

**Testimony in Opposition to HB242: Emancipation of a Minor and Authorization to Marry  
Presented to Maryland Judiciary Committee | January 28, 2021**

Chair Luke Clippinger, Vice Chair Vanessa Atterbeary 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 lead the growing national movement to end these human rights abuses, and we have researched and written extensively on them. **We urge you to vote “NO” on HB242 and instead pass simple, commonsense legislation to end child marriage.**

As you know, the marriage age in Maryland is 18, but the law includes dangerous loopholes under which children as young as 15 may marry. **HB242 does not close these dangerous loopholes; instead, it creates a new loophole under which 17-year-olds may marry with judicial approval.**

HB242 is apparently a “compromise,” after the Maryland legislature failed in the last five legislative sessions to do what states across the U.S. and countries around the world are doing: eliminate all marriage before age 18. The entire world, including the U.S., has pledged to end child marriage by year 2030 under United Nations Sustainable Development Goal 5.3, as a crucial aspect of achieving gender equality, but Maryland’s efforts have been stymied by a couple of self-proclaimed advocates who have claimed without evidence – and, in fact, contrary to all available data – that child marriage benefits some teenage girls.

We urge you to disregard these baseless claims and consider the facts:

1. Marriage before 18 – including at age 17 – produces such devastating, lifelong consequences, particularly for girls, that the U.S. State Department has called it a “**human rights abuse**.”<sup>1</sup>
  - 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>2</sup>
  - Women who married as teenagers are three times as likely as women who married as adults to have at least five children.<sup>3</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>4</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 because early marriage can lead to added stress and forfeited education.<sup>5</sup> Women

<sup>1</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>2</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>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</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>.

who married before 18 also are at increased risk of developing various psychiatric disorders, even when controlling for sociodemographic factors.<sup>6</sup>

- Globally, women who married before 18 are three times more likely to have been beaten by their spouse than women who married at 21 or older.<sup>7</sup>
- In other words, child marriage does not offer *any* benefit; it brings only harm. Anyone who argues that a vulnerable teenager in an abusive home should be married off – and thus entered into a sexual relationship governed by a contract they cannot easily get out of (as described below) – should not be allowed to use the title “advocate.”

2. Remember the crucial 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 adulthood.<sup>8</sup> Even a day before their 18<sup>th</sup> birthday, **a 17-year-old’s limited legal rights render them extremely vulnerable to forced marriage:**

- A 17-year-old cannot easily leave home to escape from parents who are planning an unwanted wedding for them, as an adult would do in that situation, since leaving home makes a minor a runaway.<sup>9</sup> The local Department of Social Services (DSS) must prove in court that the minor should be declared “in need of assistance”<sup>10</sup> and place the minor in temporary shelter while determining whether to return the child home, move the minor to foster care or award custody to someone else.<sup>11</sup>
- A 17-year-old cannot easily enter a domestic violence shelter, as an adult would do if their parents tried to force them to marry. Domestic violence shelters routinely refuse to accept unaccompanied minors, because of the myriad liability issues minors bring.
- A 17-year-old cannot easily retain an attorney to help them out of a forced marriage situation, as an adult might do, because most contracts with children, including retainer agreements with attorneys, are voidable.<sup>12</sup>
- A 17-year-old cannot easily seek a protective order against parents who are coercing them into marriage, as an adult can do in that situation, because minors are not allowed to bring a legal action independently; a parent or guardian must initiate and terminate a suit on their behalf.<sup>13</sup> A minor may seek a protective order only if they are represented by the State’s Attorney, DSS, a relative or another adult who lives in their home.<sup>14</sup>
- In other words, 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

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<sup>6</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>7</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>8</sup> Md. Code Ann., Gen. Provisions § 1-401(a).

<sup>9</sup> In Unchained’s experience, when a child is forced to marry, the perpetrators are almost always the parents.

<sup>10</sup> Md. Code Ann., Cts. & Jud. Proc. § 3-801.

<sup>11</sup> Md. Code Ann., Cts. & Jud. Proc. § 3-819.

<sup>12</sup> *Schmidt v. Prince George’s Hospital*, 784 A.2d 1112, 1122 (Md. Nov. 15, 2001).

<sup>13</sup> Md. Code Ann., Cts. & Jud. Proc. § 5-201.

<sup>14</sup> Md. Code Ann., Fam. Law § 4-501.

a forced marriage, those few months are crucial: They mean the difference between the horrific trauma of being forced into a marriage and raped – or reaching the age of adulthood and being able to protect themselves.

3. Of the 3,469 children married in Maryland between 2000 and 2018, some 63 percent – or 2,193 – were age 17.<sup>15</sup> **We cannot end a human rights abuse if we fail to protect 63 percent of those impacted by the abuse.**
4. The so-called safeguards included in HB242 – including emancipation upon marriage, judicial review, in-camera interviews, a close-in-age provision, court-appointed lawyers and information provided to underage brides and grooms – **acknowledge the harms of child marriage but do not mitigate those harms.** Indeed, they might create additional harms and dangers:
  - Emancipating minors upon marriage is unhelpful and in fact harmful:
    - **Emancipation upon marriage grants some rights of adulthood too late for a teen who is facing a forced marriage.** They must first endure the trauma of the forced marriage, and likely be pulled out of school and raped, before they could gain the rights they need to escape.
    - Even when teens would gain some rights of adulthood with marriage under HB242, **the bill leaves unclear which rights they gain.** Maryland does not have an emancipation statute that lays out what emancipation means, and while HB242 would grant “all of the rights and responsibilities of legal adulthood,” it excludes unspecified “health and safety regulations” (the only one specified is “workplace regulations designed to protect individuals under the age of 18 years”). Please think about the confusion and panic this would create for a 17-year-old who is escaping a forced marriage – and for advocates like us who try to help them.
    - **Emancipation likely ends parents’ financial obligation to the minor. However, 70 to 80 percent of marriages before 18 end in failure.**<sup>16</sup> What happens to children emancipated because of marriage – not because of financial independence – when their marriage ends but their parents are no longer financially responsible for them? Unchained has seen children in other states automatically emancipated through marriage and divorced before 18 who ended up homeless because their parents refused to allow them to return home.
  - 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.**

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<sup>15</sup> Based on Unchained At Last’s analysis of marriage license data retrieved from the Division of Vital Records Administration, Maryland Department of Health.

<sup>16</sup> Vivian Hamilton, *The Age of Marital Capacity: Reconsidering Recognition of Adolescent Marriage*, William & Mary Law School Scholarship Repository (2012), <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2467&context=facpubs>.

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, judges in Massachusetts approved 92 percent of such petitions between 2010 and 2014.<sup>17</sup>

- The “close in age” provision (allowing minors to marry only someone not more than four years older) 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>18</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.**
- Providing a court-appointed lawyer for 17-year-olds who petition for marriage would create an **unnecessary financial burden to taxpayers** that could be eliminated by simply ending child marriage.
- Providing information to 17-year-olds who petition for marriage about state and national hotlines for child abuse, domestic violence and human trafficking, as well as referral information for legal aid agencies, is tragically absurd. It acknowledges the horrific outcomes of child marriage but does nothing to prevent them. “You’re about to be raped, beaten and trafficked,” we would be telling teens. “Here’s a pamphlet about that.”

For all these reasons, we strongly oppose HB242 and respectfully urge you to vote “NO.” **We must not “compromise” on a human rights abuse that destroys girls’ lives. Maryland should join the rest of the U.S. and the world and pass simple, commonsense legislation that ends all marriage before 18, without exceptions.**

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<sup>17</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>18</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>.