

MD NARAL_FAV_SB680

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Position: FAV



SB0680 - Family Law - Minors - Emancipation (Emancipation of Minors Act of 2020)
Presented to the Honorable Will Smith and Members of the Senate Judicial Proceedings Committee
February 25, 2020 12:00 p.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland **urges the Senate Judicial Proceedings Committee a favorable report on SB0680 - Family Law - Minors - Emancipation (Emancipation of Minors Act of 2020)**, sponsored by Senator Mary Washington.

Our organization is an advocate for reproductive health, rights, and justice. As part of our efforts to protect reproductive freedom for all Marylanders, we work to ensure every childbearing individual has the right to decide if, when, and how many children to have. We honor pregnancy in all its complexity. In doing so, we support pregnant and parenting youth as they navigate the challenges of building their families in good health, in safety, and with dignity. The ability to seek a legal emancipation order in the State of Maryland is an important option for minors who are in need of building homes separate from parents and legal guardians as they form their own families.

With the assistance of a court appointed attorney representing the minor's interests, SB0680 will create a new law in which a 16 or 17-year-old has the right to petition the court to manage one's personal affairs and end parental and legal guardian responsibility of that young person. We are proud members of coalitions that seek to protect and further the rights of youth in our state, such as the Baltimore Homeless Youth Initiative, the Maryland Youth Justice Coalition, the Youth Equality Alliance, the Coalition to Reform School Discipline, as well as the Maryland Human Trafficking Task Force. As advocates for youth, we are aware that teens may seek emancipation orders authorizing the same rights as adults for a variety of reasons, and removing what is known as the "disability of minority".

For example, we are aware that there are not enough resources for unaccompanied minors, as well as youth who are living in situations where abuse, neglect, substance abuse, or criminal activity occur. Housing options may open up for these youth if they have the right to contract as adults do. Older youth facing barriers in establishing self-sufficiency may choose legal emancipation when they have been on their own due to the absence of parents who are missing, incarcerated, or deceased. There are number of minors that experience housing instability due to dysfunction, economic strife, or unforeseen negative events within their families, or after parents have forced them out of their homes due to discrimination based on sexual activity, sexual orientation, gender identity, religious beliefs, or pregnancy. We are also aware of youth forced to leave foster care placements for the same discriminatory reasons. As presented in testimony for SB0207 – Unaccompanied Minors in Need of Shelter and Support Services, we know that there are only three youth shelters and one youth drop-in center in our state. Youth living in areas without these shelter or transitional housing services may be able to find landlords who simply want the court order in which a judge has ruled that the young person can manage his or her own financial affairs independent of a parent or legal guardian before considering whether to lease to that young person. Some youth who work or have their own businesses report experiencing parents or legal guardians taking all earned income to engage in substance abuse or criminal

activity. An emancipation order will allow these youth to keep their earned income and handle their own finances.

Our organization's concern is about the welfare of pregnant and parenting youth and their ability to manage their affairs as well as the new family they are seeking to form. We want to ensure that all 16 and 17-year-olds who are pregnant or parenting have access to the legal benefits and resources which can be secured through the right to contract. There should be as little delay as possible as when securing these rights, as areas such as access to healthcare and stable housing are paramount to promoting healthy pregnancy outcomes, as pregnancy in a timely medical event. We cannot say to a 16-year-old who has made an 18-year commitment to raise a child that she has the capacity and agency to make such a mature decision and take on such responsibilities, but not mature enough to act in her best interests by demonstrating to a court of law the ability to manage one's own affairs, including addressing basic needs and legal requirements, such as compulsory school attendance. When afforded these rights, the soon-to be or new parent will have the ability to enter into enforceable lease and utilities agreements, retain an attorney, be authorized to access healthcare without parental involvement or parental liability, and register for school or enroll in a college or university.

Reproductive justice calls for honoring and supporting youth if, how, and when they choose to form their families. Each year in Maryland, approximately 800 young women under the age of 18 will give birth. Some in a consensual, loving relationship may choose to marry. The legal right to contract also authorizes one the right to enter into legal marriage. The legal benefits of marriage can help youth seeking positive pregnancy outcomes and the ability to raise their children in safety and good health. Currently, minors who marry in Maryland are not automatically legally emancipated. SB0680 seeks to remedy what has been missing from Maryland law – that once married, the 16 or 17-year-old will have the same basic legal rights as an 18-year-old, such as the right to control one's income and determine one's domicile apart from a parent or legal guardian. The U.S. Supreme Court has recognized the many benefits associated with legal marriage, including but not limited to health insurance, taxation, property rights, spousal privilege, hospital access, and medical decision-making authority. Youth seek legal marriage for a variety of reasons, such as accessing a partner's health insurance coverage, gaining priority for housing assistance for married couples, solidifying custody rights, receiving military spousal benefits, or adhering to one's cultural and religious norms.

SB0680 embraces the concept of “evolving capacities”, in which youth who have acquired enhanced competencies should be recognized for their agency, diversity, maturity, and ability to exercise one's own rights based upon life experiences, challenges, conflicts, and responsibilities, and should be provided with opportunities to participate in the fulfillment of their rights. We urge the Maryland General Assembly to not ignore that youth have agency and the right to act in their best interests. Maturity is not suddenly granted by achieving the numerical age of 18. We must try harder to suspend old notions of how all youth should act and meet youth where they really are. There are currently 23 states that have specific laws governing how a minor may legally seek a court process to become emancipated.¹ For these reasons, **NARAL Pro-Choice Maryland urges a favorable report on SB0680.** Thank you for your time and consideration.

