



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Brian D. Malachowsky

Am. Sub. H.B. 36 132nd General Assembly (As Passed by the House)

Reps. Vitale, Wiggam, Romanchuk, Patmon, Brinkman, Roegner, Henne, Butler, Antani, Merrin, Hagan, Retherford, Conditt, Keller, Zeltwanger, Young, Becker, Brenner, Householder, Dean, Schaffer, Hood, Koehler, Riedel, Sprague, Goodman, Thompson, Hill, Ginter, Green, Huffman, Johnson, Kick, Lang, McClain, Perales, Scherer, Seitz, Slaby, Wilkin, R. Smith

BILL SUMMARY

- Specifies that no ordained or licensed minister and no religious society is required to solemnize a marriage or allow property to be used to host a marriage ceremony if the marriage does not conform to the minister's or society's sincerely held religious beliefs.
- Provides that a minister or society that refuses to solemnize a marriage or allow its property to be used to host a ceremony for that reason is immune from civil or criminal liability.
- Creates an exception for a religious society from the prohibition against unlawful discriminatory practices regarding public accommodations for its refusal to allow its property to be used to host a marriage ceremony for a marriage that does not conform to its sincerely held religious beliefs.
- Prohibits the state or a political subdivision from penalizing or withholding any benefit or privilege from such a minister or society, including any governmental contract, grant, or license.
- Provides that nothing in the bill is intended to or shall be construed to limit or abrogate any rights conferred on ordained or licensed ministers or religious societies by the Ohio Constitution or the United States Constitution.
- States that the bill is to be known as the Ohio Pastor Protection Act.

CONTENT AND OPERATION

The bill specifies that an ordained or licensed minister or a religious society is not required to solemnize a marriage that does not conform to the minister's or society's sincerely held religious beliefs. And, a religious society is not required to allow its property to be used to host a marriage ceremony for a marriage that does not conform to the religious society's sincerely held religious beliefs.¹

Under the bill, a minister or society that refuses to solemnize a marriage or allow its property to be used to host a ceremony for that reason is immune from civil or criminal liability.² The bill also creates an exception to continuing law that prohibits unlawful discriminatory practices regarding places of public accommodation. A religious society that refuses to allow its property to be used for a marriage ceremony for a marriage that does not conform to its sincerely held religious beliefs may not be held liable for public-accommodation discrimination.³ The bill also prohibits the state or a political subdivision from penalizing or withholding any benefit or privilege from the minister or society, including any governmental contract, grant, or license.⁴

The bill also provides that nothing in its contents is intended to or shall be construed to limit or abrogate any rights conferred on ordained or licensed ministers or religious societies by the Ohio Constitution or the United States Constitution.⁵

Under continuing law, any of the following persons may, but are not required to, solemnize a marriage:⁶

- An ordained or licensed minister of any religious society or congregation within Ohio who is licensed to solemnize marriages;
- A judge of a municipal, county, or probate court;
- The mayor of a municipal corporation, so long as the marriage occurs in a county in which the mayor's municipal corporation has territory;

¹ R.C. 3101.08(B).

² R.C. 3101.08(C).

³ R.C. 4112.02(G).

⁴ R.C. 3101.08(C).

⁵ Section 4 of the bill.

⁶ R.C. 3101.08(A).



- The Superintendent of the Ohio School for the Deaf;
- Any religious society in conformity with the rules of its church.

The bill specifies that those persons and entities may solemnize any marriage allowed by law, instead of a marriage between a husband and wife. The bill does not amend the provision of the Revised Code that prohibits same sex marriage. However, under the U.S. Supreme Court's ruling in *Obergefell v. Hodges*, Ohio must permit same sex marriage.⁷

The bill states that it shall be known as the Ohio Pastor Protection Act.⁸

HISTORY

ACTION	DATE
Introduced	02-07-17
Reported H. Community and Family Advancement	06-27-18
Passed House (61-30)	06-27-18

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⁷ R.C. 3101.01, not in the bill, and *Obergefell v. Hodges*, 135 S. Ct. 2584, 2604 (2015).

⁸ Section 3 of the bill.

