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**Testimony in Opposition to SB949: Authorization for a Minor to Marry  
Presented to Maryland Senate Judiciary Proceedings Committee | March 4, 2020**

Chair William C. Smith, Jr. and Vice Chair Jeff Waldstreicher and Distinguished Committee Members:  
Unchained At Last is the only organization dedicated to ending forced and child marriage in Maryland and across the United States through direct services and advocacy. **We at Unchained urge you to vote “NO” on SB949.**

The minimum marriage age in Maryland is 18, but the law includes two dangerous loopholes:

- Children age 16 or 17 can marry with parental “consent” OR if the “woman to be married” is pregnant or has a child;<sup>1</sup>
- Children age 15 can marry if they have parental “consent” AND the “woman to be married” is pregnant or has a child.<sup>2</sup>

SB949 would close those loopholes for 15- and 16-year-olds – but instead of ending child marriage, the bill would create a new loophole under which 17-year-olds can marry with judicial approval. A loophole allowing 17-year-olds to marry would be terrible public policy for several reasons:

- Marriage before 18 – including at age 17 – brings such devastating, lifelong consequences, particularly for girls, that the U.S. State Department has called it a “human rights abuse.”<sup>3</sup> Consider:
  - Girls and women in the U.S. who marry before 19 are 50 percent more likely than their unmarried peers to drop out of high school, and four times less likely to graduate from college.<sup>4</sup>
  - Women who married as teenagers are three times as likely as women who married as adults to have at least five children.<sup>5</sup>
  - A girl in the U.S. who marries young is 31 percent more likely to live in poverty when she is older, a striking figure that appears to be unrelated to preexisting conditions in such girls.<sup>6</sup>
  - Women in the U.S. who married at 18 or younger face a 23 percent higher risk of heart attack, diabetes, cancer and stroke than do women who married between age 19 and 25, partly

<sup>1</sup> Md. Code Ann., Fam. Law §2-301(a).

<sup>2</sup> Md. Code Ann., Fam. Law §2-301(b).

<sup>3</sup> U.S. Department of State, et al., *United States Global Strategy to Empower Adolescent Girls* (March 2016), <https://2009-2017.state.gov/documents/organization/254904.pdf>.

<sup>4</sup> Gordon Dahl, *Early Teen Marriage and Future Poverty*, The National Bureau of Economic Research (May 2005), <http://www.nber.org/papers/w11328.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

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because early marriage can lead to added stress and forfeited education.<sup>7</sup> Women who married before 18 also are at increased risk of developing various psychiatric disorders, even when controlling for sociodemographic factors.<sup>8</sup>

- Globally, women who married before 18 are three times more likely to have been beaten by their spouses than women who married at 21 or older.<sup>9</sup>
- The loophole ignores the significant difference between a 17-year-old, even one who is exceptionally mature, and an 18-year-old: The 18-year-old has reached the age of majority in Maryland.<sup>10</sup>

SB949 ignores the fact that a child in Maryland who has not yet reached the age of majority cannot leave home to escape from parents who are planning an unwanted wedding for them or to escape from an abusive spouse, without being considered a runaway. The local Department of Social Services (DSS) must prove in court that the child should be declared “in need of assistance”<sup>11</sup> and place the child in temporary shelter while determining whether to return the child home, move the child to foster care or award custody to someone else.<sup>12</sup>

SB949 ignores the fact that a child who has not yet reached the age of majority cannot easily enter a domestic violence shelter. Domestic violence shelters routinely refuse to accept unaccompanied minors, because of the myriad liability issues minors bring.

Additionally, SB949 ignores the fact that those fleeing an impending forced marriage often have complex legal needs, but most contracts with children in Maryland, including retainer agreements with attorneys, are voidable.<sup>13</sup> Thus, only the most generous attorneys would agree to represent a child.

Further, SB949 ignores the fact that Maryland law does not allow minors to bring legal actions on their own; a parent or guardian must initiate and terminate a suit on the child’s behalf.<sup>14</sup> Children may seek a protective order against an abusive husband or against parents who are coercing them into marriage only if they are represented by the State’s Attorney, DSS, a relative or another adult who lives in their home.<sup>15</sup>

Perhaps most shockingly, SB949 ignores the fact that the inability to independently bring a legal action means children in Maryland can be entered into marriages with little say from them but *not allowed to file for divorce or annulment on their own behalf*.<sup>16</sup> This outrageous legal setup puts the “lock” in “wedlock.”

For a 17-year-old who is marrying willingly and for all the right reasons, waiting a few months to marry is at worst an inconvenience. For a 17-year-old who is facing a forced marriage, those few months are

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<sup>7</sup> Matthew Dupre, Sarah Meadows, *Disaggregating the Effects of Marital Trajectories on Health*, Journal of Family Issues (1 May 2007), <http://journals.sagepub.com/doi/pdf/10.1177/0192513X06296296>.

<sup>8</sup> Yann Le Strat, Caroline Dubertret, Bernard Le Foll, *Child Marriage in the United States and Its Association With Mental Health in Women*, Pediatrics: Official Journal of the American Academy of Pediatrics (24 August 2011), <http://pediatrics.aappublications.org/content/pediatrics/early/2011/08/24/peds.2011-0961.full.pdf>.

<sup>9</sup> World Policy Analysis Center, *Fact Sheet* (March 2015), [https://www.worldpolicycenter.org/sites/default/files/WORLD\\_Fact\\_Sheet\\_Legal\\_Protection\\_Against\\_Child\\_Marriage\\_2015.pdf](https://www.worldpolicycenter.org/sites/default/files/WORLD_Fact_Sheet_Legal_Protection_Against_Child_Marriage_2015.pdf).