¹ In the United States, all states have some form of emancipation of minors - however, approx. half of the states regulate emancipation by statutes specifically for that purpose. These states include Alabama, California, Colorado, Connecticut, Florida, Hawaii, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Montana, Nevada, New Hampshire, New Mexico, North Carolina, Oregon, Rhode Island, South Dakota, Vermont, Virginia, Washington and Wyoming.

Senator Washington_FAV_SB680

Uploaded by: Senator Washington, Senator Washington

Position: FAV

MARY L. WASHINGTON, PH.D
Legislative District 43
Baltimore City

Education, Health, and
Environmental Affairs Committee

Chair
Joint Committee on Ending
Homelessness

Chair
Joint Committee on Children,
Youth, and Families



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February 25, 2020

SUPPORT – SB 680
Family Law – Minors – Emancipation
(Emancipation of Minors Act)

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Committee,

Under current Maryland law, there is no law allowing youth under the age of 18 to petition for emancipation from their parents or legal guardians. Senate Bill 680 establishes a process by which a minor, who is at least 16 years old, may pursue a court petition to be emancipated. This law would provide needed relief to minors for a variety of reasons, including unaccompanied youth who face significant barriers to accessing services and rights, youth who wish to leave a living situation that is unsafe due to dysfunction or neglect, youth who are forced out of their homes as a result of discrimination based on religious beliefs, gender identity, or sexual orientation, and pregnant and parenting youth who may be forced out of their homes or are in need of economic independence.

This process for filing an emancipation is detailed in the bill and includes specific requirements for what must be included in a petition, including a statement explaining the reasons for why the petitioner is seeking emancipation and supporting documents. The petition must be filed with the circuit court for the county in which the minor resides. The bill also establishes specific requirements for the court and the timeline for the petition and hearing process. Included is the requirement for the court to appoint a child advocate attorney to represent the petitioner and for the court to request records of reported child abuse or neglect from the Department of Human Services (DHS) related to the petitioner.

Once the case for an emancipation petition is heard, a court may approve an order of emancipation if the court finds that the following three criteria are met: 1) the petitioner is capable of living independently, being self-supporting, and managing the petitioners own affairs; 2) the petitioner understands the rights, responsibilities, and other consequences of emancipation; and 3) emancipation is in the best interest of the petitioner.

The bill also details specifics about the rights and responsibilities that are and are not conferred on a petitioner as the result of an order of emancipation. Except for these detailed specifics, an order of emancipation is to have the same effect as the petitioner reaching the age of 18. The final provision of the bill ensures the right of an emancipated

minor to petition the court for a rescission of the order and the process for the court to handle these petitions.

The passage of SB680 would establish an avenue for minors who are sufficiently independent and self-sufficient to gain access to the rights and responsibilities of an adult. This is especially important for minors who face adverse circumstances and have the maturity and competencies to exercise their own rights and act in their best interest.

Thank you for your time and I urge you to issue a favorable report on Senate Bill 680.

In Partnership,

A handwritten signature in blue ink, appearing to read "Mary Washington". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Senator Mary Washington, PhD

WomensLawCenterofMD_FAV_SB680

Uploaded by: Siri, Michelle

Position: FAV

BILL NO: Senate Bill 680
TITLE: Family Law – Minors – Emancipation (Emancipation of Minors Act)
COMMITTEE: Judicial Proceedings
HEARING DATE: February 25, 2020
POSITION: **SUPPORT**

Senate Bill 680 would codify Maryland's common-law emancipation laws to address circumstances when 16 and 17 year olds may seek to separate themselves legally from their parents or guardians. The Women's Law Center (WLC) supports codifying emancipation, providing a realistic opportunity for minors to emancipate in Maryland if their circumstances suggest this as their best opportunity for success.

Currently in Maryland, emancipation is a common law concept, difficult for non-attorneys to access and navigate. A minor may file for emancipation and a court must then decide whether to emancipate the child. The primary factor is the minor's ability to be self-supporting. While the WLC believes emancipation should occur in only extraordinary circumstances, there must be clear guidelines in place for those wishing to avail themselves of the process. SB 680 provides just such a detailed framework for a minor who wishes to emancipate. Importantly, a lawyer would be appointed to represent the minor as that minor's advocate. Numerous safeguards would be in place to ensure the minor is not being exploited or manipulated into the process, and emancipation may be ordered only if it is found to be within the minor's best interest. Only in this way does the proposed law provide a viable opportunity to emancipate. SB 680 also enunciates to which rights an emancipated minor would be able to avail him or herself, and reasonably excludes voting, alcohol consumption, and some other rights as a matter of public policy. The WLC fully supports all of the safeguards provided in SB 680.

Under SB 680 a court may enter an order of emancipation if the court finds that (1) the petitioner is capable of living independently, being self-supporting, and managing the petitioner's own affairs; (2) the petitioner understands the rights, responsibilities, and other consequences of emancipation; and (3) emancipation is in the best interest of the petitioner. Because they are represented by counsel, they would have a full understanding of the ramifications of emancipation. Also provided in SB 680 is that an emancipated minor may petition the court that issued an emancipation order for a rescission of the order. Protections are provided for anyone who entered into a contract with or received any legal obligation from the minor while they were emancipated. We think this is an important piece of the puzzle for young people trying to find the best way to move forward in their lives in a safe and secure manner.

