



Ohio Legislative Service Commission

Bill Analysis

Emily E. Wendel

H.B. 286

131st General Assembly
(As Introduced)

Reps. Vitale, Becker, Brenner, Brinkman, Butler, Conditt, Derickson, Ginter, Hayes, Henne, Hill, Hood, Kraus, McClain, Patmon, Perales, Retherford, Roegner, Romanchuk, Ruhl, Sprague, Terhar, Thompson, Young, Zeltwanger, Schaffer

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.
 - States that the bill must be known as the Ohio Pastor Protection Act.
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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.

Under continuing law, any of the following persons may, but are not required to, solemnize a marriage between a husband and wife (see **COMMENT**):¹

- 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 states that it must be known as the Ohio Pastor Protection Act.²

COMMENT

Continuing law lists the persons who may solemnize a marriage between a "husband and wife," but does not state who may solemnize a same-sex marriage. But, the U.S. Supreme Court has ruled that the states must allow marriages between same-sex couples in the same manner as marriages between a man and a woman.³ Because the bill refers only to marriages between a husband and wife, a reviewing court might rule that the bill does not apply to same-sex marriages and does not permit a minister or religious society to refuse to perform a same-sex marriage.

However, U.S. Supreme Court rulings concerning the Establishment Clause of the First Amendment⁴ and the First Amendment right to freedom of association⁵

¹ R.C. 3101.08.

² Section 3 of the bill.

³ *Obergefell v. Hodges*, 135 S. Ct. 2584, 2604 (2015).

⁴ *Agostini v. Felton*, 521 U.S. 203, 218 (1997); *Serbian Eastern Orthodox Diocese for the United States of America and Canada v. Milivojeovich*, 426 U.S. 696, 709 (1976); and *Kedroff v. St. Nicholas Cathedral of the Russian Orthodox Church in North America*, 344 U.S. 94, 107 (1952).

⁵ *Boy Scouts of America v. Dale*, 530 U.S. 640, 661 (2000) and *Hurley v. Irish-American Gay, Lesbian, and Bisexual Group of Boston*, 515 U.S. 557, 581 (1995).



suggest that a minister or a religious society has a constitutional right to refuse to perform or host a marriage ceremony that does not conform with its religious beliefs.

HISTORY

ACTION	DATE
Introduced	07-13-15

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