

HOUSE BILL 438

D4

2lr0139
CF SB 241

By: **The Speaker (By Request – Administration) and Delegates Anderson, Barkley, Barnes, Barve, Bobo, Bromwell, Busch, Cardin, Carr, Clagett, Clippinger, Cullison, Dumais, Feldman, Frick, Frush, Gaines, Gilchrist, Gutierrez, Guzzone, Hammen, Haynes, Hixson, Hubbard, Hucker, Ivey, Jones, Kaiser, A. Kelly, Kramer, Lafferty, Lee, Luedtke, McHale, McIntosh, A. Miller, Mitchell, Mizeur, Murphy, Niemann, Pena–Melnyk, Pendergrass, Reznik, B. Robinson, S. Robinson, Rosenberg, Ross, Simmons, Stein, Summers, Tarrant, F. Turner, Valderrama, Waldstreicher, Washington, and Zucker**

Introduced and read first time: February 1, 2012

Assigned to: Judiciary and Health and Government Operations

Committee Report: Favorable

House action: Adopted with floor amendments

Read second time: February 16, 2012

CHAPTER _____

1 AN ACT concerning

2 **Civil Marriage Protection Act**

3 FOR the purpose of altering a provision of law establishing that only certain
4 marriages are valid in this State; making stylistic and conforming changes in
5 certain provisions of law prohibiting marriages within certain degrees of
6 relationship; prohibiting certain officials from being required to solemnize or
7 officiate a particular marriage or religious rite of a marriage in violation of a
8 certain constitutional right; establishing that certain religious entities have
9 exclusive control over their own theological doctrine, policy teachings, or beliefs
10 regarding who may marry within that faith; prohibiting certain officials from
11 being subject to any fine or penalty for failing or refusing to join individuals in
12 marriage; prohibiting certain religious entities from being required to provide
13 services, accommodations, advantages, facilities, goods, or privileges to an
14 individual under certain circumstances; providing that a certain refusal by a
15 certain religious entity or an individual employed by a certain religious entity
16 may not create a civil claim or cause of action or result in any State action to
17 penalize, withhold benefits from, or discriminate against such entities or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



individuals; prohibiting certain fraternal benefit societies from being required to admit an individual as a member or provide insurance benefits to an individual under certain circumstances; providing that a certain refusal by a certain fraternal benefit society may not create a civil claim or cause of action or constitute the basis for the withholding of governmental benefits or services from the fraternal benefit society; providing for the construction of this Act; providing for a delayed effective date; making this Act contingent on the resolution of certain litigation under certain circumstances; declaring that the provisions of this Act are not severable; and generally relating to valid marriages and religious freedom.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 2–201 and 2–202
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Family Law

2–201.

(A) THIS SECTION MAY NOT BE CONSTRUED TO INVALIDATE ANY OTHER PROVISION OF THIS TITLE.

(B) Only a marriage between [a man and a woman] TWO INDIVIDUALS WHO ARE NOT OTHERWISE PROHIBITED FROM MARRYING is valid in this State.

2–202.

(a) Any marriage performed in this State that is prohibited by this section is void.

(b) (1) [A man] **AN INDIVIDUAL** may not marry [his] **THE INDIVIDUAL’S:**

(i) grandmother;

(ii) mother;

(iii) daughter;

(iv) sister; or

1 (v) granddaughter.

2 (2) A woman may not marry her:

3 (i) grandfather;

4 (ii) father;

5 (iii) son;

6 (iv) brother; or

7 (v) grandson]

8 **(I) GRANDPARENT;**

9 **(II) PARENT;**

10 **(III) CHILD;**

11 **(IV) SIBLING; OR**

12 **(V) GRANDCHILD.**

13 **[(3)] (2)** An individual who violates any provision of this subsection
14 is guilty of a misdemeanor and on conviction is subject to a fine of \$1,500.

15 (c) (1) [A man] **AN INDIVIDUAL** may not marry [his] **THE**
16 **INDIVIDUAL'S:**

17 [(i) grandfather's wife;

18 (ii) wife's grandmother;

19 (iii) father's sister;

20 (iv) mother's sister;

21 (v) stepmother;

22 (vi) wife's mother;

23 (vii) wife's daughter;

24 (viii) son's wife;

- 1 (ix) grandson's wife;
- 2 (x) wife's granddaughter;
- 3 (xi) brother's daughter; or
- 4 (xii) sister's daughter.

