



*Protecting Immigrant
Women and Girls
Fleeing Violence*

BILL NO: House Bill 458
TITLE: Family Law – Minors – Emancipation (Emancipation of Minors Act of 2020)
COMMITTEE: Judiciary
HEARING: February 6, 2020
POSITION: **SUPPORT WITH AMENDMENTS**

The Tahirih Justice Center (Tahirih) is a non-profit legal advocacy organization that, since 1997, has served survivors of domestic violence, sexual assault, human trafficking, and other abuse, including forced marriage. Through a specialized initiative launched in 2011, Tahirih has worked on several hundred forced marriage cases nationwide and developed unique expertise on how legislative reforms can improve protections.ⁱ

Tahirih strongly supports House Bill 458 in its creation of a clear, thoughtful and detailed framework to enable a mature and self-sufficient minor to petition a court for an order of emancipation. Emancipation can be a critical tool to empower minors to advocate for themselves, including to escape parental abuse, neglect, exploitation, or coercion. Thirty states already have standalone emancipation statutes. HB 458 draws on best practices and lessons learned across these states and builds on a model statute promulgated by the American Bar Association.ⁱⁱ It includes vital safeguards like the appointment of an attorney to advise and advocate for the minor, guidance for the court on what a robust inquiry into the minor’s best interests must entail, and a specific enumeration of the legal rights and responsibilities that emancipation will confer on the minor.ⁱⁱⁱ

HB 458 also seeks to reform Maryland’s laws on the legal minimum marriage age. Tahirih supports its ban on marriage under age 16. However, Tahirih is very concerned that, as introduced, HB 458 does not go far enough – it would seem to make emancipation an alternative route for minors above age 16 to be permitted to marry, leaving in place lax exceptions in current law that are based on pregnancy and/or parental consent.

Nearly 3,500 minors were married in Maryland from 2000-2018, most of them girls married to adult men, many of whom were significantly older.^{iv} In 2018, for example, a 15 year old was brought from Delaware to Maryland to be married to a 22 year old under Maryland’s pregnancy exception – yet in both states, sex between individuals at those ages is a crime punishable by substantial jail time. The exceptions in current law have enabled cover-ups for sexual assault and work-arounds for predators, facilitated forced marriages of girls against their will, trapped vulnerable girls in violent homes without the rights or resources to find safety, and failed to protect girls from other serious risks and harms of early marriage.

Tahirih therefore urges amendments to HB 458’s provisions raising Maryland’s legal minimum marriage age in order to clarify that *only* court-emancipated minors may marry, and to eliminate all other exceptions to a minimum marriage age of 18.

ATLANTA

230 Peachtree Street NW
Atlanta, GA 30303
Suite 1960
Tel: 470-481-4700
Fax: 470-481-7400
Atlanta@tahirih.org

BALTIMORE

211 E. Lombard Street
Suite 307
Baltimore, MD 21202
Tel: 410-999-1900
Fax: 410-630-7539
Baltimore@tahirih.org

GREATER DC | NATIONAL

6402 Arlington Boulevard
Suite 300
Tel: 571-282-6161
Fax: 571-282-6162
TTY: 711
Falls Church, VA 22042
GreaterDC@tahirih.org
Justice@tahirih.org

HOUSTON

1717 St. James Place
Suite 450
Houston, TX 77056
Tel: 713-496-0100
Fax: 713-481-1793
Houston@tahirih.org

SAN FRANCISCO BAY AREA

881 Sneath Lane
Suite 115
San Bruno, CA 94066
Tel: 650-270-2100
Fax: 650-466-0006
SFBayArea@tahirih.org

tahirih.org

It is Tahirih's understanding that Delegate Atterbeary intends to offer such amendments, which would further limit an emancipated minor's ability to apply for a marriage license until at least 14 days have passed after the court order was issued and require the minor to reach age 17 and the intended spouse to be no more than 4 years older. Tahirih would strongly support all such amendments.

