

SenElfreth_FAV_SB173.pdf

Uploaded by: Elfreth, Sarah

Position: FAV

SENATOR SARAH ELFRETH
Legislative District 30
Anne Arundel County

Budget and Taxation Committee

Subcommittees

Education, Business and Administration

Chair, Pensions

Senate Chair

Joint Committee on Administrative,
Executive, and Legislative Review

Joint Committee on the Chesapeake and
Atlantic Coastal Bays Critical Area



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THE SENATE OF MARYLAND

ANNAPOLIS, MARYLAND 21401

January 26, 2021

Testimony in Favor of SB0173
Family Law - Emancipation of a Minor and Authorization to Marry

Chairman Smith, Vice-Chairman Waldstreicher, and Members of the Judicial Proceedings Committee,

I respectfully request a favorable report of Senate Bill 173. This bill will correct Maryland's child marriage law by setting an age floor of 17 to marry and create a judicial review process for a 17-year-old to be authorized to marry. The bill would also grant emancipation to any 17 year old that is given authorization to marry.

I have had the privilege of working on this issue for the last two years and I have been unable to find a single person in the real world - outside of our hallowed halls - who believes that Maryland's current law of allowing 15 year olds to marry is acceptable.

This Committee has seen this bill in different iterations for the last six years. The difference in 2021: SB 173 represents a true compromise. There are many in our State who believe the age floor should be raised to 18 with no expectations -- and I have personally been on the receiving end of outrage over the mere fact that I would try and find the compromise of 17 in this bill instead of 18. You will hear and read testimony from these groups today. There are those who believe that changing Maryland's law would lead to threats to women's autonomy and choice. You will hear from these groups today.

This Committee knows that there is no easy answer, no silver bullet policy solution. More often than not, the right answer lies somewhere in the middle. The bill as introduced represents input from both sides of this argument in order to make SB173 the strongest public policy possible.

I stand here today as a proud pro-choice Senator who also believes that our current laws of allowing child marriage are deeply flawed and harmful to young men and women. This body has made tremendous strides to protect women and children from threats of domestic violence, sexual assault, and human trafficking - and yet has still condoned child marriage. Senate Bill 173 accomplishes this necessary balance and takes Maryland out of the dark ages.

I will attempt to make a highly emotional issue strictly about the facts and as data-driven as possible.

Current Maryland law allows for children as young as 15 to get married with parental consent and if they are pregnant. Current law allows for 16 year olds to marry if they have parental consent or if they are parenting. Our current law does not allow for a Clerk of the Court to intervene if they suspect a parent or a partner is coercing a minor -- and you will hear from my County's Clerk on this specific point. Nothing under Maryland law prohibits a pregnant 15 year old from Delaware, a State that has set the minimum age of marriage at 18, from being taken to Maryland to marry a man 22 years her senior. This didn't happen in 1953 - it happened in 2018.

This is not a small problem. Nearly 3,500 minors were married in Maryland between 200 and 2018. 85 percent of those minors were women. In 2016, 25 Maryland married children married someone in their 20's and six married someone in their 30s.

Child marriages lead to significantly harmful outcomes. The vast majority of girls who marry before the age of 18 face significant lifelong challenges:

- Marrying before 18 doubles the chance of living in poverty;
- Those who marry before 18 are 50 percent more likely to drop out of high school;
- Marrying before 18 triples the likelihood of domestic violence;
- Those who marry before 18 have a 70 to 80 percent greater chance of getting divorced.

Other states have recognized the importance of protecting children - including our neighboring states of Pennsylvania, Delaware, Virginia, and New Jersey. Two of which, Delaware and New Jersey have raised the minimum age of 18 with no exceptions.

Senate Bill 173 does four main things:

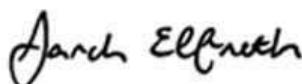
- Raises the age of marriage to 17, no exceptions;
- Provides for no more than a 4 year age difference between potential partners;
- Creates a judicial review process to ensure that the Court can independently determine that the relationship is voluntary and free from coercion and that the 17 year old seeking to marry is mature and capable of self-sufficiency;
- Ensures that a 17 year old who successfully petitions for a marriage license is also emancipated.

The emancipation language added allows any 17 year old the court authorizes to marry to sign a contract for a cell phone, open a bank account, sign a lease, retain an attorney, and, perhaps most critically, petition for their own divorce. This ensures that vulnerable women and men are empowered with the ability to get themselves out of an abusive marriage.

Senate Bill 173 ensures that if a minor is marrying, they are making that decision for themselves rather than being coerced and is able to escape an abusive home. It ensures that the union of a pregnant 15 year old and a 37 year old is not sanctioned by a government contract. It is the correct balance.

The time for the Senate and Maryland to act is now -- I once again request a favorable report.

Sincerely,

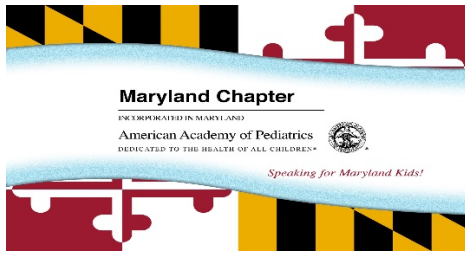
A handwritten signature in black ink that reads "Sarah Elfneith". The signature is written in a cursive, flowing style.

Sarah Elfneith

SB0173_FAV_MDAAP_Emanicipation of Minor & Authoriza

Uploaded by: Kasemeyer, Pam

Position: FAV



TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Sarah K. Elfreth

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

DATE: January 26, 2021

RE: **SUPPORT** – Senate Bill 173 – *Family Law – Emancipation of a Minor and Authorization to Marry*

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** for Senate Bill 173.

Senate Bill 173 provides important changes to Maryland's law regarding a minor's right to marry. The bill would limit the right to marry to individuals who are 17 and enhances the requirements that must be met for an individual who is age 17 to marry, including that there may not be more than a 4 year difference in age. Under current law, an individual, age 16 or 17 is allowed to marry if the individual has consent of the parent or guardian or has been certified to be pregnant or has had a child. An individual who is age 15 may not marry without consent of a parent or guardian and a certification that the individual is pregnant or has had a child.

Limiting the ability to minors to marry to age 17 with no more than 4 years difference in age 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. Additionally, many married minors do not have the legal rights of adults. 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.

Furthermore, parents may believe early marriage is in their daughter's best interest, especially if she's pregnant. However, the vast majority of girls who marry before age 18 face significant lifelong challenges. 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. Senate Bill 173 provides important enhancements for the protection of minors as it relates to the right to marry. A favorable report is requested.

For more information call:

Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
410-244-7000

Leas Testimony Environmental Rights.pdf

Uploaded by: Leas, Stephen

Position: FAV

January 22th, 2021

Written Testimony on SB0151
Maryland Amendment for Environmental Human Rights
Environment and Transportation Committee

Position: FAVORABLE

As a member of Sunrise Movement, a youth led organization supporting rapid action to fight climate change and redress historical injustices, I - and the local Baltimore hub of which I am a member, support SB0151, the Maryland Amendment for Environmental Human Rights.

The ecological devastation facing Maryland communities through the climate crisis and through poor industrial practices that cause it - is a burden we should not have to face. We have a right to clean water and air. I live in Baltimore and we should not have to worry about the pollutants from incinerators and industry causing respiratory health issues at some of the highest rates in the country - during a respiratory pandemic no less.

I have seen scores of folks testifying against pipelines in Charles County that would pollute their communities at the Public Service Commission and worsen climate impacts. Their voices were systematically ignored, simply because we do not value a healthy environment as a human right.

Voting favorably for the Maryland Amendment for Environmental Human Rights will give the right to live in a healthful environment to every Marylander across the generations: those alive today - especially the children - and all those yet to come. It will also create a solid legal basis to review and revise our existing environmental legislative authorities to better protect our environment, economy, and public health.

We currently rely heavily on the legislative process to get the job done. That is not enough. We need to recognize the right to a healthy environment in our Constitution to assure such protection. Years of not protecting this fundamental right through the existing legal authorities has left the door open for disparities in exposure to air and water pollution as well as increased rates of asthma, heart disease and cancer due to environmental pollution of our land and our bay. Six states already have environmental rights in their constitutions. More states are currently considering adding them.

The Environmental Rights Amendment would work in tandem with existing environmental policy and environmental legislation to assure that:

1. “Each person has the fundamental and inalienable right to live in a healthful environment”, including clean air, water, land and a stable climate; and
2. The State has the necessary legal authority and responsibility to serve as the trustee and protector of Maryland’s natural resources for current and future generations.

This is the time for this Amendment, particularly as we continue to struggle with the ongoing pandemic. The past year has underscored the tremendous dangers we face due to the increased exposure of all humankind to zoonotic illnesses (diseases transmitted from animals to humans). It has made clear that our increased use of natural resources and global mobility have put us in ever closer contact with animals and other organisms that humans had little prior exposure to. Because of Maryland's geography, reliance on maritime commerce, and high levels of mobility and urbanization, all Marylanders are uniquely at risk. This pandemic and the risk of others that may yet come, has also underscored the tremendous living and healthcare inequities that have existed in our state for generations. Those circumstances demand that we take a close look at our legal system and put a stronger foundation in place, one that addresses the inequities we all know exist and protects everyone’s right to live in a healthy environment.

We urge a FAVORABLE report for this crucial Amendment.

