



*Protecting Immigrant
Women and Girls
Fleeing Violence*

Testimony in SUPPORT of Senate Bill 29

(Emancipation of a Minor and Authorization to Marry)

Judicial Proceedings Committee

Witness: Casey Carter Swegman, Director of Public Policy
6400 Arlington Blvd, Suite 400, Falls Church, VA 22042
January 26, 2022

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

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

6400 Arlington Boulevard
Suite 400
Falls Church, VA 22042
Tel: 571-282-6161
Fax: 571-282-6162
TTY: 711
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

minor who does marry has the capacity to leave and independently seek support in case of abuse. SB 29 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-seven states have enacted such reforms since 2016, including 12 that have conditioned eligibility to marry on emancipation (either naturally at age 18, or after petitioning a court). Six of these states – Delaware, New Jersey, Pennsylvania, Minnesota, Rhode Island, and New York – 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 29 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 29 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 29 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 29 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 29 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 29 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 29 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/IB823 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/>.

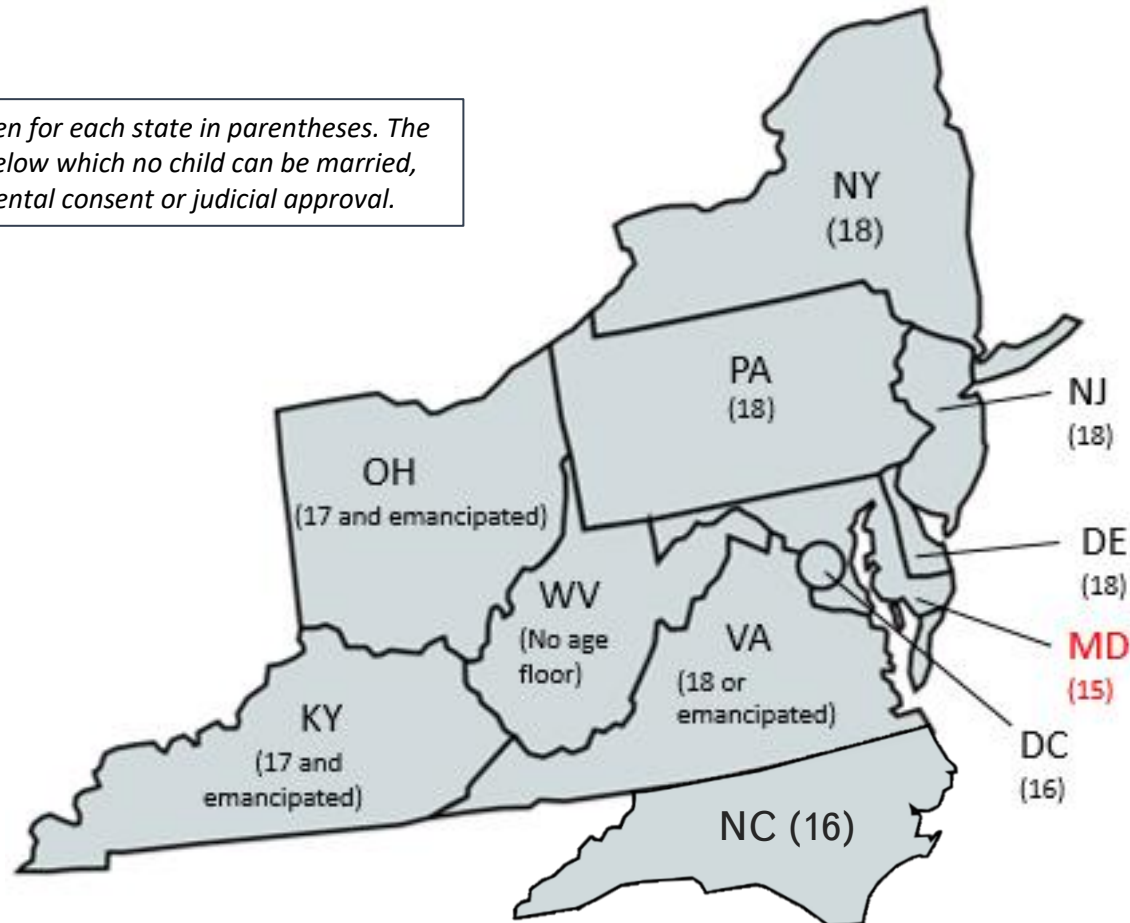
^{ix} Giving minors the right to petition on their own recognizes that some minors may seek to emancipate precisely because they have abusive, neglectful, or exploitative parents, who may otherwise block their access to emancipation. Similarly, the American Bar Association’s model statute requires courts 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.












How Maryland's Child Marriage Laws Compare to Other States in the Region

Age "floor" is given for each state in parentheses. The floor is the age below which no child can be married, regardless of parental consent or judicial approval.



FAST FACTS:

- Maryland's current laws on minimum marriage age are weaker than any other state plus DC in this region, with the possible exception of West Virginia. That state does not have an age floor, but does involve a judge for individuals under age 16.
- Eight states & DC set a higher age floor than Maryland. Most require that individuals be legal adults (age 18, or emancipated) before marrying.
- Maryland is the only state in the region that still has a pregnancy exception, and is only one of four such states nationwide. Most states now recognize that a pregnant underage girl may need a protection order, not a marriage license.

State	Basic Summary of Minimum Marriage-Age Laws	
DC		Age 16 w/parental consent
DE		Age 18, no exceptions
KY		Age 17 w/judicial approval <i>and</i> if court-emancipated based on several criteria, <i>and</i> if age difference of parties is not more than 4 yrs
MD		Age 15 w/both parental consent and pregnancy/childbirth; age 16-17 if <i>either</i> criteria is met
NJ		Age 18, no exceptions
NY		Age 18, no exceptions
OH		Age 17 w/judicial approval <i>and</i> if court-emancipated based on several criteria, <i>and</i> if age difference of parties is not more than 4 yrs
PA		Age 18, no exceptions
VA		Age 18, or court-emancipated based on several criteria. Individuals are eligible for emancipation in VA starting at age 16 and there is additional judicial vetting if the petition for emancipation is based on the intent to marry.
WV		No age floor w/judicial approval; age 16-17, w/parental consent
NC		Age floor of 16 w/parental consent OR judicial approval; age difference limit of 4 years

“[At] the age of 16,...my mother decided she wanted me out of the house and got an offer from a man twice my age to marry me.

This was good news for my mother as she had begun to get jealous of the interest her new husband had taken in me...

And so I was married, and as a 16 year old child married to a man twice my age, it was like he owned me. He abused and raped me and eventually I gave birth to two children whom he would ultimately kidnap...I was married for over 4 years and I wasn't allowed to leave the house...it was like living in a jail cell.”

