



Protecting Immigrant Women and Girls Fleeing Violence

CRIMINAL LAWS ADDRESSING FORCED MARRIAGE IN THE UNITED STATES

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OVERVIEW

There are very few laws and policies in the United States that are specifically designed to help forced marriage victims, leaving individuals facing forced marriages with few resources and options. Although a number of states, as well as the District of Columbia and the US Virgin Islands, have statutes that criminalize forcing someone into marriage in certain circumstances, these laws seem designed for other purposes than to prevent parents from, or to punish parents for, forcing their children into marriage. The majority of these provisions arise in the context of laws against abduction, prostitution, and/or “defilement,” and some were enacted close to a century ago. Moreover, to the Tahirih Justice Center’s knowledge, no forced marriage prosecutions have ever been brought under these laws (against a parent or anyone else).

The following states and territories have laws on forced marriage:

- California
- District of Columbia
- Maryland
- Minnesota
- Mississippi
- Nevada
- Oklahoma
- Virginia
- Virgin Islands

In situations where an individual facing forced marriage resides in a jurisdiction that already has a statute criminalizing the practice, the law (and subsequent penalties) could be an effective tool to prevent the marriage from occurring, help the victim receive assistance, and prosecute perpetrators.

Note on Terminology: *A forced marriage is one that takes place without the full and free consent of one or both parties, and typically involves an element of force, fraud, or coercion. It can happen to either gender, at any age. It may be a marriage that is threatened, or one that has already taken place, either in the United States or abroad.*

The Tahirih Justice Center (www.tahirih.org) is a nonprofit organization that through direct legal services, public policy advocacy, and education, works to protect immigrant women and girls in the United States who are fleeing violence. If you encounter a situation in which a woman has been threatened or forced into a marriage, please contact Tahirih at 571-282-6161 or justice@tahirih.org.

California

BACKGROUND

What is this law's citation? Cal. Penal § 265

When did the law go into effect? 1872

Under what Chapter does this statute appear? Rape, Abduction, Carnal Abuse of Children, and Seduction

SPECIFIC PROVISIONS

What is the statutory language? Every person who takes any woman unlawfully, against her will, and by force, menace or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison.

Who does this law protect? Women only

What are the penalties for violating the law? Imprisonment in state prison

Could the law be applied to parents who have forced their child to marry? Unclear (The terms "takes" and "unlawfully" are not defined in the statute. In addition, use of the term "woman" may mean that a minor child is not protected.)

Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)? No

District of Columbia

BACKGROUND

What is this law's citation? DC Code Ann. § 22-2705

When did the law go into effect? 1910

Under what Chapter does this statute appear? Prostitution; Pandering

SPECIFIC PROVISIONS

What is the statutory language? (a) It is unlawful for any person, within the District of Columbia to:
(3) Take or detain an individual against the individual's will, with intent to compel such individual by force, threats, menace, or duress to marry the abductor or to marry any other person.

Who does this law protect? Any person

What are the penalties for violating the law? A person shall be guilty of a felony and subject to:

- imprisonment for not more than 5 years
- or a fine of not more than \$5,000
- or both.

If the victim is under 18 years of age, a person shall be guilty of a felony and subject to:

- imprisonment for not more than 20 years
- or a fine of not more than \$20,000
- or both.

Could the law be applied to parents who have forced their child to marry? Yes

Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)? Yes

Maryland

BACKGROUND

What is this law's citation? Md. Code Ann., Crim. Code § 11-303

When did the law go into effect? 2002

Under what Chapter does this statute appear? Prostitution and Related Crimes - Pandering

SPECIFIC PROVISIONS

What is the statutory language? (b)(2) A person may not knowingly take or detain another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.

Who does this law protect? Any person

What are the penalties for violating the law? A person shall be guilty of the felony of human trafficking and subject to:

- imprisonment not exceeding 25 years
- or a fine not exceeding \$15,000
- or both.

Could the law be applied to parents who have forced their child to marry? Yes

Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)? Yes

Minnesota

BACKGROUND

What is this law's citation? Minn. Stat. Ann. § 609.265

When did the law go into effect? 1963

Under what Chapter does this statute appear? Abduction

SPECIFIC PROVISIONS

What is the statutory language? Whoever, for the purpose of marriage, takes a person under the age of 18 years, without the consent of the parents, guardian, or other person having legal custody of such person is guilty of abduction and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.

Who does this law protect? Persons under the age of 18 (but only if they are taken without the consent of the parents, guardian, or other person having legal custody of such person).

What are the penalties for violating the law? A person is guilty of abduction and may be sentenced to:

- imprisonment for not more than one year
- or payment of a fine of not more than \$3,000
- or both.