Testimony SB0173 Poyer.pdf

Uploaded by: Poyer, Scott

Position: FAV

SB0173 Family Law - Emancipation of a Minor and Authorization to Marry

Judicial Proceedings Committee – January 26, 2021

Sponsors: Senators Sarah Elfreth and Shelly Hettleman

Position: Support

Testimony of Scott Poyer, Clerk of the Circuit Court, Anne Arundel County

Thank you Chairman Smith and members of the committee for this opportunity to testify in support of SB0173. For the record, my name is Scott Poyer and I am the Clerk of the Circuit Court for Anne Arundel County. My testimony today is not on behalf of the Maryland Judiciary. I am here representing myself as the elected official who is responsible for issuing marriage licenses and performing marriage ceremonies in Anne Arundel County.

I am in favor of SB0173 because I do not feel the current laws provide enough protection for minors who may find themselves being pressured into marriage.

I believe there is a relative lack of safeguards for minors under the current system. While it takes two to get married, only one applicant needs to make the application and we may never see the other applicant. We only see both if our office performs the marriage ceremony. If an outside officiant performs the ceremony, we won't see them. We just receive a green piece of paper telling us the marriage has taken place. And these days anyone can be ordained to perform

weddings in Maryland. It takes about five minutes and costs \$29.99 to go online to be ordained.

So under our current system, one spouse can fill out the application, get pretty much anyone to perform the ceremony, and they have a valid Maryland marriage license recognized in all 50 states. And no one else will have ever seen the minor who was involved to determine if the minor was under duress or was marrying against their will.

I support the proposed legislation because it provides better safeguards for minors by raising the minimum marriage age to 17, requiring an attorney be appointed to represent the minor, and also requiring a court hearing for each case.

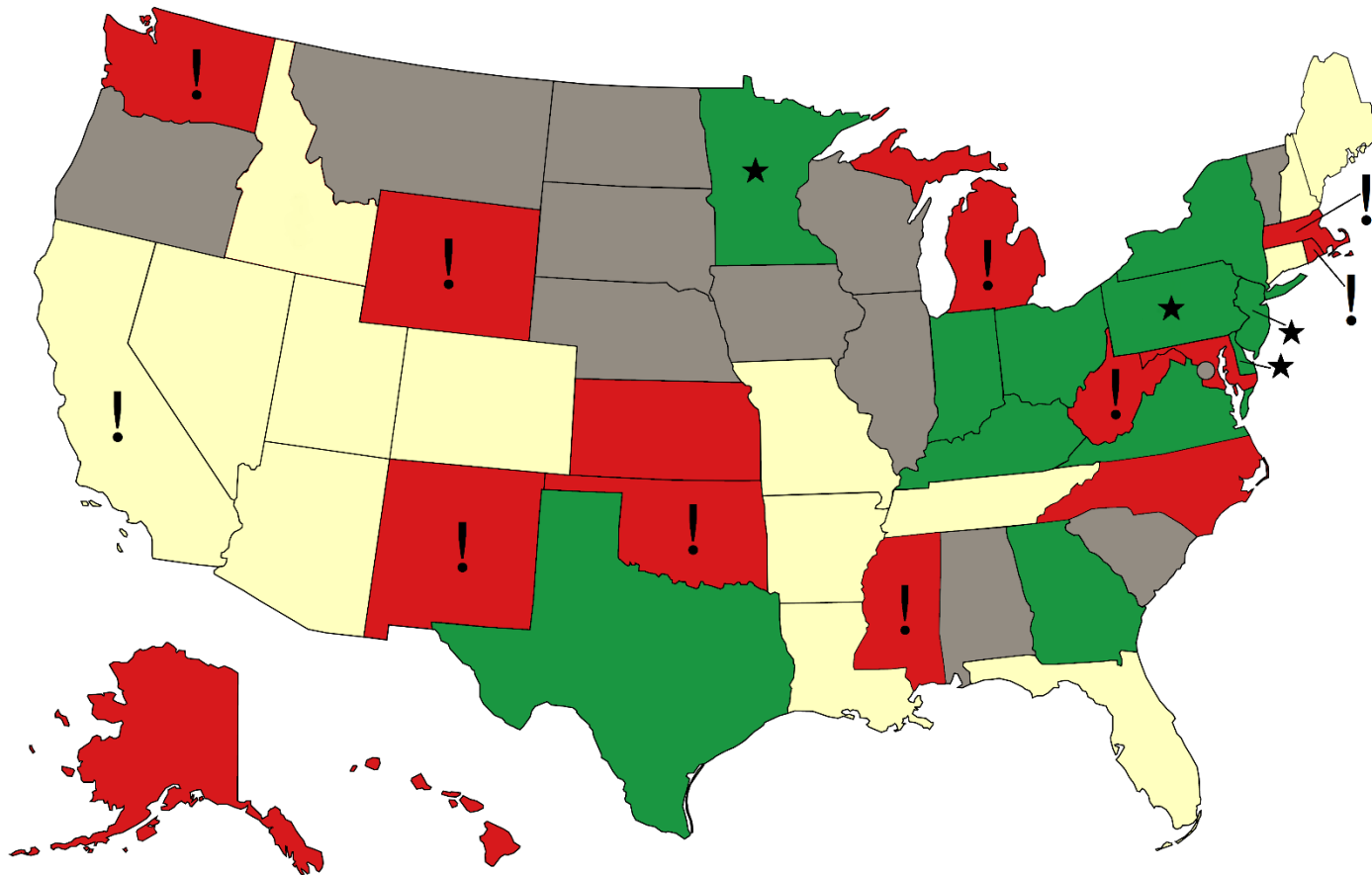
Thank you for the opportunity to comment on this bill.

National Map for MD 2021.pdf

Uploaded by: Swegman, Casey

Position: FAV







Legislative Reforms to Limit or End Child Marriage Since 2016



25 states and Washington, DC
have yet to adopt any reforms.

Among those, the "worst offenders" are states with:

- No age floor + pregnancy exception → NM, OK
- No age floor + different rules for girls vs. boys → MS
- Low age floor (below 16) + pregnancy exception → NC, MD. There is also no judge involved in MD.

-  Reforms set age floor of 18, no exceptions - even for court-emancipated minors
-  Reforms limited marriage to legal adults (age 18 or older, or court-emancipated minors)
-  Reforms limited child marriage by setting/raising age floors, setting maximum age differences, and/or instituting/strengthening judicial review
-  No reforms to existing laws, which allow marriage in some circumstances at age 16 and older
-  No reforms to existing laws, which allow marriage in some circumstances below age 16
-  No age floor - if statutory criteria are met, there is no absolute limit to how young a child can be married

Reflection-Paper_Making-Progress-But-Still-Falling

Uploaded by: Swegman, Casey

Position: FAV

Making Progress, But Still Falling Short: A Report on the Movement to End Child Marriage in America

May 2020

AT A GLANCE: HOW DO STATE LAWS ON MINIMUM MARRIAGE AGE COMPARE? (AS ENACTED BY MAY 13, 2020)

- Only 4 states (Delaware, New Jersey, Pennsylvania, and Minnesota) set the age floor at 18 – no exceptions
- 7 states (Virginia, Texas, New York, Kentucky, Ohio, Georgia, and Indiana) also limit marriage to legal adults – by providing exceptions only for emancipated minors
- 17 states require all minors to get judicial approval before they can marry
- In 14 states and Washington, DC, clerks alone – without judges – can issue marriage licenses for all minors
- 10 states do not set any age floor by statute, and 5 states set an age floor younger than 16
- 5 states expressly allow girls under the minimum age to be married if they are pregnant

*For more information, including a compilation of state laws, comparative analysis and “scorecards”, please visit tahirih.org/childmarriage.**

OVERVIEW

In August 2017, the Tahirih Justice Center (Tahirih) released the first comprehensive analysis of marriage-age provisions in all 50 states and Washington, DC that leave children more vulnerable to forced and early marriage. *Falling through the Cracks: How Laws Allow Child Marriage to Happen in Today’s America*, aims to provide state lawmakers and advocates in the United States with the information they need to pass laws that more effectively protect children.

Since then, significant progress has been made. But while half of all U.S. states have enacted legislation to end or limit child marriage, the states with the most lax laws have yet to take any action. In addition, many newly enacted laws do not go far enough, and will need to be strengthened in future legislative sessions.

THE BIRTH AND GROWTH OF THE U.S. MOVEMENT TO END CHILD MARRIAGE

At the start of Tahirih’s national campaign to end child marriage, data gathered by Tahirih and other advocates indicated that tens of thousands of children had been married in recent years across the U.S. In response, in 2016 after a campaign led by Tahirih, Virginia became the first state to end child marriage by restricting marriage licenses to legal adults (individuals age 18 or older, with a limited exception for minors who had been “emancipated” by a court after a special hearing). Similar reforms followed in Texas, New York, Kentucky, Ohio, Georgia, and Indiana that limit exceptions to emancipated minors and establish meaningful safeguards against forced marriages of children. In 2018, a critical milestone was reached when Delaware

and New Jersey became the first states to ban all marriage under age 18, without exception.¹ In May 2020, Pennsylvania and Minnesota became the third and fourth states to enact a “brightline” minimum marriage age of 18.

In total, 25 states have strengthened their minimum marriage-age laws since 2016.² Over that same short period, many more states have considered reform bills, and many of those bills have cleared major legislative hurdles, even if they have not yet made it all the way to final passage.

