

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 511

Representatives Lanese, Rogers

Cosponsors: Representatives Rezabek, Antonio, Fedor

A BILL

To amend sections 3101.01, 3101.04, and 3101.05, to 1
enact new section 3101.02 and section 3101.041, 2
and to repeal sections 3101.02 and 3101.03 of 3
the Revised Code to make changes to the laws 4
governing the ages at which persons may marry. 5

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

Section 1. That sections 3101.01, 3101.04, and 3101.05 be 6
amended and new section 3101.02 and section 3101.041 of the 7
Revised Code be enacted to read as follows: 8

Sec. 3101.01. (A) ~~Male~~ Except as provided in section 9
3101.02 of the Revised Code, only male persons of the age of 10
eighteen years, and only female persons of the age of ~~sixteen-~~ 11
~~eighteen~~ years, not nearer of kin than second cousins, and not 12
having a husband or wife living, may be joined in marriage. A 13
marriage may only be entered into by one man and one woman. ~~A~~ 14
~~minor shall first obtain the consent of the minor's parents,~~ 15
~~surviving parent, parent who is designated the residential-~~ 16
~~parent and legal custodian of the minor by a court of competent-~~ 17
~~jurisdiction, guardian, or any one of the following who has been-~~ 18

~~awarded permanent custody of the minor by a court exercising
juvenile jurisdiction.~~ 19
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~~(1) An adult person;~~ 21

~~(2) The department of job and family services or any child-
welfare organization certified by the department;~~ 22
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~~(3) A public children services agency.~~ 24

~~(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 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 minor
and the right to have the minor live with the parent and to be
the legal custodian of the minor by a court exercising juvenile
jurisdiction, or has been deprived of parental rights and
responsibilities for the care of the minor and the right to have
the minor live with the parent and to be the legal custodian of
the minor by the appointment of a guardian of the person of the
minor by the probate court or by another court of competent
jurisdiction.~~ 25
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~~(C)~~ (1) Any marriage between persons of the same sex is 41
against the strong public policy of this state. Any marriage 42
between persons of the same sex shall have no legal force or 43
effect in this state and, if attempted to be entered into in 44
this state, is void ab initio and shall not be recognized by 45
this state. 46

(2) Any marriage entered into by persons of the same sex 47

in any other jurisdiction shall be considered and treated in all 48
respects as having no legal force or effect in this state and 49
shall not be recognized by this state. 50

(3) The recognition or extension by the state of the 51
specific statutory benefits of a legal marriage to nonmarital 52
relationships between persons of the same sex or different sexes 53
is against the strong public policy of this state. Any public 54
act, record, or judicial proceeding of this state, as defined in 55
section 9.82 of the Revised Code, that extends the specific 56
statutory benefits of legal marriage to nonmarital relationships 57
between persons of the same sex or different sexes is void ab 58
initio. Nothing in division ~~(C)~~(B) (3) of this section shall be 59
construed to do either of the following: 60

(a) Prohibit the extension of specific benefits otherwise 61
enjoyed by all persons, married or unmarried, to nonmarital 62
relationships between persons of the same sex or different 63
sexes, including the extension of benefits conferred by any 64
statute that is not expressly limited to married persons, which 65
includes but is not limited to benefits available under Chapter 66
4117. of the Revised Code; 67

(b) Affect the validity of private agreements that are 68
otherwise valid under the laws of this state. 69

(4) Any public act, record, or judicial proceeding of any 70
other state, country, or other jurisdiction outside this state 71
that extends the specific benefits of legal marriage to 72
nonmarital relationships between persons of the same sex or 73
different sexes shall be considered and treated in all respects 74
as having no legal force or effect in this state and shall not 75
be recognized by this state. 76

Sec. 3101.02. (A) For the purpose of this section, a person shall be considered "emancipated" if the person has entered the armed services of the United States, become employed and self-subsisting, or has otherwise become independent from the care and control of the person's parent, guardian, or custodian.

(B) Persons of the age of seventeen years may be joined in marriage if both of the following apply:

(1) The juvenile court has filed a consent to the marriage under section 3101.04 of the Revised Code.

(2) One of the following applies:

(a) If only one person is the age of seventeen years, that person is emancipated at the time that the marriage license is issued under section 3101.04 of the Revised Code and the other person to be joined in marriage is not more than four years older.

(b) If both persons are the age of seventeen years, both persons are emancipated at the time that the marriage license is issued under section 3101.04 of the Revised Code.

