



TO: House Community and Family Advancement Committee
FROM: Lisa Wurm, Policy Manager, ACLU of Ohio
DATE: February 15, 2017
RE: House Bill 36

To Chairman Ginter, Vice Chair Conditt, Ranking Minority Member Boyd, and members of the House Community and Family Advancement Committee, my name is Lisa Wurm, policy manager for the American Civil Liberties Union of Ohio (“ACLU of Ohio”), and I appear to present opponent testimony on House Bill 36.

When the U.S. Supreme Court ruled in 2015 that marriage was a right now constitutionally granted to all couples, no matter who they love, nothing about the First Amendment rights of clergy to marry according to their faith tradition was altered, nor has it been altered since then.

Let me be very clear: clergy members are not required to conduct marriages that violate their religious tenets and the ACLU would oppose efforts to require them to do so and would even possibly take legal action. Freedom of religion is one of our most fundamental rights as Americans and that is why it is protected in our state and federal constitutions. The ACLU cherishes this value and has worked hard to defend it for nearly 100 years. We will continue to do so in order to uphold these freedoms, especially people’s right to hold their beliefs.

At the same time, we will not allow the guise of religious freedom to harm others. This is what it means for when religious liberty turns from acting as a shield to a sword. We’ve rejected the sword approach during the civil rights era, when religion was used as a reason to refuse integration in businesses and in our public areas. We need to continue to reject it now.

House Bill 36 is a potentially harmful, unnecessary piece of legislation that only serves to drive a further wedge in our state and sends a message that is counter to what is needed at this time. We need a message of unity, not division based on fear. We can have marriage equality and freedom of religion.

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The ACLU of Ohio and other LGBT groups are hearing from Ohioans who are afraid that marriage equality will be eroded. They wonder if they will continue to be permitted to be present at the hospital for their spouse, receive medical benefits, have legal rights to the custody of their children – to name a few of the many rights and protections afforded to married couples. This is what compelled Jim Obergefell to take his case to the Supreme Court. He didn't want to harm anyone. He wanted dignity in the death of his partner and equal footing in the law.

We also hear from lesbian, gay, and transgender Ohioans who have been fired from their jobs or denied housing because of who they are. There is often little help we can provide because current state law does not treat them equally.

This bill goes further in not treating LGBT Ohioans equally. Beyond re-stating existing constitutional protections, HB 36 adds that "religious societies" can refuse service to gay marriage ceremonies, even if these facilities are commercially open to the public.

The lack of a definition for "religious societies" leaves the door open to potential broad interpretation. This appears to allow groups affiliated, however loosely, with a particular religion, the ability to deny same-sex couples access to areas that have little to do with sincerely held beliefs and are open to the public. Providing these services doesn't mean a group is endorsing anyone's marriage, or agreeing with everything the person believes. It simply means they are providing services to the public and that they are open to everyone on the same terms.

Gay, lesbian, and transgender people are our friends, neighbors, family, and co-workers, who contribute greatly to our state and deserve to be held in the same regard as all Ohioans. In fact, it is these Ohioans who do not have protections in housing, employment, and public accommodations and are being discriminated against. Our legislature should strive to treat these Ohioans equally and fairly under the law, rather than bring legislation forward that would only do harm and send a divisive message.

For these reasons, we urge a "no" vote on HB 36.

Thank you for your consideration. I am happy to answer any questions you have at this time.