BUILDING MOMENTUM FOR LEGISLATIVE REFORMS ON MARRIAGE AGE

- 2016: Virginia
- 2017: Connecticut, New York, Texas
- 2018: Arizona, Delaware, Florida, Kentucky, Missouri, New Jersey, and Tennessee
- 2019: Arkansas, California, Colorado, Georgia, Louisiana, Nevada, New Hampshire, Ohio, and Utah
- 2020: Idaho, Indiana, Maine, Minnesota and Pennsylvania; more bills pending

These achievements are all the more remarkable considering that in some states, thousands of bills can be introduced in an intense, 40- to 60-day legislative session, all competing for attention and time in committee hearings, or for space on the agenda for a floor vote.

Public education has played a critical role. Many legislators and advocates, before now, simply had no idea that their states’ laws were so lax, or that child marriage really happened in America. They had not previously considered the stunning inconsistencies between marriage-age laws and statutory-rape laws, for example, or the cruel irony of permitting a girl to be married before she has attained the rights and resources an adult woman would have to protect herself from domestic violence.

The startling revelation in 2017 that over 200,000 children under age 18 were married in the United States between 2000 and 2015, documented through state marriage license data³, drove home the need for states to snap into action. The overwhelming majority of minors who were married were girls, most married adult men, and many times, those men were significantly older. Increasing media coverage has called attention to the horrific experiences of former “child brides” who were abused and exploited under the guise of marriage.⁴ Mounting U.S.-based research, amassed and amplified by Tahirih and other advocates, has provided further evidence of how child marriage drastically undermines girls’ health, safety, and welfare. Increasingly, too, survivors are stepping forward as advocates and movement-leaders, inspiring and driving changes in the laws.

The resulting burst of bipartisan legislative activity makes clear that most state lawmakers appreciate the acute concerns raised by permitting children to be married.⁵ More and more states are adopting provisions that better protect children from forced and early marriage, including setting floors of age 16 or higher, requiring all minors to obtain judicial approvals, setting more detailed substantive criteria, vetting not only the maturity and capacity of the minor but also the intended spouse and marriage for abuse or coercion, clarifying what a “best

interests” inquiry should entail, sending the cases to specialized judges, appointing counsel, and/or ensuring that minors are emancipated before marriage and understand their rights and resources available to protect them in case of abuse.

Despite broad recognition of the problem, however, most states have not pursued the simple, straightforward, and powerful solution that Tahirih and other advocates, including survivors, have repeatedly urged: to set age 18, no exceptions, as the minimum legal marriage age.⁶

Instead, the solutions that states have adopted have varied significantly, and those differences have a measurable impact on outcomes. For example:

- In Virginia⁷:
 - The new law limited marriage license issuance to legal adults age 18 or older, with an exception for court-emancipated minors.
 - Minors age 16 or older in Virginia can petition a specialized “Juvenile and Domestic Relations” judge to be emancipated, are appointed an attorney, and must prove they have the capacity to be independent and self-sufficient.
 - If the emancipation petition is based on an intent to marry, the judge must find that the minor is not being coerced, examine age differences and any violent criminal history of the intended spouse, and consider several other criteria.
 - In 2015, the year *before* the new law was enacted, **182 minors** were married, including one younger than age 15.
 - In 2017, the year *after* the new law’s effective date, just **13 minors** were married. None was younger than age 16, most were age 17, and all but one married someone within 4-6 years of their age.
- In Florida⁸:
 - The new law limited underage marriage license issuance to 17-year-olds marrying someone no more than 2 years older. A clerk issues the license; no judge is involved.
 - In 2017, the year *before* the new law was enacted, in the 6-month period July to December, a total of **125 minors** were married, including a 16-year-old married to a 45-year-old. 38 of the minors were boys, and 87 were girls.
 - In 2018, the year *after* the new law’s effective date, in the same 6-month period, a total of **48 minors** were married. 22 of the minors were boys, and 26 were girls. Most married someone close to their age.⁹

The Florida results reflect both an overall decline in numbers, and greater gender parity in who was married underage, once the age floor was raised and the age differences of the parties were

restricted. But they also show the limitations of those changes, without adding any judicial vetting: in Florida, the number of minors marrying was reduced by about 62%, compared with about a *93% reduction* in Virginia.

Preliminary data emerging from Texas also underscores the vital importance of an evidentiary hearing before a judge. In 2017, Texas enacted reforms similar to Virginia's new law, providing a limited exception to a minimum marriage age of 18 only for court-emancipated minors. A comparison of Texas marriage license data pre- and post-implementation of its new law likewise shows about a *90% reduction* in the number of minors who were married.¹⁰

Moreover, because of the new laws, all the minors who married in Virginia and Texas would have been emancipated prior to marriage in a judicial proceeding with some built-in safeguards, such as appointing counsel to the minor. Such measures provide greater assurance that a marriage is not being forced, and that the minor would have the legal and practical capacity to escape abuse if needed. By contrast, in Florida a court clerk can issue a marriage license to someone under age 18 after simply checking the respective ages of the parties, with no inquiry into what abusive or exploitative circumstances may lurk behind the application.

Still, the Florida law recognized that even a few years' age difference can mean a profound imbalance in the power and position of the parties in such marriages and thus dramatically increase vulnerability to abuse. In this light, the fact that some of the minors in Virginia and Texas married spouses who were several years older is real cause for concern.

Tahirih will continue to analyze and report on other states' post-reform experiences as more data becomes available. But already it is clear that states that have done little more than newly draw the line at age 16 should expect to see far less of an impact than those states that put multiple safeguards in place.

Each of the states examined above – Virginia, Florida, and Texas – posed legislative and political challenges to enacting an age-18 “bright-line” rule out of the gate. Incremental progress may be a necessary and even principled strategy in states like these where an age 18 bright-line rule is not a viable path forward, particularly if they have a large child marriage problem, especially lax laws, and a short legislative window. But lawmakers and advocates alike must commit to revisiting incremental reforms in all states, and advocating for stronger laws in future legislative sessions.

Overall, evidence to date demonstrates that any formula for marriage-age reforms other than “age-18, no exceptions” is incredibly hard to get right. In order to meaningfully mitigate risks, not only for the youngest minors but also for the 16- and 17-year-olds who make up the majority of girls being married, many different kinds of safeguards must be put in place and must all work together in any alternative that relies on judicial approval.

LIMITATIONS OF JUDICIAL APPROVAL EXCEPTIONS

Unfortunately, only a handful of all states have strong judicial approval processes with most or all of the kinds of critical safeguards that, working together, can help protect children from forced marriages and other serious, lifelong harm. In fact, the majority of states with some form

of a judicial approval exception still have glaring gaps in protection. California, for example, recently enacted modest improvements to its judicial approval process, but excluded certain minors from its coverage. What's more, the state *still has not set any age floor* below which a child cannot be married.

Simply requiring all minors to obtain judicial approval alone is not enough; after all, judges who rubber-stamped parental consent or exercised unfettered discretion have been responsible for some of the most shocking child marriage cases around the country. Robust judicial scrutiny that only applies to certain ages or circumstances does little to create strong protections for the majority of children being married. "Best interests" inquiries fail if they rest on judges' subjective assumptions, rather than evidence-based research about the harms of child marriage.

Judicial approval processes without court-appointed counsel and safe space to disclose threats are likely to elicit coached answers and deprive girls of critical legal guidance and rights-awareness. Ensuring that minors are slightly older, or that they have met the standard to be emancipated, also may not shield them from the many risks of marrying young. Finally, by the time an at-risk girl even gets to court and a judge is involved, it may be too late – by that time, she may have been abused and conditioned for months or years in an effort to make her submit to the marriage, and she may feel the stakes are too high and the consequences too uncertain to speak up.