- *Testimony from former “child bride” brought from out of state to Maryland for marriage when she was still a minor.*

Across the nation since 2016, twenty-seven states have reformed their laws on minimum marriage age. In 2018, Delaware and New Jersey enacted new laws to set age 18, *no exceptions*, as the minimum marriage age. Pennsylvania and Minnesota did the same in 2020 and in 2021 Rhode Island and New York also went to 18. Legal reforms in three other states in the region, including Virginia, now all require parties to be legal adults. After reforms were enacted in Virginia, more Virginia-resident minors were brought to Maryland to be married. In 2018, a 15-year-old was brought from Delaware to marry a 22-year-old under Maryland’s pregnancy exception – even though in both states, sex between parties of those ages is a crime.

Unless Maryland also strengthens its laws against child marriage, it will remain a regional destination for the exploitation of children.



PROTECT CHILDREN FROM ABUSE AND EXPLOITATION

Support HB 83/SB 29 to End Child Marriage in Maryland

What is the problem?

Under current Maryland law, clerks can issue marriage licenses to 15-year-olds if there is *both* a pregnancy and parental consent, and to 16- and 17-year-olds if there is *either* a pregnancy or parental consent. These lax provisions fail to recognize, among other concerns, that a pregnancy can result from rape and that parental consent can really be parental coercion.

Legislative reforms would ensure that individuals can marry only when they reach “majority” (age 18, unless 17 and court-emancipated prior to marriage), when they have all the rights of an adult. This ensures those who do marry are legally empowered, and practically better-positioned, either to give their full and free consent or to prevent or escape an unwanted or abusive marriage.

Why is this legislative reform urgently needed?

Nearly 3,500 minors (children under age 18) were married in Maryland from 2000-2018. Most were girls married to adult men, some of whom were twice their age. This reform responds to a serious problem with current law, which has no effective safeguards to protect children from potentially lifelong, devastating harm. In fact, the state already recognizes the risks inherent in child marriage: when the Dept. of Human Services exercises guardianship over a minor, department policy is to withhold consent if the minor wishes to marry.

Reform legislation must be passed this year to prevent any more children from being put at acute risk: in 2016, the first year a bill was introduced, 85 children were married; 79 more were married in 2017, and 85 in 2018. Many more are put at risk every year the legislature fails to protect them.

How does Maryland compare to other states?

States across the country are moving to reform lax minimum marriage age laws like Maryland's. Since 2016, 12 states have limited marriage to legal adults: Delaware, New Jersey, Pennsylvania, Minnesota, Rhode Island, and New York (18 or older, no exceptions); and Virginia, Texas, Kentucky, Ohio, Georgia, and Indiana (18 or older, with an exception for minors emancipated by a court after a special proceeding). Maryland is also one of only 4 states nationwide that still has a pregnancy exception. Most states now recognize that a pregnant underage girl may need to be issued a protection order, rather than a marriage license.

Survivor testimony and state marriage license records also confirm that children are being brought into Maryland from neighboring states to be married. Maryland must strengthen its laws against child marriage, or the state will continue to be a regional destination for the exploitation of children.

Who supports raising Maryland's minimum marriage age?

Del. Vanessa Atterbeary (D, Howard County) and Sen. Sarah Elfreth are once again championing these legislative reforms. Past bills have attracted broad bipartisan support among legislators, as well as from many organizations and individuals across the state of Maryland, including faith-based advocates; girls' and women's civic clubs; community-based organizations; non-profit legal and social services agencies with directly relevant experience serving survivors of forced and child marriages; the medical community; and most importantly, survivors of abusive, forced child marriages.

What about genuine, loving couples who want to get married before age 18?

Genuine couples can afford to wait to begin their “happily ever after,” and their chances of success as partners, parents, and people improve dramatically if they wait to marry. But an underage, at-risk girl needs the law to protect her from being trapped in an abusive marriage.

Does this bill limit women’s rights?

No. That’s because:

- A girl under age 18 doesn’t have the legal rights of an adult woman — that’s why this reform is needed.
- The bill only slightly delays, but does not deny, a young person’s right to marry.
- Maryland already regulates the legal marriage age — this bill simply draws that line where it’s more appropriate.

In fact, this reform actually enables and empowers girls to develop to their full potential as women.

What about teen mothers?

Child marriage doubles down on the consequences of teen pregnancy. Girls who marry young face:

- Greater vulnerability to domestic and sexual violence;
- Increased medical and mental health problems;
- Increased high school drop-out rates;
- An increased risk of future poverty; and
- Up to 80% divorce rates.

Research shows that teen mothers who marry can be made *worse-off*, long-term, than teen mothers who don’t marry as teens.

Whatever a girl’s starting point, child marriage stacks the odds *higher* against her, and risks *increasing* her instability and insecurity over time. (See *specific stats and cites in Tahirih Justice Center, “Child Marriage in the United States: A Serious Problem with a Simple, First-Step Solution.”*)

What about active-duty military?

An active-duty servicemember would meet the criteria for maturity and self-sufficiency required to be granted emancipation and the right to marry. A non-servicemember partner may also be able to meet those criteria. A specific “military exception,” however, would be inappropriate. Marrying young, in the context of military life, can unfortunately compound dependency and vulnerability to abuse. For a military spouse it can be:

- More isolating to move away, likely repeatedly, from family and other support networks;
- More likely to limit or interrupt education and employment opportunities; and
- More challenging to report abuse and access appropriate services.

What is emancipation, and why does Maryland need a law on it?

An emancipation statute spells out a process for a mature, self-sufficient minor to be declared a legal adult by a court before reaching age 18, provided certain criteria are met. Thirty other states have such emancipation statutes, and the American Bar Association and other leading experts have published model guidance for states seeking to enact emancipation statutes. An exception that limits marriage to legal adults (age 18 or older, or court-emancipated minors) helps ensure that any minor who does marry is making that choice for herself, and is able to protect herself in case of abuse.

For more information, please contact Casey Carter Swegman, Forced Marriage Initiative Project Manager & Interim Director of Public Policy at the Tahirih Justice Center

preventforcedmarriage.org | fmi@tahirih.org | 571-356-9491 | caseys@tahirih.org



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 (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, and to present with significantly more psychiatric disorders, such as:
 - » 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 *Id.*; see also "[Poverty](#)," Girls Not Brides factsheet, and Abby Phillip, "[Here's proof that child marriage and poverty go hand in hand](#)," *The Washington Post* (WorldViews: July 23, 2014).
- 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.