Sec. 3101.04. When the juvenile court files a consent to marriage pursuant to the juvenile rules, the probate court may thereupon issue a license, notwithstanding either or both the contracting parties for the marital relation are ~~under the minimum age prescribed in section 3101.01 of the Revised Code of~~ seventeen years. The license shall not issue until section 3101.05 of the Revised Code has been complied with, ~~and until such child has been born, or it is found beyond doubt by the juvenile court that the minor female is pregnant and intends to have the child.~~

Sec. 3101.041. In determining whether to file the consent 106
under section 3101.04 of the Revised Code, the juvenile court 107
shall consider doing either or both of the following: 108

(A) Consulting with any of the following for the 109
contracting party or parties who is or are seventeen years of 110
age: 111

(1) A parent; 112

(2) A surviving parent; 113

(3) A parent who is designated the residential parent and 114
legal custodian by a court of competent jurisdiction; 115

(4) A guardian; 116

(5) Either of the following who has been awarded permanent 117
custody by a court exercising juvenile jurisdiction: 118

(a) An adult person; 119

(b) The department of job and family services or any child 120
welfare organization certified by the department. 121

(B) Appointing an attorney as guardian ad litem for the 122
contracting party or parties who is or are seventeen years of 123
age. 124

Sec. 3101.05. (A) The parties to a marriage shall make an 125
application for a marriage license. Each of the persons seeking 126
a marriage license shall personally appear in the probate court 127
within the county where either resides, or, if neither is a 128
resident of this state, where the marriage is expected to be 129
solemnized. If neither party is a resident of this state, the 130
marriage may be solemnized only in the county where the license 131
is obtained. Each party shall make application and shall state 132

upon oath, the party's name, age, residence, place of birth, 133
occupation, father's name, and mother's maiden name, if known, 134
and the name of the person who is expected to solemnize the 135
marriage. If either party has been previously married, the 136
application shall include the names of the parties to any 137
previous marriage and of any minor children, and if divorced the 138
jurisdiction, date, and case number of the decree. If either 139
applicant is ~~under~~ the age of ~~eighteen~~seventeen years, the 140
judge shall require the applicants to state that they received 141
marriage counseling satisfactory to the court. Except as 142
otherwise provided in this division, the application also shall 143
include each party's social security number. In lieu of 144
requiring each party's social security number on the 145
application, the court may obtain each party's social security 146
number, retain the social security numbers in a separate record, 147
and allow a number other than the social security number to be 148
used on the application for reference purposes. If a court 149
allows the use of a number other than the social security number 150
to be used on the application for reference purposes, the record 151
containing the social security number is not a public record, 152
except that, in any of the circumstances set forth in divisions 153
~~(A) (1) to (4)~~ (C) (1) to (5) of section 3101.051 of the Revised 154
Code, the record containing the social security number shall be 155
made available for inspection under section 149.43 of the 156
Revised Code. 157

Immediately upon receipt of an application for a marriage 158
license, the court shall place the parties' record in a book 159
kept for that purpose. If the probate judge is satisfied that 160
there is no legal impediment and if one or both of the parties 161
are present, the probate judge shall grant the marriage license. 162

If the judge is satisfied from the affidavit of a 163

reputable physician in active practice and residing in the 164
county where the probate court is located, that one of the 165
parties is unable to appear in court, by reason of illness or 166
other physical disability, a marriage license may be granted 167
upon application and oath of the other party to the contemplated 168
marriage; but in that case the person who is unable to appear in 169
court, at the time of making application for a marriage license, 170
shall make and file in that court, an affidavit setting forth 171
the information required of applicants for a marriage license. 172

A probate judge may grant a marriage license under this 173
section at any time after the application is made. 174

A marriage license issued shall not display the social 175
security number of either party to the marriage. 176

(B) An applicant for a marriage license who knowingly 177
makes a false statement in an application or affidavit 178
prescribed by this section is guilty of falsification under 179
section 2921.13 of the Revised Code. 180

(C) No licensing officer shall issue a marriage license if 181
the officer has not received the application, affidavit, or 182
other statements prescribed by this section or if the officer 183
has reason to believe that any of the statements in a marriage 184
license application or in an affidavit prescribed by this 185
section are false. 186

(D) Any fine collected for violation of this section shall 187
be paid to the use of the county together with the costs of 188
prosecution. 189

Section 2. That existing sections 3101.01, 3101.04, and 190
3101.05 and sections 3101.02 and 3101.03 of the Revised Code are 191
hereby repealed. 192