

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 949

(Senator Elfreth, *et al.*)

Judicial Proceedings

Family Law – Authorization for a Minor to Marry

This bill repeals provisions authorizing individuals ages 15 and 16 to marry under specified circumstances and alters the circumstances under which an individual who is age 17 may marry. The bill establishes procedures by which a minor (age 17) may petition for, and a court may issue, an order allowing the individual to marry.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances, as discussed below.

Local Effect: The bill is not anticipated to materially affect local government operations or finances, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: Individuals younger than age 17 may not marry. An individual age 17 may not marry unless the individual presents a certified copy of an order granting authorization for a minor to marry to the clerk of the circuit court no earlier than 15 days after the order was issued. The other party to be married may not be more than four years older than the minor. One of the parties must present to the clerk a copy of a birth certificate or other government-issued document or record demonstrating the age of each party.

The bill expands the jurisdiction of an equity court to include a petition for authorization for a minor to marry. A minor who is age 17 may file a petition in the minor's own name

in the circuit court for the county in which the minor resides. A petition must contain specified information, including a statement explaining why the petitioner wishes to marry, how the parties met, and how long they have known each other.

On the filing of a petition, the court must appoint a lawyer to represent the petitioner, set an evidentiary hearing on the petition, and provide the minor with specified information, including information on State and national hotlines for child abuse, domestic violence, and human trafficking. A court may issue any order regarding the petition or the petitioner that it considers appropriate or necessary.

The court must conduct an in-camera interview of the petitioner separate from the petitioner's parents or guardians and intended spouse. The support of a parent or guardian for the marriage may not be used as evidence that marriage is in the best interest of the petitioner. In determining whether to grant a petition, the fact that the petitioner or the petitioner's intended spouse is pregnant or that they have a child together is not sufficient evidence that marriage is in the best interest of the petitioner.

After a hearing, a court may issue an order granting authorization for a minor to marry if the court makes specified written findings, including that (1) the petitioner seeks to marry voluntarily and free from force, coercion, or fraud; (2) the petitioner understands the rights, responsibilities, and other consequences of marriage; and (3) marriage is in the best interest of the petitioner. A court may not issue an order granting authorization for a minor to marry if the court determines that:

- the intended spouse of the petitioner (1) at any time has been in a position of authority or special trust with the petitioner or has had a professional relationship with the petitioner or (2) has been convicted or adjudicated delinquent for specified crimes;
- one party is pregnant or has a child with the other party that evidences that the petitioner was the victim of a sexual crime committed by the intended spouse; or
- a protective order was issued against the intended spouse of the petitioner relating to domestic violence, regardless of whether the petitioner was the victim.

The Court of Appeals may adopt rules to implement the bill's provisions.

Current Law: An individual younger than age 15 may not marry. An individual, age 16 or 17, may not marry unless (1) the individual has the consent of a parent or guardian and the parent or guardian swears the individual is at least age 16 or (2) if the individual does not have consent, either party to be married presents the clerk of the circuit court a certificate from a licensed physician or physician assistant or certified nurse practitioner stating that

an examination of the woman to be married demonstrates that she 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.

State/Local Fiscal Effect: Any potential minimal increase in expenditures to accommodate additional hearings on petitions is not anticipated to materially impact expenditures of the Judiciary and the circuit courts. Although the bill does not specify who is responsible for compensating attorneys appointed by the court to represent petitioners, for purposes of this fiscal and policy note, it is assumed that circuit courts will generally be able to utilize *pro bono* attorneys.

Any minimal decrease in marriage license fee revenues does not materially impact State or local finances.

Additional Information

Prior Introductions: None. However numerous bills to repeal or limit the authorization for minors to marry have been considered in prior sessions. HB 855 of 2019 received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 231, received a hearing in the Senate Judicial Proceedings Committee, but was subsequently withdrawn. HB 1147 of 2019, a similar bill to allow individuals age 17 to marry under specified circumstances, passed the House and the Senate as amended, but no further action was taken. Related bills were also introduced in prior sessions.

Designated Cross File: HB 1231 (Delegate Atterbeary, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

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mm/lgc

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