Maryland is currently within the minority of states that have not yet codified an emancipation process. The Women's Law Center of Maryland, Inc. therefore urges a favorable report on SB 680.

The Women's Law Center of Maryland is a non-profit, legal services organization that advocates for the rights of women through direct legal representation of individuals and strategic initiatives to achieve systemic change.

The Women's Law Center operates two hotlines, Protection Order Advocacy and Representation Projects in Baltimore City, Baltimore County and Carroll County and the state-wide Collateral Legal Assistance for Survivors and Multi-Ethnic Domestic Violence Projects.

ACY_FAV_SB680

Uploaded by: WHITE, RACHEL

Position: FAV

To: The Judicial Proceedings Committee
From: Rachel White, JD, Child Welfare Policy Director
Re: SB680: Emancipation of Minors Act
Date: February 25, 2020
Position: Support

Thank you for the opportunity to provide testimony on SB680: Emancipation of Minors Act. Advocates for Children and Youth (ACY) supports this bill as it allows for youth who have acquired enhanced competencies to exercise afforded rights and act in their own best interests.

Currently in Maryland, there is no law allowing for youth under the age of 18 to petition for emancipation from the minor's parents or legal guardians. Such an order allows certain youth to act in one's best interest. Under this bill a minor seeking to be emancipated will have to successfully demonstrate their ability be financially self-supporting, living apart from a parent or legal guardian, and managing one's own affairs including addressing basic needs and legal requirements, such as compulsory school attendance. A child advocate attorney will be appointed to represent the youth petitioner and a hearing is set within 30 days of the petition filed.

If passed, this legislation will allow youth 16 and 17 the same legal capacities as an 18 year. Rights that will be afforded to the minor include:

- enter into enforceable contracts such as lease and utilities agreements,
- the right to retain an attorney; to sue or be sued
- earn a living and retain earnings free of control by parents or legal guardians,
- establish a home or residence separate parents or legal guardians,
- be authorized to access healthcare without parental involvement or parental liability,
- register for school or enroll in a college or university,
- apply for public assistance and benefits, and
- apply for a marriage license.

This bill recognizes the relationship between emancipation and youth in foster care and youth who may potentially become involved in the youth justice system. It is imperative that language remains to ensure that the emancipation of a minor is not used as a factor in determining whether a minor should be charged as an adult in the event that a crime is committed.

In addition, this bill allows for an emancipated youth who was once in the care and custody of the Department of Human Services to reenter the foster care system and receive placement and services in the event that an emancipation order is rescinded. This is highly imperative as youth in foster care and alumni fare worse than their peers on all indicators.

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For the reasons stated above, we ask that you issue a favorable report on SB680 to ensure that youth who have acquired enhanced competencies are recognized for their agency, diversity, maturity, and ability to exercise one's own rights based upon life experiences, challenges, conflicts, and responsibilities, and should be provided with opportunities to participate in the fulfillment of their rights.

MDAAP_Pam Kasemeyer_FWA_SB0680

Uploaded by: Kasemeyer, Pam

Position: FWA



TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Mary Washington

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Richard A. Tabuteau

DATE: February 25, 2020

RE: **SUPPORT WITH AMENDMENT** – Senate Bill 680 – *Family Law – Minors – Emancipation*
(*Emancipation of Minors Act*)

The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support with amendment** for Senate Bill 680.

Senate Bill 680 proposes to expand the jurisdiction of an equity court to include petitions for the emancipation of minors age 16 or older. As proposed, a minor who is at least age 16 would be authorized to file a petition in the minor's own name to become emancipated from the minor's parents or legal guardian. A parent would not be permitted to file a petition individually or on behalf of the minor. A Court would be authorized to enter an order of emancipation if the court found that: the minor was capable of living independently, being self-supporting, and managing the minor's own affairs; the minor understands the rights, responsibilities, and other consequences of emancipation; and emancipation is in the best interest of the minor.

An order of emancipation would confer on the minor all of the rights and responsibilities of legal adulthood with certain exceptions. Those exceptions include voting, purchase or consumption of alcohol, tobacco or electronic cigarettes, compulsory school attendance, and health and safety regulations including workplace regulations designed to protect those under the age of 18 years, and employment in gaming. While MDAAP supports the objective of the legislation, which is to enable a minor age 16 and older to be emancipated if deemed in the best interest of the minor, MDAAP would assert that those exceptions to emancipation should also include the right to apply for a marriage license which would be granted under the bill as written.

American women who marry before the age of 18 are more likely to face psychiatric disorders like clinical depression, according to a 2011 nationwide study published by the American Academy of Pediatrics. Early marriage doubles a teenager's chances of living in poverty and triples the likelihood of domestic violence, compared to married adults. Limiting the ability to minors to marry regardless of emancipation status substantially limits the threat of a minor being forced or coerced into a marriage. Forced marriage victims experience significantly high rates of sexual abuse, economic threats, and isolation. A 2016 review by The American College of Obstetricians and Gynecologists found that women and girls who were threatened with forced marriage reported higher instances of intimate partner violence.

