

HOUSE BILL 233

By Leatherwood

AN ACT to amend Tennessee Code Annotated, Title 8;  
Title 10; Title 16; Title 36; Title 39; Title 67 and  
Title 68, relative to marriage.

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

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 3, Part 1, is amended by deleting §§ 36-3-103 – 36-3-112.

SECTION 2. Tennessee Code Annotated, Title 36, Chapter 3, Part 3, is amended by deleting §§ 36-3-301 – 36-3-308.

SECTION 3. Tennessee Code Annotated, Section 8-6-109(b), is amended by adding the following language as a new subdivision:

( ) To defend any action against a local official or any political subdivision of the state for adherence to the duties, responsibilities, or limitations imposed on such official or political subdivision pursuant to the issuance or failure to issue a marriage license pursuant to § 36-3-104(a)(1), as it existed prior to the effective date of this act, and alleged to be in violation of either the Constitution of the United States or the Constitution of Tennessee. In the event that the attorney general and reporter determines that the best interest of the state, or that of the local official or political subdivision, requires private counsel, the local official or chief legal officer of the political subdivision shall be notified and the local official or political subdivision shall have the right to file for reimbursement of defense costs, subject to the limits of § 29-20-113, in accordance with chapter 42 of this title in the same manner as state employees.

SECTION 4. Tennessee Code Annotated, Section 16-10-101, is amended by adding the language "; provided, however, in cases involving the definition of common law marriage,

where the people of Tennessee have spoken on the definition of marriage by referendum interpreting the Constitution of Tennessee, the circuit court's jurisdiction shall be limited to those principles of common law consistent with the import of those votes by the people" following the language "upon another tribunal".

SECTION 5. Tennessee Code Annotated, Section 16-11-102, is amended by deleting subsection (a) and substituting instead the following:

(a) The chancery court has concurrent jurisdiction, with the circuit court, of all civil causes of action, triable in the circuit court, except for unliquidated damages for injuries to person or character, and except for unliquidated damages for injuries to property not resulting from a breach of oral or written contract and except for cases involving the definition of marriage at common law, in which case the court's jurisdiction shall be limited to the principles of common law; and no demurrer for want of jurisdiction of the cause of action shall be sustained in the chancery court, except in the cases excepted.

SECTION 6. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 7. This act takes effect upon becoming a law, the public welfare requiring it.