Making Progress, But Still Falling Short

The Movement to End Child Marriage in America
Updated August 26, 2021

Table of Contents

OVERVIEW	3
-----------------	----------

BIRTH AND GROWTH OF THE U.S. MOVEMENT TO END CHILD MARRIAGE	4
Progress and Reflections from 2021	6

COMPARING COMPROMISES	7
In Virginia	7
In Florida	8
Limitations of Judicial Approval Exceptions	9

NOTABLE SHIFTS IN CHILD MARRIAGE LAWS	11
Protective Practices Are Increasing	11
Harmful Practices Are Decreasing	11
Map of Reforms Since 2016	12

A DEEPER AND BROADER AGENDA FOR LEGISLATIVE ADVOCACY	13
Survivor Advocates Show the Way	14
Call to Action	15
At the Federal Level	15
For States + DC That Have Not Passed Any Reform	15
For States That Have Passed a Reform	16

Overview

In August 2017, the Tahirih Justice Center (Tahirih) released the first comprehensive analysis of marriage-age provisions in all 50 states and Washington, DC that leave children more vulnerable to forced and early marriage. That report, [*Falling through the Cracks: How Laws Allow Child Marriage to Happen in Today's America*](#), provides state lawmakers and advocates in the United States with the information they need to pass laws that more effectively protect children.

Since then, significant progress has been made. But while over half of all U.S. states have enacted legislation to end or limit child marriage in recent years, some of the states with the most lax laws have yet to take any action. In addition, many newly enacted laws do not go far enough, and will need to be strengthened in future legislative sessions.

At a Glance:

- **Only 6 states set the age floor at 18 – no exceptions:** Delaware, New Jersey, Pennsylvania, Minnesota, Rhode Island, and New York
- **6 more states limit marriage to legal adults** by providing exceptions only for emancipated minors: Virginia, Texas, Kentucky, Ohio, Georgia, and Indiana
- 16 states require all minors to get judicial approval before they can marry
- In 13 states and Washington, DC, clerks alone – without judges – can issue marriage licenses for all minors
- **9 states do not set any age floor** by statute, and 4 states set an age floor younger than 16
- 4 states expressly allow girls under the minimum age to be married if they are pregnant

A compilation, comparative analysis, and “scorecards” of every state’s law can be found at Tahirih.org/childmarriage.

Birth and Growth of the U.S. Movement to End Child Marriage

At the start of Tahirih's national campaign to end child marriage,¹ data gathered by Tahirih and other advocates indicated that tens of thousands of children had been married in recent years across the U.S. In response, after a 2016 campaign led by Tahirih, Virginia became the first state to limit marriage licenses to legal adults – individuals age 18 or older, with a limited exception for 16 and 17 year old who have been emancipated by a special court hearing prior to being issued a marriage license. Similar reforms followed in Texas, New York, Kentucky, Ohio, Georgia, and Indiana, all of which limited exceptions to emancipated minors and established meaningful safeguards against forced marriages of children.

A critical milestone was reached in 2018 when Delaware and New Jersey became the first states to ban all marriage under age 18, without exception.² In May 2020, Pennsylvania and Minnesota became the third and fourth states to enact a “brightline” minimum marriage age of 18, followed by Rhode Island and New York in 2021. New York's 2021 legislative victory marks a particularly meaningful milestone, as the state passed its brightline law just four years after reforms that, while significant, fell short of ending all marriage under age 18. New York's swift incremental progress towards completely ending child marriage shows what is possible in other states that have made meaningful progress, but fallen short of ending child marriage.³

Timeline of Legislative Reforms:

- 2016: Virginia
- 2017: Connecticut, New York, Texas
- 2018: Arizona, Delaware, Florida, Kentucky, Missouri, New Jersey, and Tennessee
- 2019: Arkansas, California, Colorado, Georgia, Louisiana, Nevada, New Hampshire, Ohio, and Utah
- 2020: Idaho, Indiana, Maine, Minnesota and Pennsylvania
- 2021: Utah, Rhode Island, New York, and North Carolina

In total, 27 states have strengthened their marriage-age laws since 2016.⁴ Over that same short period many more states have considered reform bills, and many of those bills have cleared major legislative hurdles, even if they have not yet made it all the way to final passage.

These achievements are all the more remarkable considering that in some states, thousands of bills can be introduced in an intense, 40- to 60-day legislative session, all competing for attention and time in committee hearings, or for space on the agenda for a floor vote. These dynamics were exacerbated by the pandemic which interrupted 2020 legislative sessions and caused serious logistical hurdles throughout 2021, limiting the bandwidth of legislators to take on this and other critical issues while addressing pressing concerns such as pandemic relief, police reforms, and voting rights.

Public education has played a critical role in every legislative campaign. Many legislators and advocates simply have no idea that their states' laws are so lax, or that child marriage really happens in America. They often have not considered the stunning inconsistencies between marriage-age laws and statutory-rape laws,⁵ for example, or the cruel irony of permitting a girl to be married before she has attained the rights and access to resources an adult would have to protect themselves from domestic violence.

The startling revelation in 2017 that over 200,000 children under age 18 were married in the United States between 2000 and 2015,⁶ documented through state marriage license data, drove home the need for states to snap into action. The overwhelming majority of minors who were married were girls, most married adult men, and many times, those men were significantly older. Subsequent research into the scope of child marriage in the U.S. has filled gaps in previous efforts and revealed an even more startling picture – estimating over 300,000 marriages between 2000 and 2018.⁷

Increasing media coverage has called attention to the horrific experiences of former “child brides” who were abused and exploited under the guise of marriage.⁸ Mounting U.S.-based research, amassed and amplified by Tahirih and other advocates, has provided further evidence of how child marriage drastically undermines girls' health, safety, and welfare. Survivors are increasingly stepping forward as advocates and movement-leaders, inspiring and driving changes in the laws.⁹

The resulting burst of bipartisan legislative activity makes clear that most state lawmakers appreciate the acute concerns raised by permitting children to be married.¹⁰ More and more states are adopting provisions that better protect children from forced and early marriage, including: setting floors of age 16 or higher; requiring all minors to obtain judicial approvals; setting more detailed substantive criteria; vetting not only the maturity and capacity of the minor but also the intended spouse and marriage for abuse or coercion; clarifying what a “best interests” inquiry should

entail; sending cases to specialized judges; appointing counsel; ensuring that minors are emancipated before marriage; and/or informing minors of their rights and resources available to protect them in case of abuse.

Despite broad recognition of the problem, however, most states have not pursued the simple, straightforward, and powerful solution that Tahirih and other advocates, including survivors, have repeatedly urged: to set age 18, no exceptions, as the minimum legal marriage age.¹¹

Progress and Reflections from 2021

The 2021 legislative session showed a significant slowing in the campaign's momentum.¹² Only three states – Rhode Island, New York, and North Carolina – had passed significant reforms by the end of August, while minor tweaks were made to Utah's law. Some reasons for this slowing may be outside advocates' control. The COVID-19 pandemic and its associated fiscal and social crises took up significant time in 2021 legislative sessions, as did reforms aimed at racial equity, police reform, and voting rights.

It is also possible that the movement has already swept through the states most amenable to reform, and now faces more resistant legislative climates. Regardless of the reasons behind it, this slowed legislative momentum calls for advocates to reflect on the strategies pursued thus far and how to move forward more effectively. It also signals a critical need for federal leadership on the issue, and incentives for states to reform.