With those further amendments to HB 458, Maryland would join the fast-growing number of states that have taken similar steps to end or limit child marriage. Since 2016, a total of 21 states have enacted reforms, and 8 states now condition eligibility to marry on a minor's having been emancipated (either naturally at age 18, or after petitioning a court). Six of those eight are Maryland's regional neighbors (Delaware, Kentucky, New Jersey, New York, Ohio, and Virginia). More states around the country are raising their minimum marriage ages, limiting age differences, and instituting other safeguards to better protect vulnerable minors. Maryland is in a fast-diminishing minority of states that have such a low age floor and retain a pregnancy exception; most states have eliminated pregnancy exceptions they once had and several expressly instruct judges that a pregnancy does not prove that marriage is in a minor's best interest. As more states in the region and nationwide strengthen their laws, those seeking to abuse and exploit girls under the guise of marriage will increasingly gravitate to Maryland for its weaker laws.

Of note, even after a minor is emancipated, as she attempts to support herself and navigate the world on her own, her circumstances may remain precarious and she may remain vulnerable to abuse and coercion. The further amendments Tahirih urges above, beyond simply requiring a minor to be court-emancipated, are therefore still warranted to mitigate the many risks posed by early marriage. Research shows that marriage before age 18 stacks steep odds against a young person's security and wellbeing, including higher drop-out rates from high school and college, a greater likelihood of poverty, more medical and mental health problems, and divorce rates of up to 80%.^v

Several other states prudently place limitations even on an emancipated minor's ability to marry. For example, Kentucky, Ohio and Georgia all require the emancipated minor to be at least age 17 to marry, the intended spouse to be no more than 4 years older, and a waiting period^{vi} between an order of emancipation and the issuance of a marriage license. Kentucky, Georgia, and Virginia also vet the criminal background of the intended spouse and examine any history of protective orders between the parties.

Limited exceptions to a minimum marriage age of 18 only for court-emancipated minors can have a significant impact. In the year before Virginia's new law went into effect, for example, 182 minors were married; but in the year after, only 13 minors were married.^{vii} A 90% drop in the numbers of minors married can also be seen in marriage license records pre- and post- similar reforms enacted in Texas.

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 HB 458 – as amended to strengthen its marriage-age provisions – 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.^{viii}

The Tahirih Justice Center respectfully urges a favorable report on HB 458, with amendments as outlined.

ⁱ Tahirih has prepared a 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, available at www.tahirih.org/childmarriage.

ⁱⁱ 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/>.

ⁱⁱⁱ HB 458 also gives minors the right to petition on their own, recognizing that some minors may seek to emancipate precisely because they have abusive parents who could otherwise block their access to emancipation. Similarly, appointing an attorney for the minor not only acknowledges that emancipation involves serious legal consequences, but also accounts for the possibility that some parents may try to foist emancipation on a minor, just to terminate their obligations to support and care for their child.

Ensuring that a minor is represented by an attorney in the emancipation proceeding could make a pivotal difference to a vulnerable girl, and notably, would mean *de minimis* cost to the state. 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.

^{iv} Marriage license records obtained from the Maryland Department of Public Health, Vital Statistics Administration, and analyzed by the Tahirih Justice Center. On file with Tahirih.

^v See specific statistics and sources cited in Tahirih Justice Center’s backgrounder, “Child Marriage Poses Serious Risks to Children,” available at www.tahirih.org/childmarriage.

^{vi} Mandatory waiting periods can provide critical time and opportunity for a newly-emancipated 17-year-old to get help to avoid or prevent a forced marriage that she may be facing, rather than find herself rushed from the judge’s courtroom straight to the clerk’s window to be married same-day.

^{vii} Marriage license records obtained from the Virginia and Texas Departments of Health through the legislative sponsors of marriage-age reforms enacted in 2016 and 2017 respectively, and analyzed by the Tahirih Justice Center. On file with Tahirih.

^{viii} Attaining majority or being court-emancipated can 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 disabled from advocating to protect themselves from forced or abusive marriages in numerous ways. For example, 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; relatives or 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; un-emancipated 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. Thus, a court may question whether she can even file a petition for a protective order or divorce on her own. See, e.g., Md. Code, Family Law § 9-304 (prohibiting a relative from “harboring” a child under age 16) and *Khalifa v. Shannon*, 404 Md. 107, 123, 945 A.2d 1244, 1253 (2008); COMAR 14.31.07.09 (shelter regulations re: minors); Md. Commercial Law Code Ann. § 1-103 (c)(1) (“The age of majority as it pertains to the capacity to contract is 18 years of age”); Md. Code, General Provisions §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).

