
BILL NO: House Bill 1231
TITLE: Family Law – Marriage – Age Requirements
COMMITTEE: Judiciary
HEARING DATE: February 20, 2020
POSITION: **OPPOSE**

House Bill 1231 seeks to create a system where individuals under the age of 17 are unable to marry, and anyone who is 17 may only marry if they are granted an order of authorization to marry, and if the person they are marrying is no more than 4 years older than them. The Women's Law Center (WLC) respectfully opposes this bill, as it will undercut the agency of young women without furthering its goal of preventing forced marriage and sex trafficking. It is our position that the first step to addressing those concerns related to underage marriage would be to create a system for certain mature minors to be deemed emancipated.

Current law states that an individual younger than age 15 may not marry. An individual age 16 or 17 may not marry unless the individual has the consent of a parent or guardian or if the individual does not have consent, either party to be married presents certification from a health care provider asserting that the woman to be married is pregnant or has given birth to a child. An individual who is age 15 may not marry without consent of a parent or guardian and a certificate from a medical professional, as specified above. HB 1231 seeks to remove the options for parental consent and medical certification and raise the minimum age for marriage to 17 years of age, under certain circumstances, in an attempt to eradicate forced marriages.

The WLC is not opposed to eliminating the ability of 15 year olds to marry. Nor does the WLC oppose preventing those under the age of 18 from marrying anyone more than 4 years older than them. We believe the latter provisions would eliminate much of the risk of coercion. However, the WLC maintains that these issues cannot be addressed in a vacuum. The WLC is particularly concerned with the provisions regarding judicial review prior to authorizing a 17 year old to marry. As drafted, we do not believe this would be a workable option within the current family law framework, especially where the court is authorized to "issue an order regarding the petition or the petitioner that it considers appropriate or necessary"¹ – an overly broad and troublesome grant of authority.

For the past several decades, the WLC operated two family law hotlines, a domestic violence legal services project, and a project dedicated to providing immigration services for victims of domestic violence, sex trafficking, and sexual assault. We now also operate a statewide divorce and custody project for survivors of domestic violence. We interact with, and provide legal advice to, young women in all stages of life, from a variety of cultures and economic situations. While the WLC clearly opposes the coercion of any woman into marriage, our experiences have shown neither an epidemic of forced marriages, nor evidence that raising the age of marriageability to 18 would prevent them. Rather, we strongly believe in the autonomy of women to choose what is best for them given their personal

¹ Page 5, line 29-Page 6, line 1. See also, the court may issue any other order or impose any condition on an order that it considers necessary for the protection of the petitioner". Page 7, lines 15-17.

situation, culture, and needs. Maturity varies by the individual and while it may be tempting to insert our beliefs and judgments into the lives of young women, we believe they deserve respect and agency over their own lives. In other words, we trust women over all else to make the choices that are best for them.

Additionally, while several other states have raised the age of marriageability, or imposed blanket bans on minors marrying, those jurisdictions have sophisticated statutory schemes in place addressing the emancipation of minors that protect a minor's ability to marry under certain circumstances. Maryland is currently within the minority of states that have not yet codified an emancipation process, and thus any safeguards, which may be found in other jurisdictions, would not be found in Maryland. The WLC believes that any attempt to address the age at which a minor can consent to marry without first addressing emancipation is premature. The judicial bypass proposed by this bill is not a substitute to the considerations that would be addressed in the broader scope of emancipation. Legislation is pending that would allow for the emancipation of 16 and 17 year olds, and for emancipated 17 year olds to marry. The WLC urges adoption of that legislation, with the caveat that any emancipated minor should be afforded the opportunity to marry, not just emancipated 17 year olds.

For these reasons, the Women's Law Center of Maryland, Inc. urges an unfavorable report on House Bill 1231.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change. The Women's Law Center operates legal 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.