2021 was not without its victories, however. Rhode Island leapfrogged its way from having some of the least protective laws in the country to become a leader in the national movement, ending all marriage under 18.

New York, meanwhile, has shown the merit of an incremental approach. When a "no exceptions" bill met stiff resistance in 2017, advocates pivoted to a strong compromise measure similar to those passed in Virginia and Texas – ending marriage under age 18, with a limited exception for emancipated minors. Just four years later advocates and lawmakers finished the job, and in 2021 the state ended all marriage under age 18.¹³ Projecting from the number of child marriages seen each year in New York prior to the 2017 reform, the compromise measure likely prevented hundreds of child marriages in the four years it took to finally set the age at 18. Several other states that passed compromise measures have also continued striving for a true end to marriage under 18 and we are hopeful many will follow in New York's footsteps.

North Carolina, which was tied with Alaska for the dubious honor of "lowest minimum marriage age set in statute" at just 14 and was one of just 5 states that maintained a dangerous pregnancy exception, also made meaningful progress by raising its age

floor to 16, limiting age differences to 4 years and eliminating the pregnancy exception.

Comparing Compromises

For states unwilling to completely end child marriage, the reforms adopted have varied significantly. The differences between these compromise reforms have a measurable impact on outcomes, as can be seen in the results of reforms passed in Virginia and Florida.

In Virginia:

- The new law limited marriage license issuance to legal adults age 18 or older, with an exception for court-emancipated minors.
 - Minors age 16 or older in Virginia can petition a specialized “Juvenile and Domestic Relations” judge to be emancipated, are appointed an attorney, and must prove they have the capacity to be independent and self-sufficient.
 - If the emancipation petition is based on an intent to marry, the judge must find that the minor is not being coerced, examine age differences and any violent criminal history of the intended spouse, and consider several other criteria.
- In 2015, **the year before the new law was enacted, 182 minors were married**, including one younger than age 15.¹⁴
- In 2017, **the year after the new law’s effective date, just 13 minors were married – a 93% reduction**. None was younger than age 16, most were age 17, and all but one married someone within 4-6 years of their age.
- The reform remained effective in 2018, though with a slight uptick in cases. Just 23 minors married in 2018 – an 87% reduction compared to pre-reform data. As in 2017 most of these minors were 17, and all but one married someone within 6 years of their age.

In Florida:

- The new law limited underage marriage license issuance to 17-year-olds marrying someone no more than 2 years older. A clerk issues the license; no judge is involved.
- In 2017, **the year before the new law was enacted**, in the 6-month period July to December, **a total of 125 minors were married**, including a 16-year-old married to a 45-year-old. 38 of the minors were boys, and 87 were girls.¹⁵
- In 2018, **the year after the new law's effective date**, in the same 6-month period, **a total of 48 minors were married**. 22 of the minors were boys, and 26 were girls. Most married someone close to their age.¹⁶
- 2019 saw a similar impact, with just 44 minors married in Florida. All 44 were 17 years old, and all married someone close to their age. Florida did not report gendered data in 2019, so it is unknown if the trend toward gender parity held up.

The Florida results reflect both an overall decline in numbers, and greater gender parity in who was married underage, once the age floor was raised and the age differences of the parties were restricted. But they also show the limitations of those changes, without adding any judicial vetting: in Florida, the number of minors marrying the year after the reform was reduced by about 62%, compared with about a *93% reduction* in Virginia the year following reform.

Preliminary data emerging from Texas also underscores the vital importance of an evidentiary hearing before a judge. In 2017, Texas enacted reforms similar to Virginia's new law, providing a limited exception to a minimum marriage age of 18 only for court-emancipated minors. A comparison of Texas marriage license data pre- and post-implementation of its new law likewise shows about a *90% reduction* in the number of minors who were married.¹⁷

Moreover, because of the new laws, all the minors who married in Virginia and Texas would have been emancipated prior to marriage in a judicial proceeding with some built-in safeguards, such as appointing counsel to the minor. Such measures provide greater assurance that a marriage is not being forced, and that the minor would have the legal and practical capacity to escape abuse if needed. In recent years, Kentucky, Ohio, Georgia and Indiana have passed similar reforms.

By contrast, in Florida a court clerk can issue a marriage license to someone under age 18 after simply checking the respective ages of the parties, with no inquiry into what abusive or exploitative circumstances may lurk behind the application.

Still, the Florida law recognized that even a few years' age difference can mean a profound imbalance in the power and position of the parties to such marriages and thus may dramatically increase vulnerability to abuse. In this light, the fact that some of the minors in Virginia and Texas married spouses who were several years older remains cause for concern.

Tahirih continues to analyze and report on other states' post-reform experiences as more data becomes available. Already it is clear that states that do little more than newly draw the line at age 16 should expect to see far less of an impact than those states that put multiple safeguards in place.

Each of the states examined above – Virginia, Florida, and Texas – as well as those states that passed incremental reforms more recently, posed legislative and political challenges to enacting an age-18 “bright-line” rule out of the gate. Incremental progress may be a necessary and even principled strategy in states where an age 18 bright-line rule is not a viable path forward, particularly if they have a large child marriage problem, especially lax laws, and a short legislative window. We urge lawmakers and advocates in these states, and others where recent legislation has fallen short of brightline 18, to revisit those reforms in future legislative sessions to end child marriage once and for all.

Limitations of Judicial Approval Exceptions

Overall, evidence to date demonstrates that any formula for marriage-age reforms other than “age-18, no exceptions” is incredibly hard to get right. Alternatives that rely on judicial approval must implement many overlapping safeguards to meaningfully mitigate risks, not only for the youngest minors but also for the 16- and 17-year-olds who make up the majority of girls being married.

Unfortunately, only a handful of all states have strong judicial approval processes with the kinds of critical safeguards that, working together, can help protect children from forced marriages and other serious, lifelong harm.

The majority of states with some form of a judicial approval exception still have glaring gaps in protection. For example, California made moderate improvements to its judicial approval process in 2019, but excluded certain minors from the new law's coverage. Worse, the state *still has not set any age floor* below which a child cannot be married.

Simply requiring all minors to obtain judicial approval alone is not enough; after all, judges who rubber-stamped parental consent or exercised unfettered discretion have been responsible for some of the most shocking child marriage cases around the

country. Robust judicial scrutiny that only applies to certain ages or circumstances does little to create strong protections for the majority of children being married. “Best interests” inquiries fail if they rest on judges’ subjective assumptions, rather than evidence-based research about the harms of child marriage.

