



Aida S. Montano

Bill Analysis
Legislative Service Commission

Sub. H.B. 234*

124th General Assembly
(As Reported by H. Civil and Commercial Law)

Reps. Seitz, Reidelbach, Schmidt, Seaver, Hagan, Roman, Willamowski, Setzer, Carey, Raga, Schneider, Brinkman, Kearns, Evans, Fessler, Grendell, Schaffer, White, Collier, Niehaus, Faber, Webster, Gilb, Williams, Blasdel, Lendrum, Young, Latta, Wolpert, Flowers, Stapleton, Cates, Callender, Husted, Clancy, Schuring, DeWine, Hughes, Buehrer, Aslanides

BILL SUMMARY

- Specifically declares that same-sex marriages are against the strong public policy of the state of Ohio and have no legal force or effect in this state.
- Provides that same-sex marriages entered into in another jurisdiction have no legal force or effect in Ohio.
- Declares that the recognition or extension of the specific statutory benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes is against the strong public policy of the state of Ohio.
- Provides that any other jurisdiction's extension of the specific benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes has no legal force or effect in Ohio.
- Makes other declarations regarding same-sex marriages.

* *This analysis was prepared before the report of the House Civil and Commercial Law Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

CONTENT AND OPERATION

Marriage Law

Continuing law

Under the Marriage Law, *male* persons of the age of 18 years, and *female* persons of the age of 16 years, not nearer of kin than second cousins, and not having a husband or wife living, may be joined in marriage. The Marriage Law specifies the requirements for a minor to obtain the consent of the minor's parents or others and the exceptions to those requirements. (R.C. 3101.01.)

Operation of the bill

The bill specifically provides that a marriage may only be entered into by one man and one woman (R.C. 3101.01(A)).

The bill declares that any marriage between persons of the same sex is against the strong public policy of the state of Ohio. It states that any marriage between persons of the same sex has no legal force or effect in Ohio and, if attempted to be entered into in Ohio, is void ab initio (see **COMMENT 1**) and must not be recognized by this state. The bill further provides that any marriage entered into by persons of the same sex in any other jurisdiction must be considered and treated in all respects as having no legal force or effect in Ohio and must not be recognized by this state. (R.C. 3101.01(C)(1) and (2).)

The bill declares that the recognition or extension 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 the state of Ohio. It specifies that any public act, record, or judicial proceeding of this state, as defined in R.C. 9.82, 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. R.C. 9.82(A) defines "state" to mean the state of Ohio, including, but not limited to, the General Assembly, the Supreme Court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio and to not include political subdivisions.

The bill provides that nothing in this provision prohibits 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. (R.C. 3101.01(C)(3)(a).)

The bill further declares that any public act, record, or judicial proceeding of any other state, country, or other jurisdiction outside Ohio that extends the specific benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes must be considered and treated in all respects as having no legal force or effect in Ohio and must not be recognized by this state (R.C. 3101.01(C)(4)).

Intent clause

The bill specifies that in enacting new division (C) of R.C. 3101.01 as described above, all the following apply (Section 3):

(1) The General Assembly declares and reaffirms the state of Ohio's historical commitment to the institution of marriage as a union between a man and a woman as husband and wife.

(2) The General Assembly declares its intent to define marriage and clarify that relationships that are intended as substitutes for marriage, including but not limited to "civil unions" as provided for in 15 V.S.A. §1202 (2000) (see **COMMENT 2**), will not be recognized in Ohio. It is not the intent of the General Assembly to prohibit the extension of specific benefits otherwise enjoyed by all persons, married or unmarried, to relationships between persons of the same sex or different sexes.

(3) The General Assembly declares its intent not to make substantive changes in the law of this state that is in effect on the day prior to the effective date of the act with respect to the validity of marriages heretofore occurring within this state.

COMMENT

1. *Void ab initio* means null from the beginning, as from the first moment when a contract is entered into. A contract is void ab initio if it seriously offends law or public policy, in contrast to a contract that is merely voidable at the election of one party to the contract. (Black's Law Dictionary, 7th Edition, 1999.)

2. 15 V.S.A. 1202 (2001) prescribes the requirements for a valid civil union in Vermont as follows:

For a civil union to be established in Vermont, it shall be necessary that the parties to a civil union satisfy all of the following criteria:

(1) Not be a party to another civil union or a marriage.

(2) Be of the same sex and therefore excluded from the marriage laws of this state.

(3) Meet the criteria and obligations set forth in 18 V.S.A. chapter 106 (Civil unions--records and licenses).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-01-01	p. 324
Reported, H. Civil & Commercial Law	---	---

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