



**Sub. H.B. 272**

125th General Assembly  
(As Passed by the General Assembly)

**Reps.** Seitz, McGregor, Calvert, Fessler, Wolpert, Hoops, Clancy, Schmidt, Willamowski, Schneider, Setzer, Aslanides, Raga, Young, Wagner, Webster, Buehrer, Daniels, Collier, Hagan, Cates, Schaffer, Gilb, Reidelbach, Niehaus, Latta, Seaver, Faber, D. Evans, Flowers, Taylor, Grendell, Brinkman, Blasdel, Distel, C. Evans, Gibbs, Jolivette, Martin, Raussen, Schlichter, White, Widener

**Sens.** Harris, Blessing, Amstutz, Carey, Hottinger, Jordan, Wachtmann, Padgett

**Effective date:** \*

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**ACT SUMMARY**

- 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 by the state 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.

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

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## CONTENT AND OPERATION

### Marriage law

(R.C. 3101.01 and 3105.12)

Under continuing Ohio law, males of the age of 18 years, and females 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 act specifically provides that a marriage may only be entered into by one man and one woman.

The act declares that any marriage between persons of the same sex ("same-sex marriage") is against the strong public policy of the state of Ohio. It states that any same-sex marriage has no legal force or effect in Ohio and, if attempted to be entered into in Ohio, is void ab initio and is not to be recognized by the state.<sup>1</sup> The act further provides that any same-sex marriage entered into in any other jurisdiction is to be treated in all respects as having no legal force or effect in Ohio and is not to be recognized by this state.

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 also declared to be against the strong public policy of the state. The act specifies that any public act, record, or judicial proceeding of this state 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. For purposes of this provision, "state" means the state of Ohio, including 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. "State" does not include political subdivisions.

This provision does not, however, 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 a statute *not expressly limited to married persons*, which includes but is not limited to benefits available under the Public

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<sup>1</sup> 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 ed. 1999.

Employees' Collective Bargaining Law (R.C. Chapter 4117.). This provision also does not affect the validity of private agreements that are otherwise valid under Ohio law.

Under the act, 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 has no legal force or effect in Ohio and is not recognized by the state.

Lastly, the act provides that a common law marriage occurring in another state or nation that recognizes the validity of common law marriages continues to be valid in this state, provided that it is not otherwise deemed invalid under the act.

**Intent clause**

(Section 3)

The act specifies that the General Assembly:

(1) 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) Declares its intent to define marriage and clarify that relationships that are intended as substitutes for marriage (see **COMMENT**) will not be recognized in Ohio;

(3) Declares its intent not to prohibit the extension of specific benefits otherwise enjoyed by all persons to relationships between persons of the same sex or different sexes;

(4) Declares its intent not to make substantive changes in the law of this state that is in effect on the day prior to the act's effective date with respect to the validity of marriages heretofore occurring within Ohio.

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**COMMENT**

The act references Vt. Stat. Ann. tit. 15, § 1202, which 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).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-16-03	p. 1058
Reported, H. Juvenile and Family Law	12-09-03	p. 1261
Passed House (73-23)	12-10-03	pp. 1294-1301
Reported, S. Finance & Financial Institutions	01-21-04	p. 1414
Passed Senate (18-15)	01-21-04	pp. 1417-1420
House concurred in Senate amendments (72-22)	02-03-04	pp. 1594-1595

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