Child Marriage Poses Serious Risks to Children



PHYSICAL IMPACT

- Women who marry before age 19 have a 23% greater risk of developing a serious health condition including diabetes, cancer, heart attack, or stroke.¹
- Teen girls who marry tend to have more children, earlier, and more closely spaced.² They are:
 - » Much more (130%) likely to get pregnant than unmarried teens who live with a partner³
 - » More likely to have their first child before age 18⁴
 - » 40% more likely to have a second birth within 24 months of their first⁵
 - » Nearly 3x more likely to have at least 5 children⁶
- Young women and girls aged 16-19 face intimate partner violence victimization rates almost 3x the national average.⁷
- Overall, women who marry as children are more likely to seek and access health services, compared to women who married in adulthood.⁸



ECONOMIC IMPACT

- Child brides tend to come from poverty and remain in poverty.⁹
 - » Girls who marry underage are up to 31 percentage points more likely to live in future poverty.¹⁰
 - » For teen mothers, getting married and later divorcing can more than double the likelihood of poverty.¹¹
- Earning potential and work opportunities are limited by interrupted education and low education levels. Girls who marry under age 19 are:
 - » 50% more likely to drop out of high school
 - » 4x less likely to graduate college¹²



SOCIAL IMPACT

- Child brides tend to be isolated from support networks including school, friends, and family.
- The majority (70-80%) of marriages entered into when at least one person is under age 18 ultimately end in divorce.¹³
 - » According to one study based on census data, 23% of children who marry are already separated or divorced by the time they turn 18¹⁴
- These negative outcomes, combined with the economic impacts of child marriage which limit a woman's ability to become financially independent, increase vulnerability to multiple victimization and often result in consequences becoming cyclical and intergenerational.



MENTAL IMPACT

- Women who marry before age 18 are more likely to report stressful life events.
- Women who marry before age 18 are also present with significantly more psychiatric disorders, including:
 - » mood and anxiety disorders including major depressive disorder
 - » antisocial personality disorder (prevalence nearly 3x higher)¹⁵
- Social isolation and feeling a lack of control over their lives can contribute to a "child bride's" poor mental health. In fact, agencies working with girls facing or trying to escape forced marriages report that nearly all have contemplated or attempted suicide.¹⁶

ENDNOTES

- ¹ Compared with a study cohort of those who married between age 19 and 25. See Matthew E. Dupre and Sarah O. Meadows, “[Disaggregating the Effects of Marital Trajectories on Health](#),” *Journal of Family Issues* (Vol. 28, No. 5, May 2007, 623-652), at pp. 630-636, and 646-647; see also Bridget M. Kuehn, “[Early Marriage Has Lasting Consequences on Women’s Mental Health](#),” news@JAMA (August 29, 2011), posts by *The Journal of the American Medical Association* (“research has linked such early marriages to a higher risk of HIV or other sexually transmitted infections, cervical cancer, unintended pregnancy, maternal death during childbirth, and abortion; early marriage is also associated with malnutrition among offspring”).
- ² See Naomi Seiler, “[Is Teen Marriage a Solution?](#)” (Center for Law and Social Policy, April 2002), at p. 8; see also *infra*, n. 3.
- ³ See Wendy D. Manning and Jessica A. Cohen, “[Teenage Cohabitation, Marriage, and Childbearing](#),” *Population Research and Policy Review* (April 2015), 34(2): 161-177.
- ⁴ *Id.*
- ⁵ See Gordon B. Dahl, “Early Teen Marriage and Future Poverty,” *Demography* (August 2010: 47(3): 689-718), at 691, n. 2.
- ⁶ *Id.*
- ⁷ See [loveisrespect.org](#) factsheet.
- ⁸ See Yann Le Strat, Caroline Dubertet & Bernard Le Foll, “[Child Marriage in the United States and Its Association with Mental Health in Women](#)” 128 *Pediatrics* 524 (September 2011).
- ⁹ See *supra*, n. 8; see also “[Poverty](#),” Girls Not Brides factsheet, and Abby Phillip, *The Washington Post* (WorldViews: July 23, 2014), “[Here’s proof that child marriage and poverty go hand in hand](#)”.
- ¹⁰ See *supra*, n. 5, at 714. The author defined “early teen marriage” as marrying before age 16. *Id.*, at 693.
- ¹¹ See research cited by College of William & Mary Law School Professor Vivian E. Hamilton, in “[The Age of Marital Capacity: Reconsidering Civil Recognition of Adolescent Marriage](#)” (*Boston University Law Review*: December 2012) 92 B. U. L. Rev. 1817, 1820 and at n. 15.
- ¹² See *supra*, n. 5, at 691.
- ¹³ See *supra*, n. 11, at 1820.
- ¹⁴ See Alissa Koski and Jody Heymann, “Child Marriage in the United States: How Common Is the Practice, And Which Children Are at Greatest Risk?” *Perspectives on Sexual and Reproductive Health* (June 2018: 50 (2), 59-65), at 61.
- ¹⁵ See *supra*, n. 8.
- ¹⁶ As observed by the Tahirih Justice Center’s Forced Marriage Initiative and other legal and social service-providers in the national Forced Marriage Working Group that Tahirih chairs.



