

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 515

**Representatives Hood, Brinkman, Reidelbach, Willamowski, Seaver, Hoops,
Bubp, Gilb, Buehrer, Schaffer**

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A B I L L

To amend sections 3107.03 and 5103.03 of the Revised Code to prohibit an adoptive or foster child from being placed in the private residence of a homosexual, bisexual, or transgender person.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3107.03 and 5103.03 of the Revised Code be amended to read as follows:

Sec. 3107.03. ~~The (A) Except as provided in division (B) of this section, the following persons~~ individuals may adopt:

~~(A)(1)~~ (1) A husband and wife together, at least one of whom is an adult;

~~(B)(2)~~ (2) An unmarried adult;

~~(C)(3)~~ (3) The unmarried minor parent of the person to be adopted;

~~(D)(4)~~ (4) A married adult without the other spouse joining as a petitioner if any of the following apply:

~~(1)(a)~~ (a) The other spouse is a parent of the person to be adopted and supports the adoption;

~~(2)(b)~~ The petitioner and the other spouse are separated 18
under section 3103.06 or 3105.17 of the Revised Code; 19

~~(3)(c)~~ The failure of the other spouse to join in the 20
petition or to support the adoption is found by the court to be by 21
reason of prolonged unexplained absence, unavailability, 22
incapacity, or circumstances that make it impossible or 23
unreasonably difficult to obtain either the support or refusal of 24
the other spouse. 25

(B) An individual may not adopt if the court in which the 26
petition for adoption is filed determines that any of the 27
following apply: 28

(1) The individual is a homosexual, bisexual, or transgender 29
individual. 30

(2) The individual is a step-parent of the child to be 31
adopted and is a homosexual, bisexual, or transgender individual. 32

(3) The individual resides with an individual who the court 33
determines is a homosexual, bisexual, or transgender individual. 34

(C) As used in this section: 35

(1) "Bisexual" means an individual who engages in sexual 36
activity with members of both sexes. 37

(2) "Homosexual" means an individual who engages in sexual 38
activity with another individual of the same sex. 39

(3) "Transgender" means an individual who may be classified 40
according to an accepted nosology, such as the diagnostic and 41
statistical manual of mental disorders, as having a gender 42
identity disorder, or characterized by either of the following: 43

(a) A strong and persistent cross-gender identification; 44

(b) Persistent discomfort with that individual's sex or sense 45
of inappropriateness in the gender role of that sex. 46

Sec. 5103.03. (A) The director of job and family services 47
shall adopt rules as necessary for the adequate and competent 48
management of institutions or associations. 49

(B)(1) Except for facilities under the control of the 50
department of youth services, places of detention for children 51
established and maintained pursuant to sections 2152.41 to 2152.44 52
of the Revised Code, ~~and~~ child day-care centers subject to Chapter 53
5104. of the Revised Code, and as provided in division (C) of this 54
section, the department of job and family services every two years 55
shall pass upon the fitness of every institution and association 56
that receives, or desires to receive and care for children, or 57
places children in private homes. 58

(2) When the department of job and family services is 59
satisfied as to the care given such children, and that the 60
requirements of the statutes and rules covering the management of 61
such institutions and associations are being complied with, it 62
shall issue to the institution or association a certificate to 63
that effect. A certificate is valid for two years, unless sooner 64
revoked by the department. When determining whether an institution 65
or association meets a particular requirement for certification, 66
the department may consider the institution or association to have 67
met the requirement if the institution or association shows to the 68
department's satisfaction that it has met a comparable requirement 69
to be accredited by a nationally recognized accreditation 70
organization. 71

(3) The department may issue a temporary certificate valid 72
for less than one year authorizing an institution or association 73
to operate until minimum requirements have been met. 74

(C) The department shall not issue a certificate under this 75
section to an individual seeking to receive and care for children 76
in the individual's private residence, if the department 77

determines either of the following: 78

(1) The individual is a homosexual, bisexual, or transgender individual. 79
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(2) The individual resides with an individual who is a homosexual, bisexual, or transgender individual. 81
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(D) The department may revoke a certificate if it finds that 83
the institution or association is in violation of law or rule. No 84
juvenile court shall commit a child to an association or 85
institution that is required to be certified under this section if 86
its certificate has been revoked or, if after revocation, the date 87
of reissue is less than fifteen months prior to the proposed 88
commitment. 89

~~(D)~~(E) Every two years, on a date specified by the 90
department, each institution or association desiring certification 91
or recertification shall submit to the department a report showing 92
its condition, management, competency to care adequately for the 93
children who have been or may be committed to it or to whom it 94
provides care or services, the system of visitation it employs for 95
children placed in private homes, and other information the 96
department requires. 97

~~(E)~~(F) The department shall, not less than once each year, 98
send a list of certified institutions and associations to each 99
juvenile court and certified association or institution. 100

~~(F)~~(G) No person shall receive children or receive or solicit 101
money on behalf of such an institution or association not so 102
certified or whose certificate has been revoked. 103

~~(G)~~(H) The director may delegate by rule any duties imposed 104
on it by this section to inspect and approve family foster homes 105
and specialized foster homes to public children services agencies, 106
private child placing agencies, or private noncustodial agencies. 107

~~(H)~~(I) If the director of job and family services determines 108
that an institution or association that cares for children is 109
operating without a certificate, the director may petition the 110
court of common pleas in the county in which the institution or 111
association is located for an order enjoining its operation. The 112
court shall grant injunctive relief upon a showing that the 113
institution or association is operating without a certificate. 114

~~(I)~~(J) If both of the following are the case, the director of 115
job and family services may petition the court of common pleas of 116
any county in which an institution or association that holds a 117
certificate under this section operates for an order, and the 118
court may issue an order, preventing the institution or 119
association from receiving additional children into its care or an 120
order removing children from its care: 121

(1) The department has evidence that the life, health, or 122
safety of one or more children in the care of the institution or 123
association is at imminent risk. 124

(2) The department has issued a proposed adjudication order 125
pursuant to Chapter 119. of the Revised Code to deny renewal of or 126
revoke the certificate of the institution or association. 127

(K) As used in this section: 128

(1) "Bisexual" means an individual who engages in sexual 129
activity with members of both sexes. 130

(2) "Homosexual" means an individual who engages in sexual 131
activity with another individual of the same sex. 132

(3) "Transgender" means an individual who may be classified 133
according to an accepted nosology, such as the diagnostic and 134
statistical manual of mental disorders, as having a gender 135
identity disorder, or characterized by either of the following: 136

(a) A strong and persistent cross-gender identification; 137

(b) Persistent discomfort with that individual's sex or sense 138
of inappropriateness in the gender role of that sex. 139

Section 2. That existing sections 3107.03 and 5103.03 of the 140
Revised Code are hereby repealed. 141

Section 3. The title of this act shall be "The Adoptive and 142
Foster Children's Protection Act." 143

Section 4. Section 5103.03 of the Revised Code is presented 144
in this act as a composite of the section as amended by Am. Sub. 145
H.B. 117 of the 125th General Assembly and Sub. S.B. 179 of the 146
123rd General Assembly. The General Assembly, applying the 147
principle stated in division (B) of section 1.52 of the Revised 148
Code that amendments are to be harmonized if reasonably capable of 149
simultaneous operation, finds that the composite is the resulting 150
version of the section in effect prior to the effective date of 151
the section as presented in this act. 152