

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 198**

**Senator Yuko**

**Cosponsors: Senators Tavares, Thomas, Sykes, O'Brien, Schiavoni**

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**A BILL**

To amend sections 3101.01, 3101.02, 3101.03, 1  
3101.04, and 3101.05, to amend, for the purpose 2  
of adopting new section numbers as indicated in 3  
parentheses, sections 3101.02 (3101.023) and 4  
3101.03 (3101.024), and to enact new section 5  
3101.02 and sections 3101.021 and 3101.022 of 6  
the Revised Code to make changes to the laws 7  
governing the ages for which persons may marry. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3101.01, 3101.02, 3101.03, 9  
3101.04, and 3101.05 be amended; sections 3101.02 (3101.023) and 10  
3101.03 (3101.024) be amended for the purpose of adopting new 11  
section numbers as indicated in parentheses; and new section 12  
3101.02 and sections 3101.021 and 3101.022 of the Revised Code 13  
be enacted to read as follows: 14

**Sec. 3101.01.** (A) ~~Male~~ Except as provided in section 15  
3101.02 of the Revised Code, only persons of the age of eighteen 16  
~~years, and female persons of the age of sixteen years,~~ not 17  
nearer of kin than second cousins, and not having a husband or 18

wife living, may be joined in marriage. ~~A marriage may only be~~ 19  
~~entered into by one man and one woman. A minor shall first~~ 20  
~~obtain the consent of the minor's parents, surviving parent,~~ 21  
~~parent who is designated the residential parent and legal~~ 22  
~~custodian of the minor by a court of competent jurisdiction,~~ 23  
~~guardian, or any one of the following who has been awarded~~ 24  
~~permanent custody of the minor by a court exercising juvenile~~ 25  
~~jurisdiction:~~ 26

~~(1) An adult person;~~ 27

~~(2) The department of job and family services or any child-~~ 28  
~~welfare organization certified by the department;~~ 29

~~(3) A public children services agency.~~ 30

~~(B) For the purposes of division (A) of this section, a~~ 31  
~~minor shall not be required to obtain the consent of a parent~~ 32  
~~who resides in a foreign country, has neglected or abandoned the~~ 33  
~~minor for a period of one year or longer immediately preceding~~ 34  
~~the minor's application for a marriage license, has been~~ 35  
~~adjudged incompetent, is an inmate of a state mental or~~ 36  
~~correctional institution, has been permanently deprived of~~ 37  
~~parental rights and responsibilities for the care of the minor~~ 38  
~~and the right to have the minor live with the parent and to be~~ 39  
~~the legal custodian of the minor by a court exercising juvenile~~ 40  
~~jurisdiction, or has been deprived of parental rights and~~ 41  
~~responsibilities for the care of the minor and the right to have~~ 42  
~~the minor live with the parent and to be the legal custodian of~~ 43  
~~the minor by the appointment of a guardian of the person of the~~ 44  
~~minor by the probate court or by another court of competent~~ 45  
~~jurisdiction.~~ 46

~~(C) (1) Any marriage between persons of the same sex is~~ 47

~~against the strong public policy of this state. Any marriage  
between persons of the same sex shall have no legal force or  
effect in this state and, if attempted to be entered into in  
this state, is void ab initio and shall not be recognized by  
this state.~~

~~(2) Any marriage entered into by persons of the same sex  
in any other jurisdiction shall be considered and treated in all  
respects as having no legal force or effect in this state and  
shall not be recognized by this state.~~

~~(3) The recognition or extension by the state of the  
specific statutory benefits of a legal marriage to nonmarital  
relationships between persons of the same sex or different sexes  
is against the strong public policy of this state. Any public  
act, record, or judicial proceeding of this state, as defined in  
section 9.82 of the Revised Code, that extends the specific  
statutory benefits of legal marriage to nonmarital relationships  
between persons of the same sex or different sexes is void ab  
initio. Nothing in division ~~(C) (3)~~ (B) of this section shall be  
construed to do either of the following:~~