This Committee will be considering separate legislation (*Senate Bill 949 – Family Law – Authorization for a Minor to Marry*) which provides important changes to Maryland’s law regarding a minor’s right to marry. That legislation provides critical limitations on the right of minors to marry to individuals who are 17 and enhances the requirements that must be met for an individual who is age 17 to marry. MDAAP strongly urges the Committee to support the proposed changes to the other legislation and amend this bill to delete the right of an emancipated minor to apply for a marriage license and instead add a provision to the law that adds the right to marry to the list of exceptions to minor emancipation.

MDAAP supports enacting legislation that provides minors the right to seek emancipation but does not support including the right to marry as a right conferred with emancipation. With its noted amendment, MDAAP urges a favorable report.

For more information call:

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Tahirih Justice Center_FWA_SB 680

Uploaded by: Smoot, Jeanne

Position: FWA



TAHIRIH
JUSTICE
CENTER®

BILL NO: Senate Bill 680 (Family Law – Minors – Emancipation)
HEARING: Senate JPR, February 20, 2020
POSITION: **SUPPORT WITH AMENDMENTS**

The Tahirih Justice Center (Tahirih) is a non-profit legal advocacy organization that, since 1997, has served survivors of domestic violence, sexual assault, human trafficking, and other abuse. Through a specialized Forced Marriage Initiative launched in 2011, Tahirih has unique legal and policy expertise in forced and child marriage in the U.S.ⁱ

Tahirih strongly supports Senate Bill 680 in its creation of a clear, thoughtful and detailed framework to enable a mature and self-sufficient minor to petition a court for an order of emancipation. Emancipation can be a critical tool to empower minors to advocate for themselves, including to escape parental abuse, neglect, exploitation, or coercion.

Thirty states already have standalone emancipation statutes, and most, as SB 680 does, set age 16 as the threshold for eligibility. SB 860 also draws on other best practices and lessons learned across these states and builds on a model statute promulgated by the American Bar Association.ⁱⁱ It includes vital safeguards like the appointment of an attorney to advise and advocate for the minor, guidance for the court on what a robust inquiry into the minor's best interests must entail, and a specific enumeration of the legal rights and responsibilities that emancipation will confer on the minor.ⁱⁱⁱ

However, Tahirih is very concerned that, as-introduced, SB 680 does not go far enough to protect vulnerable minors from harm. The bill would make emancipation an *additional, alternative route for minors age 16 or 17 to be permitted to marry*, leaving in place lax exceptions in current law to a minimum marriage age of 18 that are based on pregnancy and/or parental consent.

As a result, most minors who marry will continue to be *un-emancipated*. This is disturbing because attaining majority naturally at age 18, or being clearly emancipated by a court order, can make a pivotal difference to the rights and options a married minor has available to her in case of domestic violence or divorce.

Un-emancipated minors who run away from home can be taken into custody without a warrant; shelters may have to request a parent's consent within 24 hours of a minor's arrival or petition for legal custody of the minor themselves; relatives or friends who might offer a runaway a place to stay could risk being sued by the parents for interfering with parental rights or charged by police for harboring a runaway; un-emancipated minors cannot enter binding legal contracts, and as a result, adults (from lawyers to landlords) tend to avoid entering contracts with minors; and under current law, the marriage of a minor *relieves the minor's parents of support obligations*, but it *does not clearly grant the minor herself any rights*. As a result, a court may question whether she can even file a petition for a protective order or divorce on her own.^{iv}

*Protecting Immigrant
Women and Girls
Fleeing Violence*

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Tahirih urges this Committee to embrace a simple but powerful proposition: *that no one who is legally and practically still a child should be permitted to marry.*

Child marriage is a serious problem in Maryland. Nearly 3,500 minors were married in Maryland from 2000-2018, most of them girls married to adult men, many of whom were significantly older.^v In 2018, for example, a 15 year old was brought from Delaware to Maryland to be married to a 22 year old under Maryland's pregnancy exception – yet in both states, sex between individuals at those ages is a crime punishable by substantial jail time.

The marriage-age exceptions in current law have enabled cover-ups for sexual assault and work-arounds for predators, facilitated forced marriages of girls against their will, trapped vulnerable girls in violent homes without the rights or resources to find safety, and failed to protect girls from other serious risks and harms of early marriage. Research shows that marriage before age 18 stacks steep odds against a young person's security and wellbeing, including higher drop-out rates from high school and college, a greater likelihood of poverty, more medical and mental health problems, and divorce rates of up to 80%.^{vi}

Since 2016, a total of 21 states have taken steps to end or limit child marriage, and 8 states now condition eligibility to marry on a minor's having been emancipated (either naturally at age 18, or after petitioning a court). Six of those eight are Maryland's regional neighbors (Delaware, Kentucky, New Jersey, New York, Ohio, and Virginia). More states around the country are raising their minimum marriage ages, limiting age differences, and instituting other safeguards to better protect vulnerable minors. Maryland is in a fast-diminishing minority of states that have such a low age floor (age 15) for marriage, and that retain a pregnancy exception; most states have eliminated pregnancy exceptions they once had and several expressly instruct judges that a pregnancy does not prove that marriage is in a minor's best interest. *As more states strengthen their laws, those seeking to abuse and exploit girls under the guise of marriage will increasingly gravitate to Maryland for its weaker laws.*

Tahirih therefore urges further amendments to SB 680 in order to:

