL UNIONS

The following Rite is based on the Book of Common Prayer's rite for "The Blessing and Celebration of a Marriage" [pp 422-438].

This, with a Spanish Version, is offered to the Bishop for recommendation to the Clergy of the Diocese of Newark. This Rite was designed to be as "Prayerbook" as possible and is suggested as appropriate for the joining and blessing of ALL Relationship: Marriages and Civil Unions.

Concerning the Service

A joined and blessed Christian union is a solemn and public covenant between two persons in the presence of God. In the Episcopal Church it is required that one, at least, of the parties must be a baptized Christian; that the ceremony be attested by at least two witnesses; and that the joined and blessed union conform to the laws of the State and the canons of this Church.

A priest or a bishop normally presides at the Celebration and Blessing of a Holy Union, because such ministers alone have the function of pronouncing the nuptial blessing, and of celebrating the Holy Eucharist.

When both a bishop and a priest are present and officiating, the bishop should pronounce the blessing and preside at the Eucharist.

A deacon, or an assisting priest, may deliver the charge, ask for the Declaration of Consent, read the Gospel, and perform other assisting functions at the Eucharist.

Where it is permitted by civil law that deacons may perform holy unions, and no priest or bishop is available, a deacon may use the service which follows, omitting the nuptial blessing which follows The Prayers.

It is desirable that the Lessons from the Old Testament and the Epistles be read by lay persons.

In the opening exhortation (at the symbol of N.N.), the full names of the persons to be joined and blessed are declared. Subsequently, only their Christian names are used.

Additional Directions follow these proposed liturgies.

The Celebration and Blessing of a Holy Union

At the time appointed, the persons to be joined and blessed, with their witnesses, assemble in the church or some other appropriate place.

During their entrance, a hymn, psalm, or anthem may be sung, or instrumental music may be played.

Then the Celebrant, facing the people and the persons to be joined and blessed, addresses the congregation and says

Dearly beloved: We have come together in the presence of God to witness and bless the joining together of N.N. and N.N. in Holy Union. The bond and covenant of Holy Union was established by God in creation, and our Lord Jesus Christ adorned this manner of life by his presence and first miracle at a wedding in Cana of Galilee. It signifies to us the mystery of the union between Christ and his Church, and Holy Scripture commends it to be honored among all people.

The union of N. and N. in heart, body, and mind is intended by God for their mutual joy; for the help and comfort given one another in prosperity and adversity; and, when it is God's will, for the gift of children and their nurture in the knowledge and love of the Lord. Therefore a holy union is not to be entered into unadvisedly or lightly, but reverently, deliberately, and in accordance with the purposes for which it was instituted by God.

Into this holy union N.N. and N.N. now come to be joined. If any of you can show just cause why they may not lawfully be joined and blessed, speak now; or else for ever hold your peace.

Then the Celebrant says to the persons to be joined and blessed

I require and charge you both, here in the presence of God, that if either of you know any reason why you may not be united lawfully, and in accordance with God's Word, you do now confess it.

The Declaration of Consent

The Celebrant says to each person in turn

N., will you have N. to be your _____; to live together in the covenant of holy union? Will you love, comfort, honor and keep N., in sickness and in health; and, forsaking all others, be faithful to him/her as long as you both shall live?

The other person answers

I will.

The Celebrant then addresses the congregation, saying

Will all of you witnessing these promises do all in your power to uphold these two persons in their holy union?

People

We will.

If there is to be a presentation in holy union, it takes place at this time. See Additional Direction.

A hymn, psalm, or anthem may follow.

The Ministry of the Word

The Celebrant then says to the people

The Lord be with you.

People

And also with you.

The Celebrant then says to the people

Let us pray.

O gracious and everliving God, you have created us in your image: Look mercifully upon N. and N. who come to you seeking your blessing, and assist them with your grace, that with true fidelity and steadfast love they may honor and keep the promises and vows they make; through Jesus Christ our Savior, who lives and reigns with you in the unity of the Holy Spirit, one God, for ever and ever. Amen.

Then one or more of the following passages from Holy Scripture is read. If there is to be a Communion, a passage from the Gospel always concludes the Readings. See also the readings listed on page 426 in the Book of Common Prayer.

Ruth 1:16-17

Song of Songs 2:10-13, 8:6-7

Ecclesiastes 4:9-12 [New English Bible]

I Samuel 18:16, 3, 20:16-17, 42a

Mica 4:1-3, 6-8

Ecclesiastes 4:9-12

Zephaniah 3:14-20

I Corinthians 12:31-13:13

I John 4:7-16, 21

Ephesians 3:14-19

II Corinthians 5:17-20

Romans 12:9-19

Colossians 3:11b-16a

Between the Readings, a Psalm, hymn, or anthem may be sung or said. Appropriate Psalms are 67, 65, 85, 111, 127, 133:1-3, 149, and 8:10-11.

When a passage from the Gospel is to be read, all stand, and the Deacon or Minister appointed says

The Holy Gospel of our Lord Jesus Christ according to _____.

People

Glory to you, Lord Christ.

John 15:9-12

John 2:1-11

Matthew 5:14-16

Mark 12:38-47

Luke 6:32-38

Matthew 7:24-27

After the Gospel, the Reader says

The Gospel of the Lord.

People

Praise to you, Lord Christ.

A homily or other response to the Readings may follow.

The Holy Union

Facing each other and in turn, each person takes the other's right hand and says

In the Name of God, I, N., take you, N., to be my _____, to have and to hold from this day forward, for better for worse, for richer for poorer, in sickness and in health, to love and to cherish, until we are parted by death. This is my solemn vow.

They loose their hands.

The Priest may ask God's blessing on a ring or rings, or other suitable symbol[s] of the vows, as follows

Bless, O Lord, this _____ to be a sign of the vows by which N. and N. have bound themselves to each other; through Jesus Christ our Lord. Amen.

Each person, in turn, gives to the other the symbol of their vows and says

N., I give you this _____ as a symbol of my vow, and with all that I am, and all that I have, I honor you, in the Name of the Father, and of the Son, and of the Holy Spirit (or in the Name of God).

Then the Celebrant joins the right hands of couple and says

Now that N. and N. have given themselves to each other by solemn vows, with the joining of hands and the giving and receiving of a _____, I pronounce that they are a joined and blessed couple, in the Name of the Father, and of the Son, and of the Holy Spirit.

