



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Brian D. Malachowsky

Sub. H.B. 36*

132nd General Assembly

(As Reported by H. Community and Family Advancement)

Reps. Vitale, 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

BILL SUMMARY

- Specifies that no ordained or licensed minister and no religious society is required to solemnize a marriage or allow property to be used to host a marriage ceremony if the marriage does not conform to the minister's or society's sincerely held religious beliefs.
- Provides that a minister or society that refuses to solemnize a marriage or allow its property to be used to host a ceremony for that reason is immune from civil or criminal liability.
- Prohibits the state or a political subdivision from penalizing or withholding any benefit or privilege from such a minister or society, including any governmental contract, grant, or license.
- Provides that nothing in the bill is intended to or shall be construed to limit or abrogate any rights conferred on ordained or licensed ministers or religious societies by the Ohio Constitution or the United States Constitution.
- States that the bill is the Ohio Pastor Protection Act.

* This analysis was prepared before the report of the House Community and Family Advancement Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

CONTENT AND OPERATION

The bill specifies that an ordained or licensed minister or a religious society is not required to solemnize a marriage that does not conform to the minister's or society's sincerely held religious beliefs. And, a religious society is not required to allow its property to be used to host a marriage ceremony for a marriage that does not conform to the religious society's sincerely held religious beliefs.

Under the bill, a minister or society that refuses to solemnize a marriage or allow its property to be used to host a ceremony for that reason is immune from civil or criminal liability. The bill prohibits the state or a political subdivision from penalizing or withholding any benefit or privilege from the minister or society, including any governmental contract, grant, or license.

The bill also provides that nothing in its contents is intended to or shall be construed to limit or abrogate any rights conferred on ordained or licensed ministers or religious societies by the Ohio Constitution or the United States Constitution.¹

Under continuing law, any of the following persons may, but are not required to, solemnize a marriage:²

- An ordained or licensed minister of any religious society or congregation within Ohio who is licensed to solemnize marriages;
- A judge of a municipal, county, or probate court;
- The mayor of a municipal corporation, so long as the marriage occurs in a county in which the mayor's municipal corporation has territory;
- The Superintendent of the Ohio School for the Deaf;
- Any religious society in conformity with the rules of its church.

The bill specifies that those persons and entities may solemnize any marriage allowed by law, instead of a marriage between a husband and wife. The bill does not amend the provision of the Revised Code that prohibits same sex marriage. However, under the U.S. Supreme Court's ruling in *Obergefell v. Hodges*, Ohio must permit same sex marriage.³

¹ Section 4.

² R.C. 3101.08.

³ R.C. 3101.01, not in the bill, and *Obergefell v. Hodges*, 135 S. Ct. 2584, 2604 (2015).



The bill states that it is the Ohio Pastor Protection Act.⁴

HISTORY

| ACTION | DATE |
|--|----------|
| Introduced | 02-07-17 |
| Reported H. Community and Family Advancement | --- |

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⁴ Section 3 of the bill.