- clarify that only court-emancipated minors may marry, eliminating all other exceptions in Md. Family Code §2-301 to a minimum marriage age of 18;
- restrict the age of an intended spouse to no more than 4 years older than a minor; and
- put in place a two-week waiting period between the emancipation order and the marriage license.^{vii}

Limited exceptions to a minimum marriage age of 18 only for court-emancipated minors can have a significant impact; in Virginia and Texas, for example, this shift resulted in about a 90% decrease in the numbers of minors married pre- and post-reforms.^{viii}

Tahirih strongly believes that the best way to protect girls from forced marriages and other risks of marrying young is to set the legal marriage age at 18, without exception. However, we believe that SB 680 – *as amended to include marriage-age reforms to Md. Family Code §2-301*– will help accomplish these objectives. The bill would then increase the likelihood that if a minor marries, she is making that decision for herself, and that if she faces abuse, she will be able to leave the marriage and rebuild her life in safety.

The Tahirih Justice Center respectfully urges a favorable report on SB 680, with amendments as outlined.

Tahirih Attachments:

Map: Child Marriage Laws in Maryland and the Region, and Measurable Outcomes

Summary: The National Movement to End Child Marriage

Backgrounder: Child Marriage Poses Serious Risks to Children

ⁱ For a 50-state report that Tahirih has prepared analyzing minimum marriage age laws and how they can either increase protections or instead ratchet up risks of forced marriages and other harm, as well as other resources, please visit www.tahirih.org/childmarriage.

ⁱⁱ See “Runaway and Homeless Youth and the Law: Model State Statutes” (American Bar Association and the National Network for Youth: 2009), available at <https://www.nn4youth.org/learn/resources/>.

ⁱⁱⁱ SB 680 also gives minors the right to petition on their own, recognizing that some minors may seek to emancipate precisely because they have abusive parents who could otherwise block their access to emancipation. Similarly, appointing an attorney for the minor not only acknowledges that emancipation involves serious legal consequences, but also accounts for the possibility that some parents may try to foist emancipation on a minor, just to terminate their obligations to support and care for their child.

Ensuring that a minor is represented by an attorney in the emancipation proceeding could make a pivotal difference to a vulnerable young person, and notably, would mean *de minimis* cost to the state. It is reasonable to expect that Maryland might see only a few dozen emancipation petitions filed each year. Data obtained by the Tahirih Justice Center from the Virginia courts shows that fewer than 75 emancipation petitions were filed a year on average over the years 2010-2016. Similar data obtained from the North Carolina courts shows about 100 emancipation petitions a year on average over a recent 5-year period, and in Georgia, fewer than 20 emancipation petitions were filed state-wide in any recent year. All 3 states have significantly larger populations than Maryland, so again, Maryland will likely see relatively few emancipation petitions a year.

^{iv} See, e.g., Md. Code, Family Law § 9-304 (prohibiting a relative from “harboring” a child under age 16) and *Khalifa v. Shannon*, 404 Md. 107, 123, 945 A.2d 1244, 1253 (2008); COMAR 14.31.07.09 (shelter regulations re: minors); Md. Commercial Law Code Ann. § 1-103 (c)(1) (“The age of majority as it pertains to the capacity to contract is 18 years of age”); Md. Code, General Provisions §1-401 (defining age 18 as the age of majority, and at subpart “b,” relieving parents of support obligations upon the marriage of a child).

^v Marriage license records obtained from the Maryland Department of Public Health, Vital Statistics Administration, and analyzed by the Tahirih Justice Center. On file with Tahirih.

^{vi} See specific statistics and sources cited in Tahirih Justice Center’s backgrounder, “Child Marriage Poses Serious Risks to Children,” available at www.tahirih.org/childmarriage.

^{vii} Mandatory waiting periods can provide critical time and opportunity for a newly-emancipated minor to get help to avoid or prevent a forced marriage that she may be facing, rather than find herself rushed from the judge’s courtroom straight to the clerk’s window to be married same-day. Several states prudently place limitations on an emancipated minor’s ability to marry, recognizing profound power imbalances between an adult and minor spouse, especially the younger the minor and/or greater the age differences. For example, Kentucky, Ohio and Georgia all require the emancipated minor to be at least age 17 to marry, the intended spouse to be no more than 4 years older, and have a waiting period between an order of emancipation and the issuance of a marriage license. Kentucky, Georgia, and Virginia also vet the criminal background of a minor’s intended spouse and examine any history of protective orders between the parties.

^{viii} Marriage license records obtained from the Virginia and Texas Departments of Health through the legislative sponsors of marriage-age reforms enacted in 2016 and 2017 respectively, and analyzed by the Tahirih Justice Center. On file with Tahirih.

Child Marriage Laws in Maryland and the Region

Age “floor” is given for each state in parentheses. The floor is the age below which no child can be married, regardless of parental consent or judicial approval.

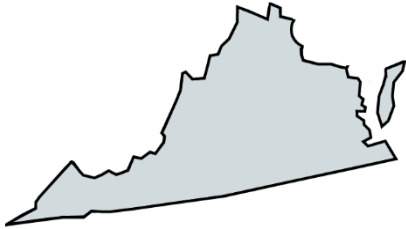
In addition to an age floor, New York, Ohio, Kentucky and Virginia also have several additional safeguards, including a requirement that a minor be court-emancipated (given the rights of a legal adult) before marriage.