Those whom God has joined together let no one put asunder.

People

Amen.

The Prayers

All standing, the Celebrant says

Let us pray together in the words our Savior taught us.

People and Celebrant

Our Father, who art in heaven,
hallowed be thy Name,
thy kingdom come,
thy will be done,
on earth as it is in heaven.

Give us this day our daily bread.

And forgive us our trespasses,
as we forgive those
who trespass against us.

And lead us not into temptation,
but deliver us from evil.

For thine is the kingdom,
and the power, and the glory,
for ever and ever. Amen.

Our Father in heaven,
hallowed be your Name,
your kingdom come,
your will be done,
on earth as in heaven.

Give us today our daily bread.

Forgive us our sins
as we forgive those
who sin against us.

Save us from the time of trial,
and deliver us from evil.

For the kingdom, the power,
and the glory are yours
now and for ever. Amen.

If Communion is to follow, the Lord's Prayer may be omitted here.

The Deacon or other person appointed reads the following prayers, to which the People respond, saying, Amen.

If there is not to be a Communion, one or more of the prayers may be omitted.

Let us pray.

Eternal God, creator and preserver of all life, author of salvation, and giver of all grace: Look with favor upon the world you have made, and for which your Son gave his life, and especially upon N. and N. whom you make one flesh in Holy Union. Amen.

Give them wisdom and devotion in the ordering of their common life, that each may be to the other a strength in need, a counselor in perplexity, a comfort in sorrow, and a companion in joy. Amen.

Grant that their wills may be so knit together in your will, and their spirits in your Spirit, that they may grow in love and peace with you and one another all the days of their life. Amen.

Give them grace, when they hurt each other, to recognize and acknowledge their fault, and to seek each other's forgiveness and yours. Amen.

Make their life together a sign of Christ's love to this sinful and broken world, that unity may overcome estrangement, forgiveness heal guilt, and joy conquer despair. Amen.

Bestow on them, if it is your will, the gift and heritage of children, and the grace to bring them up to know you, to love you, and to serve you. Amen.

Give them such fulfillment of their mutual affection that they may reach out in love and concern for others. Amen.

Grant that all joined and blessed couples who have witnessed these vows may find their lives strengthened and their loyalties confirmed. Amen.

Grant that the bonds of our common humanity, by which all your children are united one to another, and the living to the dead, may be so transformed by your grace, that your will may be done on earth as it is in heaven; where, O Father, with your Son and the Holy Spirit, you live and reign in perfect unity, now and for ever. Amen.

The Blessing of the Holy Union

The people remain standing. The couple kneels, and the Priest says one of the following prayers

Most gracious God, we give you thanks for your tender love in sending Jesus Christ to come among us, to be born of a human mother, and to make the way of the cross to be the way of life. We thank you, also, for consecrating this union in his Name. By the power of your Holy Spirit, pour out the abundance of your blessing upon N. and N. Defend them from every enemy. Lead them into all peace. Let their love for each other be a seal upon their hearts, a mantle about their shoulders, and a crown upon their foreheads. Bless them in their work and in their companionship; in their sleeping and in their waking; in their joys and in their sorrows; in their life and in their death. Finally, in your mercy, bring them to that table where your saints feast for ever in your heavenly home; through Jesus Christ our Lord, who with you and the Holy Spirit lives and reigns, one God, for ever and ever. Amen.

or this

O God, you have so consecrated the covenant of a holy union that in it is represented the spiritual unity between Christ and his Church: Send therefore your blessing upon these your servants, that they may so love, honor, and cherish each other in faithfulness and patience, in wisdom and true godliness, that their home may be a haven of blessing and peace; through Jesus Christ our Lord, who lives and reigns with you and the Holy Spirit, one God, now and for ever. Amen.

The couple still kneeling, the Priest adds this blessing

God the Father, God the Son, God the Holy Spirit, bless, preserve, and keep you; the Lord mercifully with his favor look upon you, and fill you with all spiritual bene-

diction and grace; that you may faithfully live together in this life, and in the age to come have life everlasting. Amen.

The Peace

The Celebrant may say to the people

The peace of the Lord be always with you.

People

And also with you.

The newly joined and blessed couple then greet each other, after which greetings may be exchanged throughout the congregation.

When Communion is not to follow, the couple and their attendants leave the church. A hymn, psalm, or anthem may be sung, or instrumental music may be played.

At the Eucharist

The liturgy continues with the Offertory, at which the newly joined and blessed couple may present the offerings of bread and wine.

Preface of Holy Union

At the Communion, it is appropriate that the newly joined and blessed couple receive Communion first, after the ministers.

In place of the usual post communion prayer, the following is said

O God, the giver of all that is true and lovely and gracious: We give you thanks for binding us together in these holy mysteries of the Body and Blood of your Son Jesus Christ. Grant that by your Holy Spirit, N. and N., now joined in Holy Union, may become one in heart and soul, live in fidelity and peace, and obtain those eternal joys prepared for all who love you; for the sake of Jesus Christ our Lord. Amen.

As the couple and their attendants leave the church, a hymn, psalm, or anthem may be sung; or instrumental music may be played.

The Blessing of a Civil Union previously legalized

The Rite begins as prescribed for celebrations of the Holy Eucharist, using the Collect and Lessons appointed in the Celebration and Blessing of a Holy Union service.

After the Gospel (and homily), the couple stands before the Celebrant, who addresses them in these or similar words

N. and N., you have come here today to seek the blessing of God and of his Church upon your holy union. I require, therefore, that you promise, with the help of God, to fulfill the obligations which Christian Relationship demands.

The Celebrant then addresses each person in turn, saying

N., you have taken N. to be your _____. Do you promise to love, comfort, honor and keep N., in sickness and in health; and, forsaking all others, to be faithful to her/him as long as you both shall live?

Each person in turn answers I do.

The Celebrant then addresses the congregation, saying

Will you who have witnessed these promises do all in your power to uphold these two persons in their holy union?

People

We will.

If symbol of their vows are to be blessed, Priest, says

Bless, O Lord, this _____ to be a sign of the vows by which N. and N. have bound themselves to each other; through Jesus Christ our Lord. Amen.

The Celebrant joins the right hands of the couple and says

Those whom God has joined together let no one put asunder.

The Congregation responds

Amen.

The service continues with The Prayers in the Celebration and Blessing above.