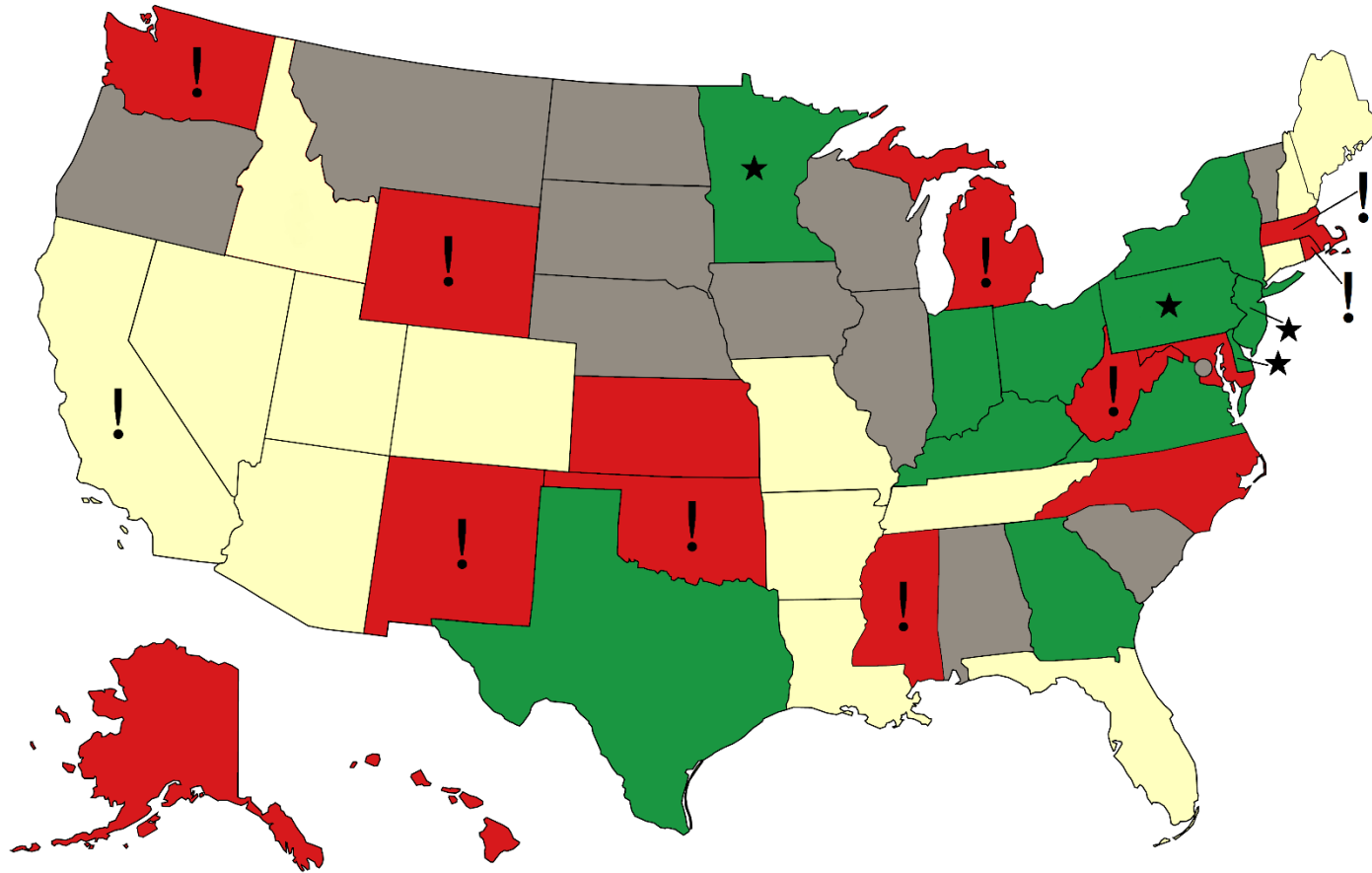
These observations reaffirm Tahirih's conclusion that no matter how well-crafted the judicial approval process, a firm age floor of 18, without exception, is the best way to pre-empt and prevent forced marriages of vulnerable children, well before the courthouse steps.

NOTABLE SHIFTS IN STATES' LAWS ON CHILD MARRIAGE

For more information, including a compilation of state laws, comparative analysis, and “scorecards”, please visit tahirih.org/childmarriage.*

Statutory Characteristic	# of States (2015)	# of States (5/13/2020)
<i>Best/better practices are increasing, such as...</i>		
Age floors set or raised:		
Age floor of “18, no exceptions”	0	4
Threshold of “legal adulthood” (4 states with “no exceptions” to age 18, plus 7 states with “exceptions for emancipated minors”)	0	11
Age floor of 17	2	9
Age floor of 16	11	22
Max age difference between a minor and an intended spouse applies	0	11
All minors must get judicial approval to marry (or to be emancipated/thereafter married)	8	17
Minors are appointed counsel for judicial hearings	2	8
Waiting period is required before issuing a minor a marriage license	2	6
When judicial approval is required, the judge must consider the minor’s best interests	17	20
Statute expressly clarifies that <i>parental consent</i> does not prove a marriage is in the minor’s best interests	0	3
Statute expressly clarifies that <i>pregnancy</i> does not prove a marriage is in the minor’s best interests	6	10
When judicial approval is required, the judge must consider the minor’s maturity/capacity	6	16
When judicial approval is required, the judge must consider whether the marriage is voluntary	6	13
When judicial approval is required, the judge must consider criminal records, protection orders, and/or a history of abuse	2	6
Minors are given information on the rights and responsibilities of parties to a marriage and/or of emancipated minors, and on the rights and resources available to victims of domestic violence	0	5
<i>Worst practices are decreasing, such as...</i>		
No age floor	28	10
Low age floor (below age 16)	9	5
Different exceptions based on gender, leaving girls more vulnerable	5	1
Pregnancy exception can drop the legal age to marry	10	5
Judicial approval is not required for older minors to marry, just parental consent	41	29
When judicial approval is required, the judge is given little to no guidance for making decisions	29	13
When judicial approval is required, the judge does not have to specialize in family law or juvenile matters	30	22

Legislative Reforms to End or Limit Child Marriage Since 2016



25 states and Washington, DC have yet to adopt any reforms. Among those, the “worst offenders” are states with:

- No age floor + pregnancy exception → NM, OK
- No age floor + different rules for girls vs. boys → MS
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- ★ Reforms set age floor of 18, no exceptions - even for court-emancipated minors
- Reforms limited marriage to legal adults (age 18 or older, or court-emancipated minors)
- Reforms limited child marriage by setting/raising age floors, setting maximum age differences, and/or instituting/strengthening judicial review
- No reforms to existing laws, which allow marriage in some circumstances at age 16 and older
- No reforms to existing laws, which allow marriage in some circumstances below age 16
- ❗ No age floor - if statutory criteria are met, there is no absolute limit to how young a child can be married

A DEEPER AND BROADER AGENDA FOR LEGISLATIVE ADVOCACY

The progress made in changing the state laws that govern the issuance of marriage licenses is absolutely critical. However, additional state and federal legislative reform is needed to prevent the life-long harms that can be caused by child and forced marriage.

For example, child marriages sometimes take place through religious or cultural ceremonies solemnized without a license. Marriages of U.S. children have also happened overseas, after the child has been taken (at times forcibly or through deception) to another country to be married. Changing the minimum legal age at which an individual can be civilly married in a U.S. state will not prevent these kinds of cases.

Minimum marriage-age reforms also only address child marriage - marriage under age 18 - whether forced or voluntary. Such reforms do not help those over age 18 who are forced or coerced into marriage against their will.¹¹

Ensuring that civil protection orders are accessible to anyone facing a forced marriage could make a critical difference for both children and adults, in all these scenarios. The U.K., in fact, has a special “forced marriage protection order” created by statute in 2008, and U.K. courts have since issued more than 1,800 such orders.¹²

Civil protection orders take into account the unique dynamics often present in forced marriage cases. The perpetrators of a forced marriage are most often a victim’s parents or other family members. Many victims, especially minors, are understandably reticent to press criminal charges, but are more willing to consider civil legal options.¹³ Yet to date, Texas is the only U.S. state that specifically makes forced marriage a basis for a civil protection order, and it is limited to the forced marriage of a child.¹⁴ One other state to take a novel civil approach to forced marriage is Tennessee. Legislative amendments enacted in 2018 alongside marriage-age reforms established a new civil cause of action and up to \$250,000 in damages for anyone who, at any age, was forced into a marriage.¹⁵

There is also a role for federal leadership to end child marriage in the U.S. Although the division of authority outlined in the Constitution leaves most family law matters to the states, Congress should enact legislation to incentivize states to strengthen their marriage-age laws, and to clarify that federal funding to serve victims of domestic violence, dating violence, sexual assault, stalking and human trafficking encompasses victims of forced marriage. Congress should also eliminate the “marriage defense” in the federal statutory rape law.¹⁶ Federal agencies like the Departments of Justice and Health and Human Services should also foster reforms by leveraging their power to convene key state stakeholders, and by using their platform to report on state laws and trends, elevating best practices and calling out worst offenders.

The federal government is also uniquely empowered to legislate with respect to immigration. A recent report by majority staff to the Senate Homeland Security and Government Affairs Committee analyzed U.S. Citizenship and Immigration Services records and found that more than 8,500 children under age 18 had sponsored or been sponsored on marriage-based visas from FY 2007 to FY 2017.¹⁷ Reforms to immigration laws and policies are clearly needed to

address this problem, but they must be thoughtfully crafted to avoid unintended consequences that could actually harm child brides rather than help them.¹⁸

Any federal immigration law reforms must be pursued in conjunction with state family law reforms. This is important not only to recognize that children from both multi-generational American and recent immigrant families are impacted by child marriage, but also because the problem often originates at the state level, in the wide-open loopholes that facilitate child marriage in the U.S.

SURVIVOR ADVOCATES SHOW THE WAY

Courageous and passionate survivor advocates are driving marriage-age reforms all across the United States. Woven through their painful personal stories have been many common threads – perpetrating parents, predatory older men, threshold vulnerabilities like poverty and family instability, repeated system-failures to protect them and a crippling lack of self-help options to protect themselves. These stories have inspired not only general change, but also specific safeguards incorporated in reform legislation.

It is striking, and appropriate, that many laws untouched for decades have been replaced in a single legislative session in some states. But the fast pace of these reforms also has a downside, inclining towards lowest-common-denominator approaches that can garner broad consensus. And in states where only surface-level reforms have been enacted, it is equally striking that despite new laws, old tragedies could just as easily repeat themselves.

In the next phase of this historic movement, legislators must carefully examine their laws and legislative proposals through [survivors' eyes and experiences](#).

CALL TO ACTION

This is an exciting and pivotal moment in the national movement, but there is more work to do to end the significant child marriage problem in the U.S.

