

HOUSE BILL 438

D4

2lr0139
CF SB 241

By: **The Speaker (By Request – Administration) and Delegates Anderson, Barkley, Barnes, Barve, Bobo, Bromwell, Busch, Cardin, Carr, Clagett, Clippinger, Cullison, Dumais, Feldman, Frick, Frush, Gaines, Gilchrist, Gutierrez, Guzzone, Hammen, Haynes, Hixson, Hubbard, Hucker, Ivey, Jones, Kaiser, A. Kelly, Kramer, Lafferty, Lee, Luedtke, McHale, McIntosh, A. Miller, Mitchell, Mizeur, Murphy, Niemann, Pena–Melnyk, Pendergrass, Reznik, B. Robinson, S. Robinson, Rosenberg, Ross, Simmons, Stein, Summers, Tarrant, F. Turner, Valderrama, Waldstreicher, Washington, and Zucker**

Introduced and read first time: February 1, 2012

Assigned to: Judiciary and Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Marriage Protection Act**

3 FOR the purpose of altering a provision of law establishing that only certain
4 marriages are valid in this State; making stylistic and conforming changes in
5 certain provisions of law prohibiting marriages within certain degrees of
6 relationship; prohibiting certain officials from being required to solemnize or
7 officiate a particular marriage or religious rite of a marriage in violation of a
8 certain constitutional right; establishing that certain religious entities have
9 exclusive control over their own theological doctrine, policy teachings, or beliefs
10 regarding who may marry within that faith; prohibiting certain officials from
11 being subject to any fine or penalty for failing or refusing to join individuals in
12 marriage; prohibiting certain religious entities from being required to provide
13 services, accommodations, advantages, facilities, goods, or privileges to an
14 individual under certain circumstances; providing that a certain refusal by a
15 certain religious entity or an individual employed by a certain religious entity
16 may not create a civil claim or cause of action or result in any State action to
17 penalize, withhold benefits from, or discriminate against such entities or
18 individuals; prohibiting certain fraternal benefit societies from being required to
19 admit an individual as a member or provide insurance benefits to an individual
20 under certain circumstances; providing that a certain refusal by a certain
21 fraternal benefit society may not create a civil claim or cause of action or
22 constitute the basis for the withholding of governmental benefits or services

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 from the fraternal benefit society; providing for the construction of this Act; and
2 generally relating to valid marriages and religious freedom.

3 BY repealing and reenacting, with amendments,
4 Article – Family Law
5 Section 2–201 and 2–202
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2011 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – Family Law**

11 2–201.

12 **(A) THIS SECTION MAY NOT BE CONSTRUED TO INVALIDATE ANY OTHER**
13 **PROVISION OF THIS TITLE.**

14 **(B) Only a marriage between [a man and a woman] TWO INDIVIDUALS WHO**
15 **ARE NOT OTHERWISE PROHIBITED FROM MARRYING** is valid in this State.

16 2–202.

17 (a) Any marriage performed in this State that is prohibited by this section is
18 void.

19 (b) (1) [A man] **AN INDIVIDUAL** may not marry [his] **THE**
20 **INDIVIDUAL’S:**

21 (i) grandmother;

22 (ii) mother;

23 (iii) daughter;

24 (iv) sister; or

25 (v) granddaughter.

26 (2) A woman may not marry her:

27 (i) grandfather;

28 (ii) father;

- 1 (iii) son;
- 2 (iv) brother; or
- 3 (v) grandson]
- 4 (I) GRANDPARENT;
- 5 (II) PARENT;
- 6 (III) CHILD;
- 7 (IV) SIBLING; OR
- 8 (V) GRANDCHILD.

9 [(3)] (2) An individual who violates any provision of this subsection
 10 is guilty of a misdemeanor and on conviction is subject to a fine of \$1,500.

