

Department of Legislative Services
2016 Session

FISCAL AND POLICY NOTE

First Reader

House Bill 16

(Delegate Metzgar)

Judiciary

Marriage - Religious Organizations - Protections

This bill codifies provisions of law establishing protections for specified individuals and religious entities that refuse to solemnize or officiate marriages or provide services, accommodations, facilities, goods, or privileges relating to the solemnization or celebration of marriage under specified circumstances. The bill may not be construed to limit or impair any right or privilege granted under any State or federal law.

Fiscal Summary

State Effect: The bill's provisions primarily codify current law and do not otherwise impact State operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Pursuant to Chapter 2 of 2012, an official of a religious order or body authorized by the rules and customs of that order or body to perform a marriage ceremony may not be required to solemnize or officiate any particular marriage or religious rite of any marriage in violation of the right to free exercise of religion guaranteed by the U.S. and Maryland Constitutions. It also established that each religious organization, association, or society has exclusive control over its own theological doctrine, policy teachings, and beliefs regarding who may marry within that faith.

The bill codifies similar protections by establishing that the officials may not be required to solemnize or officiate any particular marriage or associated religious rite in violation of the rules, customs, or religious beliefs of the religious order or body. The bill also codifies provisions establishing that an official of these religious entities who fails or refuses to join

individuals in marriage is not subject to any fine or other penalty for the failure or refusal. The bill codifies provisions establishing that 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, facilities, goods, or privileges if they are related to the solemnization of a marriage or its celebration that it is in violation of the entity's religious beliefs. The bill also specifically includes within these provisions an employee of a religious organization, association, or society acting within the scope of the individuals' employment. Pursuant to current law, a refusal by any entity specified above or any individual employed by one of the entities to provide services, accommodations, facilities, goods, or privileges may not create a civil claim or cause of action or result in any State action to penalize, withhold benefits from, or discriminate against the entity or individual. The bill also codifies that prohibition.

Background: Chapter 2 of 2012 permitted same-sex marriage in Maryland by repealing references to a man and a woman within the definition of a valid marriage. As noted above, uncodified language enacted as part of Chapter 2 of 2012 (Sections 2 and 3 of the law) substantially established the exemptions and protections for religious organizations and their related entities that are enumerated in the bill. While uncodified provisions are valid law until otherwise amended or repealed, they are published only in the Session Laws issued for the year in which the uncodified provisions are enacted.

Codification means that the bill's provisions are included in the Code of Maryland that is published and updated annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2016
min/kdm

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