

As Passed by the House

132nd General Assembly

Regular Session

2017-2018

Am. Sub. H. B. No. 36

Representative Vitale

Cosponsors: Representatives Wiggam, Romanchuk, Patmon, Brinkman, Roegner, Henne, Butler, Antani, Merrin, Hagan, Retherford, Conditt, Keller, Zeltwanger, Young, Becker, Brenner, Householder, Dean, Schaffer, Hood, Koehler, Riedel, Sprague, Goodman, Thompson, Hill, Ginter, Green, Huffman, Johnson, Kick, Lang, McClain, Perales, Scherer, Seitz, Slaby, Wilkin, Speaker Smith

A BILL

To amend sections 3101.08 and 4112.02 of the
Revised Code to provide that an ordained or
licensed minister or religious society is not
required to solemnize a marriage and a religious
society is not required to allow any building or
property of the religious society to be used to
host a marriage ceremony if the marriage does
not conform to the ordained or licensed
minister's or religious society's sincerely held
religious beliefs, to provide that an ordained
or licensed minister or religious society is not
subject to civil or criminal liability for such
a denial, to provide that the state and
political subdivisions may not penalize or
withhold benefits to an ordained or licensed
minister or religious society for such a denial,
and to make changes to the law governing
unlawful discriminatory practices.

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

Section 1. That sections 3101.08 and 4112.02 of the Revised Code be amended to read as follows:

~~**Sec. 3101.08.** An ordained or licensed minister of any religious society or congregation within this state who is licensed to solemnize marriages, a judge of a county court in accordance with section 1907.18 of the Revised Code, a judge of a municipal court in accordance with section 1901.14 of the Revised Code, a probate judge in accordance with section 2101.27 of the Revised Code, the mayor of a municipal corporation in any county in which such municipal corporation wholly or partly lies, the superintendent of the state school for the deaf, or any religious society in conformity with the rules of its church, (A) The following persons or entities may join together as husband and wife any persons who are not prohibited by law from being joined in solemnize any marriage allowed by law:~~

(1) An ordained or licensed minister of any religious society or congregation within this state who is licensed to solemnize marriages;

(2) A judge of a county court in accordance with section 1907.18 of the Revised Code;

(3) A judge of a municipal court in accordance with section 1901.14 of the Revised Code;

(4) A probate judge in accordance with section 2101.27 of the Revised Code;

(5) The mayor of a municipal corporation in any county in which the mayor's municipal corporation wholly or partly lies;

(6) The superintendent of the state school for the deaf;

(7) Any religious society in conformity with the rules of

its church. 47

(B) (1) No ordained or licensed minister described in 48
division (A) (1) of this section or religious society described 49
in division (A) (7) of this section is required to solemnize a 50
marriage that does not conform to the ordained or licensed 51
minister's or religious society's sincerely held religious 52
beliefs. 53

(2) No religious society is required to allow any building 54
or property of the religious society to be used to host a 55
marriage ceremony for a marriage that does not conform to the 56
religious society's sincerely held religious beliefs. 57

(C) If an ordained or licensed minister described in 58
division (A) (1) of this section or a religious society described 59
in division (A) (7) of this section refuses to solemnize a 60
marriage or refuses to allow any building or property of the 61
religious society to be used to host a marriage ceremony because 62
of the ordained or licensed minister's or religious society's 63
sincerely held religious beliefs, the ordained or licensed 64
minister or religious society is immune from civil or criminal 65
liability and neither the state nor a political subdivision of 66
the state shall penalize or withhold any benefit or privilege 67
from the ordained or licensed minister or religious society, 68
including any governmental contract, grant, or license. 69

Sec. 4112.02. It shall be an unlawful discriminatory 70
practice: 71

(A) For any employer, because of the race, color, 72
religion, sex, military status, national origin, disability, 73
age, or ancestry of any person, to discharge without just cause, 74
to refuse to hire, or otherwise to discriminate against that 75

person with respect to hire, tenure, terms, conditions, or 76
privileges of employment, or any matter directly or indirectly 77
related to employment. 78

(B) For an employment agency or personnel placement 79
service, because of race, color, religion, sex, military status, 80
national origin, disability, age, or ancestry, to do any of the 81
following: 82

