

**Prepared Testimony of Professor William Wagner and Katherine Bussard  
Before the Michigan Senate Committee on Local Government  
Tuesday, June 3, 2025**

Distinguished Chair and Distinguished Members of the Committee: Thank you for the opportunity to provide testimony and share concerns

**Introduction**

My name is William Wagner and I hold the academic rank of Distinguished Professor Emeritus (Law). I served on the faculty at the University of Florida and Western Michigan University Cooley Law School, where I taught Constitutional Law and Ethics. I currently hold the Faith and Freedom Center Distinguished Chair at Spring Arbor University. Before joining academia, I served as a federal judge in the United States Courts, as Senior Assistant United States Attorney in the Department of Justice, and as a Legal Counsel in the United States Senate.

My name is Katherine Bussard, Executive Director & C.O.O. of Salt & Light Global, a faith-based non-profit founded in Michigan that works to protect religious liberty and promote pro—family policies around the world through the advancement of good governance.

Today, we testify in our personal capacities in hopes of contributing to this deliberative policy-making process. Because the current drafts of SB 285, 286, and 287 present several points of concern to religious liberty and good governance, we oppose these bills in their current form.

**First Amendment Concerns & the Threat to Religious Liberty**

The First Amendment of the United States Constitution states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” The State of Michigan’s Constitution further protects the free exercise of religious conscience when it states in Article I § 4, “Every person shall be at liberty to worship God according to the dictates of his own conscience... The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.”

As drafted, Section 6 of SB 286 provides that

*Any person authorized to officiate a marriage under section 7 of 1846 RS 83, MCL 551.7, that joins together in marriage parties who have not delivered a properly issued license, as provided for in this act, or that violates this act, is guilty of a misdemeanor,*

*and must be punished by a fine of \$500.00, or in default of the payment, by imprisonment in the county jail for a term of 90 days.*

For people of Abrahamic faiths, marriage is a sacred religious covenant before God between a man and a woman, as instituted in by God in the first chapters of Genesis (Genesis 1:26-28, Genesis 2:20-25). For thousands of years before the inception of this state or nation, generations of faithful believers have observed this holy covenant—yet this body now proposes legislation that would criminalize any minister of the faith who presides over this covenant *without* a government license. Clergy who exercise their sincerely-held religious conscience and attend to the spiritual needs and interests of their congregation could be forced to choose between obeying God’s Word or Michigan law—facing up to three months in county jail for *each* faith-based ceremony they officiate without a government permission slip.

While many people of faith entering the sacred covenant of marriage choose to have their union civilly recognized, this body must understand that *not all* people of faith seek government licenses when entering a religious covenant where government has no Biblical role. Clergy often perform faith-based ceremonies uniting in sacred covenant two elderly individuals who seek to honor God’s Word without changing their names or losing their income. There are variety of reasons that couples of any age may make such a decision, but wherever faithfully honoring God’s Word is the primary motive for any couple uniting in marriage, government ought not criminalize the shepherd for ministering to his flock. The proposed language of SB 286, section 6, constitutes a prima facie conflict with the First Amendment of the US Constitution and Michigan’s Article I § 4, providing clear criminal penalties for select acts of religious expression and placing the state in the position of determining which religious practices are acceptable or unacceptable.

### **Good Governance Concerns**

When taken as a whole, the package of SB 285-287 radically expands the pool of individuals who may legally solemnize a marriage to virtually anyone—opening a door to potential exploitation. SB 286 broadens the list of persons eligible to solemnize a marriage to include a "civil celebrant" who is at least 18 years old and "works in accordance with the wishes of the couple". This could be virtually anyone. SB 287 goes on to expand the criteria of a legally valid and binding marriage under MI law, even if the officiant lacks "jurisdiction or authority" under the new criteria proposed in SB 285,

as long as at least one of the parties in the ceremony attests “the marriage was consummated with a full belief ...that they were lawfully joined in marriage.”

Good governance demands that laws be written in such a way as to protect the most vulnerable from potential abuse, and the language of the current drafts fail to do so. Consider how certain elements of our society might use this new law to exploit certain individuals, especially women.

For example, someone over age 18 working in the interest of one party would “lack jurisdiction or authority” under the “wishes of the couple” provision of SB 285, but SB 287 says the marriage would *still* be considered lawful if at least one of the parties attests that “the marriage was consummated with a full belief...that they were lawfully joined in marriage.” This threshold is dangerously low. Consider:

- Would the bill language validate a marriage if a man hires an “civil celebrant” to “solemnize the marriage” representing his own interests, then forcibly consummates the “marriage”, so long as the man attests that he believed his actions to be lawful?
- Could such a provision be exploited by human traffickers to establish “bridal tourism” in MI? Could women be trafficked, forced into sham marriages, and exported internationally?
- Could vulnerable women ever end up feeling trapped in marriages where they were coerced by man and an officiant?

Without the accountability of clear moral or civil authority by traditional officiants and more narrow protections of marriage, the possibilities for exploitation are limitless.

While other laws may protect against such abuse, this law should be written clearly so that a judge and law enforcement never have to sift through competing or conflicting standards. We should be slow and deliberate in refining language that carefully protects against the worst possible abuse of the law, so that all people are well protected.

### **Conclusion**

We believe SB 285-287 create an inherent conflict with the constitutional free exercise of religious conscience while using such broad language as to allow for possible exploitation. We urge the legislature to resolve these issues before proceeding and oppose these bills in their current form.