

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 83
Judiciary

(Delegate Atterbeary)

Judicial Proceedings

Family Law - Marriage of Minors

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 granting authorization to marry.

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Bill Summary: Individuals younger than age 17 may not marry. The bill alters and expands the procedural requirements that must be satisfied before an individual who is age 17 may marry. The bill alters existing requirements by establishing that an individual age 17 may not marry unless (1) the individual has the consent of *each living parent, guardian, or legal custodian* or (2) if the individual does not have this consent, either party to be married has a certificate from a medical professional stating that the medical professional has examined the woman to be married and has found that she is pregnant or has given birth to a child. (Current law requires the consent of *a parent or guardian or, if the individual does not have consent, the certificate from a medical professional*.) The bill

also establishes that one of the parties to be married (regardless of age) must present to the clerk a copy of a birth certificate or other government-issued document or record demonstrating the age of each party.

Furthermore, an individual age 17 may not marry unless the individual also presents a certified copy of an order granting authorization to marry to the clerk of the circuit court no earlier than 15 days after the order was issued. The bill expands the jurisdiction of an equity court to include petitions for authorization for a minor to marry. A minor who is age 17 may file a petition in the minor's own name for authorization to marry.

A petition must contain specified information, including (1) identifying information regarding the petitioner and the intended spouse; (2) a statement explaining how the parties met and how long they have known each other; (3) a copy of any criminal records and peace or protective orders concerning either party; (4) evidence that the minor is mature and capable of self-sufficiency and self-support independent of the minor's parents, guardian, legal custodian, or intended spouse; and (5) the name and last known address of each living parent, guardian, or legal custodian of the petitioner.

On the filing of a petition, the court must appoint a lawyer with family law experience 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, sexual assault, and human trafficking, and information related to impacts and outcomes of child marriage in the United States. The court must also notify each living parent, guardian, or legal custodian whom the court is able to locate of their right to support or oppose the petition.

The court must conduct an in-camera interview of the petitioner separate from the petitioner's parents, guardians, or legal custodians and intended spouse. Neither the wishes of the parents, guardians, or legal custodians of the petitioner nor the fact that the petitioner or the petitioner's intended spouse is pregnant is sufficient evidence that marriage is in the best interest of the petitioner. There is a rebuttable presumption that marriage is not in the best interests of the petitioner if all the parents, guardians, or legal custodians of the petitioner oppose the petition.

After a hearing, a court may issue an order granting authorization for a minor to marry if the court makes specified written findings that (1) the petitioner is at least age 17; (2) the petitioner seeks to marry voluntarily and free from force, coercion, and fraud; and (3) the petitioner is mature and capable of self-sufficiency and self-support. A court may deny a petition for authorization to marry if the court makes a written finding that marriage is not 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 or peace order was issued against the intended spouse of the petitioner, regardless of whether the petitioner was the victim.

On the issuance of an order granting authorization to marry, the clerk of the court must provide a certified copy of the order to the petitioner. A minor who is married may file an action for divorce and must be deemed emancipated for the limited purpose of obtaining a divorce.

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

Current Law: An individual younger than age 15 may not marry. An individual who is age 15 may not marry without the consent of a parent or guardian and a certificate from a medical professional, as specified, stating that an examination of the woman to be married demonstrates that she is pregnant or has given birth.

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.

State/Local Fiscal Effect: Any potential minimal increase in expenditures to accommodate additional hearings on authorization to marriage petitions is not anticipated to materially impact expenditures of the Judiciary and the circuit courts. The Judiciary can use existing budgeted resources to make any necessary form revisions. 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.

Additional Information

Prior Introductions: SB 173 of 2021, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 242, passed the House as amended and was referred to the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: SB 29 (Senator Elfreth) - Judicial Proceedings.

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

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