Could the law be applied to parents who have forced their child to marry? No

Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)? Unclear

Mississippi

BACKGROUND

What is this law's citation?	Miss. Code Ann. § 97-3-1
When did the law go into effect?	1980
Under what Section does this statute appear?	Abduction for marriage or defilement

SPECIFIC PROVISIONS

What is the statutory language?	Every person who shall take any person over the age of fourteen (14) years unlawfully, against his or her will, and by force, menace, fraud, deceit, stratagem or duress, compel or induce him or her to marry such person or to marry any other person, or to be defiled, and shall be thereof duly convicted, shall be punished by imprisonment in the penitentiary not less than five (5) years and not more than fifteen (15) years.
Who does this law protect?	Any person over the age of 14.
What are the penalties for violating the law?	Imprisonment in the penitentiary not less than five (5) years and not more than fifteen (15) years.
Could the law be applied to parents who have forced their child to marry?	Unclear (The terms "take" and "unlawfully" are not defined. In addition, use of the phrase "persons over the age of 14" may mean that persons under 14 are not protected).
Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)?	No

Nevada

BACKGROUND

What is this law's citation? Nev. Rev. Stat. 201.300

When did the law go into effect? 1913

Under what Chapter does this statute appear? Crimes Against Public Decency and Good Morals – Pandering, Prostitution and Disorderly Houses

SPECIFIC PROVISIONS

What is the statutory language? I. A person who:
(e) Takes or detains a person with the intent to compel the person by force, threats, menace or duress to marry him or her or any other person [...] is guilty of pandering.

Who does this law protect? Any person

Could the law be applied to parents who have forced their child to marry? Penalties depend on whether the victim was an adult or minor, and on whether physical force or immediate threats was used.

- If physical force or immediate threat is used upon an adult, the person is guilty of category C felony and:
 - shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years
 - and the court may impose a fine of not more than \$10,000.
- If no physical force or immediate threat is used upon an adult, the person is guilty of category D felony and:
 - shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years
 - and the court may impose a fine of not more than \$5,000.
- If physical force or the immediate threat of physical force is used upon the child, is guilty of a category B felony and:
 - shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years
 - and may be further punished by a fine of not more than \$20,000.
- If no physical force or immediate threat of physical force is used upon the child, is guilty of a category B felony and:
 - shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years
 - and may be further punished by a fine of not more than \$10,000.

Could the law be applied to parents who have forced their child to marry?

Yes

Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)?

Yes

Oklahoma

BACKGROUND

What is this law's citation? Okla. Stat. Tit. 21 § 1117

When did the law go into effect? 1910

Under what Section does this statute appear? Rape, Abduction, Carnal Abuse of Children and Seduction

SPECIFIC PROVISIONS

What is the statutory language? Any person who takes any woman against her will, and by force, menace or duress, compels her to marry him or to marry any other person, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not less than ten (10) years.

Who does this law protect? Women only

What are the penalties for violating the law? Imprisonment in the State Penitentiary not less than 10 years.

Could the law be applied to parents who have forced their child to marry? Yes

Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)? No

Virginia

BACKGROUND

What is this law's citation? Va. Code Ann. § 18.2-355

When did the law go into effect? 1975

Under what Section does this statute appear? Crimes Involving Moral Decency - Sexual Offenses, Prostitution, Etc.

SPECIFIC PROVISIONS

What is the statutory language? Any person who:
(2) Takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled [...] is guilty of a Class 4 felony.

Who does this law protect? Any person

What are the penalties for violating the law? A person is guilty of a Class 4 felony and subject to:

- Imprisonment of not less than two years nor more than 10 years
- and a fine of not more than \$100,000.

Could the law be applied to parents who have forced their child to marry? Yes

Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)? Yes

Virgin Islands

BACKGROUND

What is this law's citation?	V.I. Code Ann. § 1301
When did the law go into effect?	1921
Under what Chapter does this statute appear?	Marriage - Forcible marriage; defilement

SPECIFIC PROVISIONS

What is the statutory language?	Whoever takes any woman unlawfully, against her will, and by force, menace or duress, compels her- (1) to marry him; (2) to marry any other person; or (3) to be defiled- Shall be imprisoned not more than 10 years.
Who does this law protect?	Women only
What are the penalties for violating the law?	Imprisonment for not more than 10 years.
Could the law be applied to parents who have forced their child to marry?	Unclear (The terms "takes" and "unlawfully" are not defined in the statute. In addition, use of the term "woman" may mean that a minor child is not protected.)
Could the law be applied prior to a forced marriage occurring (i.e. language criminalizes intent, etc.)?	No