Within the next three years, we call on every state to set an age floor for marriage of no lower than 18 without exception. For states where incremental progress is the only strategic way forward, an age floor of 16 should be the firm minimum, and those minors should be court emancipated. For those states that already have, or newly enact, judicial approval alternatives to a minimum marriage age of 18, we expect to see more robust vetting and safeguards built into those proceedings. Finally, we recommend a more holistic approach taken to the problem – to address the needs of already-married girls, and of girls and women who face forced marriages that are religious or cultural rather than legal, or who are taken abroad for marriages that happen under the laws of a foreign country rather than a U.S. state.

To achieve this transformative difference in the lives of girls and women, the following work is needed at the federal level as well as across all 50 states:

At the federal level:

- Enact thoughtful, bipartisan reforms: to marriage-based immigration laws that currently permit children to sponsor/be sponsored on fiancé(e)/spouse visas; to strike the “marriage defense” in the federal statutory rape law; to leverage the federal

government's power to convene key actors and promote model approaches in order to drive and guide reforms at the state level.

For the 25 states that have yet to enact any legislative reforms to end or limit child marriage:

All 25 states urgently need to galvanize to enact bills to end or sharply limit marriage before age 18, but the highest priorities among them are:

- the states with the highest numbers of children married in recent years, as revealed by marriage license data¹⁹
- the 10 states that have no age floor
- the 5 states that have a low age floor (below age 16)
- the 5 states that maintain an express exception in case of pregnancy that drops the age floor
- the states in which a judge is never involved
- the states in which judges are involved only superficially
- *any state that has a toxic combination of the above factors, which puts girls at heightened risk*

Alongside or following marriage-age reforms, these states also need to:

- strike any “marriage defense” that shields perpetrators from prosecution for statutory rape
- consider civil options for individuals at risk or survivors of forced marriage, like ensuring access to protection orders or providing for compensatory damages

For the 25 states that have enacted legislative reforms to end or limit child marriage:

Delaware, New Jersey, Pennsylvania, and Minnesota (age 18, no exceptions):

- strike any “marriage defense” that shields perpetrators from prosecution for statutory rape
- consider civil options for individuals at risk or survivors of forced marriages, like ensuring access to protection orders or providing for compensatory damages

Virginia, Texas, New York, Kentucky, Ohio, Georgia, and Indiana (age 18, narrow exception for court-emancipated minors), as well as the 14 additional states that have enacted legislative reforms that stop short of setting the floor at “legal adulthood”:

- strike any “marriage defense” that shields perpetrators from prosecution for statutory rape
- consider civil options for individuals at risk or survivors of forced marriages, like ensuring access to protection orders or providing for compensatory damages
- closely monitor marriage license data post-reforms to identify gaps in implementation or the shortcomings of existing safeguards
- strengthen laws to close gaps and shortcomings – ideally, by setting age 18, without exception, as the minimum marriage age²⁰

The message these transformative shifts will broadcast to survivors and individuals at risk – as well as to the world – would be powerful: that the U.S. takes seriously its role in the global movement to end child and forced marriage.

* The tallies reflected in this policy brief are up-to-the-minute as of close of business May 13, 2020, and may differ from Tahirih's [Child Marriage in the U.S.: Survivor Story Compilation](#) released on January 10, 2020, and from other Tahirih materials at tahirih.org/childmarriage or www.preventforcedmarriage.org with earlier publication dates. This policy brief reflects all bills that have become law by May 13, 2020, even if some more recently enacted laws have a later effective date: Maine (June 16, 2020), Idaho and Indiana (both effective July 1, 2020), Pennsylvania (effective 60 days after signing on May 8, 2020), and Minnesota (August 1, 2020).

The tallies do not include South Carolina, though a new law relating to marriage-age has been enacted there. On May 13, 2019, South Carolina's governor signed SB 196 into law, effective upon signature, to clarify that South Carolina has a firm minimum marriage age of 16. The legislation responded to investigative reporting that confirmed that judicial interpretations of prior minimum marriage age statutes had been inconsistent, and that some probate judges were granting marriage licenses in case of pregnancy notwithstanding the fact that a girl was younger than age 16. See Lauren Sausser, "In SC, pregnant girls as young as 12 can marry. There've been 7,000 child brides in 20 years" (*The Post and Courier*, June 21, 2018).

As interpreted by the South Carolina Office of the Attorney General, legislative reforms back in 1997 had *already* instituted age 16 as the minimum marriage age (see S.C. Office of the Attorney General, 1997 WL 665423 (S.C.A.G. Sept. 2, 1997), available at <http://www.scag.gov/archives/category/opinions/1997opinions>). However, the 1997 reforms did not harmonize all statutory provisions related to marriage age, such as a pregnancy exception to age 18 that was set forth in Section 20-1-300 of the 1976 Code. By definitively repealing Section 20-1-300, South Carolina has now made clear that there is a firm age floor of 16, regardless of pregnancy. But because the new law simply underscores what was already the legislature's intent in enacting earlier reforms, South Carolina is not included in the tallies of the 21 states that have *moved* since 2016 to end or limit child marriage.

¹ In 2018, American Samoa also raised the minimum marriage age for girls to age 18; the law already set age 18 as the minimum for boys. See "[Governor Signs Marriage Age Bill into Law](#)," *Talane'i* (September 11, 2018); Fili Sagapolutele, "[Bill Raising The Marriage Age for Girls Is Signed into Law](#)," *Samoa News* (September 12, 2018). In addition, on January 18, 2020 the governor of the U.S. Virgin Islands signed into law Bill #33-0109, which sets age 18 as the minimum marriage age for all; previously, the minimum was age 14 for girls and age 16 for boys.

² Alabama is the only state that has recently *regressed* in its approach to child marriage. [SB 69](#), a bill signed into law on May 31, 2019, abolished across the board, for parties of all ages, the requirement that marriage licenses be issued by probate judges. Previously, a probate judge was at least nominally involved in the process of granting a marriage license for the marriage of a minor, to verify the consent of both parents or guardians of the minor. As of the new law's effective date on August 29, 2019, the parental consent requirement can be satisfied by one parent or guardian simply filing an affidavit with the court.

³ Anjali Tsui, Dan Nolan, and Chris Amico, "[Child Marriage in America: By the Numbers](#)," *Frontline*, (July 6, 2017),

⁴ See, e.g., "[Child Brides Call on U.S. States to End 'Legal Rape'.](#)" *Reuters* (October 24, 2018); "[Grown Men Are Exploiting Loopholes in State Laws to Marry Children](#)," *Huffington Post* (August 30, 2017).

⁵ That said, some states do not yet appear ready to acknowledge the seriousness or urgency of the problem, despite appeals directly from former child brides as well as by leading advocacy organizations. Some bills have languished post-introduction, without a committee hearing or vote, and in other states, bills favorably reported out of committee have been defeated in floor votes. Maryland has resisted change for *five legislative sessions*. In 2020, the pandemic cut short the General Assembly session without final critical votes on a bill. In prior sessions, the Senate Judicial Proceedings committee repeatedly blocked strong bills, preferring merely to set a new age floor of 16 and to retain an exception based on parental consent despite moving testimony from a survivor who, at age 16, was forced by her own mother into an abusive marriage with a twice-older man. Newly obtained statistics (on file with Tahirih) reveal that Maryland, in this interim, has become a destination to which out-of-state minors are brought for marriage. See "[Maryland will become a 'destination for the exploitation of girls' if underage marriage laws aren't changed, advocates say](#)," *WUSA 9* (March 14, 2020).

⁶ More specifically, Tahirih has urged that the age of marriage be set at the age of majority – either age 18 or *higher* in states where the age of majority is higher, as in Alabama and Nebraska where the age of majority is 19.

⁷ Statistics obtained for Tahirih by the office of lead legislative sponsor of the Virginia bill, then-Delegate, now-Senator Jennifer McClellan. On file with Tahirih.

⁸ Statistics generated and analyzed by Tahirih from the Florida Department of Health website at <http://www.floridacharts.com/FLQUERY/Marriage/marriage.aspx>.

⁹ The Florida statistics show a few outliers with adult spouses in their 20s, notwithstanding the new law's restriction that the adult spouse can be no more than 2 years older than the minor. These outliers may reflect data-entry errors, or may indicate problems implementing the new law.

¹⁰ Statistics obtained from the Texas Department of State Health Services, Center for Health Statistics and shared with Tahirih by the office of lead legislative sponsor of the Texas bill, Representative Senfronia Thompson. On file with Tahirih.

In the six months pre-implementation of the new law, 175 minors were married, but in the same six months post-implementation, only 18 minors were married. Of further note, the largest age difference between the parties to a child marriage in that pre-implementation period was 14 years, while the largest age difference post-implementation was reduced to 7 years.

While the 2018 data is preliminary, this shows a marked improvement in a state that previously had some of the most alarming child marriage statistics in the country. Tahirih's earlier analysis of Texas marriage-license data over the period 2000-2015 revealed a staggering 40,000 minors married, as young as age 12, and with some age differences of 25 years or more.

Preliminary data obtained by Tahirih through the office of Governor Andy Beshear of Kentucky – also a state that previously had high numbers of minors married each year – show about a 90% drop in those numbers after strong reforms were implemented.

¹¹ Of note, about 33% of the clients of Tahirih's Forced Marriage Initiative were minors at time of initial contact. The rest have been adults, though some sought help to leave a marriage into which they had been forced while under the age of 18.