An Order for Holy Union

If it is desired to celebrate a holy union otherwise than as provided in the Celebration and Blessing above, this Order is used.

Normally, the celebrant is a priest or bishop. Where permitted by civil law, and when no priest or bishop is available, a deacon may function as celebrant, but does not pronounce a nuptial blessing.

The laws of the State and the canons of this Church having been complied with, the couple, together with their witnesses, families, and friends assemble in the church or in some other convenient place.

1. The teaching of the Church concerning Holy Union, as it is declared in the formularies and canons of this Church, is briefly stated.
2. The intention of the couple to enter the state of holy union, and their free consent, is publicly ascertained.
3. One or more Readings, one of which is always from Holy Scripture, may precede the exchange of vows. If there is to be a Communion, a Reading from the Gospel is always included.
4. The vows of the couple are exchanged, using the following form

In the Name of God, I, N., take you, N., to be my (_____), to have and to hold from this day forward, for better for worse, for richer for poorer, in sickness and in health, to love and to cherish, until we are parted by death. This is my solemn vow.
5. The Celebrant declares the holy union of the couple as _____, in the Name of the Father, and of the Son, and of the Holy Spirit.
6. Prayers are offered for the couple, for their life together, for the Christian community, and for the world.
7. A priest or bishop pronounces a solemn blessing upon the couple.
8. If there is no Communion, the service concludes with the Peace, the couple first greeting each other. The Peace may be exchanged throughout the assembly.
9. If there is to be a Communion, the service continues with the Peace and the Offertory. The Holy Eucharist may be celebrated either according to Rite One or Rite Two in the Book of Common Prayer, or according to the Order on page 401 of the Book of Common Prayer.

Additional Directions

If Banns are to be published, the following form is used

I publish the Banns of Holy Union between N. N. of _____ and N. N. of _____. If any of you know just cause why they may not be joined together in Holy Union, you are bidden to declare it. This is the first (or second, or third) time of asking.

The Celebration and Blessing of a Holy Union may be used with any authorized liturgy for the Holy Eucharist. This service then replaces the Ministry of the Word, and the Eucharist begins with the Offertory.

The Cleric who is preparing the couple for this joining should discuss and mutually decide what term the couple will use to describe themselves in their relationship. Possible options, singular/plural, are: Spouse[s]; Partner[s]; Partner[s] in Life; Life Partner[s]; Wedded Partner[s]; Beloved Partner[s]; Beloved (singular only).

After the Declaration of Consent, if there is to be a presentation in holy union, the Celebrant asks, "Who presents these persons to be joined to each other?"

The appropriate answer is, "I do." If more than one person responds, they do so together.

For the Ministry of the Word it is fitting that the couple to be joined and blessed remain where they may conveniently hear the reading of Scripture. They may approach the Altar, either for the exchange of vows, or for the Blessing of the Holy Union.

It is appropriate that all remain standing until the conclusion of the Collect. Seating may be provided for the attending party, so that all may be seated for the Lessons and the homily.

The Apostles' Creed may be recited after the Lessons, or after the homily, if there is one.

When desired, some other suitable symbol of the vows may be used in place of the ring

At the Offertory, it is desirable that the bread and wine be presented to the ministers by the newly joined and blessed couple. They may then remain before the Lord's Table and receive Holy Communion before other members of the congregation.

UN RITO PARA LA BENDICIÓN

Y Celebración de Una Unión Santa

El día y la hora que se hayan señalado para bendición de la Unión Santa, las personas que han de ser unidos vendrán a la Iglesia, o otro lugar particular, con sus testigos.

Mientras la pareja y sus testigos entran la iglesia, puede cantarse un himno, salmo o antifona, o puede tocarse música instrumental.

Luego el celebrante, le dice a la pareja y sus testigos:

MUY amados, nos hemos reunido en la presencia de Dios, para bendecir y ser testigos de la santa unión entre N.N. y N.N. El vínculo y pacto de la santa unión fue establecido por Dios y además, Cristo aprobó y honró este estado con su presencia y con el primer milagro que hizo en Caná de Galilea. Esta union significa para nosotros el misterio de la union entre Cristo y su Iglesia, y las Sagradas Escrituras recomiendan que sea honrado entre todos los pueblos.

Es la voluntad de Dios que la union de N. y N. en corazón, cuerpo y mente sea para gozo mutuo; para la ayuda y el Consuelo que cada uno se dé, tanto en la prosperidad como en la adversidad; y, cuando Dios lo disponga, para el don de los hijos y su formación en el conocimiento y amor del Señor. Por tanto, la union Santa no debe emprenderse ser inconsiderada o ligeramente, sino con reverencia, deliberación y de acuerdo con los propósitos para los cuales Dios lo instituyó.

N.N. y N.N. vienen ahora para enlazar sus vidas en esta unión santa. Si alguno de ustedes puede mostrar causa justa por la cual no se pueden unir lícitamente, dígalos ahora, o de aquí en adelante, guarde silencio.

Después, hablando con los que vienen a ser unidos les dira:

N. y N., aquí, en la presencia de Dios, yo les requiero y encargo, que si uno de ustedes conoce alguna razón por la cual no pueden unirse en esta unión santa lícitamente, y de acuerdo con la Palabra de Dios, lo confiese ahora. **Declaración de Consentimiento**

El Celebrante les pregunta a los dos:

N., ¿Quieres tomar N. como tu _____; para vivir juntos en el pacto de esta union santa? ¿Amarás, consolarás, honrarás y conservarás en tiempo de enfermedad y de salud; y renunciando a todos los demás, quieres serle fiel mientras los dos vivan?

La persona responderá,

Sí, quiero.

Después dirá al otro

N., ¿Quieres tomar N. como tu _____; para vivir juntos en el pacto de esta union santa? ¿Amarás, consolarás, honrarás y conservarás en tiempo de enfermedad y de salud; y renunciando a todos los demás, quieres serle fiel mientras los dos vivan?

La persona responderá,

Sí, quiero.

A continuación el Celebrante dice a la congregación:

¿Ustedes, testigos de este consentimiento, ¿harán cuanto puedan para sostener a estas dos personas en su union santa?

Pueblo:

Sí, lo haremos.

Si hay presentación o entrega de los cónyuges, éste es el momento para hacerlo. Véase las direcciones adicionales.

Ministerio de la Palabra

El Celebrante dice al pueblo:

El Señor sea con ustedes.

