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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 217
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor(s): Rep. Skindell

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SUMMARY

- Allows any person or entity to solemnize marriages in Ohio after registering with the Secretary of State and receiving a license to do so.
- Requires the Secretary of State to enter the names of persons or entities registered and licensed to solemnize marriages in a record kept by the Secretary of State and specifies that the license and the record are evidence that the person or entity may solemnize marriages in Ohio.

DETAILED ANALYSIS

Solemnizing marriage

The bill allows any person or entity to solemnize marriages in Ohio. (Revised Code section 3101.08 describes solemnizing marriage as joining together as “husband and wife” any persons who are not prohibited by law from being joined in marriage (see **COMMENT**).)¹ The person or entity that wishes to solemnize marriages in Ohio must register with the Secretary of State who must issue a license granting the person or entity the authorization to solemnize marriages. The licensee must produce the license for inspection when requested by any party to a marriage or any probate judge.²

Ongoing law permits the following persons or entities to solemnize marriages: (1) an ordained or licensed minister of any Ohio religious society or congregation licensed to solemnize marriages in Ohio by the Secretary of State, (2) a county court judge, anywhere in Ohio, (3) a municipal court judge, anywhere in Ohio, (4) a county probate judge, in the county

¹ R.C. 3101.08(H).

² R.C. 3101.10(B).

only, (5) the mayor of a municipal corporation in any county in which the municipal corporation is wholly or partly located, (6) the Superintendent of the State School for the Deaf, and (7) any religious society in conformity with the rules of its church.³

Under current law, a regularly ordained or licensed minister of any religious society or congregation, upon producing credentials of being a minister to the Secretary of State, is entitled to receive a license to solemnize marriages in Ohio from the Secretary of State so long as the minister continues as a regular minister in that society or congregation. A minister must produce the license for inspection when requested by any party to a marriage or any probate judge.⁴ It is not clear whether the bill would allow a minister to receive a license to solemnize marriages by *registering* as “any other person” under the bill instead of providing credentials as is required for ministers under current law. In addition, it is not clear whether a minister who no longer serves as a regular minister of that society or congregation (and who consequently loses the authority to solemnize marriages) could register with the Secretary of State and obtain a license under the provision allowing “any person or entity” to register and be issued a license.

Secretary of State records

Under the bill, the Secretary of State must enter the name of the person or entity that is registered with the Secretary of State and licensed to solemnize marriages into a record kept in the Secretary of State’s office. When recorded, the name and the license are evidence that the named person or entity may solemnize marriages in Ohio. These provisions, under continuing law, also apply to a minister licensed to solemnize marriages.⁵

COMMENT

The Ohio Constitution specifies that “[o]nly a union between one man and one woman may be a marriage valid in or recognized by this state and its political subdivisions.”⁶ The United States Supreme Court has determined that the Fourteenth Amendment to the U.S. Constitution requires a state to license a marriage between two people of the same sex and to recognize a same sex marriage lawfully licensed and performed out of state.⁷ Therefore, this provision of the Ohio Constitution is unconstitutional and unenforceable.

³ R.C. 3101.08 (A) to (G).

⁴ R.C. 3101.10(A).

⁵ R.C. 3101.11 and 3101.12.

⁶ Ohio Const., art. XV, sec. 11.

⁷ *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015).

HISTORY

Action	Date
Introduced	4-24-19