¹² See "Family Court Tables," Table 18, "Applications and disposals of Forced Marriage Protection Orders made in the High Court and county courts, England and Wales, annually 2009 - 2018 and quarterly Q4 2008 - Q4 2018," available at <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-october-to-december-2018>.

¹³ See "[National Consultation: Should Forced Marriage Be A Crime in the United States?](#)" (Tahirih Justice Center, 2016). This report reflected on discussions on criminal approaches to forced marriage that Tahirih convened in 2016 among 30 participants, including survivors. While 9 U.S. states have criminal statutes specifically on forced marriage, to Tahirih's knowledge, no recent prosecutions have been brought under those statutes. Instead, when charges have been brought for a forced marriage, it is because the facts satisfy the elements of another crime, such as rape, abduction, or child endangerment. Prosecutors may, in fact, prefer to bring charges under such other statutes, which do not require proof of the perpetrator's intent to force someone into a marriage against their will. See "[Criminal Laws Addressing Forced Marriage in the United States](#)," available at <https://preventforcedmarriage.org/forced-marriage-resource-toolkit-for-service-providers/>.

¹⁴ Tahirih successfully advocated for these protection order reforms alongside marriage-age reforms enacted in 2017. See [Tex. Fam. Code §261.001\(1\)\(M\)](#) (adding "forcing or coercing a child to enter into a marriage" to the definition of child abuse) and [Tex. Fam. Code §71.004\(2\)](#) (adding forced marriage of a child to the bases for family violence protection orders). In Texas, any adult can petition for a family violence protection order to protect any child. Some other states have protection order statutes for domestic violence or stalking that are expansive enough to encompass a threatened forced marriage, but in many states, minors are not able to petition for civil protection orders on their own behalf. See Lisa V. Martin, "[Restraining Forced Marriage](#)," *Nevada Law Journal*: Vol. 18: Iss. 3, Article 8 (2018).

¹⁵ See [Tenn. Code Ann. § 36-3-108](#). This section also clarified that forced marriages are void and unenforceable.

¹⁶ The federal statute on “sexual abuse of a minor or ward” (18 U.S.C. § 2243) currently includes a defense that shields a perpetrator from prosecution if the parties are married. A person who engages in a sex act with a minor between ages 12 and 16, and who is 4 or more years older than the minor, is otherwise subject to fine and/or imprisonment of up to 15 years.

¹⁷ See “[How the U.S. Immigration System Encourages Child Marriages](#),” Majority Staff Report of the U.S. Senate Committee on Homeland Security and Governmental Affairs (Jan. 11, 2019).

¹⁸ For example, abused immigrant spouses of U.S. citizens or lawful permanent residents are eligible to petition under the Violence Against Women Act (VAWA) for special humanitarian protections that enable them to leave abusive marriages without losing their legal status. If an abused immigrant spouse’s marriage is rendered invalid for immigration purposes because she was under age 18 when she married, then she could be foreclosed from VAWA eligibility.

¹⁹ This article was based on available data at the time, but noted that some states do not separately track or publicly report the numbers of minors married. Subsequent efforts to obtain marriage license data by the Tahirih Justice Center in Georgia (on file with Tahirih) and the International Center for Research on Women in North Carolina (see Thompson, L. and M. Steinhaus (2020). *Child Marriage in North Carolina: Evidence and Policy Recommendations*. Washington, DC: International Center for Research on Women) have revealed thousands of minors were married in recent years.

²⁰ For further specific guidance about the kinds of elements that, working together, can better protect children from forced marriages and other harm, please see the extensive resources available at tahirih.org/childmarriage.

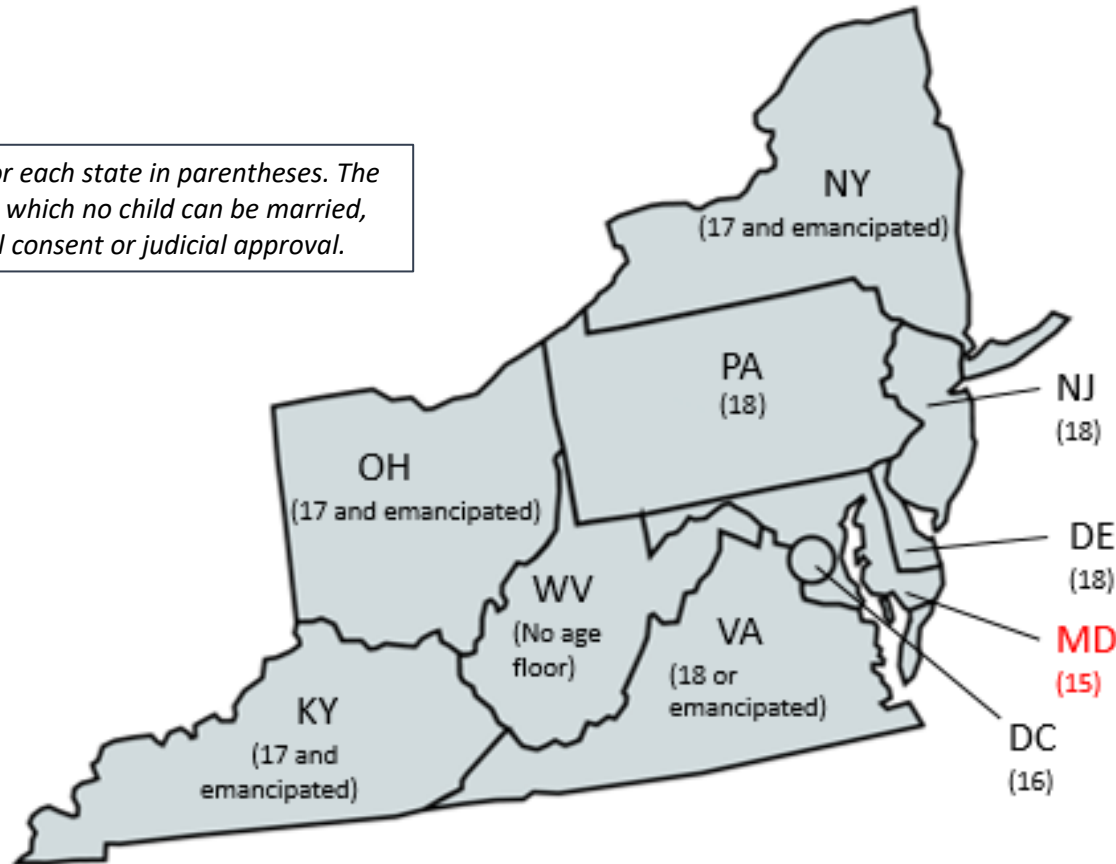
Regional Map for MD 2021.pdf

Uploaded by: Swegman, Casey

Position: FAV











How Maryland's Child Marriage Laws Compare to Other States in 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.



FAST FACTS:

- Maryland's current laws on minimum marriage age are weaker than any other state plus DC in this region, with the possible exception of West Virginia. That state does not have an age floor, but does involve a judge for individuals under age 16.
- Seven states & DC set a higher age floor than Maryland. Most require that individuals be legal adults (age 18, or emancipated) before marrying.
- Maryland is the only state in the region that still has a pregnancy exception, and is only one of five such states nationwide. Most states now recognize that a pregnant underage girl may need a protection order, not a marriage license.

State	Basic Summary of Minimum Marriage-Age Laws	
DC		Age 16 w/parental consent
DE		Age 18, no exceptions
KY		Age 17 w/judicial approval <i>and</i> if court-emancipated based on several criteria, <i>and</i> if age difference of parties is not more than 4 yrs
MD		Age 15 w/both parental consent and pregnancy/childbirth; age 16-17 if <i>either</i> criteria is met
NJ		Age 18, no exceptions
NY		Age 17 w/ judicial approval <i>and</i> if court-emancipated based on several criteria
OH		Age 17 w/judicial approval <i>and</i> if court-emancipated based on several criteria, <i>and</i> if age difference of parties is not more than 4 yrs
PA		Age 18, no exceptions
VA		Age 18, or court-emancipated based on several criteria. Individuals are eligible for emancipation in VA starting at age 16 and there is additional judicial vetting if the petition for emancipation is based on the intent to marry.
WV		No age floor w/judicial approval; age 16-17, w/parental consent

"[At] the age of 16,...my mother decided she wanted me out of the house and got an offer from a man twice my age to marry me.

This was good news for my mother as she had begun to get jealous of the interest her new husband had taken in me...

And so I was married, and as a 16 year old child married to a man twice my age, it was like he owned me. He abused and raped me and eventually I gave birth to two children whom he would ultimately kidnap...I was married for over 4 years and I wasn't allowed to leave the house...it was like living in a jail cell."

- Testimony from former "child bride" brought from out of state to Maryland for marriage when she was still a minor.

Across the nation since 2016, twenty-five states have reformed their laws on minimum marriage age. In 2018, Delaware and New Jersey enacted new laws to set age 18, *no exceptions*, as the minimum marriage age. Pennsylvania did the same in 2020. Legal reforms in four other states in the region, including Virginia, now all require parties to be legal adults. After reforms were enacted in Virginia, more Virginia-resident minors were brought to Maryland to be married. In 2018, a 15 year old was brought from Delaware to marry a 22-year-old under Maryland's pregnancy exception – even though in both states, sex between parties of those ages is a crime.