(1) Refuse or fail to accept, register, classify properly, 83
or refer for employment, or otherwise discriminate against any 84
person; 85

(2) Comply with a request from an employer for referral of 86
applicants for employment if the request directly or indirectly 87
indicates that the employer fails to comply with the provisions 88
of sections 4112.01 to 4112.07 of the Revised Code. 89

(C) For any labor organization to do any of the following: 90

(1) Limit or classify its membership on the basis of race, 91
color, religion, sex, military status, national origin, 92
disability, age, or ancestry; 93

(2) Discriminate against, limit the employment 94
opportunities of, or otherwise adversely affect the employment 95
status, wages, hours, or employment conditions of any person as 96
an employee because of race, color, religion, sex, military 97
status, national origin, disability, age, or ancestry. 98

(D) For any employer, labor organization, or joint labor- 99
management committee controlling apprentice training programs to 100
discriminate against any person because of race, color, 101
religion, sex, military status, national origin, disability, or 102
ancestry in admission to, or employment in, any program 103
established to provide apprentice training. 104

(E) Except where based on a bona fide occupational 105
qualification certified in advance by the commission, for any 106
employer, employment agency, personnel placement service, or 107
labor organization, prior to employment or admission to 108
membership, to do any of the following: 109

(1) Elicit or attempt to elicit any information concerning 110
the race, color, religion, sex, military status, national 111
origin, disability, age, or ancestry of an applicant for 112
employment or membership; 113

(2) Make or keep a record of the race, color, religion, 114
sex, military status, national origin, disability, age, or 115
ancestry of any applicant for employment or membership; 116

(3) Use any form of application for employment, or 117
personnel or membership blank, seeking to elicit information 118
regarding race, color, religion, sex, military status, national 119
origin, disability, age, or ancestry; but an employer holding a 120
contract containing a nondiscrimination clause with the 121
government of the United States, or any department or agency of 122
that government, may require an employee or applicant for 123
employment to furnish documentary proof of United States 124
citizenship and may retain that proof in the employer's 125
personnel records and may use photographic or fingerprint 126
identification for security purposes; 127

(4) Print or publish or cause to be printed or published 128
any notice or advertisement relating to employment or membership 129
indicating any preference, limitation, specification, or 130
discrimination, based upon race, color, religion, sex, military 131
status, national origin, disability, age, or ancestry; 132

(5) Announce or follow a policy of denying or limiting, 133

through a quota system or otherwise, employment or membership 134
opportunities of any group because of the race, color, religion, 135
sex, military status, national origin, disability, age, or 136
ancestry of that group; 137

(6) Utilize in the recruitment or hiring of persons any 138
employment agency, personnel placement service, training school 139
or center, labor organization, or any other employee-referring 140
source known to discriminate against persons because of their 141
race, color, religion, sex, military status, national origin, 142
disability, age, or ancestry. 143

(F) For any person seeking employment to publish or cause 144
to be published any advertisement that specifies or in any 145
manner indicates that person's race, color, religion, sex, 146
military status, national origin, disability, age, or ancestry, 147
or expresses a limitation or preference as to the race, color, 148
religion, sex, military status, national origin, disability, 149
age, or ancestry of any prospective employer. 150

(G) ~~For~~ Except as provided in division (B) (2) of section 151
3101.08 of the Revised Code, for any proprietor or any employee, 152
keeper, or manager of a place of public accommodation to deny to 153
any person, except for reasons applicable alike to all persons 154
regardless of race, color, religion, sex, military status, 155
national origin, disability, age, or ancestry, the full 156
enjoyment of the accommodations, advantages, facilities, or 157
privileges of the place of public accommodation. 158

(H) Subject to section 4112.024 of the Revised Code, for 159
any person to do any of the following: 160

(1) Refuse to sell, transfer, assign, rent, lease, 161
sublease, or finance housing accommodations, refuse to negotiate 162

for the sale or rental of housing accommodations, or otherwise 163
deny or make unavailable housing accommodations because of race, 164
color, religion, sex, military status, familial status, 165
ancestry, disability, or national origin; 166