Judicial approval processes without court-appointed counsel and a safe way to disclose threats are likely to elicit coached answers, and deprive girls of critical legal guidance and rights-awareness. Ensuring that minors are slightly older, or that they have met the standard to be emancipated, also may not shield them from the [many risks of marrying young](#). Finally, by the time an at-risk girl even gets to court and a judge is involved, it may be too late – by that time, she may have been abused and conditioned for months or years in an effort to make her submit to the marriage, and she may feel the stakes are too high and the consequences too uncertain to speak up.

These observations reaffirm Tahirih’s conclusion that no matter how well-crafted the judicial approval process, a firm age floor of 18, without exception, is the best way to pre-empt and prevent forced marriages of vulnerable children before they even arrive at the courthouse steps.

Notable Shifts in Child Marriage Laws

Protective Practices Are Increasing

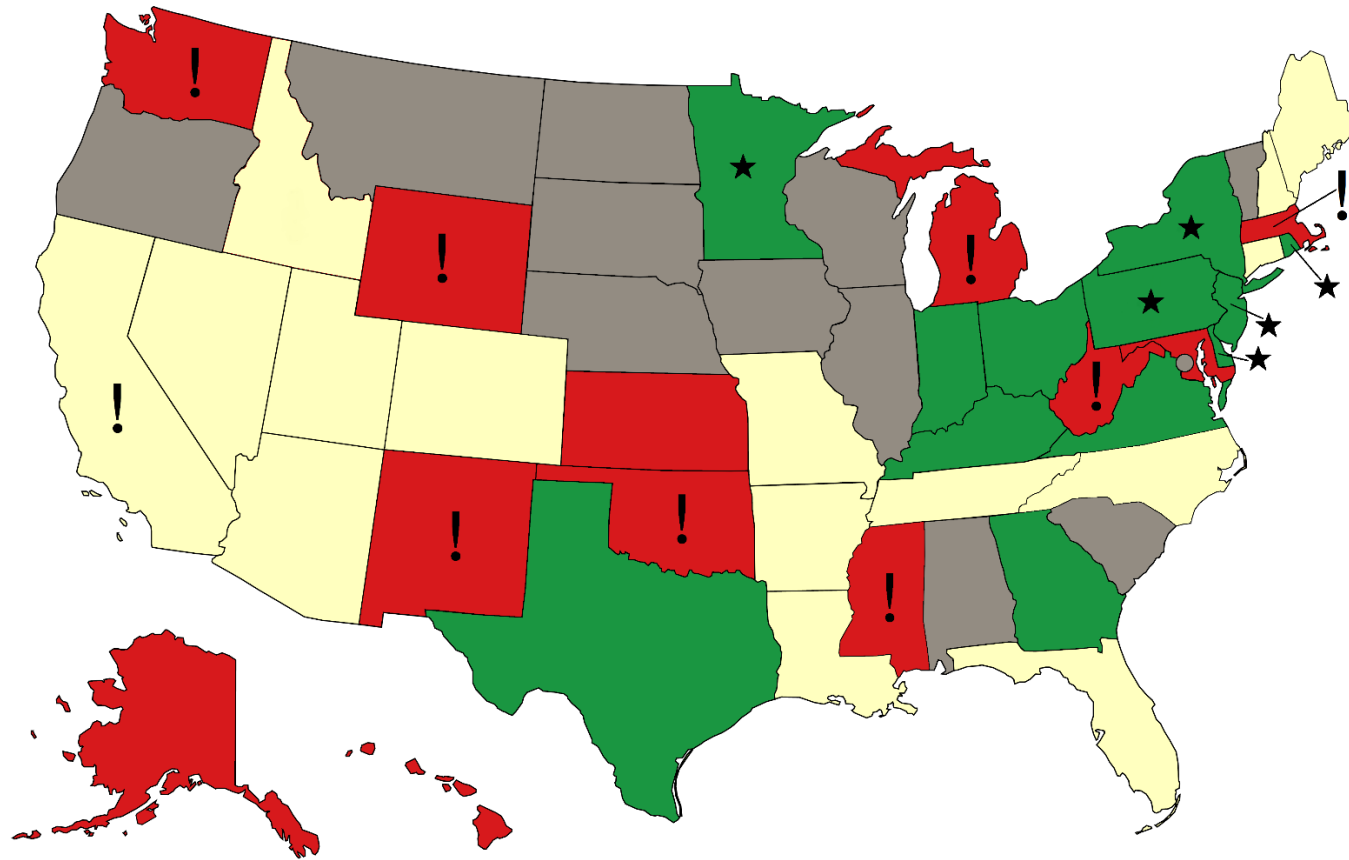
Protective Measures	Laws in 2015	Laws in August, 2021
Age floor of 18, no exceptions	0	6
Floor of "legal adulthood"	0	12
Age floor of 17	2	8
Age floor of 16	12	24
Maximum age difference between a minor and intended spouse	0	12
All minors must get judicial approval to marry	8	16
Minors are appointed counsel for judicial hearings	2	7
Waiting period is required before issuing a minor a marriage license	2	6
Judges approving underage marriages must consider the minor's best interests	17	20
Parental consent does not prove a marriage is in the minor's best interests	0	3
Pregnancy does not prove a marriage is in the minor's best interests	6	10
Judges must consider the minor's maturity/capacity	6	15
Judges must consider whether the marriage is voluntary	6	14
Judges must consider criminal records, protection orders, and/or a history of abuse	2	5
Minors are given information on the rights, responsibilities, and resources available to parties to a marriage and/or emancipated minors, and to victims of domestic violence	0	4







Harmful Practices Are Decreasing:

Harmful Measures	Laws in 2015	Laws in August, 2021
No age floor	28	9
Low age floor, below age 16	9	4
Different exceptions based on gender, leaving girls more vulnerable	5	1
Pregnancy exception can drop the legal age to marry	10	4
Older minors can marry only parental consent	41	28
Judges receive little or no guidance	29	12
Judges need not specialize in family law or juvenile matters	30	21

Legislative Reforms to Limit or End Child Marriage Since 2016

Updated August 26, 2021



-  Reforms set age floor of 18, no exceptions
-  Reforms limited marriage to legal adults (age 18, or court-emancipated minors)
-  Reforms limited child marriage by setting/raising age floors, setting maximum age differences, and/or instituting or strengthening judicial review
-  No reforms to existing laws, which allow marriage at age 16 and older
-  No reforms to existing laws, which allow marriage below age 16
-  No age floor – if statutory criteria are met, there is no limit on how young a child can be married

23 states and Washington, DC have yet to adopt any reforms.

Among those, the “worst offenders” are states with:

- No age floor + pregnancy exception → NM, OK
- No age floor + different rules for girls vs. boys → MS
- Low age floor (below 16) + pregnancy exception + no judge involved → MD

A Deeper and Broader Agenda for Legislative Advocacy

The progress made in changing the state laws that govern the issuance of marriage licenses has been hugely impactful. However, additional state and federal legislative reform is needed to prevent the life-long harms that can be caused by child and forced marriage.