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

- 13 [(i) grandfather's wife;
- 14 (ii) wife's grandmother;
- 15 (iii) father's sister;
- 16 (iv) mother's sister;
- 17 (v) stepmother;
- 18 (vi) wife's mother;
- 19 (vii) wife's daughter;
- 20 (viii) son's wife;
- 21 (ix) grandson's wife;
- 22 (x) wife's granddaughter;
- 23 (xi) brother's daughter; or
- 24 (xii) sister's daughter.

- 1 (2) A woman may not marry her:
- 2 (i) grandmother's husband;
- 3 (ii) husband's grandfather;
- 4 (iii) father's brother;
- 5 (iv) mother's brother;
- 6 (v) stepfather;
- 7 (vi) husband's father;
- 8 (vii) husband's son;
- 9 (viii) daughter's husband;
- 10 (ix) husband's grandson;
- 11 (x) brother's son;
- 12 (xi) sister's son; or
- 13 (xii) granddaughter's husband]
- 14 **(I) GRANDPARENT'S SPOUSE;**
- 15 **(II) SPOUSE'S GRANDPARENT;**
- 16 **(III) PARENT'S SIBLING;**
- 17 **(IV) STEPPARENT;**
- 18 **(V) SPOUSE'S PARENT;**
- 19 **(VI) SPOUSE'S CHILD;**
- 20 **(VII) CHILD'S SPOUSE;**
- 21 **(VIII) GRANDCHILD'S SPOUSE;**
- 22 **(IX) SPOUSE'S GRANDCHILD; OR**
- 23 **(X) SIBLING'S CHILD.**

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That an official of a religious
4 order or body authorized by the rules and customs of that order or body to perform a
5 marriage ceremony may not be required to solemnize or officiate any particular
6 marriage or religious rite of any marriage in violation of the right to free exercise of
7 religion guaranteed by the First Amendment to the United States Constitution and by
8 the Maryland Constitution and Maryland Declaration of Rights. Each religious
9 organization, association, or society has exclusive control over its own theological
10 doctrine, policy teachings, and beliefs regarding who may marry within that faith. An
11 official of a religious order or body authorized to join individuals in marriage under §
12 2-406(a)(2)(i) of the Family Law Article and who fails or refuses to join individuals in
13 marriage is not subject to any fine or other penalty for the failure or refusal.

14 SECTION 3. AND BE IT FURTHER ENACTED, That:

15 (a) Notwithstanding any other provision of law, a religious organization,
16 association, or society, or any nonprofit institution or organization operated,
17 supervised, or controlled by a religious organization, association, or society, may not be
18 required to provide services, accommodations, advantages, facilities, goods, or
19 privileges to an individual if the request for the services, accommodations, advantages,
20 facilities, goods, or privileges is related to:

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

23 (2) the promotion of marriage through any social or religious programs or
24 services, in violation of the entity's religious beliefs, unless State or federal funds are
25 received for that specific program or service.

26 (b) A refusal by an entity described in subsection (a) of this section, or of any
27 individual who is employed by an entity described in subsection (a) of this section, to
28 provide services, accommodations, advantages, facilities, goods, or privileges in
29 accordance with subsection (a) of this section may not create a civil claim or cause of
30 action or result in any State action to penalize, withhold benefits from, or discriminate
31 against the entity or individual.

32 (c) Nothing in this Act shall be deemed or construed to prohibit any religious
33 organization, association, or society, or any nonprofit institution or organization
34 operated, supervised, or controlled by a religious organization, association, or society,
35 from limiting admission to or giving preferences to individuals of the same religion or
36 denomination when otherwise permitted by law.

37 SECTION 4. AND BE IT FURTHER ENACTED, That:

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

6 (b) A refusal by a fraternal benefit society described in subsection (a) of this
7 section to admit an individual as a member or to provide insurance benefits to an
8 individual may not create a civil claim or cause of action or constitute the basis for the
9 withholding of governmental benefits or services from the fraternal benefit society.

10 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2012.