

As Reported by the Senate Judiciary Committee

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Sub. H. B. No. 511

Representatives Lanese, Rogers

Cosponsors: Representatives Rezabek, Antonio, Fedor, LaTourette, Anielski, Arndt, Ashford, Blessing, Boggs, Brown, Celebrezze, Craig, DeVitis, Galonski, Gavarone, Ginter, Henne, Holmes, Howse, Hughes, Johnson, Kent, Kick, Koehler, Lang, Lepore-Hagan, Manning, O'Brien, Patton, Pelanda, Perales, Riedel, Sheehy, Sykes, West, Young

A BILL

To amend sections 3101.01, 3101.04, and 3101.05, to
enact new section 3101.02 and sections 3101.041,
3101.042, and 3109.011, and to repeal sections
3101.02 and 3101.03 of the Revised Code to make
changes to the laws governing the ages at which
persons may marry.

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

Section 1. That sections 3101.01, 3101.04, and 3101.05 be
amended and new section 3101.02 and sections 3101.041, 3101.042,
and 3109.011 of the Revised Code be enacted to read as follows:

Sec. 3101.01. (A) ~~Male~~ Except as provided in section
3101.02 of the Revised Code, only male persons of the age of
eighteen years, and only female persons of the age of ~~sixteen~~
~~eighteen~~ years, not nearer of kin than second cousins, and not
having a husband or wife living, may be joined in marriage. A
marriage may only be entered into by one man and one woman. ~~A~~

~~minor shall first obtain the consent of the minor's parents, 16~~
~~surviving parent, parent who is designated the residential 17~~
~~parent and legal custodian of the minor by a court of competent 18~~
~~jurisdiction, guardian, or any one of the following who has been 19~~
~~awarded permanent custody of the minor by a court exercising 20~~
~~juvenile jurisdiction. 21~~

~~(1) An adult person. 22~~

~~(2) The department of job and family services or any child 23~~
~~welfare organization certified by the department. 24~~

~~(3) A public children services agency. 25~~

~~(B) For the purposes of division (A) of this section, a 26~~
~~minor shall not be required to obtain the consent of a parent 27~~
~~who resides in a foreign country, has neglected or abandoned the 28~~
~~minor for a period of one year or longer immediately preceding 29~~
~~the minor's application for a marriage license, has been 30~~
~~adjudged incompetent, is an inmate of a state mental or 31~~
~~correctional institution, has been permanently deprived of 32~~
~~parental rights and responsibilities for the care of the minor 33~~
~~and the right to have the minor live with the parent and to be 34~~
~~the legal custodian of the minor by a court exercising juvenile 35~~
~~jurisdiction, or has been deprived of parental rights and 36~~
~~responsibilities for the care of the minor and the right to have 37~~
~~the minor live with the parent and to be the legal custodian of 38~~
~~the minor by the appointment of a guardian of the person of the 39~~
~~minor by the probate court or by another court of competent 40~~
~~jurisdiction. 41~~

~~(C) (1) Any marriage between persons of the same sex is 42~~
~~against the strong public policy of this state. Any marriage 43~~
~~between persons of the same sex shall have no legal force or 44~~

effect in this state and, if attempted to be entered into in 45
this state, is void ab initio and shall not be recognized by 46
this state. 47

(2) Any marriage entered into by persons of the same sex 48
in any other jurisdiction shall be considered and treated in all 49
respects as having no legal force or effect in this state and 50
shall not be recognized by this state. 51

(3) The recognition or extension by the state of the 52
specific statutory benefits of a legal marriage to nonmarital 53
relationships between persons of the same sex or different sexes 54
is against the strong public policy of this state. Any public 55
act, record, or judicial proceeding of this state, as defined in 56
section 9.82 of the Revised Code, that extends the specific 57
statutory benefits of legal marriage to nonmarital relationships 58
between persons of the same sex or different sexes is void ab 59
initio. Nothing in division ~~(C)~~ (B) (3) of this section shall be 60
construed to do either of the following: 61

(a) Prohibit the extension of specific benefits otherwise 62
enjoyed by all persons, married or unmarried, to nonmarital 63
relationships between persons of the same sex or different 64
sexes, including the extension of benefits conferred by any 65
statute that is not expressly limited to married persons, which 66
includes but is not limited to benefits available under Chapter 67
4117. of the Revised Code; 68