(2) Represent to any person that housing accommodations 167
are not available for inspection, sale, or rental, when in fact 168
they are available, because of race, color, religion, sex, 169
military status, familial status, ancestry, disability, or 170
national origin; 171

(3) Discriminate against any person in the making or 172
purchasing of loans or the provision of other financial 173
assistance for the acquisition, construction, rehabilitation, 174
repair, or maintenance of housing accommodations, or any person 175
in the making or purchasing of loans or the provision of other 176
financial assistance that is secured by residential real estate, 177
because of race, color, religion, sex, military status, familial 178
status, ancestry, disability, or national origin or because of 179
the racial composition of the neighborhood in which the housing 180
accommodations are located, provided that the person, whether an 181
individual, corporation, or association of any type, lends money 182
as one of the principal aspects or incident to the person's 183
principal business and not only as a part of the purchase price 184
of an owner-occupied residence the person is selling nor merely 185
casually or occasionally to a relative or friend; 186

(4) Discriminate against any person in the terms or 187
conditions of selling, transferring, assigning, renting, 188
leasing, or subleasing any housing accommodations or in 189
furnishing facilities, services, or privileges in connection 190
with the ownership, occupancy, or use of any housing 191
accommodations, including the sale of fire, extended coverage, 192

or homeowners insurance, because of race, color, religion, sex, 193
military status, familial status, ancestry, disability, or 194
national origin or because of the racial composition of the 195
neighborhood in which the housing accommodations are located; 196

(5) Discriminate against any person in the terms or 197
conditions of any loan of money, whether or not secured by 198
mortgage or otherwise, for the acquisition, construction, 199
rehabilitation, repair, or maintenance of housing accommodations 200
because of race, color, religion, sex, military status, familial 201
status, ancestry, disability, or national origin or because of 202
the racial composition of the neighborhood in which the housing 203
accommodations are located; 204

(6) Refuse to consider without prejudice the combined 205
income of both husband and wife for the purpose of extending 206
mortgage credit to a married couple or either member of a 207
married couple; 208

(7) Print, publish, or circulate any statement or 209
advertisement, or make or cause to be made any statement or 210
advertisement, relating to the sale, transfer, assignment, 211
rental, lease, sublease, or acquisition of any housing 212
accommodations, or relating to the loan of money, whether or not 213
secured by mortgage or otherwise, for the acquisition, 214
construction, rehabilitation, repair, or maintenance of housing 215
accommodations, that indicates any preference, limitation, 216
specification, or discrimination based upon race, color, 217
religion, sex, military status, familial status, ancestry, 218
disability, or national origin, or an intention to make any such 219
preference, limitation, specification, or discrimination; 220

(8) Except as otherwise provided in division (H) (8) or 221
(17) of this section, make any inquiry, elicit any information, 222

make or keep any record, or use any form of application 223
containing questions or entries concerning race, color, 224
religion, sex, military status, familial status, ancestry, 225
disability, or national origin in connection with the sale or 226
lease of any housing accommodations or the loan of any money, 227
whether or not secured by mortgage or otherwise, for the 228
acquisition, construction, rehabilitation, repair, or 229
maintenance of housing accommodations. Any person may make 230
inquiries, and make and keep records, concerning race, color, 231
religion, sex, military status, familial status, ancestry, 232
disability, or national origin for the purpose of monitoring 233
compliance with this chapter. 234

(9) Include in any transfer, rental, or lease of housing 235
accommodations any restrictive covenant, or honor or exercise, 236
or attempt to honor or exercise, any restrictive covenant; 237

(10) Induce or solicit, or attempt to induce or solicit, a 238
housing accommodations listing, sale, or transaction by 239
representing that a change has occurred or may occur with 240
respect to the racial, religious, sexual, military status, 241
familial status, or ethnic composition of the block, 242
neighborhood, or other area in which the housing accommodations 243
are located, or induce or solicit, or attempt to induce or 244
solicit, a housing accommodations listing, sale, or transaction 245
by representing that the presence or anticipated presence of 246
persons of any race, color, religion, sex, military status, 247
familial status, ancestry, disability, or national origin, in 248
the block, neighborhood, or other area will or may have results 249
including, but not limited to, the following: 250