The National Movement to End Child Marriage

To Ensure Full and Free Consent to Marriage, and To Protect Children from Irreparable Harm

What are states doing to address child marriage?

Prior to 2015, the public and policymakers had no idea what the nature and scope of America's child marriage problem really was. At that time, investigative reporters and advocates serving child marriage survivors began to pull and analyze state marriage license records, leading to the startling realization that over 200,000 minors (children under age 18) were married from 2000-2015 alone.¹

The overwhelming majority were girls, most married adult men, and many times, those men were significantly older. Increasing media coverage over the last few years has called attention to the horrific experiences of many former "child brides" who were abused and exploited under the guise of marriage.²

In response, twenty-one U.S. states have strengthened their minimum marriage age laws since 2016, and there has been significant growth, year over year, in the number of states taking up reforms.

Eight of those states have effectively ended child marriage – either by setting the minimum marriage age at 18 without exception, or by prohibiting marriage licenses from being issued to minors unless they have been court-emancipated³.

New laws were enacted in Delaware and New Jersey which entirely ban marriage under age 18⁴:

State	Marriage-Age Requirements <u>Before</u> Reform	Marriage-Age Requirements <u>After</u> Reform	Effective:
Delaware	No age floor; judicial approval required for all minors, based on several criteria	Minimum marriage age set ⁵ at 18, no exceptions	2018
New Jersey	No age floor; for age 16-17, only parental consent required; under age 16, judicial approval required, with little to no guidance for judges' decisions	Minimum marriage age set at 18, no exceptions	2018

Other states that have recently enacted new marriage-age laws are:

State	Marriage-Age Requirements <u>After</u> Reform	Effective:
Virginia	Minor must be court-emancipated (eligible at age 16); attorney appointed to minor; if emancipating to marry, several criteria apply (e.g., judge must find minor is not being coerced and examine criminal record/protective order history of intended spouse); "best interests" inquiry	2016

¹ Stats are from *Frontline*, "Child Marriage in America: By the Numbers" (July 6, 2017).

² See, e.g., "Child Brides Call on U.S. States to End 'Legal Rape,'" *Reuters* (October 24, 2018); "She Was Forced into Child Marriage in Texas. Now She Wants to End the Pain for Others," *Dallas News* (July 11, 2018); "Sherry Johnson Was Raped, Pregnant, and Married by 11. Now She's Fighting to End Child Marriage in America," *CNN* (January 30, 2018); "Grown Men Are Exploiting Loopholes in State Laws to Marry Children," *Huffington Post* (August 30, 2017).

³ A petition for emancipation seeks a court order granting a mature and self-sufficient minor the legal rights and status of an adult. States that have enacted new laws with a limited exception permitting court-emancipated minors to marry are Virginia, Texas, New York, Kentucky, Ohio, and Georgia (see reverse).