Pueblo:

Y con tu espíritu.

Oremos.

Dios bondadosa y eterno, tú nos has creado en tu propia imagen: Mira con misericordia a N. y N. que vienen a ti pidiendo tu bendición; ayúdales con tu gracia, para que con fidelidad verdadera y amor constante honren y guarden las promesas y votos que hacen; por Jesucristo nuestro Salvador, que vive y reina contigo en la unidad del Espíritu Santo, un solo Dios, por los siglos de los siglos. Amén.

Sea lee uno o más de los siguientes pasjes de las Sagradas Escrituras. Si se celebra la Comunión, un pasaje del Evangelio siempre concluye las lecturas.

La Unión Santa

Frente del celebrante y el pueblo, los dos que se unen, toman sus manos y cada uno el dice al otro:

En el Nombre de Dios, yo, N. te recibo a ti, N., para ser mi _____, desde hoy en adelante, para tenerte y conservarte, en las alegrías y en las penas, en la riqueza y en la pobreza, en la salute y en la enfermedad, para amarte y cuidate hasta que la muerte nos separe. Este es mi voto solemne.

Luego se sueltan las manos. El Celebrante puede pedir la bendición de Dios sobre el/los anillo(s), el/los símbolo(s) de sus votos, de la siguiente manera:

Bedice, oh Señor, *este* _____ para que sea *signo* de los votos por los cuales N. y N. se han unido el uno al otro; por Jesucristo nuestro Señor. *Amén.*

Cada uno, coloca el símbolo de sus votos al otro diciendo:

N., te doy *este* _____ como símbolo de mis votos, y con todo lo que soy, y con todo lo que tengo, yo te honro, en el Nombre del Padre, y del Hijo y del Espíritu Santo (o, en el Nombre de Dios.)

Luego el Celebrante junta la mano derecha de la pareja, y dice:

Puesto que N. y N. se han dado el uno al otro por medio de votos solemnes, con la unión de las manos y con la entrega y recepción *de* _____, yo los declaro que son unidos y bendicidos como una pareja, en el Nombre del Padre, y del Hijo y del Espíritu Santo.

A quienes Dios ha unido, nadie los separe.

Pueblo:

Amén.

Plegarias

Todos de pie, el Celebrante dice: Oremos, con las palabras que nuestro Salvador nos enseñó.

Pueblo y Celebrante

Padre nuestro que estás en los cielos, santificado sea tu Nombre, venga tu reino, hágase tu voluntad, en la tierra como en el cielo. Dáanos hoy nuestro pan de cada día. Perdóna nuestras ofensas como también nosotros perdonamos a los que nos ofenden. No nos dejes caer en tentación, y líbranos de mal. Porque tuyo es el reino, tuyo es el poder, y tuya es la gloria, ahora y por siempre. *Amén.*

El Padre Nuestro puede omitirse aquí, si el rito continua con la Comunión.

El Diácono u otra persona señalada lee las siguientes oraciones, a las cuales el Pueblo responde, Amén.

Cuando no haya Comunión, se puede omitir una o más de las oraciones.

Oremos.

Eterno Dios, creador y conservador de la vida, autor de la salvación y dador de toda gracia: mira con tu favor al mundo que has hecho y por el cual tu Hijo dio su vida, y especialmente a N. y N., a quienes haces una sola carne en la Unión Santa. *Amén.*

Confiérelles sabiduría y devoción, para que ordenen su vida en común, de tal modo que cada uno sea para el otro fortaleza en la necesidad, consejero en la duda, consuelo en la tristeza y compañero(a) en el gozo. Amén.

Concede que sus voluntades se entrelacen en tu voluntad, y sus espíritus en tu Espíritu, para que crezcan en amor y paz contigo y el uno con el otro, todos los días de su vida. Amén.

Dales gracia para que, cuando se ofendan el uno al otro, reconozcan y acepten sus faltas, se pidan perdón y busquen el tuyo, oh Señor. Amén.

Haz que su vida en común sea un signo del amor de Cristo para este mundo dividido y pecador, y que la unidad venza la división, el perdón sane la culpa y el gozo conquiste la desesperación. Amén.

Otórgales, si es tu voluntad, el don y la herencia de hijos, y la gracia para criarlos en tu conocimiento, amor y servicio. Amén.

Dales tal plenitud de su afecto mutuo que se proyecten en amor y preocupación por los demás. Amén.

Concede, que todas las personas en una Unión Santa que han sido testigos de este intercambio de votos vean fortalecidos sus vidas y confirmada su lealtad. Amén.

Haz que los lazos de nuestra humanidad común, que mantienen unidos a todos tus hijos, y a los vivos con los muertos, sean transformados de tal manera por tu gracia, que tu voluntad se haga en la tierra como en el cielo; donde vives y reinas, oh Padre, con tu Hijo y el Espíritu Santo, en perfecta unidad, por los siglos de los siglos. Amén.

Bendición de la Unión

Dios de toda bondad, te damos gracias por tu benigno amor al enviar a Jesucristo entre nosotros, para nacer de una madre humana, y para transformar el camino de la cruz en el sendero de la vida. También te damos gracias por consagrar en su Nombre esta unión entre N. y N. Por el poder de tu Santo Espíritu derrama la abundancia de tu bendición sobre N. y N. Defiéndelos de todo enemigo. Guíalos en la plenitud de tu paz. Que su mutuo amor sea un sello sobre sus corazones, un manto sobre sus hombros y una tiara sobre sus frentes. Bendícelos en su trabajo y en su compañerismo; en su dormir y en su despertar; en sus gozos y en sus penas; en su vida y en su muerte. Finalmente, por tu misericordia, llévalos a la mesa de tu hogar celestial donde tus santos festejan para siempre; por Jesucristo nuestro Señor, que contigo y el Espíritu Santo vive y reina, un solo Dios, por los siglos de los siglos. Amen.

O bien:

Oh Dios, que al consagrar el pacto de la unión santa, nos muestras la unidad espiritual entre Cristo y su Iglesia: Otorga tu bendición a estos tus siervos, para que se amen, se honren y se cuiden, con fidelidad y paciencia, con sabiduría y verdadera santidad, de tal manera que su hogar sea un puerto de bendición y de paz; por Jesucristo nuestro Señor, que vive y reina contigo y el Espíritu Santo, un solo Dios, ahora y por siempre. Amen.

