SENATE BILL 116

By: Senators Garagiola, Madaleno, Raskin, Ferguson, Forehand, Frosh, Gladden, Jones-Rodwell, Kelley, King, Manno, McFadden, Montgomery, Pinsky, Pugh, Ramirez, Young, and Zirkin

Introduced and read first time: January 21, 2011
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: February 23, 2011

CHAPTER _____

AN ACT concerning

Religious Freedom and Civil Marriage Protection Act

FOR the purpose of altering a provision of law establishing that only certain marriages are valid in this State; making stylistic and conforming changes in certain provisions of law prohibiting marriages within certain degrees of relationship; prohibiting certain officials from being required to solemnize a marriage in violation of a certain constitutional right; prohibiting certain religious entities from being required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual under certain circumstances; 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 certain refusals may not create a civil claim or cause of action or constitute the basis for the withholding of governmental benefits or services from certain entities; providing for the construction of a certain provision of this Act; and generally relating to valid marriages.

BY repealing and reenacting, with amendments,

Article – Family Law
Section 2–201 and 2–202
Annotated Code of Maryland
(2006 Replacement Volume and 2010 Supplement)

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.
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
   (v) granddaughter.

(2) A woman may not marry her:

   (i) grandfather;
   (ii) father;
   (iii) son;
   (iv) brother; or
   (v) grandson.

(I) GRANDPARENT;

(II) PARENT;
(III) CHILD;

(IV) SIBLING; OR

(V) GRANDCHILD.

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

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

(i) grandfather’s wife;

(ii) wife’s grandmother;

(iii) father’s sister;

(iv) mother’s sister;

(v) stepmother;

(vi) wife’s mother;

(vii) wife’s daughter;

(viii) son’s wife;

(ix) grandson’s wife;

(x) wife’s granddaughter;

(xi) brother’s daughter; or

(xii) sister’s daughter.

(2) A woman may not marry her:

(i) grandmother’s husband;

(ii) husband’s grandfather;

(iii) father’s brother;

(iv) mother’s brother;

(v) stepfather;
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(vi) husband’s father;

(vii) husband’s son;

(viii) daughter’s husband;

(ix) husband’s grandson;

(x) brother’s son;

(xi) sister’s son; or

(xii) granddaughter’s husband]

(I) GRANDPARENT’S SPOUSE;

(II) SPOUSE’S GRANDPARENT;

(III) PARENT’S SIBLING;

(IV) STEPPARENT;

(V) SPOUSE’S PARENT;

(VI) SPOUSE’S CHILD;

(VII) CHILD’S SPOUSE;

(VIII) GRANDCHILD’S SPOUSE;

(IX) SPOUSE’S GRANDCHILD; OR

(X) SIBLING’S CHILD.

An individual who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine of $500.

SECTION 2. AND BE IT FURTHER ENACTED, That an official of a religious institution or body authorized to solemnize marriages may not be required to solemnize any marriage in violation of the right to free exercise of religion guaranteed by the First Amendment to the United States Constitution and by the Maryland Constitution and Maryland Declaration of Rights.

SECTION 3. AND BE IT FURTHER ENACTED, That:
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(a) Notwithstanding any other provision of law, a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by a religious organization, association, or society, may not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request for the services, accommodations, advantages, facilities, goods, or privileges is related to:

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

(2) the promotion of marriage, through religious programs, counseling, educational courses, summer camps, and retreats, in violation of the entity’s religious beliefs.

(b) A refusal by an entity described in subsection (a) of this section to provide services, accommodations, advantages, facilities, goods, or privileges in accordance with subsection (a) of this section may not create a civil claim or cause of action or constitute the basis for the withholding of governmental benefits or services from the entity.

SECTION 3. AND BE IT FURTHER ENACTED, That:

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

(b) A refusal by a fraternal benefit society described in subsection (a) of this section to admit an individual as a member or to provide insurance benefits to an individual 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.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.