For example, child marriages sometimes take place through religious or cultural ceremonies solemnized without a license. Marriages of U.S. children have also happened overseas, after the child has been taken (at times forcibly or through deception) to another country to be married. Changing the minimum legal age at which an individual can be civilly married in a U.S. state will not prevent these kinds of cases. Additionally, such reforms do not protect children born overseas who are brought to the U.S. as spouses and fiancés of adult U.S. citizens by the thousands.¹⁸

Minimum marriage-age reforms also only address child marriage - marriage under the age of majority - whether forced or voluntary. Such reforms do not help adults who are forced or coerced into marriage against their will.¹⁹

Ensuring that civil protection orders are accessible to anyone facing a forced marriage could make a critical difference for both children and adults, in all these scenarios. The U.K., in fact, has a special "forced marriage protection order" created by statute in 2008. U.K. courts issued more than 1,800 such orders in the first decade of their existence.²⁰

Civil protection orders take into account the unique dynamics often present in forced marriage cases. The perpetrators of a forced marriage are commonly a victim's parents or other family members. Many victims, especially minors, are understandably reticent to press criminal charges, but are more willing to consider civil legal options.²¹ Yet to date, Texas is the only U.S. state that specifically makes forced marriage a basis for a civil protection order, and it is limited to the forced marriage of a child.²² One other state to take a novel civil approach to forced marriage is Tennessee. Legislative amendments enacted in 2018 alongside marriage-age reforms established a new civil cause of action and up to \$250,000 in damages for anyone who, at any age, was forced into a marriage.²³

There is also a role for federal leadership to end child marriage in the U.S. Although the division of authority outlined in the Constitution leaves most family law matters to the states, Congress should enact legislation to incentivize states to strengthen their

marriage-age laws,²⁴ and to clarify that federal funding to serve victims of domestic violence, dating violence, sexual assault, stalking and human trafficking encompasses victims of forced marriage. Congress should also eliminate the “marriage defense” in the federal statutory rape law.²⁵ Federal agencies like the Departments of Justice and Health and Human Services should also foster reforms by leveraging their power to convene key state stakeholders, and by using their platform to report on state laws and trends, elevating best practices and calling out worst offenders.

The federal government is also uniquely empowered to legislate with respect to immigration. A recent report by majority staff to the Senate Homeland Security and Government Affairs Committee analyzed U.S. Citizenship and Immigration Services records and found that more than 8,500 children under age 18 had sponsored or been sponsored on marriage-based visas from FY 2007 to FY 2017.²⁶ Reforms to immigration laws and policies are clearly needed to address this problem, but they must be thoughtfully crafted to avoid harming victims of child marriage rather than helping them.²⁷

Any federal immigration law reforms must be pursued in conjunction with state family law reforms. This is important not only to recognize that children from both multi-generational American and recent immigrant families are impacted by child marriage, but also because the problem often originates at the state level, in the wide-open loopholes that facilitate child marriage in the U.S. putting minors here and abroad at risk.

Survivor Advocates Show the Way

Courageous and passionate survivor advocates are driving marriage-age reforms all across the United States. Woven through their painful personal stories have been many common threads – perpetrating parents, predatory older men, threshold vulnerabilities like poverty and family instability, repeated system-failures to protect them and a lack of self-help options to protect themselves. These stories have inspired not only general change, but also specific safeguards incorporated in reform legislation.

It is striking, and appropriate, that many laws untouched for decades have been replaced in a single legislative session in some states. But the fast pace of these reforms also has a downside, inclining towards lowest-common-denominator approaches that can garner broad consensus. And in states where only surface-level reforms have been enacted, it is equally striking that despite new laws, old tragedies could just as easily repeat themselves.

In the next phase of this historic movement, legislators must carefully examine their laws and legislative proposals through survivors’ eyes and experiences.

Call to Action

This is an exciting and pivotal moment in the national movement, but there is more work to do to end the significant child marriage problem in the U.S.

We call on every state to set an age floor for marriage of 18 without exception. For states where incremental progress is the only strategic way forward in the short term, an age floor of 16 should be the firm minimum, and those minors should be court emancipated prior to marriage. For those states that already have, or newly enact, judicial approval alternatives to a minimum marriage age of 18, we expect to see more robust vetting and safeguards built into those proceedings. Finally, we recommend a more holistic approach taken to the problem – to address the needs of already-married girls, and of girls and women who face forced marriages that are religious or cultural rather than legal, or who are taken abroad for marriages that happen under the laws of a foreign country rather than a U.S. state.

To achieve this transformative difference in the lives of girls and women, the following work is needed at the federal level as well as across all 50 states and Washington DC:

AT THE FEDERAL LEVEL

Enact thoughtful, bipartisan reforms: to marriage-based immigration laws that currently permit children to sponsor/be sponsored on fiancé(e)/spouse visas; to strike the “marriage defense” in the federal statutory rape law; to leverage the federal government’s power to convene key actors and promote model approaches in order to drive and guide reforms at the state level.

FOR THE 23 STATES AND DC THAT HAVE NOT YET PASSED ANY REFORM

All 23 states, plus Washington DC, urgently need to enact bills to end marriage before age 18. Among these, the highest priorities are:

- the states with the highest numbers of children married in recent years, as revealed by marriage license data²⁸
- the 9 states that have no age floor
- the 4 states that have a low age floor (below age 16)
- the 4 states that maintain an express exception in case of pregnancy that drops the age floor
- the states and DC in which a judge is never involved

- the states in which judges are involved only superficially
- *any state that has a toxic combination of the above factors, which puts girls at heightened risk*

Alongside or following marriage-age reforms, these jurisdictions also need to:

- strike any “marriage defense” that shields perpetrators from prosecution for statutory rape
- consider civil options for individuals at risk or survivors of forced marriage, like ensuring access to protection orders or providing for compensatory damages

FOR THE 27 STATES THAT HAVE PASSED A REFORM

The 6 states who have ended child marriage (Delaware, New Jersey, Pennsylvania, Minnesota, Rhode Island, and New York) must:

- strike any “marriage defense” that shields perpetrators from prosecution for statutory rape
- consider civil options for individuals at risk or survivors of forced marriages, like ensuring access to protection orders or providing for compensatory damages

The 6 states that have limited marriage to legal adults (Virginia, Texas, Kentucky, Ohio, Georgia, and Indiana), as well as the 15 states whose reforms stopped short of setting the floor at “legal adulthood” must:

- strike any “marriage defense” that shields perpetrators from prosecution for statutory rape
- consider civil options for individuals at risk or survivors of forced marriages, like ensuring access to protection orders or providing for compensatory damages
- closely monitor marriage license data post-reforms to identify gaps in implementation or the shortcomings of existing safeguards
- strengthen laws to close gaps and shortcomings – with the ultimate goal of setting the age of majority, without exception, as the minimum marriage age in every state²⁹

These transformative shifts will broadcast a powerful message to survivors and individuals at risk, and to the world: the United States takes seriously its role in the global movement to end forced and child marriage.