5 (2) A woman may not marry her:

- 6 (i) grandmother's husband;
 - 7 (ii) husband's grandfather;
 - 8 (iii) father's brother;
 - 9 (iv) mother's brother;
 - 10 (v) stepfather;
 - 11 (vi) husband's father;
 - 12 (vii) husband's son;
 - 13 (viii) daughter's husband;
 - 14 (ix) husband's grandson;
 - 15 (x) brother's son;
 - 16 (xi) sister's son; or
 - 17 (xii) granddaughter's husband]
- 18 **(I) GRANDPARENT'S SPOUSE;**
 - 19 **(II) SPOUSE'S GRANDPARENT;**
 - 20 **(III) PARENT'S SIBLING;**
 - 21 **(IV) STEPPARENT;**
 - 22 **(V) SPOUSE'S PARENT;**
 - 23 **(VI) SPOUSE'S CHILD;**

1 **(VII) CHILD’S SPOUSE;**

2 **(VIII) GRANDCHILD’S SPOUSE;**

3 **(IX) SPOUSE’S GRANDCHILD; OR**

4 **(X) SIBLING’S CHILD.**

5 **[(3)] (2)** An individual who violates any provision of this subsection
6 is guilty of a misdemeanor and on conviction is subject to a fine of \$500.

7 SECTION 2. AND BE IT FURTHER ENACTED, That an official of a religious
8 order or body authorized by the rules and customs of that order or body to perform a
9 marriage ceremony may not be required to solemnize or officiate any particular
10 marriage or religious rite of any marriage in violation of the right to free exercise of
11 religion guaranteed by the First Amendment to the United States Constitution and by
12 the Maryland Constitution and Maryland Declaration of Rights. Each religious
13 organization, association, or society has exclusive control over its own theological
14 doctrine, policy teachings, and beliefs regarding who may marry within that faith. An
15 official of a religious order or body authorized to join individuals in marriage under §
16 2-406(a)(2)(i) of the Family Law Article and who fails or refuses to join individuals in
17 marriage is not subject to any fine or other penalty for the failure or refusal.

18 SECTION 3. AND BE IT FURTHER ENACTED, That:

19 (a) Notwithstanding any other provision of law, a religious organization,
20 association, or society, or any nonprofit institution or organization operated,
21 supervised, or controlled by a religious organization, association, or society, may not be
22 required to provide services, accommodations, advantages, facilities, goods, or
23 privileges to an individual if the request for the services, accommodations, advantages,
24 facilities, goods, or privileges is related to:

25 (1) the solemnization of a marriage or celebration of a marriage that is
26 in violation of the entity’s religious beliefs; or

27 (2) the promotion of marriage through any social or religious programs
28 or services, in violation of the entity’s religious beliefs, unless State or federal funds
29 are received for that specific program or service.

30 (b) A refusal by an entity described in subsection (a) of this section, or of any
31 individual who is employed by an entity described in subsection (a) of this section, to
32 provide services, accommodations, advantages, facilities, goods, or privileges in
33 accordance with subsection (a) of this section may not create a civil claim or cause of
34 action or result in any State action to penalize, withhold benefits from, or discriminate
35 against the entity or individual.

1 (c) Nothing in this Act shall be deemed or construed to prohibit any religious
2 organization, association, or society, or any nonprofit institution or organization
3 operated, supervised, or controlled by a religious organization, association, or society,
4 from limiting admission to or giving preferences to individuals of the same religion or
5 denomination when otherwise permitted by law.

6 SECTION 4. AND BE IT FURTHER ENACTED, That:

7 (a) Notwithstanding any other provision of law, a fraternal benefit society
8 described in § 8–402 of the Insurance Article that is operated, supervised, or controlled
9 by a religious organization may not be required to admit an individual as a member or
10 to provide insurance benefits to an individual if to do so would violate the society's
11 religious beliefs.

12 (b) A refusal by a fraternal benefit society described in subsection (a) of this
13 section to admit an individual as a member or to provide insurance benefits to an
14 individual may not create a civil claim or cause of action or constitute the basis for the
15 withholding of governmental benefits or services from the fraternal benefit society.

16 SECTION 5. AND BE IT FURTHER ENACTED, That, if a petition to refer this
17 Act to the people is filed with the Secretary of State in accordance with Article XVI of
18 the Maryland Constitution and Title 6 of the Election Law Article, and a dispute
19 arises as to the validity or sufficiency of the signatures required to complete the
20 referendum petition as provided under Title 6 of the Election Law Article, this Act
21 shall not take effect until the resolution of any litigation resulting from the dispute.

22 SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding the
23 provisions of Article 1, § 23 of the Annotated Code of Maryland, the provisions of this
24 Act are not severable, and if any provision of this Act or the application thereof to any
25 person or circumstance is held invalid for any reason in a court of competent
26 jurisdiction, no other provision or application of this Act may be given effect and this
27 Act shall be null and void.

28 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to Section 5 of
29 this Act, this Act shall take effect ~~October 1, 2012~~ January 1, 2013.