

Chair Bacon, Members of the Committee, thank you for the opportunity to address you on the Amended bill before this committee, HB 36.

We heard testimony earlier this week from the bill's sponsor, Rep. Nino Vitale.

I want to start with the fact that I agree in principle with many concepts that Rep. Vitale illustrated in his testimony to this Committee.

First, no clergy ought to be forced to marry anyone. For any reason. Full stop.

In addition to being a civil institution with legal rights and responsibilities, marriage for many is also a spiritual rite with entirely unique spiritual privileges and responsibilities; whether a couple is married under these traditions is entirely up to them and their clergy.

I am a lawyer, and the freedom of religion is of paramount importance to me as a core freedom under our Constitution. The separation of church and state is also vital, and clergy should be free to marry anyone or not according to their deeply held spiritual practices.

Therefore, to be clear, we agree on this point. And this is established law presently. With regard to these protections for clergy, the concept is not new, and the protections outlined in this bill are a restatement of existing laws.

Also to be clear, *Obergefell v. Hodges*, which allowed same-sex couples to marry, did not change these bedrock constitutional protections. (See, e.g., *Masterpiece Cake Shop, LTD. v. Colorado Civil Rights Comm'n*, 584 U. S. ____, 10 (2018) "When it comes to weddings, it can be assumed that a member of the clergy who objects to gay marriage on moral and religious grounds could not be compelled to perform the ceremony without denial of his or her right to the free exercise of religion. This refusal would be well understood in our constitutional order as an exercise of religion")

If the bill stopped here—at restating protections pastors have with regard to marriage—I probably would not feel the need to speak today.

But it goes much further. The bill goes into well-established areas of Ohio's civil rights code, and it upends basic concepts in accessing public accommodations.

The examples provided by Representative Vitale in his testimony are, for all intents and purposes, commercial businesses. A hospital denying care to a transgender patient. A retreat center denying a rental to a couple otherwise protected by nondiscrimination laws. Neither of those examples are religious sanctuaries being forced to marry someone—both entities in his examples engage in commerce, both are regulated like any other business. Those businesses have to stick to the fire codes, they buy liability insurance in case someone slips in their parking

lot. They similarly are subject to their state's nondiscrimination laws, requiring them to treat customers equally just as any other business must.

If the intent of this bill is truly to give ease and comfort to pastors afraid that the state might intervene in their congregation and require the marriage of or the acceptance of LGBTQ people—an intent captured in the bill's title and made clear through testimony in these hearings—then the public accommodations portion is not necessary as part of this bill.

Not only is it not necessary, but it is far from the “shield” that Rep. Vitale described it as.

I remind this Committee that LGBTQ people *are not* protected under Ohio's civil rights codes that Rep. Vitale is suggesting need modifying here and which are cited in the bill (O.R.C. § 4112.02). Although we hope for “sexual orientation” and “gender identity or expression” to someday be expressly protected classes in our laws, that is not the case today. Right now, LGBTQ people can and are denied access to public accommodations across the state.

And this is what makes the bill's language relating to the denial of public accommodations so disconcerting and problematic. Lines 54-57, 61-62, and 151-152 of this bill create an exemption allowing discrimination around access to certain property to be used for wedding purposes based on religious belief that will allow for discrimination against **existing** protected classes, such as race, color, religion, military status, and disability among others.

This bill rolls back Ohio's existing civil rights protections. Although it is clear from testimony that the bill was drafted with the intention of denying LGBTQ people access to certain public spaces, it does not change that such access can already be denied to them; rather, it only expands the discrimination that can be permitted against everyone else currently protected.

In practice, this will give license to religious societies to disagree with interracial marriage and turn couples away from spaces they normally rent as wedding venues. It will give license to people whose spiritual beliefs include pacifism to turn away veterans, and more.

It also results in an uneven application of the law. Spaces rented for the purpose of weddings can be denied in a discriminatory manner (see lines 55-57). Spaces rented for other purposes—say a birthday party or a retirement celebration—cannot.

The fact is, we decided this type of discrimination in places of business is just plain wrong, and we decided it a long time ago. It's no different at a lunch counter than it is at another space openly rented to the public.

Here's the bottom line: Because LGBTQ people aren't even covered by Ohio's nondiscrimination laws, this bill does not even achieve what Rep. Vitale wants.

I respectfully ask that you recognize that clergy already have the right to decline to marry anybody they want, for any reason they want, and to not pass this bill out of this Committee.

If this bill cannot be stopped, then I ask that the provisions that harm nondiscrimination protections for existing classes—lines 54-57, 61-62, and 151-152—be removed from the bill in order to prevent rolling back Ohio’s existing civil rights.

Thank you for your time. I welcome any of your questions.