~~(a) (1) Prohibit the extension of specific benefits  
otherwise enjoyed by all persons, married or unmarried, to  
nonmarital relationships between persons of the same sex or  
different sexes, including the extension of benefits conferred  
by any statute that is not expressly limited to married persons,  
which includes but is not limited to benefits available under  
Chapter 4117. of the Revised Code;~~

~~(b) (2) Affect the validity of private agreements that are  
otherwise valid under the laws of this state.~~

~~(4) (C) Any public act, record, or judicial proceeding of~~

any other state, country, or other jurisdiction outside this 77  
state that extends the specific benefits of legal marriage to 78  
nonmarital relationships between persons of the same sex or 79  
different sexes shall be considered and treated in all respects 80  
as having no legal force or effect in this state and shall not 81  
be recognized by this state. 82

Sec. 3101.02. Persons of the age of sixteen or seventeen 83  
years may be joined in marriage if both of the following apply: 84

(A) The juvenile court has filed a consent to the marriage 85  
under section 3101.04 of the Revised Code. 86

(B) The person has obtained consent as provided in 87  
sections 3101.021 to 3101.024 of the Revised Code. 88

Sec. 3101.021. To satisfy the requirement of division (B) 89  
of section 3101.02 of the Revised Code, the person seeking 90  
consent to be joined in marriage shall obtain the consent of the 91  
person's parents, surviving parent, parent who is designated the 92  
residential parent and legal custodian of the person by a court 93  
of competent jurisdiction, guardian, or any one of the following 94  
who has been awarded permanent custody of the person by a court 95  
exercising juvenile jurisdiction: 96

(A) An adult person; 97

(B) The department of job and family services or any child 98  
welfare organization certified by the department; 99

(C) A public children services agency. 100

Sec. 3101.022. For the purposes of section 3101.021 of the 101  
Revised Code, a person shall not be required to obtain the 102  
consent of a parent who meets any of the following: 103

(A) Resides in a foreign country; 104

(B) Has neglected or abandoned the person for a period of 105  
one year or longer immediately preceding the person's 106  
application for a marriage license; 107

(C) Has been adjudged incompetent; 108

(D) Is an inmate of a state mental or correctional 109  
institution; 110

(E) Has been permanently deprived of parental rights and 111  
responsibilities for the care of the person, the right to have 112  
the person live with the parent, and the right to be the legal 113  
custodian of the person by a court exercising juvenile 114  
jurisdiction; 115

(F) Has been deprived of parental rights and 116  
responsibilities for the care of the person, the right to have 117  
the person live with the parent, and the right to be the legal 118  
custodian of the person by the appointment of a guardian of the 119  
person by the probate court or by another court of competent 120  
jurisdiction. 121

**Sec. ~~3101.02~~ 3101.023.** Any consent required under section 122  
~~3101.01-3101.021~~ of the Revised Code shall be personally given 123  
before the probate judge or a deputy clerk of the probate court, 124  
or certified under the hand of the person consenting, by two 125  
witnesses, one of whom shall appear before the judge and make 126  
oath that the witness saw the person whose name is annexed to 127  
the certificate subscribe it, or heard the person consenting 128  
acknowledge it. 129

**Sec. ~~3101.03~~ 3101.024.** ~~If~~ For the purposes of section 130  
3101.021 of the Revised Code, if the parent or guardian of a 131  
~~minor person applying for a marriage license~~ is a nonresident 132  
of, or is absent from, the county in which the marriage license 133

is applied for, the parent or guardian personally may appear 134  
before the official upon whose authority marriage licenses are 135  
issued in the county in which the parent or guardian is at the 136  
time domiciled, and give consent in writing to that marriage. 137  
The consent shall be attested to by two witnesses, certified to 138  
by that official, and forwarded to the probate judge of the 139  
county in which the license is applied for. The probate judge 140  
may administer any oath required, issue and sign the license, 141  
and affix the seal of the probate court. 142

