

# Allow more Oregonians to officiate at weddings: Editorial Agenda 2015



Ralph Spooner, an attorney for Judge Vance Day, speaks during Day's judicial misconduct hearing at the Capitol on Monday, Nov. 9, 2015, in Salem, Ore. (Ashley Smith/Statesman Journal via AP)  
Margaret Haberman | The Oregonian/OregonLive

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So far, the scrutiny of devout Oregon judges who refuse to conduct marriages – including, notably, same-sex marriages - raises no red flags. Perhaps that will always be so. However, it's not difficult to imagine the impulse leading to unjustified faith-shaming, the avoidance of which calls for two things. The first is the exercise of caution in pointing fingers. The second is a vast expansion of those authorized by the state to conduct marriages.

Two judges have made news recently thanks to their decisions to stop conducting marriages for reasons of faith. But they've engaged in worrisome conduct beyond this. Marion County Circuit [Judge Vance Day](#) directed his assistant to screen wedding applicants in order to weed out gay couples before opting not to marry anyone at all. Swearing off the wedding business entirely for faith-based reasons is fine – judges aren't required to conduct marriages, after all. Discriminating in the exercise of the judicial marriage prerogative is not.

Washington County Circuit [Judge Thomas Kohl](#), meanwhile, has acknowledged that he stopped conducting weddings last summer "for personal faith-based reasons." His reassessment followed a federal judge's decision last spring affirming the right of same-sex couples to marry. What ought to make Oregonians a bit uneasy isn't Kohl's decision not to engage in an entirely optional exercise, but, rather, an unrelated episode of courtroom proselytizing. While sentencing a killer to prison last year, [The Oregonian/OregonLive's Emily Smith reported](#), Kohl told him that the only unforgivable sin is rejecting God.

"One of these days, you're going to die," Kohl told the defendant. "You're either going to go to heaven or hell for eternity, and that's a long, long time."

A reasonable person would conclude in Kohl's case that religious beliefs strayed where they don't belong. In Day's case, they led him to instruct his assistant to discriminate. Suppose, however, that a devout judge whose conduct is completely above reproach acknowledged that he or she opted not to conduct any marriages in order to avoid conducting same-sex marriages. While we and others may not share such a judge's views, to condemn this person's rationale for declining to engage in an optional activity is to slight the importance of a diverse judiciary. Are religious conservatives unwelcome on the bench? Oregon is better than that.

Rather than surrendering to such narrow-mindedness, Oregon should do just the opposite: Become far more inclusive. Why should judges occupy such an exalted place in the marriage firmament anyway?

Oregonians who want to get hitched secure a marriage license from a county clerk's office, find someone to officiate, then return the license to the clerk. The business part of getting married – the heavy lifting – is done by the clerk, not the officiant. This isn't lost on [Rep. Mitch Greenlick, D-Portland](#), who says he recently "decided that the whole question of solemnizing marriages was odd anyway once you get a marriage license." The result was [House Bill 3483](#), which passed the House during the 2015 legislative session before stalling in the Senate.

The bill would have expanded the list of those authorized to officiate. The list now includes judges of various sorts, county clerks and members of the clergy. This list is both very narrow and very broad, as just about anyone can, with a few mouse clicks and a credit card, become an online minister of some virtual church or other and perform marriages. The law, in other words, is a strange mixture of seriousness and charade, which leads to a sort of wink and nod by clerks. The Multnomah County Clerk's Office, for instance, [advertises online that it does not require proof of officiants' ordination](#). This is evidence in practice of Greenlick's conclusion.

His bill, introduced at the behest of secular humanist groups, would have added secular organizations to the state-sanctioned officiant list. Current and former legislators ended up on the list as well. But Greenlick's truly inspired proposal – eventually eliminated – was to add "parties to the marriage" to the list. Oregonians would thus be free to officiate at their own weddings. And why not?

Though HB3483 died this year, Greenlick says he'd like to bring the concept back, perhaps in 2017. Good. This is a discussion Oregonians should be having in any case, but it will gain urgency as the religious views of judges who choose not to solemnize marriages are scrutinized more closely and, perhaps, unfairly. It would be far more healthy to diminish the importance of judges in the wedding world by allowing many, many others to officiate, including secular groups, lawmakers, notaries and – what the heck – those who are guaranteed to approve of our unions: ourselves.