(b) Affect the validity of private agreements that are 69
otherwise valid under the laws of this state. 70

(4) Any public act, record, or judicial proceeding of any 71
other state, country, or other jurisdiction outside this state 72
that extends the specific benefits of legal marriage to 73

nonmarital relationships between persons of the same sex or 74
different sexes shall be considered and treated in all respects 75
as having no legal force or effect in this state and shall not 76
be recognized by this state. 77

Sec. 3101.02. (A) If both persons to be joined in marriage 78
are the age of seventeen years, they may be joined in marriage 79
only if the juvenile court has filed a consent to the marriage 80
under section 3101.04 of the Revised Code. 81

(B) If only one person is the age of seventeen years, that 82
person may be joined in marriage only if both of the following 83
apply: 84

(1) The juvenile court has filed a consent to the marriage 85
under section 3101.04 of the Revised Code. 86

(2) The other person to be joined in marriage is not more 87
than four years older. 88

Sec. 3101.04. When the juvenile court files a consent to 89
marriage pursuant to the juvenile rules, the probate court may 90
~~thereupon~~ issue a license not earlier than fourteen calendar 91
days after the juvenile court files the consent, notwithstanding 92
either or both the contracting parties for the marital relation 93
are ~~under the minimum age prescribed in section 3101.01 of the~~ 94
~~Revised Code of seventeen years.~~ The license shall not issue 95
until section 3101.05 of the Revised Code has been complied 96
with, ~~and until such child has been born, or it is found beyond~~ 97
~~doubt by the juvenile court that the minor female is pregnant~~ 98
~~and intends to have the child. 99~~

Sec. 3101.041. In determining whether to file the consent 100
under section 3101.04 of the Revised Code, the juvenile court 101
shall do all of the following: 102

<u>(A) Consult with any of the following for each party to</u>	103
<u>the intended marriage who is seventeen years of age:</u>	104
<u>(1) A parent;</u>	105
<u>(2) A surviving parent;</u>	106
<u>(3) A parent who is designated the residential parent and</u>	107
<u>legal custodian by a court of competent jurisdiction;</u>	108
<u>(4) A guardian;</u>	109
<u>(5) Either of the following who has been awarded permanent</u>	110
<u>custody by a court exercising juvenile jurisdiction:</u>	111
<u>(a) An adult person;</u>	112
<u>(b) The department of job and family services or any child</u>	113
<u>welfare organization certified by the department.</u>	114
<u>(B) Appoint an attorney as guardian ad litem for each</u>	115
<u>party to the intended marriage who is seventeen years of age;</u>	116
<u>(C) Determine all of the following:</u>	117
<u>(1) Each party to the intended marriage who is seventeen</u>	118
<u>years of age has entered the armed services of the United</u>	119
<u>States, has become employed and self-subsisting, or has</u>	120
<u>otherwise become independent from the care and control of the</u>	121
<u>party's parent, guardian, or custodian.</u>	122
<u>(2) For each party to the intended marriage who is</u>	123
<u>seventeen years of age, the decision of that party to marry is</u>	124
<u>free from force or coercion.</u>	125
<u>(3) The intended marriage and the emancipation under</u>	126
<u>section 3101.042 of the Revised Code is in the best interests of</u>	127
<u>each party to the intended marriage who is seventeen years of</u>	128
<u>age.</u>	129

Sec. 3101.042. When the juvenile court files a consent to 130
marriage pursuant to the juvenile rules, the court shall also 131
issue an order regarding each party to the marriage who is 132
seventeen years of age. The court order shall specify that the 133
party has the capacity of an eighteen-year-old person as 134
described in section 3109.011 of the Revised Code. 135

