

As Introduced

132nd General Assembly

Regular Session

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S. B. No. 198

Senator Yuko

Cosponsors: Senators Tavares, Thomas, Sykes, O'Brien, Schiavoni

A BILL

To amend sections 3101.01, 3101.02, 3101.03, 1
3101.04, and 3101.05, to amend, for the purpose 2
of adopting new section numbers as indicated in 3
parentheses, sections 3101.02 (3101.023) and 4
3101.03 (3101.024), and to enact new section 5
3101.02 and sections 3101.021 and 3101.022 of 6
the Revised Code to make changes to the laws 7
governing the ages for which persons may marry. 8

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

Section 1. That sections 3101.01, 3101.02, 3101.03, 9
3101.04, and 3101.05 be amended; sections 3101.02 (3101.023) and 10
3101.03 (3101.024) be amended for the purpose of adopting new 11
section numbers as indicated in parentheses; and new section 12
3101.02 and sections 3101.021 and 3101.022 of the Revised Code 13
be enacted to read as follows: 14

Sec. 3101.01. (A) ~~Male~~ Except as provided in section 15
3101.02 of the Revised Code, only persons of the age of eighteen 16
~~years, and female persons of the age of sixteen years,~~ not 17
nearer of kin than second cousins, and not having a husband or 18

wife living, may be joined in marriage. ~~A marriage may only be~~ 19
~~entered into by one man and one woman. A minor shall first~~ 20
~~obtain the consent of the minor's parents, surviving parent,~~ 21
~~parent who is designated the residential parent and legal~~ 22
~~custodian of the minor by a court of competent jurisdiction,~~ 23
~~guardian, or any one of the following who has been awarded~~ 24
~~permanent custody of the minor by a court exercising juvenile~~ 25
~~jurisdiction:~~ 26

~~(1) An adult person;~~ 27

~~(2) The department of job and family services or any child-~~ 28
~~welfare organization certified by the department;~~ 29

~~(3) A public children services agency.~~ 30

~~(B) For the purposes of division (A) of this section, a~~ 31
~~minor shall not be required to obtain the consent of a parent~~ 32
~~who resides in a foreign country, has neglected or abandoned the~~ 33
~~minor for a period of one year or longer immediately preceding~~ 34
~~the minor's application for a marriage license, has been~~ 35
~~adjudged incompetent, is an inmate of a state mental or~~ 36
~~correctional institution, has been permanently deprived of~~ 37
~~parental rights and responsibilities for the care of the minor~~ 38
~~and the right to have the minor live with the parent and to be~~ 39
~~the legal custodian of the minor by a court exercising juvenile~~ 40
~~jurisdiction, or has been deprived of parental rights and~~ 41
~~responsibilities for the care of the minor and the right to have~~ 42
~~the minor live with the parent and to be the legal custodian of~~ 43
~~the minor by the appointment of a guardian of the person of the~~ 44
~~minor by the probate court or by another court of competent~~ 45
~~jurisdiction.~~ 46

~~(C) (1) Any marriage between persons of the same sex is~~ 47

~~against the strong public policy of this state. Any marriage
between persons of the same sex shall have no legal force or
effect in this state and, if attempted to be entered into in
this state, is void ab initio and shall not be recognized by
this state.~~

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

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

~~(a) (1) Prohibit the extension of specific benefits
otherwise enjoyed by all persons, married or unmarried, to
nonmarital relationships between persons of the same sex or
different sexes, including the extension of benefits conferred
by any statute that is not expressly limited to married persons,
which includes but is not limited to benefits available under
Chapter 4117. of the Revised Code;~~

~~(b) (2) Affect the validity of private agreements that are
otherwise valid under the laws of this state.~~

~~(4) (C) Any public act, record, or judicial proceeding of~~

any other state, country, or other jurisdiction outside this 77
state that extends the specific benefits of legal marriage to 78
nonmarital relationships between persons of the same sex or 79
different sexes shall be considered and treated in all respects 80
as having no legal force or effect in this state and shall not 81
be recognized by this state. 82

Sec. 3101.02. Persons of the age of sixteen or seventeen 83
years may be joined in marriage if both of the following apply: 84

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

(B) The person has obtained consent as provided in 87
sections 3101.021 to 3101.024 of the Revised Code. 88

Sec. 3101.021. To satisfy the requirement of division (B) 89
of section 3101.02 of the Revised Code, the person seeking 90
consent to be joined in marriage shall obtain the consent of the 91
person's parents, surviving parent, parent who is designated the 92
residential parent and legal custodian of the person by a court 93
of competent jurisdiction, guardian, or any one of the following 94
who has been awarded permanent custody of the person by a court 95
exercising juvenile jurisdiction: 96

(A) An adult person; 97

(B) The department of job and family services or any child 98
welfare organization certified by the department; 99

(C) A public children services agency. 100

Sec. 3101.022. For the purposes of section 3101.021 of the 101
Revised Code, a person shall not be required to obtain the 102
consent of a parent who meets any of the following: 103

(A) Resides in a foreign country; 104

(B) Has neglected or abandoned the person for a period of 105
one year or longer immediately preceding the person's 106
application for a marriage license; 107