(a) The lowering of property values; 251

(b) A change in the racial, religious, sexual, military 252

status, familial status, or ethnic composition of the block,	253
neighborhood, or other area;	254
(c) An increase in criminal or antisocial behavior in the	255
block, neighborhood, or other area;	256
(d) A decline in the quality of the schools serving the	257
block, neighborhood, or other area.	258
(11) Deny any person access to or membership or	259
participation in any multiple-listing service, real estate	260
brokers' organization, or other service, organization, or	261
facility relating to the business of selling or renting housing	262
accommodations, or discriminate against any person in the terms	263
or conditions of that access, membership, or participation, on	264
account of race, color, religion, sex, military status, familial	265
status, national origin, disability, or ancestry;	266
(12) Coerce, intimidate, threaten, or interfere with any	267
person in the exercise or enjoyment of, or on account of that	268
person's having exercised or enjoyed or having aided or	269
encouraged any other person in the exercise or enjoyment of, any	270
right granted or protected by division (H) of this section;	271
(13) Discourage or attempt to discourage the purchase by a	272
prospective purchaser of housing accommodations, by representing	273
that any block, neighborhood, or other area has undergone or	274
might undergo a change with respect to its religious, racial,	275
sexual, military status, familial status, or ethnic composition;	276
(14) Refuse to sell, transfer, assign, rent, lease,	277
sublease, or finance, or otherwise deny or withhold, a burial	278
lot from any person because of the race, color, sex, military	279
status, familial status, age, ancestry, disability, or national	280
origin of any prospective owner or user of the lot;	281

(15) Discriminate in the sale or rental of, or otherwise	282
make unavailable or deny, housing accommodations to any buyer or	283
renter because of a disability of any of the following:	284
(a) The buyer or renter;	285
(b) A person residing in or intending to reside in the	286
housing accommodations after they are sold, rented, or made	287
available;	288
(c) Any individual associated with the person described in	289
division (H) (15) (b) of this section.	290
(16) Discriminate in the terms, conditions, or privileges	291
of the sale or rental of housing accommodations to any person or	292
in the provision of services or facilities to any person in	293
connection with the housing accommodations because of a	294
disability of any of the following:	295
(a) That person;	296
(b) A person residing in or intending to reside in the	297
housing accommodations after they are sold, rented, or made	298
available;	299
(c) Any individual associated with the person described in	300
division (H) (16) (b) of this section.	301
(17) Except as otherwise provided in division (H) (17) of	302
this section, make an inquiry to determine whether an applicant	303
for the sale or rental of housing accommodations, a person	304
residing in or intending to reside in the housing accommodations	305
after they are sold, rented, or made available, or any	306
individual associated with that person has a disability, or make	307
an inquiry to determine the nature or severity of a disability	308
of the applicant or such a person or individual. The following	309

inquiries may be made of all applicants for the sale or rental 310
of housing accommodations, regardless of whether they have 311
disabilities: 312

(a) An inquiry into an applicant's ability to meet the 313
requirements of ownership or tenancy; 314

(b) An inquiry to determine whether an applicant is 315
qualified for housing accommodations available only to persons 316
with disabilities or persons with a particular type of 317
disability; 318

(c) An inquiry to determine whether an applicant is 319
qualified for a priority available to persons with disabilities 320
or persons with a particular type of disability; 321

(d) An inquiry to determine whether an applicant currently 322
uses a controlled substance in violation of section 2925.11 of 323
the Revised Code or a substantively comparable municipal 324
ordinance; 325

(e) An inquiry to determine whether an applicant at any 326
time has been convicted of or pleaded guilty to any offense, an 327
element of which is the illegal sale, offer to sell, 328
cultivation, manufacture, other production, shipment, 329
transportation, delivery, or other distribution of a controlled 330
substance. 331

(18) (a) Refuse to permit, at the expense of a person with 332
a disability, reasonable modifications of existing housing 333
accommodations that are occupied or to be occupied by the person 334
with a disability, if the modifications may be necessary to 335
afford the person with a disability full enjoyment of the 336
housing accommodations. This division does not preclude a 337
landlord of housing accommodations that are rented or to be 338

rented to a disabled tenant from conditioning permission for a 339
proposed modification upon the disabled tenant's doing one or 340
more of the following: 341