⁴ As of January 2020, bills are pending in several additional states that would entirely ban marriage under age 18.

⁵ As used in these charts, "set" refers to states that previously had *no age floor* (no lower limit to how young a child could be married, if the statutory criteria for an exception were met), and that through legislative reforms, instituted a firm age floor for the first time. "Raised" refers to states that previously had a lower age floor, and that through legislative reforms, instituted a new, higher age floor.

State	Marriage-Age Requirements After Reform	Effective:
Connecticut	Age floor set at 16; age 16-17 now requires judicial approval; judge must consider factors including whether there is coercion	2017
New York	Age floor raised to 17; minor must be court-emancipated; attorney must be appointed to minor and judge must interview privately; judge must consider several factors to vet the intended marriage including whether there is coercion or a history of violence or power imbalance between the parties; rights/resources info must be provided to minor	2017
Texas	Minor must be court-emancipated (eligible at age 16); attorney appointed to minor; "best interests" inquiry	2017
Arizona	Age floor set at 16; parties' age difference limited to 3 years	2018
Florida	Age floor set at 17; parties' age difference limited to 2 years	2018
Kentucky	Age floor set at 17 and other party cannot be more than 4 years older; minor must be court-emancipated; attorney may be appointed to minor and judge must interview privately; court must consider several factors (e.g., judge must find minor is not being coerced and examine criminal record/protective order history of intended spouse); "best interests" inquiry; 15-day waiting period between emancipation order and marriage license; rights/resources factsheet given to minor	2018
Missouri	Age floor set at 16; no one age 21 or older can marry a minor	2018
Tennessee	Age floor set at 17; parties' age difference limited to 4 years; rights/resources factsheet given to minor	2018
Arkansas	Age floor set at 16 (in case of pregnancy); girls now subject to the same rules at the same ages as boys (previously, exceptions were gender-differentiated); judicial approval required only for age 16	2019
California	No age floor; exception based on judicial approval; reforms improved judicial approval process, including by requiring private interviews with both a Family Court Services officer and the judge	2019
Colorado	Age floor set at 16; judicial approval now required; guardian ad litem appointed for the minor to investigate "best interests" and to file a report with the court addressing several factors, including the independent ability of the minor to manage the minor's own financial, personal, educational, and other affairs; certain rights of married minors clarified	2019
Georgia	Age floor raised to 17 and other party cannot be more than 4 years older; minor must be court-emancipated; attorney must be appointed to minor; if emancipating to marry, additional criteria apply (e.g., judge must find minor is not being coerced and examine criminal record/protective order history of intended spouse); "best interests" inquiry; 15-day waiting period between emancipation order and marriage license; minor must complete premarital education and receive rights/resources factsheet	2019
Louisiana	Age floor set at 17; age 16-17 now requires judicial approval; judge must consider several factors including whether parties are mature and self-sufficient and whether there is evidence of coercion or violence; parties' age difference limited to 3 years	2019
Nevada	Age floor set at 17; age 17 now requires judicial approval; judge must consider factors including maturity of minor and age differences of parties, must be "extraordinary circumstances" and "clear and convincing evidence" including that marriage is in the minor's best interests	2019
New Hampshire	Age floor raised to 16; judicial approval required; improved judicial approval process, including by requiring "clear and convincing evidence" that marriage is in the minor's best interests	2019
Ohio	Age floor set at 17; parties' age difference limited to 4 years; minor must be court-emancipated; attorney must be appointed to minor; court must consider several factors including whether there is coercion; 14-day waiting period between emancipation order and marriage license	2019
Utah	Age floor raised to 16; parties' age difference limited to 7 years; age 16-17 now requires judicial approval; court must find that the marriage is voluntary and in the best interest of the minor; allows court to make other orders (e.g., continuing schooling, getting premarital counseling)	2019
Maine	Age floor set at 16; parties' age difference limited to 3 years	2020

For more information, please contact Jeanne Smoot, Senior Counsel for Public Policy and Strategy, jeanne@tahirih.org, or visit tahirih.org/childmarriage.