¹ The tallies reflected in this policy brief are up-to-the-minute as of August 26, 2021, and may differ from Tahirih's [*Child Marriage in the U.S.: Survivor Story Compilation*](#) released on January 10, 2020, and from other Tahirih materials at tahirih.org/childmarriage or www.preventforcedmarriage.org with earlier publication dates. This policy brief reflects all bills that have become law by August 26, 2021. All counts include the laws of all 50 states plus Washington, DC. Counts do not include laws of U.S. territories.

The tallies do not include South Carolina, though a new law relating to marriage-age has been enacted there. On May 13, 2019, South Carolina's governor signed SB 196 into law, effective upon signature, to clarify that South Carolina has a firm minimum marriage age of 16. The legislation responded to investigative reporting that confirmed that judicial interpretations of prior minimum marriage age statutes had been inconsistent, and that some probate judges were granting marriage licenses in case of pregnancy notwithstanding the fact that a girl was younger than age 16. *See* Lauren Sausser, "In SC, pregnant girls as young as 12 can marry. There've been 7,000 child brides in 20 years" (*The Post and Courier*, June 21, 2018).

As interpreted by the South Carolina Office of the Attorney General, legislative reforms back in 1997 had *already* instituted age 16 as the minimum marriage age (*see* S.C. Office of the Attorney General, 1997 WL 665423 (S.C.A.G. Sept. 2, 1997), available at <http://www.scag.gov/archives/category/opinions/1997opinions>). However, the 1997 reforms did not harmonize all statutory provisions related to marriage age, such as a pregnancy exception to age 18 that was set forth in Section 20-1-300 of the 1976 Code. By definitively repealing Section 20-1-300, South Carolina has now made clear that there is a firm age floor of 16, regardless of pregnancy. But because the new law simply underscores what was already the legislature's intent in enacting earlier reforms, South Carolina is not included in the tallies of the 27 states that have *moved* since 2016 to end or limit child marriage.

² In 2018, American Samoa also raised the minimum marriage age for girls to age 18; the law already set age 18 as the minimum for boys. *See* "[Governor Signs Marriage Age Bill into Law](#)," *Talane'i* (September 11, 2018); Fili Sagapolutele, "[Bill Raising The Marriage Age for Girls Is Signed into Law](#)," *Samoa News* (September 12, 2018). On January 18, 2020 the governor of the U.S. Virgin Islands signed Bill #33-0109, which sets age 18 as the minimum marriage age for all, into law; previously, the minimum was age 14 for girls and age 16 for boys. In 2020, Puerto Rico's Ley 55-2020 overhauled the territory's civil code, and included a minimum marriage age of 18. This does not end child marriage in the territory, however, as the age of majority is 21.

³ New York is the first U.S. state to show that such incremental progress toward a brightline prohibition on child marriage is possible, but the promise of an incremental approach to reform has also been borne out by the state-by-state campaign to end child marriage in Mexico. As in the United States, minimum marriage age must be handled by state governments in Mexico and many states in Mexico took an incremental approach to ending child marriage, as New York has done. Prior to 2008 all Mexican states allowed child marriage. Starting in 2008, 14 Mexican states passed laws setting or raising their minimum marriage age to 16, but falling short of the "18, no exceptions" gold standard. By 2018, 13 of these 14 states had amended their laws to completely end child marriage and a total of 30

out of Mexico's 32 states had completely ended marriage under age 18. *See* Cristine Bellés-Obrerero and María Lombardi, "[Will You Marry Me, Later? Age-of-Marriage Laws and Child Marriage in Mexico](#)," *Collaborative Research Center Transregio 224* (November, 2020).

⁴ Alabama is the only state that has recently *regressed* in its approach to child marriage. [SB 69](#), a bill signed into law on May 31, 2019, abolished across the board, for parties of all ages, the requirement that marriage licenses be issued by probate judges. Previously, a probate judge was at least nominally involved in the process of granting a marriage license for the marriage of a minor, to verify the consent of both parents or guardians of the minor. As of the new law's effective date on August 29, 2019, the parental consent requirement can be satisfied by one parent or guardian simply filing an affidavit with the court.

⁵ For more on the disconnect between contradictions between statutory rape laws and marriage age laws across the United States, *see* "[The Alarming Disconnect Between Age-Based Sex Offenses and Minimum Marriage Age](#)," *Tahirih Justice Center* (August, 2020).

⁶ Anjali Tsui, Dan Nolan, and Chris Amico, "[Child Marriage in America: By the Numbers](#)," *Frontline*, (July 6, 2017).

⁷ Data compiled in "[Child Marriage in North Carolina: New Evidence and Policy Recommendations](#)," *International Center for Research on Women* (August 2020) and "[United States' Child Marriage Problem](#)," *Unchained at Last* (April 2021).

⁸ *See, e.g.*, "[Child Brides Call on U.S. States to End 'Legal Rape'](#)," *Reuters* (October 24, 2018); "[Grown Men Are Exploiting Loopholes in State Laws to Marry Children](#)," *Huffington Post* (August 30, 2017).

⁹ For more information the survivor-advocates leading the campaign to end child marriage, *see* "[Child Marriage in the U.S.: Survivor Story Compilation](#)," *Tahirih Justice Center* (2020).

¹⁰ That said, some states do not yet appear ready to acknowledge the seriousness or urgency of the problem, despite appeals directly from former child brides as well as by leading advocacy organizations. Some bills have languished post-introduction, without a committee hearing or vote, and in other states, bills favorably reported out of committee have been defeated in floor votes. Maryland has resisted change for *six consecutive legislative sessions*. In 2020, the pandemic cut short the General Assembly session without final critical votes on a bill. In prior sessions and in 2021, the Senate Judicial Proceedings committee repeatedly blocked strong bills, preferring merely to set a new age floor of 16 and to retain an exception based on parental consent despite moving testimony from a survivor who, at age 16, was forced by her own mother into an abusive marriage with a twice-older man. Newly obtained statistics (on file with Tahirih) reveal that Maryland, in this interim, has become a destination to which out-of-state minors are brought for marriage. *See* "[Maryland Will Become a 'Destination for the Exploitation of Girls' if Underage Marriage Laws Aren't Changed, Advocates Say](#)," *WUSA 9* (March 14, 2020).

¹¹ More specifically, Tahirih has urged that the age of marriage be set at the age of majority – either age 18 or *higher* in states where the age of majority is higher, as in Alabama and Nebraska where the age of majority is 19.

¹² Despite a slowing in the number of bills passed, a significant number of state legislatures still introduced reforms during 2021's legislative sessions. A total of 18 states had a reform pending during 2021's legislative sessions, including the four that had enacted their reform prior this report's last update on August 26. As of that date three legislatures still had reforms pending: Massachusetts, Michigan, and South Carolina.

