



HB1231 - Family Law – Authorization for a Minor to Marry

Presented to the Hon. Luke Clippinger and Members of the House Judiciary Committee
February 20, 2020 1:00 p.m.

POSITION: FAVORABLE WITH AMENDMENTS

NARAL Pro-Choice Maryland **urges the House Judiciary Committee a favorable report with amendments on HB1231 - Family Law – Authorization for a Minor to Marry**, sponsored by Delegate Vanessa Atterbeary.

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 child-bearing 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.

Minors who marry in Maryland are not automatically legally emancipated. With the assistance of a court appoint attorney representing the minor's interests, HB1231 will create a new law in which a minor has the right to petition the court to apply for a marriage license. As advocates for youth, we are aware that minors 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". HB01231 seeks to create a separate legal mechanism apart from the one detailed in pending legislation also introduced this session, HB0458, Family Law - Minors - Emancipation (Emancipation of Minors Act of 2020).

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 strongly recommend that HB1231 be amended to include the right for a 16-year-old to petition for authorization to marry, not just a 17-year-old. If a 16 or 17-year-old can prove to a court of law the ability to be able to manage one's own affairs without parental involvement and meet basic needs, that person should have the right to contract, and should include the constitutional right to committing to a legal, consensual marriage. We want to ensure that all 16 and 17-year-olds who are pregnant or newly parenting have access to the legal benefits of marriage or other benefits and resources which can be secured through the right to contract. For pregnant youth, 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.

This legislation addresses two important reproductive justice issues: reducing incidences of forced marriage and ensuring the right to marry as it figures into pregnancy decision-making. 16 is the age to consent to sex in Maryland, and youth 16 and 17 years-old who decide to form their own families should have access to medical services and legal rights to adequately care for themselves throughout pregnancy and for any children they might have. The legal benefits of marriage can help those seeking positive pregnancy outcomes and the ability

to raise their children in safety and good health. 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 determine whether to act in her best interests by marrying her partner to help build her family. What has been missing from Maryland law is 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.

It is important to note that HB0458 seeks to remove the current laws authorizing certain minors to marry. If HB0458 is passed, the law established in HB1231 if also passed would remain. Stripping young people of this human right of marriage should not be taken lightly. Advocates have cautioned legislators to not pass a law that will discriminate against youth who seek to marry according to their personal belief systems or remove themselves from families where abuse, neglect or criminal activity may exist. The desire to form a new family is stronger when parents are missing, incarcerated or deceased.

Reproductive justice calls for honoring and supporting youth if, how, and when they choose to form their families. Each year in Maryland, approximately 900 young women under the age of 18 will give birth. Some in a consensual, loving relationship may choose to marry. 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.

An unexpected pregnancy can bring out the worst in families, triggering acts of violence, humiliation and rejection. Banning marriage without any legal exception interferes with autonomous pregnancy and parenting decision-making as it blocks the option of marrying for those who fear unhealthy parental interference. No one has an interest in subjecting youth to reproductive coercion. Faced with abusive parents, a young person may choose to terminate a pregnancy for fear of being unable to provide her baby a safe home or be forced to surrender her child to adoption as a condition of her remaining in her home.

We urge the Maryland General Assembly to not ignore that youth have agency and the right to act in their best interests. Maturity evolves from facing life challenges, resolving conflicts, and increasing one’s responsibilities. Maturity is not suddenly granted by achieving the numerical age of 18. We need to strike the balance and agree on a systems advocacy approach against forced marriage that will also respect the different maturity levels, familial support, cultural norms and individual circumstances of young people choosing legal marriage. HB1231 may be a step towards achieving such goals. We must try harder to suspend old notions of how all youth should act and meet youth where they really are. For these reasons, **NARAL Pro-Choice Maryland urges a favorable report with amendments on HB1231.** Thank you for your time and consideration.