FAST FACTS:

- *Maryland’s current laws on minimum marriage age are weaker than 7 of the other 9 states plus DC in this region. And a bill with dozens of bipartisan co-sponsors that would set the age at 18, no exceptions, is expected to become law soon in Pennsylvania.*
- *Six states and DC set a higher age floor than Maryland and/or require that individuals must be legal adults before marrying.*
- *Maryland is the only state in the region that still has a pregnancy exception, and is only one of 6 such states nationwide. Most states now recognize that a pregnant underage girl may need a protection order, not a marriage license.*

Measurable Outcomes in States Leading the Movement to End Child Marriage



Virginia was the first state to limit marriage to legal adults, with a 2016 law that set a minimum marriage age of 18 with an exception for court-emancipated minors.

The year before Virginia's new law went into effect, 182 children married in the state. The year after, that number fell to just 13 – over a 90% decline.

Most married a spouse within 4-6 years of their age (compared with decades of age difference in some cases before the new law).



Texas also set a minimum marriage age of 18, with an exception for court-emancipated minors with a new law that went into effect in September 2017.

Preliminary data shows a decline in children marrying of about 90% following the law's effective date.

From September 2016 to February 2017, 175 children married in Texas. Over the same six-month period immediately following the law's effective date, that number fell to just 18.

Those same comparison periods also saw a decline in age differences in marriages involving a spouse under age 18, with the maximum age gap falling from 14 years to 7 years.

A total of 21 states have enacted some reforms to limit child marriage. In addition to **Virginia** and **Texas**, six more have limited marriage to legal adults since 2016: **Delaware and New Jersey** (age 18, no exceptions); **New York, Kentucky, Ohio and Georgia** (age 18, or age 17 and emancipated).

In states that set the bar for marriage at legal adulthood, we can see the greatest impact on the child marriage problem.

In states that adopted some reforms but did not set the bar for marriage at legal adulthood – for example, Florida, which simply raised the age floor to 17 and limited age differences – measurable outcomes are far lower.

Learn more about child marriage in the United States: tahirih.org/childmarriage.

The National Movement to End Child Marriage

To Ensure Full and Free Consent to Marriage, and To Protect Children from Irreparable Harm

What are states doing to address child marriage?

Prior to 2015, the public and policymakers had no idea what the nature and scope of America's child marriage problem really was. At that time, investigative reporters and advocates serving child marriage survivors began to pull and analyze state marriage license records, leading to the startling realization that over 200,000 minors (children under age 18) were married from 2000-2015 alone.¹

The overwhelming majority were girls, most married adult men, and many times, those men were significantly older. Increasing media coverage over the last few years has called attention to the horrific experiences of many former "child brides" who were abused and exploited under the guise of marriage.²

In response, twenty-one U.S. states have strengthened their minimum marriage age laws since 2016, and there has been significant growth, year over year, in the number of states taking up reforms.

Eight of those states have effectively ended child marriage – either by setting the minimum marriage age at 18 without exception, or by prohibiting marriage licenses from being issued to minors unless they have been court-emancipated³.

New laws were enacted in Delaware and New Jersey which entirely ban marriage under age 18⁴:

State	Marriage-Age Requirements <u>Before</u> Reform	Marriage-Age Requirements <u>After</u> Reform	Effective:
Delaware	No age floor; judicial approval required for all minors, based on several criteria	Minimum marriage age set ⁵ at 18, no exceptions	2018
New Jersey	No age floor; for age 16-17, only parental consent required; under age 16, judicial approval required, with little to no guidance for judges' decisions	Minimum marriage age set at 18, no exceptions	2018

Other states that have recently enacted new marriage-age laws are:

State	Marriage-Age Requirements <u>After</u> Reform	Effective:
Virginia	Minor must be court-emancipated (eligible at age 16); attorney appointed to minor; if emancipating to marry, several criteria apply (e.g., judge must find minor is not being coerced and examine criminal record/protective order history of intended spouse); "best interests" inquiry	2016

¹ Stats are from *Frontline*, "Child Marriage in America: By the Numbers" (July 6, 2017).

² See, e.g., "Child Brides Call on U.S. States to End 'Legal Rape,'" *Reuters* (October 24, 2018); "She Was Forced into Child Marriage in Texas. Now She Wants to End the Pain for Others," *Dallas News* (July 11, 2018); "Sherry Johnson Was Raped, Pregnant, and Married by 11. Now She's Fighting to End Child Marriage in America," *CNN* (January 30, 2018); "Grown Men Are Exploiting Loopholes in State Laws to Marry Children," *Huffington Post* (August 30, 2017).

³ A petition for emancipation seeks a court order granting a mature and self-sufficient minor the legal rights and status of an adult. States that have enacted new laws with a limited exception permitting court-emancipated minors to marry are Virginia, Texas, New York, Kentucky, Ohio, and Georgia (see reverse).

⁴ As of January 2020, bills are pending in several additional states that would entirely ban marriage under age 18.

⁵ As used in these charts, "set" refers to states that previously had *no age floor* (no lower limit to how young a child could be married, if the statutory criteria for an exception were met), and that through legislative reforms, instituted a firm age floor for the first time. "Raised" refers to states that previously had a lower age floor, and that through legislative reforms, instituted a new, higher age floor.