Unless Maryland also strengthens its laws against child marriage, it will increasingly become a destination for the exploitation of children.



tahiri.org/childmarriage | preventforcedmarriage.org | policy@tahiri.org

Tahirih Justice Ctr Written Testimony Supporting S

Uploaded by: Swegman, Casey

Position: FAV

Testimony in SUPPORT of Senate Bill 0173*(Concerning Emancipation of a Minor and Authorization to Marry)*

Judicial Proceedings Committee

Witness: Casey Carter Swegman, Forced Marriage Initiative Project Manager
6400 Arlington Blvd, Suite 400, Falls Church, VA 22042
January 26, 2021

Chair Smith, Vice-Chair Waldstreicher, and Honorable Members of the Senate Judicial Proceedings Committee:

The Tahirih Justice Center (Tahirih) is a non-profit legal advocacy organization that, since 1997, has been serving survivors of domestic violence, sexual assault, human trafficking, and other abuses, in Maryland and other states.

In 2011, Tahirih launched a specialized Forced Marriage Initiative. We have worked on hundreds of forced marriage cases involving girls and women nationwide, and we have unique legal and policy expertise on legislative reforms to strengthen protections against forced marriage.ⁱ

As part of our advocacy to protect girls from forced or coerced marriages, Tahirih has conducted extensive research into the different kinds of rights that state laws typically afford to minors, or instead withhold from them, and how the limitations imposed by minors' legal status can increase their vulnerability to a wide range of abuse and exploitation. These "lessons learned" are informed by our direct casework, from consulting national youth advocacy organizations', analyses of states' laws, and from our own detailed review of dozens of states' statutes.

Tahirih strongly believes that the best way to protect girls from forced marriages, as well as from other abuse and exploitation that can be both a cause and consequence of marrying young, is to set the legal marriage age at 18, without exception. We cite extensive research showing that marriage before age 18 stacks steep odds against a young person's wellbeing in numerous ways, including higher drop-out rates, a greater likelihood of poverty, more medical and mental health problems, and divorce rates of up to 80%.ⁱⁱ

For this reason, we have repeatedly testified before this Committee in support of bills which would prohibit all marriage under age 18. We maintain our strong preference for that approach, which offers the best protection for vulnerable youth against the many risks of child marriage.

However, depending on the context and content, Tahirih has supported alternative marriage age reforms in other states, which permit a limited exception to a minimum marriage age of 18 for court-emancipated minors. Our support is premised on the belief that such legislation can help prevent forced marriages, and also help ensure that any

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minor who does marry has the capacity to leave and independently seek support in case of abuse. SB 0173 allows only court-emancipated 17-year-olds to marry, and builds on developing best practices gleaned from the fast-growing number of states that have reformed their marriage age laws since our campaign began in 2016. Twenty-five states have enacted such reforms since 2016, including 11 that have conditioned eligibility to marry on emancipation (either naturally at age 18, or after petitioning a court). Four of these states – Delaware, New Jersey, Pennsylvania, and Minnesota – do not allow marriage under age 18 under any circumstances.

A limited exception to a minimum marriage age of 18 only for court-emancipated minors can significantly reduce the total number of minors who marry. As an example, in the year before Virginia's new law went into effect, 182 minors were married; but in the year after, only 13 minors were married.ⁱⁱⁱ While there is still room to improve the law in Virginia, these results mark clear progress towards ending child marriage.

And, in fact, SB 0173 would improve on the Virginia model with two additional and critical protective elements:

- By stipulating that emancipated minors can only marry after they turn 17, SB 0173 is mindful of the need to mitigate the risks and harms of marrying before age 18 as much as possible.^{iv}
- By instituting a 15-day waiting period between an order of emancipation and the issuance of a marriage license, SB 0173 provides critical time and opportunity for a newly-emancipated 17-year-old to take steps to avoid or prevent a forced marriage that she may be facing, accessing newly-granted legal rights and practical options that may have previously been beyond her reach.

Without question, crossing the threshold into legal adulthood can make a critical difference to the legal and practical ability of individuals to prevent or escape forced marriages. This is especially true when, as is the case in most of Tahirih's forced marriage cases, a child's parent is the perpetrator. Attaining majority can also make a pivotal difference to the rights and options a married minor has available to her in case of domestic violence or divorce.

In Maryland, for example, un-emancipated minors are restricted from advocating to protect themselves from forced or abusive marriages in these ways, among others^v:

- Runaway youth 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;
- Friends who might offer a runaway a place to stay risk being sued by the parents for interfering with parental rights or charged by police for harboring a runaway;
- Minors cannot enter binding legal contracts, and as a result, adults (from lawyers to landlords), tend to avoid entering contracts with minors; and
- The marriage of a minor relieves the minor's parents of support obligations, but it does not clearly grant the minor the rights of an adult.^{vi} Thus, a court may question whether she can even file a petition for a protective order or divorce on her own.

At present, Maryland does not have a standalone “emancipation” statute—that is, one that sets forward clear rules and a standard process whereby a minor who is younger than the state’s age of majority (age 18), can nonetheless petition a court to have the legal disabilities of being a minor removed. Instead, whether and how emancipation happens is a “gray area” of Maryland law.^{vii}

The lack of a statute establishing a process for minors to petition for emancipation puts Maryland in the minority of states nationwide, and leaves Maryland youth at a disadvantage.

A 50-state survey by the National Law Center on Homelessness and Poverty and the National Network for Youth, published in 2019^{viii}, provides a reflection of today’s national landscape on emancipation:

- 33 states have established statutory processes for emancipation to be granted to a minor.
- 24 states set age 16 as the minimum age to seek emancipation.
- Most states do not require parental consent to a minor’s emancipation petition, and some make clear that minors may file emancipation petitions for themselves.^{ix}
- Marriage, military service, and having the capacity to support oneself, independent from one’s parents or guardians, are typical grounds for emancipation.
- Depending on the state, an emancipated minor’s rights can either be generally declared (e.g., “shall have all the rights and responsibilities of an adult”), or specifically enumerated (e.g., “shall have the right to enter into enforceable contracts, including apartment leases,” “the right to...,” “the right to...,” etc.), or both.

SB 0173 incorporates several “best practices” from this 50-state survey, as well as from a model emancipation statute promulgated by the American Bar Association in 2009, such as the appointment of counsel to advise the minor.^x

We also note that statutes in many states, as SB 0173 does, place certain continuing conditions on a minor’s rights, either because those conditions are incorporated in the emancipation statute, or because limits based on age rather than majority are set by other statutes. To give some illustrative examples:

- Limitations are placed on an emancipated minor’s ability to marry under the emancipation statutes in Arkansas, Georgia, Nevada and Virginia, as well as under the marriage-age statutes in Arizona, Florida, Kentucky, New York, Ohio, and Tennessee. Some relate to criteria that must still be met, even if a minor is emancipated; and several relate to the ages/age differences of the parties.
 - Florida, Kentucky, New York, Ohio, and Tennessee require the minor to be at least age 17 to marry; and
 - Arizona, Florida, Kentucky, Ohio, and Tennessee also impose limits on how much older the other party to a marriage with a 17-year-old can be (ranging from 2-4 years).
- In all states, emancipation does not supersede health and safety regulations, such as the drinking age.

Tahirih believes that every state should provide a clear statutory process and criteria for minors to petition a court for an order of emancipation. In circumstances in which minors can meet certain

thresholds of maturity and self-sufficiency and otherwise show that emancipation would be in their best interests, it can be an important means to empower them to advocate for themselves.

Moreover, with specific regard to forced or abusive marriages of minors, emancipation statutes:

- may help some girls avoid a marriage that their parents or others are forcing on them;
- can help clarify the rights of already-married minors (to themselves, as well as to others) as they try to navigate the adult world, and, crucially, put them on equal legal footing with the other party to the marriage.

Another critical component that has been included in this legislation, from Tahirih's perspective, is court-appointed counsel for the minor. Ensuring that a minor is represented by an attorney in every case in which an emancipation petition is filed would result in minimal cost to the state, and will make a pivotal difference to a vulnerable girl.^{xi}

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 0173 will help accomplish these objectives. The bill would greatly 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 asks this Honorable Committee to report SB 0173 favorably.

ⁱ A full copy of Tahirih's 50-state report analyzing state minimum marriage age laws and exceptions, for example, and how they can either increase protections or expose children to harm, is available at www.tahirih.org/childmarriagepolicy.

ⁱⁱ See specific statistics and sources cited in Tahirih Justice Center, "Child Marriage Poses Serious Risks to Children," available at www.tahirih.org/childmarriagepolicy.

ⁱⁱⁱ Data obtained from the Virginia Dept. of Health (via the office of the sponsor of the Virginia law) in February 2018.

^{iv} Of note, Tahirih also has better outcomes in our forced marriage cases involving 17-year-olds than those involving 16-year-olds (and again, much better outcomes with those age 18 or older than with anyone who is still a minor). In the teen years, each additional year can make a significant difference in a minor's willingness and ability to protect herself from abuse and to withstand coercive pressure from her family. We also find more avenues of assistance open to 17-year-olds than 16-year-olds – for example, a friend's family may be willing to take in a girl for a few months to enable her to finish her senior year before she heads off to college on a scholarship. But that becomes a much bigger "ask" of a family if the girl is just 16, perhaps still in her sophomore year, and in need of caretaking for 2+ more years before she even finishes high school.

