

**As Reported by the Senate Judiciary Committee**

**132nd General Assembly**

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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**

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**A BILL**

To amend sections 3101.01, 3101.04, and 3101.05, to 1  
enact new section 3101.02 and sections 3101.041, 2  
3101.042, and 3109.011, and to repeal sections 3  
3101.02 and 3101.03 of the Revised Code to make 4  
changes to the laws governing the ages at which 5  
persons may marry. 6

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

**Section 1.** That sections 3101.01, 3101.04, and 3101.05 be 7  
amended and new section 3101.02 and sections 3101.041, 3101.042, 8  
and 3109.011 of the Revised Code be enacted to read as follows: 9

**Sec. 3101.01.** (A) ~~Male~~ Except as provided in section 10  
3101.02 of the Revised Code, only male persons of the age of 11  
eighteen years, and only female persons of the age of ~~sixteen~~ 12  
~~eighteen~~ years, not nearer of kin than second cousins, and not 13  
having a husband or wife living, may be joined in marriage. A 14  
marriage may only be entered into by one man and one woman. ~~A~~ 15

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

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

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

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

~~(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.~~ 26-41

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

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 marriage pursuant to the juvenile rules, the court shall also issue an order regarding each party to the marriage who is seventeen years of age. The court order shall specify that the party has the capacity of an eighteen-year-old person as described in section 3109.011 of the Revised Code.

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

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