Mientras la pareja permanecen de rodillas, el Sacerdote añade esta bendición.

Dios Padre, Dios Hijo, Dios Espíritu Santo les bendiga, conserve y guarde: El Señor por su misericordia mire con favor hacia ustedes, y les colme de toda bendición espiritual y gracia, para que fielmente vivan juntos en esta vida, y en la venidera tengan vida eterna. Amen.

La Paz

El Celebrante puede decir al pueblo:

La paz del Señor sea siempre con ustedes.

Pueblo:

Y con tu espíritu.

Los recién unidos se saludan; después, la congregación puede saludarse mutuamente. Cuando no haya comunión, la pareja y sus atendientes se retiran de la iglesia. Puede cantarse un himno, salmo o antifona, o puede tocarse música instrumental.

En la Eucaristía

La Liturgia continúa con el Ofertorio, en el cual los recién unidos pueden presentar las ofrendas de pan y vino [y otros símbolos como es su costumbre].

Prefacio de la Unión Santa

En la Comunión es apropiado que los recién casados comulguen después de los ministros y antes de la congregación. En lugar de la Oración usual de poscomunión, se dice la siguiente:

Oh Dios, dador de todo lo que es verdadero, noble y amable: Te damos gracias por habernos unido en estos santos misterios del Cuerpo y Sangre de tu Hijo Jesucristo. Concede por tu Espíritu Santo, que N. y N., ahora unidos en esta unión, lleguen a ser uno en Corazón y alma, vivan en fidelidad y paz, y obtengan el gozo eterno preparado para todos los que te aman; por Jesucristo nuestro Señor. Amén.

Mientras la pareja y sus testigos se retiran de la iglesia, puede cantarse un himno, salmo o antifona, o puede tocarse música instrumental.

Bendición de una Unión Civil Legalizado Anteriormente

El rito comienza según se indica en las celebraciones de la Santa Eucaristía y se usan la Colecta y las Lecciones señaladas para el rito del Matrimonio.

Después del Evangelio (y la homilía), la pareja se ponen de pie delante del Celebrante, quien se dirige a ellos con éstas u otras palabras similares.

N. y N., ustedes han venido hoy aquí para pedir la bendición de Dios y su Iglesia sobre su unión. Por tanto, yo les requiero que prometan cumplir, con el auxilio de Dios, las obligaciones que exige compromisos Cristianos entre una union santa.

Luego, el Celebrante se dirige a cada persona en la unión, diciendo:

N. has tomado a N. como tu _____. ¿Prometes amarlo(a), confortarlo(a) y cuidarlo(a), tanto en tiempo de enfermedad como de salud y, renunciando a todas las demás, serle fiel mientras los dos vivan?

Cada uno de las personas responde:

Sí, lo prometo.

Luego, el Celebrante se dirige a la congregación, diciendo:

Ustedes, testigos de estas promesas, ¿haran cuanto puedan para sostener a estas dos personas en su unión?

Pueblo:

Sí, lo haremos.

Si hay bendición de anillos, arras, lasso, u otros símbolos de una Santa Unión según la tradición de la pareja, el Celebrante puede bendecirlos con estas palabras:

Bendice, oh Señor, este(os) anillo(s) (o, arras, lasso, corona) para que sea (sean) signo(s) de los votos por los cuales N. y N., se han unido el (la) uno(a) al otro(a); por Jesucristo nuestro Señor. Amen.

El Celebrante junta la mano derecha de cada uno de las personas celebrando la unión, y dice:

A quienes Dios ha unido, nadie los separe.

Pueblo:

Amén.

El rito continúa con las Oraciones en Un Rito Para La Bendición Y Celebración de Una Santa Unión.

Un Orden Para La Celebración de La Unión Santa

Si deséa celebrar solo la Unión Santa sin utilizar el Rito De Celebración y Bendición como esta indicado arriba, se utilice este orden.

Normalmente, el Celebrante es un Sacerdote o Obispo. Cuando permitido por la ley civil,

y cuando no hay Sacerdote o Obispo, el Celebrante puede ser un Diácono, pero no se permite utilizar la Bendición Nupcial.

Las leyes del Estado y los canones de esta Iglesia siendo cumplidas, la pareja, con sus testigos, miembros de su familia y amigos se juntan en la iglesia u otro lugar conveniente.

1. La enseñanza de la Iglesia acerca la Unión Santa, declarado en los formularios y los canones de la esta iglesia, es brevemente declarada.
2. La intención de la pareja para entrar en el estado de la Unión Santa, y su consentimiento libre es en público averiguada.
3. Una o varias Lecturas, uno de las cuales es siempre de la Escritura Sagrada pueden protraspasar el cambio de votos. Si debe haber una Comunión, una Lectura del Evangelio siempre es incluida.
4. Los votos de la pareja son cambiados usando la forma siguiente
En el Nombre de Dios, yo, N. te recibo a ti, N., para ser mi _____, desde hoy en adelante, para tenerte y conservarte, en las alegrías y en las penas, en la riqueza y en la pobreza, en la salud y en la enfermedad, para amarte y cuidate hasta que la muerte nos separe. Este es mi voto solemne.
5. El Celebrante declara la Unión Santa de la pareja como _____, en el nombre del Padre, el Hijo, y el Espiritu Santo.
6. Se ofrece oraciones para la pareja, para su vida juntos, para la comunidad Cristiana, y para el mundo.
7. Un sacerdote o el obispo pronuncian una bendición solemne sobre la pareja.
8. Si no hay comunión, el servicio se conclúye con la Paz, la pareja primeramente saludando cado uno. La paz puede ser cambiada entre la asamblea.
9. Si debe haber una comunión, el servicio sigue con la paz y el ofertorio. La Santa Eucaristía puede ser celebrada según Rito I o Rito II del Libro de Oración Comun.

Rúbricas Adicionales

Si se publican las Amonestaciones, se usa la siguiente fórmula:

Yo publico las Amonestaciones de la Unión Santa entre NN. de _____ y NN. de _____. Si alguno de ustedes conoce causa justa por la cual estas personas no puedan unirse en una Unión Santa, debe declararlo. Esta es la primera (o segunda, o tercera) amonestación.

La Celebración y Bendición de la Unión Santa puede usarse con cualquier liturgia autorizada de la Santa Eucaristía. Este rito reemplaza el Ministerio de la Palabra, y la Eucaristía comienza con el Ofertorio.