(C) Has been adjudged incompetent; 108

(D) Is an inmate of a state mental or correctional 109
institution; 110

(E) Has been permanently deprived of parental rights and 111
responsibilities for the care of the person, the right to have 112
the person live with the parent, and the right to be the legal 113
custodian of the person by a court exercising juvenile 114
jurisdiction; 115

(F) Has been deprived of parental rights and 116
responsibilities for the care of the person, the right to have 117
the person live with the parent, and the right to be the legal 118
custodian of the person by the appointment of a guardian of the 119
person by the probate court or by another court of competent 120
jurisdiction. 121

Sec. ~~3101.02~~ 3101.023. Any consent required under section 122
~~3101.01-3101.021~~ of the Revised Code shall be personally given 123
before the probate judge or a deputy clerk of the probate court, 124
or certified under the hand of the person consenting, by two 125
witnesses, one of whom shall appear before the judge and make 126
oath that the witness saw the person whose name is annexed to 127
the certificate subscribe it, or heard the person consenting 128
acknowledge it. 129

Sec. ~~3101.03~~ 3101.024. ~~If~~ For the purposes of section 130
3101.021 of the Revised Code, if the parent or guardian of a 131
~~minor person applying for a marriage license~~ is a nonresident 132
of, or is absent from, the county in which the marriage license 133

is applied for, the parent or guardian personally may appear 134
before the official upon whose authority marriage licenses are 135
issued in the county in which the parent or guardian is at the 136
time domiciled, and give consent in writing to that marriage. 137
The consent shall be attested to by two witnesses, certified to 138
by that official, and forwarded to the probate judge of the 139
county in which the license is applied for. The probate judge 140
may administer any oath required, issue and sign the license, 141
and affix the seal of the probate court. 142

Sec. 3101.04. When the juvenile court files a consent to 143
marriage pursuant to the juvenile rules, the probate court may 144
thereupon issue a license, notwithstanding either or both the 145
contracting parties for the marital relation are ~~under the~~ 146
~~minimum age prescribed in section 3101.01 of the Revised Code~~ 147
~~sixteen or seventeen years.~~ The license shall not issue until 148
section 3101.05 of the Revised Code has been complied with, ~~and~~ 149
~~until such child has been born, or it is found beyond doubt by~~ 150
~~the juvenile court that the minor female is pregnant and intends~~ 151
~~to have the child.~~ 152

Sec. 3101.05. (A) The parties to a marriage shall make an 153
application for a marriage license. Each of the persons seeking 154
a marriage license shall personally appear in the probate court 155
within the county where either resides, or, if neither is a 156
resident of this state, where the marriage is expected to be 157
solemnized. If neither party is a resident of this state, the 158
marriage may be solemnized only in the county where the license 159
is obtained. Each party shall make application and shall state 160
upon oath, the party's name, age, residence, place of birth, 161
occupation, father's name, and mother's maiden name, if known, 162
and the name of the person who is expected to solemnize the 163
marriage. If either party has been previously married, the 164

application shall include the names of the parties to any 165
previous marriage and of any minor children, and if divorced the 166
jurisdiction, date, and case number of the decree. If either 167
applicant is ~~under the age of eighteen~~ sixteen or seventeen 168
years, the judge shall require the applicants to state that they 169
received marriage counseling satisfactory to the court. Except 170
as otherwise provided in this division, the application also 171
shall include each party's social security number. In lieu of 172
requiring each party's social security number on the 173
application, the court may obtain each party's social security 174
number, retain the social security numbers in a separate record, 175
and allow a number other than the social security number to be 176
used on the application for reference purposes. If a court 177
allows the use of a number other than the social security number 178
to be used on the application for reference purposes, the record 179
containing the social security number is not a public record, 180
except that, in any of the circumstances set forth in divisions 181
~~(A) (1) to (4)~~ (C) (1) to (5) of section 3101.051 of the Revised 182
Code, the record containing the social security number shall be 183
made available for inspection under section 149.43 of the 184
Revised Code. 185

Immediately upon receipt of an application for a marriage 186
license, the court shall place the parties' record in a book 187
kept for that purpose. If the probate judge is satisfied that 188
there is no legal impediment and if one or both of the parties 189
are present, the probate judge shall grant the marriage license. 190

If the judge is satisfied from the affidavit of a 191
reputable physician in active practice and residing in the 192
county where the probate court is located, that one of the 193
parties is unable to appear in court, by reason of illness or 194
other physical disability, a marriage license may be granted 195

upon application and oath of the other party to the contemplated marriage; but in that case the person who is unable to appear in court, at the time of making application for a marriage license, shall make and file in that court, an affidavit setting forth the information required of applicants for a marriage license.

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

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

(B) An applicant for a marriage license who knowingly makes a false statement in an application or affidavit prescribed by this section is guilty of falsification under section 2921.13 of the Revised Code.

(C) No licensing officer shall issue a marriage license if the officer has not received the application, affidavit, or other statements prescribed by this section or if the officer has reason to believe that any of the statements in a marriage license application or in an affidavit prescribed by this section are false.

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

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