¹³ See "[New York State Raises Age of Legal Consent to 18, Banning Child Marriage](#)," NBC News (July 22, 2021). The new measure is named "Naila's Law" after Naila Amin, the survivor-advocate responsible for leading the multi-year campaign that, after limiting marriage to legal adults in 2017, succeeded in ending all marriage under 18 in 2021. More on Naila's work can be found at the Naila Amin Foundation's Facebook page: <https://www.facebook.com/TheNailaAminFoundation/>.

¹⁴ Statistics obtained for Tahirih by the office of lead legislative sponsor of the Virginia bill, then-Delegate, now-Senator Jennifer McClellan. On file with Tahirih.

¹⁵ Statistics generated and analyzed by Tahirih from the Florida Department of Health website at <http://www.floridacharts.com/FLQUERY/Marriage/marriage.aspx>.

¹⁶ The Florida statistics show a few outliers with adult spouses in their 20s, notwithstanding the new law's restriction that the adult spouse can be no more than 2 years older than the minor. These outliers may reflect data-entry errors, or may indicate problems implementing the new law.

¹⁷ Statistics obtained from the Texas Department of State Health Services, Center for Health Statistics and shared with Tahirih by the office of lead legislative sponsor of the Texas bill, Representative Senfronia Thompson. On file with Tahirih.

In the six months pre-implementation of the new law, 175 minors were married, but in the same six months post-implementation, only 18 minors were married. Of further note, the largest age difference between the parties to a child marriage in that pre-implementation period was 14 years, while the largest age difference post-implementation was reduced to 7 years.

While the 2018 data is preliminary, this shows a marked improvement in a state that previously had some of the most alarming child marriage statistics in the country. Tahirih's earlier analysis of Texas marriage-license data over the period 2000-2015 revealed a staggering 40,000 minors married, as young as age 12, and with some age differences of 25 years or more.

Preliminary data obtained by Tahirih through the office of Governor Andy Beshear of Kentucky – also a state that previously had high numbers of minors married each year – show about a 90% drop in those numbers after strong reforms were implemented.

¹⁸ See "How the U.S. Immigration System Encourages Child Marriages" available at <https://www.hsgac.senate.gov/imo/media/doc/Child%20Marriage%20staff%20report%201%209%202019%20EMBARGOED.pdf> and the data provided by U.S. Citizenship and Immigration Services referenced in the report is available at <https://www.hsgac.senate.gov/imo/media/doc/USCISdatareport011019.pdf>.

¹⁹ Of note, about 33% of the clients of Tahirih's Forced Marriage Initiative were minors at time of initial contact. The rest have been adults, though some sought help to leave a marriage into which they had been forced while under the age of 18 and many reach out to Tahirih after turning 18, but regarding a forced marriage that has been planned since before they were an adult.

²⁰ See "Family Court Tables," Table 18, "Applications and disposals of Forced Marriage Protection Orders made in the High Court and county courts, England and Wales, annually 2009 - 2018 and quarterly Q4 2008 - Q4 2018," available at <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-october-to-december-2018>.

²¹ See "[National Consultation: Should Forced Marriage Be A Crime in the United States?](#)" (Tahirih Justice Center, 2016). This report reflected on discussions on criminal approaches to forced marriage that Tahirih convened in 2016 among 30 participants, including survivors. While 9 U.S. states have criminal statutes specifically on forced marriage, to Tahirih's knowledge, no recent prosecutions have been brought under those statutes. Instead, when charges have been brought for a forced marriage, it is because the facts satisfy the elements of another crime, such as rape, abduction, or child endangerment. Prosecutors may, in fact, prefer to bring charges under such other statutes, which do not require proof of the perpetrator's intent to force someone into a marriage against their will. See "Criminal Laws Addressing Forced Marriage in the United States," available at <https://preventforcedmarriage.org/forced-marriage-resource-toolkit-for-service-providers/>.

²² Tahirih successfully advocated for these protection order reforms alongside marriage-age reforms enacted in 2017. See [Tex. Fam. Code §261.001\(1\)\(M\)](#) (adding "forcing or coercing a child to enter into a marriage" to the definition of child abuse) and [Tex. Fam. Code §71.004\(2\)](#) (adding forced marriage of a child to the bases for family violence protection orders). In Texas, any adult can petition for a family violence protection order to protect any child. Some other states have protection order statutes for domestic violence or stalking that are expansive enough to encompass a threatened forced marriage, but in many states, minors are not able to petition for civil protection orders on their own behalf. See Lisa V. Martin, "[Restraining Forced Marriage](#)," *Nevada Law Journal*: Vol. 18: Iss. 3, Article 8 (2018).

²³ See [Tenn. Code Ann. § 36-3-108](#). This section also clarified that forced marriages are void and unenforceable.

²⁴ Mexico provides a powerful example of the role a federal government can play in incentivizing states to end child marriage. While the power to legislate on minimum marriage ages sits with state governments in Mexico – just as it does in the United States – the national government there played an

important role in encouraging change. Between 2008 and 2014 a movement to end child marriage had limited success in Mexican states, having pushed only two states to end all marriage under 18 while several others limited child marriage by increasing or setting age floors at 16, but not 18. In December of 2014 the national Congress passed a measure naming marriage under age 18 as a violation of children's rights. *See* "[Ley General de los Derechos de Niñas, Niños, y Adolescentes](#)." By 2018, 30 of 32 states had ended all marriage under age 18 (Bellés-Obrerero and María Lombardi, *supra* note 3).

²⁵ The federal statute on "sexual abuse of a minor or ward" (18 U.S.C. § 2243) currently includes a defense that shields a perpetrator from prosecution if the parties are married. A person who engages in a sex act with a minor between ages 12 and 16, and who is 4 or more years older than the minor, is otherwise subject to fine and/or imprisonment of up to 15 years.

²⁶ "How the U.S. Immigration System Encourages Child Marriages," *supra* note 18.

²⁷ For example, abused immigrant spouses of U.S. citizens or lawful permanent residents are eligible to petition under the Violence Against Women Act (VAWA) for special humanitarian protections that enable them to leave abusive marriages without losing their pathway to permanent legal status. If an abused immigrant spouse's marriage is rendered invalid for immigration purposes because she was under age 18 when she married, then she could be foreclosed from VAWA eligibility.

²⁸ This article was based on available data at the time, but noted that some states do not separately track or publicly report the numbers of minors married. Subsequent efforts to obtain marriage license data by the Tahirih Justice Center in Georgia (on file with Tahirih) and the International Center for Research on Women in North Carolina (International Center for Research on Women, *supra* note 7) have revealed thousands of minors were married in recent years.

²⁹ For further specific guidance about the kinds of elements that, working together, can better protect children from forced marriages and other harm, please see the extensive resources available at tahirih.org/childmarriage.