

AN ACT

To amend sections 3101.01 and 3105.12 of the Revised Code to specifically declare that same-sex marriages are against the strong public policy of the state, to declare that the recognition or extension by the state of the specific statutory benefits of legal marriage to nonmarital relationships is against the public policy of the state, and to make other declarations regarding same-sex marriages.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3101.01 and 3105.12 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 marriage may only be entered into by one man and one woman. 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 job and family services or any child welfare organization certified by ~~such~~ the department;

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

A (B) For the 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)(1) Any marriage between persons of the same sex is 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) of this section shall be construed to do either of the following:

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

(4) Any public act, record, or judicial proceeding of any other state, country, or other jurisdiction outside this state that extends the specific benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes 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.

Sec. 3105.12. (A) Except as provided in division (B) of this section, proof of cohabitation and reputation of the marriage of a man and woman is competent evidence to prove their marriage, and, in the discretion of the court, that proof may be sufficient to establish their marriage for a particular

purpose.

(B)(1) On and after ~~the effective date of this amendment~~ October 10, 1991, except as provided in divisions (B)(2) and (3) of this section, common law marriages are prohibited in this state, and the marriage of a man and woman may occur in this state only if the marriage is solemnized by a person described in section 3101.08 of the Revised Code and only if the marriage otherwise is in compliance with Chapter 3101. of the Revised Code.

(2) Common law marriages that occurred in this state prior to ~~the effective date of this amendment~~ October 10, 1991, and that have not been terminated by death, divorce, dissolution of marriage, or annulment remain valid on and after ~~the effective date of this amendment~~ October 10, 1991.

(3) Common law marriages that satisfy all of the following remain valid on and after ~~the effective date of this amendment~~ October 10, 1991:

(a) They came into existence prior to ~~the effective date of this amendment~~ October 10, 1991, or come into existence on or after that date, in another state or nation that recognizes the validity of common law marriages in accordance with all relevant aspects of the law of that state or nation.

(b) They have not been terminated by death, divorce, dissolution of marriage, annulment, or other judicial determination in this or another state or in another nation.

(c) They are not otherwise deemed invalid under section 3101.01 of the Revised Code.

(4) On and after ~~the effective date of this amendment~~ October 10, 1991, all references in the Revised Code to common law marriages or common law marital relationships, including the references in sections 2919.25, 3113.31, and 3113.33 of the Revised Code, shall be construed to mean only common law marriages as described in divisions (B)(2) and (3) of this section.

SECTION 2. That existing sections 3101.01 and 3105.12 of the Revised Code are hereby repealed.

SECTION 3. In enacting new division (C) of section 3101.01 of the Revised Code in this act, all the following apply:

(A) The General Assembly declares and reaffirms the state of Ohio's historical commitment to the institution of marriage as a union between a man and a woman as husband and wife.

(B) The General Assembly declares its intent to define marriage and clarify that relationships that are intended as substitutes for marriage, including but not limited to "civil unions" as provided for in Vt. Stat. Ann. tit. 15, §1202 (2003), will not be recognized in this state. It is not the intent of the General Assembly to prohibit the extension of specific benefits otherwise enjoyed by all persons, married or unmarried, to relationships between persons of the same sex or different sexes.

(C) 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 with respect to the validity of marriages heretofore occurring within this state.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 272

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____