As Introduced

123rd General Assembly
Regular Session
1999-2000

H. B. No. 547

Representatives Jordan, Aslanides, Brading, Buchy, Buehrer, Calvert, Carey, Clancy, DePiero, Harris, Hood, Hoops, Jacobson, Netzley, Roman, Taylor, Terwilleger, Tiberi, Willamowski, Young

A B I L L

To amend section 3101.01 of the Revised Code to specifically declare that same-sex marriages are against the public policy of this state and to make other declarations about same-sex marriages.

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

Section 1. That section 3101.01 of the Revised Code be amended to read as follows:

Sec. 3101.01. (A) Male persons of the age of eighteen years, and female persons of the age of sixteen years, not nearer of kin than second cousins, and not having a husband or wife living, may be joined in marriage. A minor ~~must~~ shall first obtain the consent of the minor's parents, surviving parent, parent who is designated the residential parent and legal custodian of the ~~child~~ minor by a court of competent jurisdiction, guardian, or any one of the following who has been awarded permanent custody of the minor by a court exercising juvenile jurisdiction:

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

~~(B)~~(2) The department of human services or any child welfare

organization certified by ~~such~~ the department;

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

~~A~~ (B) For purposes of division (A) of this section, a minor shall not be required to obtain the consent of a parent who resides in a foreign country, has neglected or abandoned ~~such~~ the minor for a period of one year or longer immediately preceding the minor's application for a marriage license, has been adjudged incompetent, is an inmate of a state mental or correctional institution, has been permanently deprived of parental rights and responsibilities for the care of the ~~child~~ minor and the right to have the ~~child~~ minor live with the parent and to be the legal custodian of the ~~child~~ minor by a court exercising juvenile jurisdiction, or has been deprived of parental rights and responsibilities for the care of the ~~child~~ minor and the right to have the ~~child~~ minor live with the parent and to be the legal custodian of the ~~child~~ minor by the appointment of a guardian of the person of the minor by the probate court or by ~~any other~~ another court of competent jurisdiction.

(C) The general assembly declares that the only marriages that legally may be entered into in this state are marriages between persons of different sexes as described in division (A) of this section. the general assembly further declares that marriages between persons of the same sex are not authorized by division (A) of this section and were not authorized by that division or the common law of this state prior to the effective date of this amendment, are against the public policy of this state, have no legal force or effect in this state, and, if attempted to be entered into in this state, are deemed to be void.

Section 2. That existing section 3101.01 of the Revised Code is hereby repealed.

Section 3. In enacting new division (C) of section 3101.01 of

the Revised Code in this act, both of the following apply:

(A) The General Assembly declares its intent not to make substantive changes in the law of this state that is in effect on the day prior to the effective date of this act.

(B) The General Assembly declares its intent to assist the courts of this state and of the United States in construing section 3101.01 and other sections of the Revised Code pertaining to permissible marriages in this state by expressly declaring the public policy of this state against marriages between persons of the same sex and, in so declaring, to recognize the holdings of the Ohio Supreme Court in State v. Gans (1958), 168 Ohio St. 174, 177-178, the Court of Appeals for Franklin County in Liston v. Pyles (1997), 1997 Ohio App. Lexis 3627, the Court of Appeals for Summit County in Dial v. Dial (1993), 92 Ohio App. 3d 513, 515, and in Gajovski v. Gajovski (1991), 81 Ohio App. 3d 11, the Court of Appeals for Cuyahoga County in Irwin v. Lupardus (1980), No. 41379, and the Stark County Probate Court in In re Ladrach (1987), 32 Ohio Misc. 2d 6, that the law of this state does not permit persons of the same sex to marry.