(i) Providing a reasonable description of the proposed 342
modification and reasonable assurances that the proposed 343
modification will be made in a workerlike manner and that any 344
required building permits will be obtained prior to the 345
commencement of the proposed modification; 346

(ii) Agreeing to restore at the end of the tenancy the 347
interior of the housing accommodations to the condition they 348
were in prior to the proposed modification, but subject to 349
reasonable wear and tear during the period of occupancy, if it 350
is reasonable for the landlord to condition permission for the 351
proposed modification upon the agreement; 352

(iii) Paying into an interest-bearing escrow account that 353
is in the landlord's name, over a reasonable period of time, a 354
reasonable amount of money not to exceed the projected costs at 355
the end of the tenancy of the restoration of the interior of the 356
housing accommodations to the condition they were in prior to 357
the proposed modification, but subject to reasonable wear and 358
tear during the period of occupancy, if the landlord finds the 359
account reasonably necessary to ensure the availability of funds 360
for the restoration work. The interest earned in connection with 361
an escrow account described in this division shall accrue to the 362
benefit of the disabled tenant who makes payments into the 363
account. 364

(b) A landlord shall not condition permission for a 365
proposed modification upon a disabled tenant's payment of a 366
security deposit that exceeds the customarily required security 367
deposit of all tenants of the particular housing accommodations. 368

(19) Refuse to make reasonable accommodations in rules,	369
policies, practices, or services when necessary to afford a	370
person with a disability equal opportunity to use and enjoy a	371
dwelling unit, including associated public and common use areas;	372
(20) Fail to comply with the standards and rules adopted	373
under division (A) of section 3781.111 of the Revised Code;	374
(21) Discriminate against any person in the selling,	375
brokering, or appraising of real property because of race,	376
color, religion, sex, military status, familial status,	377
ancestry, disability, or national origin;	378
(22) Fail to design and construct covered multifamily	379
dwellings for first occupancy on or after June 30, 1992, in	380
accordance with the following conditions:	381
(a) The dwellings shall have at least one building	382
entrance on an accessible route, unless it is impractical to do	383
so because of the terrain or unusual characteristics of the	384
site.	385
(b) With respect to dwellings that have a building	386
entrance on an accessible route, all of the following apply:	387
(i) The public use areas and common use areas of the	388
dwellings shall be readily accessible to and usable by persons	389
with a disability.	390
(ii) All the doors designed to allow passage into and	391
within all premises shall be sufficiently wide to allow passage	392
by persons with a disability who are in wheelchairs.	393
(iii) All premises within covered multifamily dwelling	394
units shall contain an accessible route into and through the	395
dwelling; all light switches, electrical outlets, thermostats,	396

and other environmental controls within such units shall be in 397
accessible locations; the bathroom walls within such units shall 398
contain reinforcements to allow later installation of grab bars; 399
and the kitchens and bathrooms within such units shall be 400
designed and constructed in a manner that enables an individual 401
in a wheelchair to maneuver about such rooms. 402

For purposes of division (H) (22) of this section, "covered 403
multifamily dwellings" means buildings consisting of four or 404
more units if such buildings have one or more elevators and 405
ground floor units in other buildings consisting of four or more 406
units. 407

(I) For any person to discriminate in any manner against 408
any other person because that person has opposed any unlawful 409
discriminatory practice defined in this section or because that 410
person has made a charge, testified, assisted, or participated 411
in any manner in any investigation, proceeding, or hearing under 412
sections 4112.01 to 4112.07 of the Revised Code. 413

(J) For any person to aid, abet, incite, compel, or coerce 414
the doing of any act declared by this section to be an unlawful 415
discriminatory practice, to obstruct or prevent any person from 416
complying with this chapter or any order issued under it, or to 417
attempt directly or indirectly to commit any act declared by 418
this section to be an unlawful discriminatory practice. 419

(K) Nothing in divisions (A) to (E) of this section shall 420
be construed to require a person with a disability to be 421
employed or trained under circumstances that would significantly 422
increase the occupational hazards affecting either the person 423
with a disability, other employees, the general public, or the 424
facilities in which the work is to be performed, or to require 425
the employment or training of a person with a disability in a 426

job that requires the person with a disability routinely to 427
undertake any task, the performance of which is substantially 428
and inherently impaired by the person's disability. 429