<sup>10</sup> Md. Code Ann., Gen. Provisions § 1-401(a).

<sup>11</sup> Md. Code Ann., Cts. & Jud. Proc. § 3-801.

<sup>12</sup> Md. Code Ann., Cts. & Jud. Proc. § 3-819.

<sup>13</sup> *Schmidt v. Prince George’s Hospital*, 784 A.2d 1112, 1122 (Md. Nov. 15, 2001).

<sup>14</sup> Md. Code Ann., Cts. & Jud. Proc. § 5-201.

<sup>15</sup> Md. Code Ann., Fam. Law § 4-501.

<sup>16</sup> Md. Code Ann., Cts. & Jud. Proc. § 5-201.

crucial: They mean the difference between the horrific trauma of being forced into a marriage and raped—or reaching the age of majority and being able to take steps to protect themselves.

- Of the 3,384 children married in Maryland between 2000 and 2017, some 63 percent – or 2,140 – were age 17.<sup>17</sup> We cannot end a human rights abuse if we fail to protect 63 percent of those impacted by the abuse.

SB949 also fails to address one of the most alarming aspects of Maryland’s current marriage age law: It gives a “get out of jail free” card to child rapists. An adult who engages in a sexual act with a 17-year-old over whom the adult is in a “position of authority” can be charged with a sexual offense in the fourth degree.<sup>18</sup> However, this protection disappears as soon as a marriage license is issued, because an adult who commits this sexual offense within marriage may not be prosecuted.<sup>19</sup>

The so-called safeguards enumerated in SB949 – including judicial review, in-camera interviews, a close-in-age provision, court-appointed lawyers and information provided to underage brides and grooms – would not protect Maryland’s teens:

- SB949 would require judicial approval of child marriage petitions. However, judicial review, even with an in-camera interview of the petitioner separate from their parents, guardians and intended spouse, does not mitigate the risk of forced child marriage; instead, it puts the onus on a terrified 17-year-old who is being forced to marry to choose between telling the truth and facing the repercussions at home, or lying to the court. Not a single one of the survivors Unchained has worked with who were forced to marry and went through a judicial review process, ever chose to be honest with the court.

Further, many U.S. states already rely on a judicial review process for child marriage, and in those states judges appear to rubberstamp underage marriage petitions without paying close attention. For example, probate judges in Massachusetts approved 92 percent of such petitions between 2010 and 2014.<sup>20</sup>

- SB949 would limit child marriage to 17-year-olds marrying a spouse not more than four years older. “Close in age” exemptions might make sense in the context of statutory rape, because research shows sex between a minor and another minor or an adult who is close in age is less likely to be coercive than sex between a minor and a much older adult.<sup>21</sup> However, in Unchained’s experience, when a child is forced to marry, the perpetrators are almost always the parents. Thus, the power imbalance of concern is between the child and the parents, not the child and the spouse or future spouse. Limiting the age difference between the spouses in no way addresses this power imbalance.

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<sup>17</sup> Based on Unchained At Last’s analysis of marriage license data retrieved from the Division of Vital Records Administration, New Hampshire Department of State.

<sup>18</sup> Md. Code Ann., Crim. Law § 3-308.

<sup>19</sup> Md. Code Ann., Crim. Law § 3-318(a), (b)(2).

<sup>20</sup> Jim Morrison, *Advocates Raise Concerns About Child Marriage in Mass.*, Boston Globe (10 August 2016), <https://www.bostonglobe.com/metro/2016/08/10/advocates-raise-concerns-about-child-marriage/sx4TQNbXp4gimy502yWB4L/story.html>.

<sup>21</sup> Tara N. Richards & Catherine D. Marcum, eds., *Sexual Victimization: Then and Now* pp. 108–09 (1st ed. 2014); Sarah Koon-Magnin et al., *Partner Age Differences, Educational Contexts And Adolescent Female Sexual Activity*, Perspectives on Sexual and Reproductive Health (18 August 2010), <https://www.guttmacher.org/journals/psrh/2010/08/partner-age-differences-educational-contexts-and-adolescent-female-sexual>.

Additionally, the “close in age” provision does not ameliorate the devastating harms of marriage before 18.

- SB949 would provide a 17-year-old petitioning for marriage a court-appointed lawyer. This would create an unnecessary financial burden to taxpayers that could be eliminated by simply ending child marriage.

Further, SB949 is unclear about what type of attorney would be appointed for a child petitioning to marry and whether that attorney would be able to voice their concerns to the court if they suspect their client is being forced to marry. SB949 is also unclear about whether two minors marrying each other must each file a petition to marry and each be appointed an attorney.

- SB949 would require courts, when they receive a petition for a 17-year-old to marry, to give the 17-year-old information about state and national hotlines for child abuse, domestic violence and human trafficking, as well as referral information for legal aid agencies. The inclusion of this provision acknowledges the tragic outcomes of child marriage but does nothing to prevent them. “You’re about to be raped, beaten and trafficked,” we would be telling teenagers. “Here’s a pamphlet about that.”

For the numerous reasons expressed above, we are in strong opposition to SB949 and respectfully urge you to vote “NO” when this bill comes before you. Delaware, New Jersey, American Samoa and the U.S. Virgin Islands recently eliminated all marriage before age 18, without exceptions, and multiple other U.S. states and countries around the world are moving to do the same. **Maryland should join the rest of the United States and the world in ending all child marriage, no exceptions.**

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