**Sec. 3101.04.** When the juvenile court files a consent to 143  
marriage pursuant to the juvenile rules, the probate court may 144  
thereupon issue a license, notwithstanding either or both the 145  
contracting parties for the marital relation are ~~under the~~ 146  
~~minimum age prescribed in section 3101.01 of the Revised Code~~ 147  
~~sixteen or seventeen years.~~ The license shall not issue until 148  
section 3101.05 of the Revised Code has been complied with, ~~and~~ 149  
~~until such child has been born, or it is found beyond doubt by~~ 150  
~~the juvenile court that the minor female is pregnant and intends~~ 151  
~~to have the child.~~ 152

**Sec. 3101.05.** (A) The parties to a marriage shall make an 153  
application for a marriage license. Each of the persons seeking 154  
a marriage license shall personally appear in the probate court 155  
within the county where either resides, or, if neither is a 156  
resident of this state, where the marriage is expected to be 157  
solemnized. If neither party is a resident of this state, the 158  
marriage may be solemnized only in the county where the license 159  
is obtained. Each party shall make application and shall state 160  
upon oath, the party's name, age, residence, place of birth, 161  
occupation, father's name, and mother's maiden name, if known, 162  
and the name of the person who is expected to solemnize the 163  
marriage. If either party has been previously married, the 164

application shall include the names of the parties to any 165  
previous marriage and of any minor children, and if divorced the 166  
jurisdiction, date, and case number of the decree. If either 167  
applicant is ~~under the age of eighteen~~ sixteen or seventeen 168  
years, the judge shall require the applicants to state that they 169  
received marriage counseling satisfactory to the court. Except 170  
as otherwise provided in this division, the application also 171  
shall include each party's social security number. In lieu of 172  
requiring each party's social security number on the 173  
application, the court may obtain each party's social security 174  
number, retain the social security numbers in a separate record, 175  
and allow a number other than the social security number to be 176  
used on the application for reference purposes. If a court 177  
allows the use of a number other than the social security number 178  
to be used on the application for reference purposes, the record 179  
containing the social security number is not a public record, 180  
except that, in any of the circumstances set forth in divisions 181  
~~(A) (1) to (4)~~ (C) (1) to (5) of section 3101.051 of the Revised 182  
Code, the record containing the social security number shall be 183  
made available for inspection under section 149.43 of the 184  
Revised Code. 185

Immediately upon receipt of an application for a marriage 186  
license, the court shall place the parties' record in a book 187  
kept for that purpose. If the probate judge is satisfied that 188  
there is no legal impediment and if one or both of the parties 189  
are present, the probate judge shall grant the marriage license. 190

If the judge is satisfied from the affidavit of a 191  
reputable physician in active practice and residing in the 192  
county where the probate court is located, that one of the 193  
parties is unable to appear in court, by reason of illness or 194  
other physical disability, a marriage license may be granted 195

upon application and oath of the other party to the contemplated marriage; but in that case the person who is unable to appear in court, at the time of making application for a marriage license, shall make and file in that court, an affidavit setting forth the information required of applicants for a marriage license.

A probate judge may grant a marriage license under this section at any time after the application is made.

A marriage license issued shall not display the social security number of either party to the marriage.

(B) An applicant for a marriage license who knowingly makes a false statement in an application or affidavit prescribed by this section is guilty of falsification under section 2921.13 of the Revised Code.

(C) No licensing officer shall issue a marriage license if the officer has not received the application, affidavit, or other statements prescribed by this section or if the officer has reason to believe that any of the statements in a marriage license application or in an affidavit prescribed by this section are false.

(D) Any fine collected for violation of this section shall be paid to the use of the county together with the costs of prosecution.

**Section 2.** That existing sections 3101.01, 3101.02, 3101.03, 3101.04, and 3101.05 of the Revised Code are hereby repealed.