Sec. 3101.05. (A) The parties to a marriage shall make an 136
application for a marriage license. Each of the persons seeking 137
a marriage license shall personally appear in the probate court 138
within the county where either resides, or, if neither is a 139
resident of this state, where the marriage is expected to be 140
solemnized. If neither party is a resident of this state, the 141
marriage may be solemnized only in the county where the license 142
is obtained. Each party shall make application and shall state 143
upon oath, the party's name, age, residence, place of birth, 144
occupation, father's name, and mother's maiden name, if known, 145
and the name of the person who is expected to solemnize the 146
marriage. If either party has been previously married, the 147
application shall include the names of the parties to any 148
previous marriage and of any minor children, and if divorced the 149
jurisdiction, date, and case number of the decree. If either 150
applicant is ~~under the age of eighteen-seventeen~~ years, the 151
judge shall require the applicants to state that they received 152
marriage counseling satisfactory to the court. Except as 153
otherwise provided in this division, the application also shall 154
include each party's social security number. In lieu of 155
requiring each party's social security number on the 156
application, the court may obtain each party's social security 157
number, retain the social security numbers in a separate record, 158
and allow a number other than the social security number to be 159
used on the application for reference purposes. If a court 160

allows the use of a number other than the social security number 161
to be used on the application for reference purposes, the record 162
containing the social security number is not a public record, 163
except that, in any of the circumstances set forth in divisions 164
~~(A) (1) to (4)~~ (C) (1) to (5) of section 3101.051 of the Revised 165
Code, the record containing the social security number shall be 166
made available for inspection under section 149.43 of the 167
Revised Code. 168

Immediately upon receipt of an application for a marriage 169
license, the court shall place the parties' record in a book 170
kept for that purpose. If the probate judge is satisfied that 171
there is no legal impediment and if one or both of the parties 172
are present, the probate judge shall grant the marriage license. 173

If the judge is satisfied from the affidavit of a 174
reputable physician in active practice and residing in the 175
county where the probate court is located, that one of the 176
parties is unable to appear in court, by reason of illness or 177
other physical disability, a marriage license may be granted 178
upon application and oath of the other party to the contemplated 179
marriage; but in that case the person who is unable to appear in 180
court, at the time of making application for a marriage license, 181
shall make and file in that court, an affidavit setting forth 182
the information required of applicants for a marriage license. 183

A probate judge may grant a marriage license under this 184
section at any time after the application is made. 185

A marriage license issued shall not display the social 186
security number of either party to the marriage. 187

Each person seeking a marriage license shall present 188
documentary proof of age in the form of any one of the 189

<u>following:</u>	190
<u>(1) A copy of a birth record;</u>	191
<u>(2) A birth certificate issued by the department of</u>	192
<u>health, a local registrar of vital statistics, or other public</u>	193
<u>office charged with similar duties by the laws of another state,</u>	194
<u>territory, or country;</u>	195
<u>(3) A baptismal record showing the person's date of birth;</u>	196
<u>(4) A passport;</u>	197
<u>(5) A license or permit to operate a motor vehicle as</u>	198
<u>defined under section 4501.01 of the Revised Code;</u>	199
<u>(6) Any government- or school-issued identification card</u>	200
<u>showing the person's date of birth;</u>	201
<u>(7) An immigration record showing the person's date of</u>	202
<u>birth;</u>	203
<u>(8) A naturalization record showing the person's date of</u>	204
<u>birth;</u>	205
<u>(9) A court record or any other document or record issued</u>	206
<u>by a governmental entity showing the person's date of birth.</u>	207
(B) An applicant for a marriage license who knowingly	208
makes a false statement in an application or affidavit	209
prescribed by this section is guilty of falsification under	210
section 2921.13 of the Revised Code.	211
(C) No licensing officer shall issue a marriage license if	212
the officer has not received the application, affidavit, or	213
other statements prescribed by this section or if the officer	214
has reason to believe that any of the statements in a marriage	215
license application or in an affidavit prescribed by this	216

section are false. 217

(D) Any fine collected for violation of this section shall 218
be paid to the use of the county together with the costs of 219
prosecution. 220

Sec. 3109.011. A person granted consent to marry under 221
section 3101.04 of the Revised Code has the capacity of a person 222
of the age of eighteen years or more, as described in section 223
3109.01 of the Revised Code, except that the person is not a 224
qualified elector for purposes of Chapter 3503. of the Revised 225
Code. 226

Section 2. That existing sections 3101.01, 3101.04, and 227
3101.05 and sections 3101.02 and 3101.03 of the Revised Code are 228
hereby repealed. 229