

TO: Senate Judiciary Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
DATE: November 29, 2018
RE: Amended Substitute House Bill 36 – Opponent Testimony



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To Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for this opportunity to present opponent testimony on Amended Substitute House Bill 36.

Perhaps it is best to think of HB 36 as having two distinct, albeit related, provisions. The first provision is said to protect ministers of all faiths from performing marriage ceremonies against their religious beliefs. This provision is unnecessary. Thankfully, the First Amendment and the Ohio Constitution already protect that right, an undoubtedly essential example of religious liberty in this state and country.

There is also no controversy now, or history of, people demanding to be married by certain ministers of any faith, threatening to sue over denials, or actually filing lawsuits because they were refused. So, this part of HB 36 really provides no additional protection against a phenomena that is not occurring.

However, HB 36 also contains a much broader provision designed to enshrine discrimination in Ohio law. This provision allows “religious societies” – undefined in the bill – to discriminate against other people. It does so by letting religious societies deny the use of any and all of their buildings and properties for the performance of any marriage ceremonies against their religious doctrine. This portion of HB 36 should be rejected.

It should not be a controversial proposition to expect any entity, with a religious origin or not, to comply with state and local civil rights and anti-discrimination laws when they engage in business, commerce, or providing public accommodations with the larger public.

Yet, here we are. HB 36 allows churches to forbid the Jewish couple from marrying in their banquet hall that is otherwise open to all comers. It puts the brakes on the wedding of an elderly gay couple in a church-owned nursing home. If so desired, HB 36 prevents a ceremony at a church-run homeless shelter. Or a Catholic-owned hospital serving the terminally ill. As well as at some assisted living facilities.

The list goes on and on as HB 36 makes zero distinction between businesses and buildings 100% owned and/or operated by a "religious society" and any non-profit, for-profit, or other configuration set up and controlled by these same entities.

These concerns of how far HB 36 expands are not without merit as many churches and other religions continue to grow through their ownership of property, buildings, and businesses of all kinds from shopping malls to apartment complexes to day care centers.

Ohio needs to keep the balance it currently has; the rights of religious entities are protected in matters central to the practice of sincerely-held religious beliefs while civil rights laws apply to the business activities not involving the practice of religious faith.

House Bill 36 throws that balance out of whack. It specifically permits religious discrimination with regard to otherwise public accommodations. We should be working on fighting discrimination, including passing legislation to protect LGBT Ohioans, not promoting it.

The ACLU of Ohio urges your rejection of Amended Substitute House Bill 36.