

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 511**

**Representatives Lanese, Rogers**

**Cosponsors: Representatives Rezabek, Antonio, Fedor**

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**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