(L) An aggrieved individual may enforce the individual's 430
rights relative to discrimination on the basis of age as 431
provided for in this section by instituting a civil action, 432
within one hundred eighty days after the alleged unlawful 433
discriminatory practice occurred, in any court with jurisdiction 434
for any legal or equitable relief that will effectuate the 435
individual's rights. 436

A person who files a civil action under this division is 437
barred, with respect to the practices complained of, from 438
instituting a civil action under section 4112.14 of the Revised 439
Code and from filing a charge with the commission under section 440
4112.05 of the Revised Code. 441

(M) With regard to age, it shall not be an unlawful 442
discriminatory practice and it shall not constitute a violation 443
of division (A) of section 4112.14 of the Revised Code for any 444
employer, employment agency, joint labor-management committee 445
controlling apprenticeship training programs, or labor 446
organization to do any of the following: 447

(1) Establish bona fide employment qualifications 448
reasonably related to the particular business or occupation that 449
may include standards for skill, aptitude, physical capability, 450
intelligence, education, maturation, and experience; 451

(2) Observe the terms of a bona fide seniority system or 452
any bona fide employee benefit plan, including, but not limited 453
to, a retirement, pension, or insurance plan, that is not a 454
subterfuge to evade the purposes of this section. However, no 455

such employee benefit plan shall excuse the failure to hire any 456
individual, and no such seniority system or employee benefit 457
plan shall require or permit the involuntary retirement of any 458
individual, because of the individual's age except as provided 459
for in the "Age Discrimination in Employment Act Amendment of 460
1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age 461
Discrimination in Employment Act Amendments of 1986," 100 Stat. 462
3342, 29 U.S.C.A. 623, as amended. 463

(3) Retire an employee who has attained sixty-five years 464
of age who, for the two-year period immediately before 465
retirement, is employed in a bona fide executive or a high 466
policymaking position, if the employee is entitled to an 467
immediate nonforfeitable annual retirement benefit from a 468
pension, profit-sharing, savings, or deferred compensation plan, 469
or any combination of those plans, of the employer of the 470
employee, which equals, in the aggregate, at least forty-four 471
thousand dollars, in accordance with the conditions of the "Age 472
Discrimination in Employment Act Amendment of 1978," 92 Stat. 473
189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in 474
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 475
631, as amended; 476

(4) Observe the terms of any bona fide apprenticeship 477
program if the program is registered with the Ohio 478
apprenticeship council pursuant to sections 4139.01 to 4139.06 479
of the Revised Code and is approved by the federal committee on 480
apprenticeship of the United States department of labor. 481

(N) Nothing in this chapter prohibiting age discrimination 482
and nothing in division (A) of section 4112.14 of the Revised 483
Code shall be construed to prohibit the following: 484

(1) The designation of uniform age the attainment of which 485

is necessary for public employees to receive pension or other 486
retirement benefits pursuant to Chapter 145., 742., 3307., 487
3309., or 5505. of the Revised Code; 488

(2) The mandatory retirement of uniformed patrol officers 489
of the state highway patrol as provided in section 5505.16 of 490
the Revised Code; 491

(3) The maximum age requirements for appointment as a 492
patrol officer in the state highway patrol established by 493
section 5503.01 of the Revised Code; 494

(4) The maximum age requirements established for original 495
appointment to a police department or fire department in 496
sections 124.41 and 124.42 of the Revised Code; 497

(5) Any maximum age not in conflict with federal law that 498
may be established by a municipal charter, municipal ordinance, 499
or resolution of a board of township trustees for original 500
appointment as a police officer or firefighter; 501

(6) Any mandatory retirement provision not in conflict 502
with federal law of a municipal charter, municipal ordinance, or 503
resolution of a board of township trustees pertaining to police 504
officers and firefighters; 505

(7) Until January 1, 1994, the mandatory retirement of any 506
employee who has attained seventy years of age and who is 507
serving under a contract of unlimited tenure, or similar 508
arrangement providing for unlimited tenure, at an institution of 509
higher education as defined in the "Education Amendments of 510
1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). 511

