

# AN ACT

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, 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:~~

(1) An adult person;

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

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

(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.~~

(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 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)~~(B)(3) of this section shall be construed to do either of the following:

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

(4) Any public act, record, or judicial proceeding of any other state, country, or other jurisdiction outside this state that extends the specific benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes 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.

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

(B) If only one person is the age of seventeen years, that person may be joined in marriage only 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) The other person to be joined in marriage is not more than four years older.

~~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 not earlier than fourteen calendar days after the juvenile court files the consent, 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 under section 3101.04 of the Revised Code, the juvenile court shall do all of the following:

(A) Consult with any of the following for each party to the intended marriage who is seventeen years of age:

(1) A parent;

(2) A surviving parent;

(3) A parent who is designated the residential parent and legal custodian by a court of competent jurisdiction;

(4) A guardian;

(5) Either of the following who has been awarded permanent custody by a court exercising juvenile jurisdiction:

(a) An adult person;

(b) The department of job and family services or any child welfare organization certified by the department.

(B) Appoint an attorney as guardian ad litem for each party to the intended marriage who is seventeen years of age;

(C) Determine all of the following:

(1) Each party to the intended marriage who is seventeen years of age has entered the armed services of the United States, has become employed and self-subsisting, or has otherwise become independent from the care and control of the party's parent, guardian, or custodian.

(2) For each party to the intended marriage who is seventeen years of age, the decision of that party to marry is free from force or coercion.

(3) The intended marriage and the emancipation under section 3101.042 of the Revised Code is in the best interests of each party to the intended marriage who is seventeen years of age.

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 to be used on the application for reference purposes, the record containing the social security number is not a public record, except that, in any of the circumstances set forth in divisions ~~(A)(1) to (4)~~ (C)(1) to (5) of section 3101.051 of the Revised Code, the record containing the social security number shall be made available for inspection under section 149.43 of the Revised Code.

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

license.

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

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

- (1) A copy of a birth record;
- (2) A birth certificate issued by the department of health, a local registrar of vital statistics, or other public office charged with similar duties by the laws of another state, territory, or country;
- (3) A baptismal record showing the person's date of birth;
- (4) A passport;
- (5) A license or permit to operate a motor vehicle as defined under section 4501.01 of the Revised Code;
- (6) Any government- or school-issued identification card showing the person's date of birth;
- (7) An immigration record showing the person's date of birth;
- (8) A naturalization record showing the person's date of birth;
- (9) A court record or any other document or record issued by a governmental entity showing the person's date of birth.

(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.

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

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

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_