



*Protecting Immigrant
Women and Girls
Fleeing Violence*

Testimony in SUPPORT of Senate Bill 0173

(Concerning Emancipation of a Minor and Authorization to Marry)

Judicial Proceedings Committee

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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.