El Celebrante o ministro preparando la pareja para la celebración de su Unión, debe saber cual título se va utilizar para la celebración. Por ejemplo, se puede utilizar:

Compañero(a), Compañero(a) de vida, Querido(a), Querido(a) compañero(a) u otro título que espresa sus vidas.

Si hay entrega o presentación de la Unión, después de la Declaración de Consentimiento, el Celebrante pregunta:

¿Quién entrega (presenta) a estas personas para esta unión?

Cuando los que son unidos lo deseen, en vez del anillo puede usarse algún otro símbolo de sus votos que sea apropiado o costumbrado (por ejemplo, Lasso, arras, Biblia, Corona).

Las demas Rúbricas se pueden ver en el Libro de Oración Común, pagina 359-360.

CIVIL UNIONS FOR SAME-SEX COUPLES IN THE STATE OF NEW JERSEY

Frequently Asked Questions

Published 02/06/07 by Lambda Legal

On October 25, 2006, in *Lewis v. Harris*, Lambda Legal won a declaration from the New Jersey Supreme Court that barring same-sex couples from the rights and benefits of marriage violated the constitutional promise of equality. The court gave the New Jersey Legislature a deadline of 180 days to correct the violation, and the legislature chose to create the separate status of civil unions. Below are answers to frequently asked questions about the new civil union law and what is required under the Court's mandate in *Lewis v. Harris*.

PLEASE NOTE: This document offers general information only and is not intended to provide guidance or legal advice regarding anyone's specific situation. This is an evolving area of law in which there is bound to be uncertainty, and we will be working with New Jersey attorneys to promote the best results. If you have additional questions or are looking for contact information for private attorneys who might advise you, contact Lambda Legal's Help Desk at 212-809-8585 (toll-free: 866-542-8336) or legalhelpdesk@lambdalegal.org.

Q: What is a civil union?

A: Under New Jersey's new law, a civil union is the legally recognized union of two individuals of the same sex. Civil union couples receive the legal benefits and protections and are subject to the legal responsibilities provided under New Jersey law to married couples. But a civil union is not a marriage. The legislature reserved the status of a marriage for different-sex couples. Although the difference in the two statuses does create constitutional and other problems that are discussed more below, any same-sex couples who otherwise would choose to marry should give serious thought to entering into a civil union because of the vast set of protections summarized below.

Q: Who can enter into a New Jersey civil union?

A: Two people are eligible to enter into a civil union together if they are:

- the same sex
- over 18 years old (or meet requirements for an exception)
- not a party to another civil union, domestic partnership or marriage
- not closely related to each other (for example, not an ancestor, descendant, sibling, niece, nephew, aunt or uncle)

Q: What if we already have a New Jersey registered domestic partnership together or are considering entering into one?

A: Same-sex couples who entered into registered domestic partnerships before the effective date of February 19, 2007 for the new civil union law may remain domestic partners or may enter into a civil union. Entry into a civil union will automatically terminate the domestic partnership. And once the law is effective, only couples (either same-sex or different-sex) in which both partners are 62 years or older will be eligible to register as domestic partners in New Jersey.

Q: How do my partner and I enter into a civil union in New Jersey?

A: The process for getting a civil union is largely the same as for getting a marriage in New Jersey.

First you must obtain a civil union license from a licensing officer, such as a clerk or registrar, in the municipality where either of you resides. You must appear together in person to get the license. You'll need the approved forms of identification, your Social Security numbers, the names and county of birth of your parents, \$28 to pay the fee and a witness who is at least 18 and knows you both. Call ahead to make sure you are going to the right place, and confirm what particular type of identification that municipality requires (for example, driver's license, birth certificate, lease, passport) and what forms of payment that municipality accepts.

The civil union license may not be issued until 72 hours after you apply for it, except in cases of emergency where the clerk can explain the procedure available for getting the license sooner. You will then need to have a ceremony of civil union within 30 days of issuance of your license. Two witnesses 18 or over must be present at the ceremony and sign the certificate of civil union, which is included on the civil union license form.

Q: Who can preside over our civil union ceremony?

A: The ceremony may be performed by the same individuals authorized to perform marriages in New Jersey, including any minister of any religion, judges and other officials. Specifically, the following individuals are authorized to perform your civil union ceremony under New Jersey law: A judge of the United States Court of Appeals for the Third Circuit; a judge of a federal district court; a United States magistrate; a judge of a municipal court, the Superior Court or a tax court; a retired judge of the Superior Court or tax court; a judge who has resigned in good standing from what formerly was the County Court, the County Juvenile and Domestic Relations Court or the County District Court; the surrogate of any county; a county clerk; a mayor or deputy mayor when authorized by the mayor; the chairman of any township committee or village president in New Jersey; and any minister of any religion. In addition, every religious society, institution or organization in New Jersey is also authorized to join together individuals in a civil union according to its rules and customs. If a government official who performs marriages refuses to perform a civil union ceremony for you, please contact Lambda Legal's Help Desk at 212-809-8585 or [legal-helpdesk@lambdalegal.org](mailto:helpdesk@lambdalegal.org).

Q: What will our rights and responsibilities be under New Jersey law if we enter into a civil union?

A: A New Jersey civil union automatically includes you in the myriad legal rights and responsibilities under state law conferred on a married couple. In the words of the civil union legislation, a New Jersey civil union grants “all of the same benefits, protections and responsibilities under the 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.”

The enormous web of state-based rights and responsibilities include, for example, to the same extent as possessed by a married spouse:

- rights to family leave benefits
- rights relating to joint ownership of property
- rights relating to insurance, health and pension benefits
- rights relating to state public assistance benefits
- obligations and benefits relating to taxes imposed by the state or a municipality
- privileges not to testify against a civil union partner in court proceedings
- rights relating to emergency medical care and hospital visitation
- rights to receive workers’ compensation benefits if a civil union partner dies on the job
- rights relating to inheritance
- rights to bring wrongful death and other kinds of claims that previously depended on spousal status
- rights and judicial forums relating to separation, termination of the civil union and caring for the children of the couple.

Civil unions provide far more than that, vastly surpassing the small number of rights provided under New Jersey’s Domestic Partnership Act. That Act, for example, only required health and pension benefits for state employees - it was voluntary for other employers - and did not require family leave to care for an ill partner. For a detailed analysis of what the Domestic Partnership Act does not cover, consult the Brief of the New Jersey State Bar Association.