State	Marriage-Age Requirements After Reform	Effective:
Connecticut	Age floor set at 16; age 16-17 now requires judicial approval; judge must consider factors including whether there is coercion	2017
New York	Age floor raised to 17; minor must be court-emancipated; attorney must be appointed to minor and judge must interview privately; judge must consider several factors to vet the intended marriage including whether there is coercion or a history of violence or power imbalance between the parties; rights/resources info must be provided to minor	2017
Texas	Minor must be court-emancipated (eligible at age 16); attorney appointed to minor; "best interests" inquiry	2017
Arizona	Age floor set at 16; parties' age difference limited to 3 years	2018
Florida	Age floor set at 17; parties' age difference limited to 2 years	2018
Kentucky	Age floor set at 17 and other party cannot be more than 4 years older; minor must be court-emancipated; attorney may be appointed to minor and judge must interview privately; court must consider several factors (e.g., judge must find minor is not being coerced and examine criminal record/protective order history of intended spouse); "best interests" inquiry; 15-day waiting period between emancipation order and marriage license; rights/resources factsheet given to minor	2018
Missouri	Age floor set at 16; no one age 21 or older can marry a minor	2018
Tennessee	Age floor set at 17; parties' age difference limited to 4 years; rights/resources factsheet given to minor	2018
Arkansas	Age floor set at 16 (in case of pregnancy); girls now subject to the same rules at the same ages as boys (previously, exceptions were gender-differentiated); judicial approval required only for age 16	2019
California	No age floor; exception based on judicial approval; reforms improved judicial approval process, including by requiring private interviews with both a Family Court Services officer and the judge	2019
Colorado	Age floor set at 16; judicial approval now required; guardian ad litem appointed for the minor to investigate "best interests" and to file a report with the court addressing several factors, including the independent ability of the minor to manage the minor's own financial, personal, educational, and other affairs; certain rights of married minors clarified	2019
Georgia	Age floor raised to 17 and other party cannot be more than 4 years older; minor must be court-emancipated; attorney must be appointed to minor; if emancipating to marry, additional criteria apply (e.g., judge must find minor is not being coerced and examine criminal record/protective order history of intended spouse); "best interests" inquiry; 15-day waiting period between emancipation order and marriage license; minor must complete premarital education and receive rights/resources factsheet	2019
Louisiana	Age floor set at 17; age 16-17 now requires judicial approval; judge must consider several factors including whether parties are mature and self-sufficient and whether there is evidence of coercion or violence; parties' age difference limited to 3 years	2019
Nevada	Age floor set at 17; age 17 now requires judicial approval; judge must consider factors including maturity of minor and age differences of parties, must be "extraordinary circumstances" and "clear and convincing evidence" including that marriage is in the minor's best interests	2019
New Hampshire	Age floor raised to 16; judicial approval required; improved judicial approval process, including by requiring "clear and convincing evidence" that marriage is in the minor's best interests	2019
Ohio	Age floor set at 17; parties' age difference limited to 4 years; minor must be court-emancipated; attorney must be appointed to minor; court must consider several factors including whether there is coercion; 14-day waiting period between emancipation order and marriage license	2019
Utah	Age floor raised to 16; parties' age difference limited to 7 years; age 16-17 now requires judicial approval; court must find that the marriage is voluntary and in the best interest of the minor; allows court to make other orders (e.g., continuing schooling, getting premarital counseling)	2019
Maine	Age floor set at 16; parties' age difference limited to 3 years	2020

For more information, please contact Jeanne Smoot, Senior Counsel for Public Policy and Strategy, jeanne@tahirih.org, or visit tahirih.org/childmarriage.

Child Marriage Poses Serious Risks to Children



PHYSICAL IMPACT

- Women who marry before age 19 have a 23% greater risk of developing a serious health condition including diabetes, cancer, heart attack, or stroke.¹
- Teen girls who marry tend to have more children, earlier, and more closely spaced.² They are:
 - » Much more (130%) likely to get pregnant than unmarried teens who live with a partner³
 - » More likely to have their first child before age 18⁴
 - » 40% more likely to have a second birth within 24 months of their first⁵
 - » Nearly 3x more likely to have at least 5 children⁶
- Young women and girls aged 16-19 face intimate partner violence victimization rates almost 3x the national average.⁷
- Overall, women who marry as children are more likely to seek and access health services, compared to women who married in adulthood.⁸



ECONOMIC IMPACT

- Child brides tend to come from poverty and remain in poverty.⁹
 - » Girls who marry underage are up to 31 percentage points more likely to live in future poverty.¹⁰
 - » For teen mothers, getting married and later divorcing can more than double the likelihood of poverty.¹¹
- Earning potential and work opportunities are limited by interrupted education and low education levels. Girls who marry under age 19 are:
 - » 50% more likely to drop out of high school
 - » 4x less likely to graduate college¹²



SOCIAL IMPACT

- Child brides tend to be isolated from support networks including school, friends, and family.
- The majority (70-80%) of marriages entered into when at least one person is under age 18 ultimately end in divorce.¹³
 - » According to one study based on census data, 23% of children who marry are already separated or divorced by the time they turn 18¹⁴
- These negative outcomes, combined with the economic impacts of child marriage which limit a woman's ability to become financially independent, increase vulnerability to multiple victimization and often result in consequences becoming cyclical and intergenerational.