(0) (1) (a) Except as provided in division (0) (1) (b) of this 512
section, for purposes of divisions (A) to (E) of this section, a 513
disability does not include any physiological disorder or 514

condition, mental or psychological disorder, or disease or 515
condition caused by an illegal use of any controlled substance 516
by an employee, applicant, or other person, if an employer, 517
employment agency, personnel placement service, labor 518
organization, or joint labor-management committee acts on the 519
basis of that illegal use. 520

(b) Division (O) (1) (a) of this section does not apply to 521
an employee, applicant, or other person who satisfies any of the 522
following: 523

(i) The employee, applicant, or other person has 524
successfully completed a supervised drug rehabilitation program 525
and no longer is engaging in the illegal use of any controlled 526
substance, or the employee, applicant, or other person otherwise 527
successfully has been rehabilitated and no longer is engaging in 528
that illegal use. 529

(ii) The employee, applicant, or other person is 530
participating in a supervised drug rehabilitation program and no 531
longer is engaging in the illegal use of any controlled 532
substance. 533

(iii) The employee, applicant, or other person is 534
erroneously regarded as engaging in the illegal use of any 535
controlled substance, but the employee, applicant, or other 536
person is not engaging in that illegal use. 537

(2) Divisions (A) to (E) of this section do not prohibit 538
an employer, employment agency, personnel placement service, 539
labor organization, or joint labor-management committee from 540
doing any of the following: 541

(a) Adopting or administering reasonable policies or 542
procedures, including, but not limited to, testing for the 543

illegal use of any controlled substance, that are designed to 544
ensure that an individual described in division (O) (1) (b) (i) or 545
(ii) of this section no longer is engaging in the illegal use of 546
any controlled substance; 547

(b) Prohibiting the illegal use of controlled substances 548
and the use of alcohol at the workplace by all employees; 549

(c) Requiring that employees not be under the influence of 550
alcohol or not be engaged in the illegal use of any controlled 551
substance at the workplace; 552

(d) Requiring that employees behave in conformance with 553
the requirements established under "The Drug-Free Workplace Act 554
of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 555

(e) Holding an employee who engages in the illegal use of 556
any controlled substance or who is an alcoholic to the same 557
qualification standards for employment or job performance, and 558
the same behavior, to which the employer, employment agency, 559
personnel placement service, labor organization, or joint labor- 560
management committee holds other employees, even if any 561
unsatisfactory performance or behavior is related to an 562
employee's illegal use of a controlled substance or alcoholism; 563

(f) Exercising other authority recognized in the 564
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 565
U.S.C.A. 12101, as amended, including, but not limited to, 566
requiring employees to comply with any applicable federal 567
standards. 568

(3) For purposes of this chapter, a test to determine the 569
illegal use of any controlled substance does not include a 570
medical examination. 571

(4) Division (O) of this section does not encourage, 572

prohibit, or authorize, and shall not be construed as 573
encouraging, prohibiting, or authorizing, the conduct of testing 574
for the illegal use of any controlled substance by employees, 575
applicants, or other persons, or the making of employment 576
decisions based on the results of that type of testing. 577

(P) This section does not apply to a religious 578
corporation, association, educational institution, or society 579
with respect to the employment of an individual of a particular 580
religion to perform work connected with the carrying on by that 581
religious corporation, association, educational institution, or 582
society of its activities. 583

The unlawful discriminatory practices defined in this 584
section do not make it unlawful for a person or an appointing 585
authority administering an examination under section 124.23 of 586
the Revised Code to obtain information about an applicant's 587
military status for the purpose of determining if the applicant 588
is eligible for the additional credit that is available under 589
that section. 590

Section 2. That existing sections 3101.08 and 4112.02 of 591
the Revised Code are hereby repealed. 592

Section 3. This act shall be known as the "Ohio Pastor 593
Protection Act." 594

Section 4. Nothing in this bill is intended to or shall be 595
construed to limit or abrogate any rights conferred on ordained 596
or licensed ministers or religious societies by the Ohio 597
Constitution or the United States Constitution. 598