You should also be aware that with the benefits of civil union come the same legal responsibilities towards your civil union partner as others have towards their spouses, such as liability for your partner’s debts, limitations on your ability to make unilateral decisions about your property and who will inherit from you, and obligations to provide support for your partner both during the civil union and if it is terminated.

Q: So will my employer have to give my civil union partner health insurance coverage?

A: There are employers who must do so and those who should do so. The court said that government cannot treat same-sex couples differently from different-sex couples regarding rights and benefits of marriage, so government employers, both state and local, must treat equally the civil union partners and married spouses of employees. In addition, New Jersey law bars discrimination against civil union partners, so many private employers and others ó like businesses, and insurance companies ó will be barred from discriminating against someone because he or she is a partner in a civil union. In many circumstances this will mean that private parties must treat civil unions and marriages equally. But in areas that involve federal law, there may be circumstances where a few employers will argue that New Jersey's non-discrimination protection may not apply to civil union partners. This may be the case with some employer-provided health insurance where federal laws are involved, and in particular when the employer is self-insured. Here too the law is evolving, and you should consult with an attorney for advice about your particular situation. But keep this in mind: when a self-insured private employer says that federal law trumps the state's non-discrimination law, that still does not mean the employer is required to choose discrimination. Instead it means that the employer can choose whether or not to discriminate, and it should choose not to, even if that means changing the terms in its plan. In the meantime, we are developing the legal arguments for why such an employer must not discriminate.

Q: What does a civil union mean for federal benefits and protections?

A: It is near certain for now that the federal government will not respect your civil union for the purpose of the federal benefits, protections, and obligations that married spouses have, such as Social Security benefits, immigration protections, veterans' benefits, and taxation. That's true even for the married same-sex couples in Massachusetts. For example, for both married or civil unionized same-sex couples, the value of health insurance benefits from an employer for a spouse or civil union partner will be counted as income to the employee for the purpose of federal taxes. The day will arrive when it will be strategic for us to challenge the federal government's lack of respect for states' legal recognition of same-sex relationships. In the meantime, it's important to consult a professional accountant regarding the implications of your civil union on your federal tax filing, including the valuation of health insurance benefits as taxable income.

Q: Should we enter a New Jersey civil union?

A: In most ways, the answer is no different than it has been for different-sex couples deciding whether to marry: such a very serious decision is up to you. You confront the weighty considerations that different-sex couples have confronted across time in deciding whether to marry, because a civil union is an important commitment that carries many state law-based rights, protections and responsibilities that can affect many aspects of your life. So, for example, being in a civil union could disqualify you from the state government's income-based public assistance programs, as would a marriage, because your partner's income and assets may be counted in with yours.

But, in a few ways, same-sex couples, whose relationships are disrespected as a matter of law in other states and are unlikely to be honored by the federal government, have extra considerations. For example, you cannot be certain whether your civil union will be respected should you travel or move to most other states. That can mean, for example, if you've moved to another state, you may not be able to dissolve your relationship if you need to someday (as do roughly half of all married heterosexuals). For some people there are a few other special issues that are very important to consider before entering into a civil union. For example,

- The military may view a New Jersey civil union as grounds for a discharge under its discriminatory policies towards lesbian and gay personnel.
- Being in a civil union could raise problems for you if you have certain immigration statuses (for more information, consult Immigration Equality).
- If you are in the process of adopting a child or planning to do so, you should be aware that some states and countries allow single-parent but not same-sex-couple adoptions, so depending on where you may adopt from your civil union could complicate matters for you.

But any same-sex couple in New Jersey who would have otherwise chosen marriage after careful consideration should give serious thought to choosing a civil union because of the vast set of protections that flow from it.

Q: If we enter into a New Jersey civil union, will we be able to get married later?

A: When the day comes that same-sex couples have the freedom to marry in New Jersey, you shouldn't have obstacles to marrying the same person to whom you've committed in a civil union. But this is unbroken legal ground. Presumably the state legislature would act to clear up the problems it caused by creating a separate status of civil unions, as it attempted to do in providing that engaging in a civil union would extinguish a domestic partnership.

Q: If I live in New Jersey, but my partner and I entered into a civil union in Vermont, will it be recognized in New Jersey?

A: The new civil union law provides that your civil union entered into elsewhere will be treated as a valid civil union in New Jersey. That applies to civil unions from Connecticut or Vermont, or a California registered domestic partnership, which is the legal equivalent of a civil union. This was confirmed by New Jersey's Attorney General in a formal opinion dated February 16, 2007.

Q: If my partner and I have a marriage from Canada, will New Jersey respect it?

A: They should. But New Jersey's Attorney General, in the February 16, 2007 opinion, declared that same-sex couples' marriages from other states or countries will be respected only as civil unions. That does extend the same protection provided to same-sex couples who enter civil unions, but just as denying same-sex couples the freedom to marry and limiting them to civil unions does, it labels all same-sex couples, including those legally married elsewhere, as second-class citizens, because the State treats them as unworthy of the respect given to married different-sex couples. The legislature should move quickly to erase that mark of unworthiness and stop the damage it inflicts on families.

Q: Even if I already have a civil union or marriage from somewhere else, wouldn't it be safer to enter into a civil union where I live in New Jersey, too?

A: That is unnecessary, and perhaps unwise. The Attorney General has confirmed it is unnecessary, stating that couples with out-of-state marriages or civil unions “need not secure a New Jersey civil union license or solemnize their relationships in this State in order to enjoy all of the rights and obligations of a New Jersey civil union.” And creating an additional legal status for your relationship may create more problems than it solves, so you should seek legal advice. For example, others may argue that you have disavowed your first legal status by creating a new one, and there are circumstances in which it may be important to you to get respect for the earlier status, such as when the beginning date of the legal relationship affects how ownership of property is treated for tax or other purposes. Also, should your relationship end, you may have more difficulty dissolving your legal obligations if there are two outstanding statuses. These are just some of the issues to explore with counsel.

Q: If my partner and I have or plan to have children, what does the New Jersey civil union law mean for us?

A: Securing your legal relationships with your children is vitally important. We offer here only general information in this evolving area of law. We urge you to consult with an attorney for advice on your individual circumstances and what you should do to ensure that you establish legal parenthood.

If both partners to the civil union had a formal legally-recognized parent status to children before the civil union (e.g., through joint or second-parent adoption), the status remains unaltered legally by the civil union, as both partners remain legal parents.