MENTAL IMPACT

- Women who marry before age 18 are more likely to report stressful life events.
- Women who marry before age 18 are also present with significantly more psychiatric disorders, including:
 - » mood and anxiety disorders including major depressive disorder
 - » antisocial personality disorder (prevalence nearly 3x higher)¹⁵
- Social isolation and feeling a lack of control over their lives can contribute to a "child bride's" poor mental health. In fact, agencies working with girls facing or trying to escape forced marriages report that nearly all have contemplated or attempted suicide.¹⁶

ENDNOTES

- ¹ Compared with a study cohort of those who married between age 19 and 25. See Matthew E. Dupre and Sarah O. Meadows, “[Disaggregating the Effects of Marital Trajectories on Health](#),” *Journal of Family Issues* (Vol. 28, No. 5, May 2007, 623-652), at pp. 630-636, and 646-647; see also Bridget M. Kuehn, “[Early Marriage Has Lasting Consequences on Women’s Mental Health](#),” news@JAMA (August 29, 2011), posts by *The Journal of the American Medical Association* (“research has linked such early marriages to a higher risk of HIV or other sexually transmitted infections, cervical cancer, unintended pregnancy, maternal death during childbirth, and abortion; early marriage is also associated with malnutrition among offspring”).
- ² See Naomi Seiler, “[Is Teen Marriage a Solution?](#)” (Center for Law and Social Policy, April 2002), at p. 8; see also *infra*, n. 3.
- ³ See Wendy D. Manning and Jessica A. Cohen, “[Teenage Cohabitation, Marriage, and Childbearing](#),” *Population Research and Policy Review* (April 2015), 34(2): 161-177.
- ⁴ *Id.*
- ⁵ See Gordon B. Dahl, “Early Teen Marriage and Future Poverty,” *Demography* (August 2010: 47(3): 689-718), at 691, n. 2.
- ⁶ *Id.*
- ⁷ See [loveisrespect.org](#) factsheet.
- ⁸ See Yann Le Strat, Caroline Dubertet & Bernard Le Foll, “[Child Marriage in the United States and Its Association with Mental Health in Women](#)” 128 *Pediatrics* 524 (September 2011).
- ⁹ See *supra*, n. 8; see also “[Poverty](#),” Girls Not Brides factsheet, and Abby Phillip, *The Washington Post* (WorldViews: July 23, 2014), “[Here’s proof that child marriage and poverty go hand in hand](#)”.
- ¹⁰ See *supra*, n. 5, at 714. The author defined “early teen marriage” as marrying before age 16. *Id.*, at 693.
- ¹¹ See research cited by College of William & Mary Law School Professor Vivian E. Hamilton, in “[The Age of Marital Capacity: Reconsidering Civil Recognition of Adolescent Marriage](#)” (*Boston University Law Review*: December 2012) 92 B. U. L. Rev. 1817, 1820 and at n. 15.
- ¹² See *supra*, n. 5, at 691.
- ¹³ See *supra*, n. 11, at 1820.
- ¹⁴ See Alissa Koski and Jody Heymann, “Child Marriage in the United States: How Common Is the Practice, And Which Children Are at Greatest Risk?” *Perspectives on Sexual and Reproductive Health* (June 2018: 50 (2), 59-65), at 61.
- ¹⁵ See *supra*, n. 8.
- ¹⁶ As observed by the Tahiri Justice Center’s Forced Marriage Initiative and other legal and social service-providers in the national Forced Marriage Working Group that Tahiri chairs.



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Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 680
Family Law – Minors – Emancipation (Emancipation of Minors Act)
DATE: February 12, 2020
(2/25)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 680. This bill would establish a process for a petition for the emancipation of a minor.

The bill provides that a court shall appoint a lawyer to serve as a best interest attorney for the petitioner but does not identify any funding source for the representation.

In addition, the bill requires the court to hold a hearing within 30 days after the petition is filed, which interferes with the court's docket management. The 30-day time period is also unrealistic, given service and response timelines, and the requirement to appoint a best interest attorney to investigate the petition. In addition, page four requires the court to "issue a show-cause order that requires the party to whom it is issued to respond as required under the Maryland Rules." If the bill is referencing a show-cause order under Maryland Rule 9-105, the hearing envisioned within 30 days under the bill would be required to be held before service may be required under the rule which requires service within 90 days. It is also unclear who/what party is intended in this provision.

The bill also does not fully address the role of the Department of Human Services (Department). Although the bill does require the court to ask for, and the Department to provide, certain information about the child, it does not address any confidentiality issues that might arise out of the disclosures, or clearly address the Department's status in the case.

Further, §5-2A-06(f) states that a minor who was formerly in the custody of the Department is entitled to the resumption of services, including out-of-home placement, on the rescission of an order of emancipation. The bill does not specifically address how an order granting or rescinding emancipation would affect the minor's status as a Child in

Need of Assistance; the bill does not make any corresponding amendments to Courts and Judicial Proceedings § 3-801 *et seq.*

In addition, the bill does not provide a mechanism for discovery or evidentiary issues at the hearing. Finally, the appeal provision only applies to the denial of the petition for rescission – meaning only the minor can appeal. Parents/guardians are given no appeal rights in this bill.

cc. Hon. Mary Washington
Judicial Council
Legislative Committee
Kelley O'Connor