

New Jersey Civil Unions: The Road Ahead

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With a stroke of a pen on December 21, 2006, Governor Jon Corzine signed into law the New Jersey Civil Unions Act, bringing about the most sweeping change to the rights of same-sex couples in this state since the enactment of the Domestic Partnership Act in 2004. The change from domestic partnership to civil unions, although welcome, brings with it many questions, particularly for the more than 4,000 same-sex couples that registered as domestic partners in New Jersey. This article will clarify some of the changes and the process of transition to this new legal status.

If you are currently registered in a New Jersey domestic partnership, you and your partner are not automatically entered into a civil union, nor are you even required to enter into a civil union. However, once the Civil Unions Act goes into effect on February 19, 2007, the State will no longer register new domestic partnerships, except for same-sex and opposite-sex couples where both partners are age 62 or older.

For registered domestic partners, there are three options available: you may enter into a civil union with each other, remain in the domestic partnership, or legally terminate your partnership.

The first of these options is the easiest; if you and your partner enter into a civil union with each other, your domestic partnership will be automatically terminated. Note, however, that entering into a civil union is a different process than domestic partnership registration, and mirrors the process of getting married in New Jersey. First, you and your partner must obtain a civil union license, which will be issued to you at least 72 hours after you make application to a local registrar. Once the license is issued to you, it must be delivered to the person who will officiate or solemnize the civil union. The civil union must be performed within 30 days after the license has issued, after which you may obtain a civil union certificate as proof of your status. Except for some terminology, this is the same procedure used to enter into a marriage in New Jersey.

Unlike domestic partnership, you and your partner do not need to demonstrate that you reside together, share financial responsibility, live in New Jersey, or any other proof of eligibility. You need only demonstrate that you are at least 18 years of age (or have parental permission) and that you are not in a civil union, domestic partnership or marriage with another person. However, you must apply for the license in the municipality in which either partner lives or, if neither partner is a resident of New Jersey, in the municipality where the civil union will be performed.

For couples who choose not to enter into a civil union, and who do not want to remain in a domestic partnership, the domestic partnership must be terminated in a legal proceeding in family court in New Jersey. Once you have terminated the domestic partnership, you are free to enter into a civil union with someone else immediately. Unlike domestic partnership, you are not required to wait 180 days.

For those who are in a domestic partnership, you and your partner should be aware that civil unions convey many more rights and responsibilities than domestic partnership. Among other important rights provided are parenting rights and obligations, financial support, changes in property ownership, and responsibility for each others' debts. For this reason, I recommend that couples carefully review the new rights and obligations and consult with a knowledgeable attorney. In some cases, you and your partner may want to negotiate a pre-marital agreement (sometimes called a "pre nuptial") to clarify your rights and obligations prior to entering into your civil union.

For those couples that decide to remain in their current domestic partnership, no action is required. Your rights, benefits and obligations will remain the same as the Domestic Partnership Act currently defines them. Although an important subset of marital rights are still available, including inheritance rights and the right to make medical decisions on behalf of your partner, expanded rights for domestic partners are not anticipated. What is not clear, however, is the long-term future of the Domestic Partnership Act.; as part of the Civil Union Act, the Legislature has mandated a commission to study, among other things, whether the Domestic Partnership Act should be repealed.

Civil unions are a significant step forward for our community. Although the legislature stopped short of using the word "marriage," the Civil Union Act clearly intends that same-sex couples be granted all of the rights, benefits and obligations accorded to their heterosexual counterparts under New Jersey law. I expect that many couples, including those who are not currently in a domestic partnership, will enter into a civil union and, even if you and your partner hope to marry, you should seriously consider protecting your relationship in this way. Like domestic partnership, civil union is an important way station on the road to marriage equality, and it deserves serious consideration.

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