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Supreme Court decision in same-sex wedding cake case could impact Ohio bills

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A Supreme Court case that dealt with the clashing of two closely held American values — religion and equality — has implications that could affect pending legislation in Ohio on both values, advocates say.

The ruling by the nation's highest court Monday in *Masterpiece Cakeshop v. Colorado Civil Rights Commission* could end the push for an Ohio bill that would ensure pastors don't have to perform same-sex marriages and renew the push for another bill that would make discrimination against LGBTQ individuals illegal, said lawmakers and advocates from both sides.

The Supreme Court ruled 7-2 in favor of Jack Phillips, the owner of Masterpiece Cakeshop who refused in 2012 to make a wedding cake for a same-sex couple because of his religious beliefs.

The justices didn't issue a definitive ruling on the circumstances under which people can seek exemptions from anti-discrimination laws based on their religious views. But local advocates say a specific sentence within Justice Anthony Kennedy's majority opinion could impact the proposed "Ohio Pastor Protection Act."

Kennedy wrote that clergy who morally and religiously object to gay marriage "could not be compelled to perform" a marriage without their freedom of religion rights being denied.

The question of whether clergy can be compelled, against their religious beliefs, to wed same-sex couples has been hotly debated since *Obergefell v. Hodges*, the landmark 2015 Supreme Court case that made same-sex marriage legal across the country.

In Ohio, Rep. Nino Vitale, R-Urbana, introduced the Pastor Protection Act in February 2017 to allow pastors, churches and religious groups that refuse to solemnize marriages or host marriage ceremonies that do not align with their religious beliefs to be immune from civil and criminal lawsuits. His bill remains in the House Community and Family Advancement Committee, where it has languished since shortly after its introduction.

Vitale has said the legislation is needed to "stop a war in Ohio" after the legalization of same-sex marriage but opponents have said is unnecessary because the state and U.S. constitutions already protect religious freedom. He declined to comment this week about whether he thought the Colorado case had any implications for his bill.

Aaron Baer, president of Citizens for Community Values, a Columbus-based conservative religious organization that opposes gay marriage, questioned whether the bill is needed anymore, given the Supreme Court's blessing of Phillips' decision not to make a cake for a same-sex couple.

"This is a tone-setting decision that says marriage has been redefined, but if you cannot agree with same-sex marriage you're not a bigot or you don't have a place in society," he said.

Baer added that he's still analyzing the decision to see what needs to be done to protect religious freedom in the future and to get more protections for clergy and their church members.

"There are just a lot of things that are left to be decided," he said.

Monday's decision also might bring added attention to another proposed bill in the Ohio House, the "Ohio Fairness Act." Introduced on multiple occasions, including four times by the bill's current sponsor Rep. Nickie Antonio, D-Lakewood, it would extend protections to LGBTQ individuals in the areas of housing, employment and public

accommodations.

Ohio is one of 28 states that don't have an LGBTQ non-discrimination policy, and Antonio hopes the focus on the Colorado Anti-Discrimination Act in the Masterpiece Cake could bolster the cause to create one. The Colorado Civil Rights Commission represented a gay couple against Phillips, after the couple filed a complaint under the state's anti-discrimination act, which prohibits businesses open to the public from discriminating against their customers on the basis of race, religion, gender, or sexual orientation.

"For me, (the case) points to the fact that it is important to have those protections in Ohio," said Antonio, the only openly gay member of the Ohio General Assembly. "It raises awareness of people to think about this."

The bill is in the House Government Accountability and Oversight Committee and has had two hearings, the furthest it's gotten since Antonio took up the torch. In addition to Antonio, it is being touted by LGBTQ organizations and a coalition of businesses advocating for a non-discrimination policy in Ohio as a way to improve the state's economy by attracting more businesses and better job candidates.

Opponents have argued that there's no need for state law because private businesses and cities already have their own anti-discrimination policies.

The Masterpiece Cakeshop case could end up offering a little something for everyone on both sides of the religious freedom-LGBTQ rights divide in Ohio, a legal expert said.

"The court's opinion can be taken as sending a signal that even as the court remains committed to marriage equality and equal dignity under the law for LGBT people, that it has not lost sight of the importance of religious freedom and religious expression," said Marc Spindelman, a professor of constitutional and family law at Ohio State University.

"Justice Kennedy's opinion is trying to send a signal that in respecting rights in Obergefell, the court was not declaring any open hostility toward religion."

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