If one partner did not have a formal legally recognized parent status prior to the civil union, the civil union will not change that. As a result of the civil union, that parent may be considered a stepparent, carrying the weight that has in New Jersey. But the only certain way to become a formal legally recognized parent in this situation is for the second parent to adopt the child in court. The adoption decree is a legal judgment that is recognized broadly outside of the state and has legal significance independent of the civil union. It is vital that you consult an attorney and take steps to secure legal parenthood through a second-parent adoption.

If a child is born to one partner after the couple enters into a New Jersey civil union, both partners will be legally presumed to be the child's legal parents within New Jersey, just as a child born into a marriage is presumed to be the child of both spouses. This legal presumption is profoundly important to the security of the child. However, the presumption does not have the same effect as a court judgment. Since the civil union and the protections under New Jersey law that flow from it may not be accorded legal respect in other states, relying on the fact of the civil union alone to establish legal parenthood exposes you and your child to the risk that parenthood may be challenged in another jurisdiction. Therefore, it is vital that you consult an attorney and pursue securing your child's legal status with both parents through a second-parent adoption. Likewise, if a civil union couple adopts a child, the legal relationship of the child should be secured with both parents through joint or second-parent adoption.

In other important respects beyond these considerations, entering into a civil union brings your children the same legal protections and security that married couples obtain for their families under New Jersey law.

Q: Even if my partner and I enter into a New Jersey civil union, are there other precautions we should take?

A: Yes. A civil union is new in New Jersey, and legal statuses for same-sex couples are just beginning to be established in various forms elsewhere in the country. This is a rapidly evolving legal area with much uncertainty. Our experience with New Jersey's domestic partnerships shows us that a status other than marriage is confusing to some people, and invites all people to be discriminatory ó despite what the law requires ó because a separate status signals unworthiness. Further, the federal government and many other states may not respect your New Jersey civil union, so it is especially important to consider whether you have adequate protections if you are traveling outside of the state. You should consult with an attorney if possible about steps you should take apart from your civil union to provide more security to one another and to your family. For example, you can better protect each other through legal documents like wills, health care proxies, advance directives, cohabitation agreements and powers of attorney. Many of these legal protections are routinely obtained by married couples as well to afford greater security for their family; they can be that much more important for same-sex couples whose New Jersey civil unions may not be respected outside of the state.

Q: If we enter a civil union, can we change our names like married people do?

A: Yes. The right of a married spouse to change a surname without petitioning a court is available to a civil union partner, too. But keep in mind that the name follows you outside New Jersey, into interactions with other states, the federal government, and – if you travel abroad – with other countries. You will likely encounter lack of respect for New Jersey's civil union law, and you may encounter worse. As an example of lack of respect, the passport agency has required a court decree of a name change even for couples married in Massachusetts. You will want to consider minimizing problems either by not changing your name or, for those who can afford it, getting a court decree of the change.

Q: What would I need to do to end a New Jersey civil union?

A: You would terminate a New Jersey civil union in court the same way a marriage is terminated in New Jersey. Essentially the same steps and criteria for nullifying or dissolving a marriage apply to a civil union, as do the provisions for alimony, dividing assets and allocating responsibilities for the partners' children.

Q: Can we enter into a New Jersey civil union if we don't live in New Jersey?

A: New Jersey does not have a residency requirement to obtain a New Jersey civil union license, though the civil union must be performed within New Jersey, and the license is obtained in the municipality where the civil union will be performed.

It is important to be aware, however, that New Jersey does have a residency requirement to bring a court proceeding to terminate a civil union, as with marriage. If the unexpected should happen and you someday want to terminate the civil union, you may be unable to

do so in either your home state (depending on where you live) or New Jersey, unless you first move to and establish residency in New Jersey.

Moreover, you should be aware that depending on where you live, your New Jersey civil union may not be accorded legal respect in your home state. You also may want to consider whether entering into a marriage in Canada or another jurisdiction that permits same-sex couples to marry might provide your family with greater legal security in your home state (NOTE: this is especially true if you live in New York State, where there has been widespread respect for the marriages in Canada of same-sex couples residing in New York). This is an evolving area of law that varies a great deal from state to state and is still very uncertain; you should consult with an attorney for advice about your situation.

Finally, as discussed above, you should also be aware that at present the federal government has not been according legal respect to either civil unions or marriages of same-sex couples.

Q: Does this new law provide lesbian and gay couples and their families equal treatment?

A: Absolutely not. Although the New Jersey civil union law grants same-sex couples very significant legal protections, it denies them the right to marry and enter into an enormously important legal and cultural institution, one well understood worldwide. By creating a separate institution of “civil union,” the New Jersey government says loud and clear that lesbians and gay men are inferior because any committed relationships they might have are unworthy of marriage. In dissenting from the New Jersey Supreme Court’s referral of Lambda Legal’s case to the New Jersey Legislature, Chief Judge Poritz explained that: “What we name things matters, words matter. . . . By excluding same-sex couples from civil marriage, the state declares that it is legitimate to differentiate between their commitments and the commitments of heterosexual couples. Ultimately, the message is that what same-sex couples have is not as important or as significant as ‘real’ marriage, that such lesser relationships cannot have the name of marriage.” That message the government sends is a dangerous example for others in New Jersey that lesbian and gay people are fair game for discrimination and abuse.

The creation of civil unions was for no other reason than to set up a separate and second-class status for the lesbian and gay minority. Even for those who would not necessarily accept the government’s invitation to further bias, there is still the common puzzlement over the meaning of a status like a “civil union,” which fails to convey clearly and automatically the level of respect due to a marriage. We’ve seen that already with New Jersey’s “domestic partnerships;” in one particular instance hospital staff refused to respect the status of an unconscious patient’s partner, telling her that they needed to talk to a “family” member.

Q: What can we do?

A: The future for equality lies in New Jersey’s legislature or the courts. For the work in either context, it’s vital for couples in civil unions who experience problems with legal recognition of their status to let us know at Lambda Legal. And for lobbying legislators to end discrimination please contact Garden State Equality at 973-GSE-LGBT. To contact Lambda Legal, please call our Help Desk at 212-809-8585 (toll-free: 866-542-8336) or email legalhelpdesk@lambdalegal.org.

More information is also available on Lambda Legal’s “Civil Union Watch.”