^v See *Alone Without A Home: A State-by-State Review of Laws Affecting Unaccompanied Youth* (September 2012), a report of the National Law Center on Homelessness & Poverty and The National Network for Youth, available at http://www.nlchp.org/Alone_Without_A_Home, at p. 99 (runaway youth in Maryland can be taken into custody without a warrant by a police officer) and p. 226 (citing Md. Code Ann., Fam. Law § 9-304 as prohibiting a relative from "harboring" a child under age 16); see also "Homeless Youth & Young Adults in Baltimore: An Overview of the Law," Maryland Legal Aid: 2008 (hereafter "Homeless Youth"), available at <http://www.harfordcountymd.gov/DocumentCenter/View/2371>, at pp. 37-38 (citing *Khalifa v. Shannon*, 404 Md. 107, 123, 945 A.2d 1244, 1253 (2008) for the proposition that someone who gives shelter to a runaway could be liable for the tort(s) of "intentional interference with the parent child relationship" by "harboring" and concealing a minor child from the parent(s)).

In addition, shelters that house children must be specially licensed, and, unless the placement was arranged by a government agency, within 24 hours of a child's admission the shelter must request the parent's consent or move to acquire legal custody of the child. Notably, too, there are far too few shelter spaces to meet the needs of vulnerable youth in Maryland. See COMAR 14.31.07.09; see also "Homeless Youth," at pp. 35-36, and *Report of the SB764/HB823 Task Force to Study Housing and Supportive Services for*

Unaccompanied Homeless Youth (November 1, 2013), Maryland Governor’s Office for Children, available at https://goc.maryland.gov/wp-content/uploads/sites/8/2013/11/FINAL_HB823_Task_Force_Report.pdf, at p. 12 (“...unaccompanied homeless minors face barriers to accessing services and records and making decisions for themselves based purely upon the legal limitations attached to their age. For instance, many subsidized housing programs are available to adults only and private landlords are often unwilling to contract with minors without the involvement of parents or legal guardians.”) and p. 26 (“The housing options currently available for unaccompanied homeless youth in Maryland are woefully inadequate to meet the need.”).

^{vi} See also COML §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).

^{vii} See “Emancipation of a Minor,” The People’s Law Library of Maryland, available at <https://www.peoples-law.org/emancipation-minor>.

^{viii} See *Alone Without A Home: A National Review of Laws Affecting Unaccompanied Youth* (February 2019), a report of the National Law Center on Homelessness & Poverty and The National Network for Youth, available at <https://nlchp.org/alone-without-a-home-2019/>.

^{ix} Giving minors the right to petition on their own recognizes that some minors may seek to emancipate precisely because they have abusive, neglectful, or exploitative parents, who may otherwise block their access to emancipation. Similarly, the American Bar Association’s model statute requires courts to appoint an attorney for the minor. This is not only to acknowledge the seriousness of the proceeding, but also to account for the possibility that some parents may try to force emancipation on a minor, just to terminate their obligations to support and care for that child.

^x 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/>.

^{xi} 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.

Sasha Taylor Testimony_Senate JPR_2021.pdf

Uploaded by: Taylor, Sasha

Position: FAV

SB 0173 - Family Law - Emancipation of a Minor and Authorization to Marry
Senate Judicial Proceedings Committee
January 22, 2021

Witness: Sasha Taylor (Survivor of Child Marriage)

Address: Confidential (can use Tahirih Justice Center Address – 6400 Arlington Blvd, Suite 400, Falls Church, VA 22042)

Position: Support

I submit this testimony in support of SB 0173.

My name is Sasha K. Taylor. I am a third-generation victim survivor of a forced arranged marriage, living now in the Washington, DC area.

I previously testified in-person but am unable to attend this year since I am recovering from ACDF Surgery – a neck fusion – because of injuries sustained when I was 10 years old, after my father threw me across the room by my hair, when I tried to stop him when he was beating my mother, who was pregnant at the time. Economic conditions, physical and verbal abuse in the household, is one of the reasons that families may seek to marry their children off at a young age.

Even though my marriage took place in September 1991 in Arizona, it could easily have taken place, and can still take place, in Maryland where archaic laws allow legal guardians to forcefully marry off their minor children.

In Fall of 1991, I began my sophomore year in high school. I was told to go to my Grandmother's home for dinner. When I arrived, I discovered that I was to be engaged to a man seven years older than me, whom I had never met or spoken to before. I was surrounded by family members, forced into submission and engaged that night.

A few months later, this individual's student visa was expiring, and the families agreed to marry us legally in a local court. I have one photo from that day. I am sitting in a waiting room surrounded by family. Still to this day, I don't know who filled out my paperwork. Everyone is waiting for us to be called in front of the judge. I just walked up and repeated what I was told to say. I was not able to speak up. NO child is able to speak for themselves, when these atrocities are occurring to them.

- No child is able to speak when they are surrounded by family.
- No child is able to speak when they are pressured or abused into submission.
- No child is able to speak because nobody ever asks them what they want.
- No child is able to speak because they have not discovered the power of their own voice.
- No child is able to speak because there is nobody there to speak for their best interest.
- No child is able to speak because there is nobody there to advocate for them.
- No child is able to speak because nobody ever questions the process, since "*it's the law*" and local government employees are simply checking boxes and doing their jobs.
- No child is able to speak because they don't have the privilege of choice.
- I was unable to speak, and remained silent that day. I have been silent since that day.

You see, the two things that almost every victim survivor of forced arranged marriages have in common are; **abuse and socioeconomic background**. My father was a physically and emotionally abusive man. To get me out of that abusive household, my Mother and Grandmother arranged for this marriage. They

felt this was their only option, since the same was done to them. They didn't imagine any other choice for me, because they were not given another choice. They did not have the privilege of choosing college, or education, or a fulfilling career. An immediate marriage to get out of an abusive household was a cycle that kept repeating, over and over again.

Archaic laws repeat toxic cycles and set generations back years, without education or careers. It took me over ten years to complete my college degree. I have no relationship with anyone I went to high school with, nor they to me. I did not experience high school like a kid should. I never had a high school crush. I never went out on a date in college. I never had experiences like all young adults should. My childhood was taken away from me. Even conversations with individuals around me are difficult to have. What do you even talk about? What did you do at 15? I was groomed to go in a back room to make out with someone I was not the least bit attracted to, be a daughter-in-law, and think of the kids I was supposed to have with him, and stay home and be a wife. And I was not allowed to leave the house to go see my family. Not a conversation starter, exactly.

I still cannot believe I am writing a victim impact statement about laws that should not even exist anymore in today's day and age. These laws only benefit those that seek to exploit their children, and repeat cycles of abuse. These are archaic laws made in early times when women were seen as property, and married off, some still as children, to secure land deals when the US was still a young territory. These laws need to change. As a First World country, America can do better to protect its minor children.

Maryland Catholic Conference_FAV_SB173.pdf

Uploaded by: Whitt, Fr. Reginald

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

January 26, 2021

Senate Bill 173

Family Law - Emancipation of a Minor and Authorization to Marry

Senate Judicial Proceedings Committee

Position: SUPPORT

The Maryland Catholic Conference represents the mutual public-policy interests of the three (arch)dioceses serving the state of Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington, which together encompass over one million Marylanders.

We offer this testimony in support of **Senate Bill 173**, which would raise the legal age of marriage to age 17, ensure the minor is emancipated, and that the age difference between the couple is four years or fewer.

Like other advocates for the bill, we believe this legislation will provide an important means of preventing the exploitation particularly of young women through human trafficking and coercion by older partners and even family members. In fact, we can think of no circumstance under which the Church would encourage a person under the age of 18 to marry.

Preventing the real-life situations of abuse and coercion that proponents of this measure have highlighted provides the most compelling reason to raise the legal age of marriage. Additionally, it is important to consider the potential impact the bill can have on preventing two young persons from entering a legal commitment without the needed maturity to understand the serious and lifelong impact that their decision to marry carries with it.

It has been the constant teaching of the Catholic Church that marriage is a "...covenant by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses..."¹ The Church believes that this "covenant" is not the result of a happenstance meeting or pure chance, but rather, the result of God working in the lives of two people, bringing them together for a divine purpose according to the Almighty's divine plan for them.

Senate Bill 173 is a critically important measure in preventing the tragedy of young women being coerced or exploited through a marriage imposed on them against their will. It is also an important measure in preventing young people from mistakenly entering one of the most serious commitments of their lives, only to later suffer the negative consequences that the breakup of that marriage would likely have on both the partners and any children born of the marriage.

For these reasons, we urge a favorable report on **SB 173**.

¹ Canon 1055. 1983 Code of Canon Law

MD Judiciary - Testimony SB 173.pdf

Uploaded by: Elalamy, Sara

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 173
Family Law – Minors – Emancipation of a Minor and
Authorization to Marry
DATE: January 13, 2021
(1/26)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 173. This bill would establish a process for a petition for the emancipation of a minor and authorization to marry.

First, 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, this bill adds a court process to determine whether the marriage can occur. A trial to establish whether a minor can get married, and exploring their intentions makes a difficult premise untenable. This process could easily lead to warring parents taking opposite views, resulting in protracted litigation over whether the child can marry.

Further, it is not clear what standard of proof is required in this bill. Current law states clearly the requirements for marriage of a person under 18 years old.

cc. Hon. Sarah Elfreth
Judicial Council
Legislative Committee
Kelley O'Connor