

Protect Children from Forced Marriage, and from Lifelong, Irreparable Harm

This commonsense, bipartisan bill to ensure full and free consent to marriage will promote the health and wellbeing of Texas's children, and enable marriages to be built on stronger foundations.

The bill sets the legal minimum marriage age at 18, with an exception for minors emancipated by court orderⁱ (under existing Texas Family Code §§31.001 to 31.007).

This critical reform recognizes that while adults can be forced into marriages against their will, or can enter marriages voluntarily that turn abusive, children are uniquely vulnerable to coercion and especially disabled – both legally and practically – from preventing or leaving a marriage that threatens them with harm.

WHAT ARE THE CURRENT LAWS IN TEXAS ON MINIMUM MARRIAGE AGE?

The youngest age at which one can *independently* consent to marry in Texas is 18. Between age 16-18, only parental consent (or the consent of another person who has the legal authority to consent to marriage for an underage applicant) is required to obtain a marriage license.

Under age 16, or absent parental consent, the “minor” (child under age 18) in the minor’s own name, in the county in which a parent resides or, if the parent is non-resident, in a county where the minor lives, may file a petition to “the court” for permission to marry. The petition must state why the minor desires to marry, whether each parent is living or dead, the name and address of each living parent, and whether any other person has been granted the legal right to consent to marriage for the minor. The court shall appoint “an amicus attorney or attorney ad litem” to represent the minor. If, after a hearing, the court believes marriage to be in the best interest of the minor, the court, by order, shall grant the minor permission to marry.ⁱⁱ

HOW DO THE CURRENT LAWS FAIL TO PRIORITIZE CHILD PROTECTION?

Texas’s current laws fails to prioritize child protection in several ways. There are a number of loopholes and lax procedures that enable individuals – whether they are parents, “partners,” or even predators – who seek to abuse and exploit children in the guise of marriage to avoid scrutiny and evade detection, including:

- There is no statutory age “floor” – conceivably, then, a judge could approve a child of *any age* to marry.
- Parental consent (which can hide parental coercion) is enough for a clerk to issue a marriage license to a 16 or 17 year old, and the consent of only one parent is acceptable.
- Judicial approval is only required for parties under age 16 – even though 16 and 17 year olds are equally, if not more so, at risk of forced marriages than younger children, and just about as disempowered to prevent or escape them, and even though all children under age 18 face nearly the same long-term risks of harm from early marriage.
- The law doesn’t require any other inquiries, investigations or special procedures that could reveal red flags that the minor is being abused or forced to marry, or set any other criteria that the judge must consider. And a child who is being intimidated and threatened outside the courtroom can easily be coached and coerced about what to say inside the courtroom to deflect any such suspicion.

Importantly, too, a girl under age 18 who is granted permission to marry is still a minor; she is not emancipated (considered a legal adult) until after the marriage. This means that she will only gain the full legal rights she would need to prevent a marriage that is being forced on her, *after the marriage has already happened.*

HOW BIG IS TEXAS'S CHILD MARRIAGE PROBLEM?ⁱⁱⁱ

Texas has some of the highest numbers in the nation: nearly 40,000 children under age 18 were married over 2000-2014 (the latest year for which data is available). Nearly 4,500 children were married in a single year alone (2000). Over the last several years, an average of about 2,000 children a year have been married.

Though, consistent with national trends, the number of children who are married each year is decreasing (e.g., under 800 were married in 2014), advocates are concerned that the *children who are still marrying in 2017* are among the *most vulnerable to abuse and exploitation* — because children with a true say in the matter are choosing, instead, to wait until they are older to marry.

In addition to the sheer numbers, other aspects of Texas's child marriage statistics are alarming, including:

- Most are girls married to adult men — sometimes much older.
 - For example, many 15-17 year old girls have been married to men over age 50 (and even over age 60!), and several girls under age 15 were married to men 2 or 3 times their age.
- Children are being married younger than they can legally consent to sex outside of marriage.
 - The ages and age differences of the parties to be married can put clerks and judges in the position, effectively, of sanctioning statutory rape. Children as young as 12 and 13 years old were married over 2000-2014 (judge-approved).

HOW CAN MARRIAGE MAKE MINORS MORE VULNERABLE TO HARM?

Extensive global and U.S. studies document the many harms of marriage before age 18. Women who marry as girls face greater vulnerability to domestic and sexual violence, more medical and mental health problems, steep high school drop-out rates, and increased risk of future poverty, as well as up to 80% divorce rates. In fact, teen mothers who marry can be made *worse-off*, long-term, than teen mothers who don't marry as teens.^{iv}

Permitting children to get married steeply stacks the odds against them of a healthy and fulfilling life, and is bad public policy — not in the best interest of those children, or of the state of Texas.

HOW DOES LIMITING MARRIAGE TO ADULTS PROTECT CHILDREN FROM ABUSE AND COERCION?

Forced and child marriage in Texas is a serious problem with a simple, first-step solution — ensuring that only legal adults empowered to advocate for themselves can enter the legal contract and potentially lifelong commitment that marriage entails.

Under SB 1705 / HB 3932, genuine, loving couples can either wait, or get emancipated, in order to marry, and their chances of having a “happily ever after” will only improve if they do so. Under current law, by contrast, children being abused and exploited can easily be made to face a life sentence in a violent home.

The choice is clear, and imperative — in exchange for a minimal burden on bona fide couples, at-risk children will be provided maximum protection.

ⁱ A position statement recently adopted by the International Academy of Family Lawyers urges legal reforms globally to set the legal age to marry “at 18 (or above, if the age of majority is higher), with an exception only for emancipated minors empowered to advocate for themselves.” See IAFL Press Release (September 2016), available at <https://www.iafl.com/newsletters/archive/iafl-press-release-forced-marriage-2016/index.html>. A national legislative reform movement has also been gaining momentum across the U.S., with bills now pending in several states. Virginia recently enacted a new law (SB 415/HB 703) with broad bipartisan support that limits marriage to legal adults (age 18 or older, or court-emancipated minors).

ⁱⁱ Texas Family Code §§2.102-2.103.

ⁱⁱⁱ Source for statistics: Texas Department of State Health Services, Center for Health Statistics. On file and available upon request.

^{iv} For further information and sources cited, see <http://www.tahirih.org/wp-content/uploads/2016/11/Tahirih-Child-Marriage-Backgrounder.pdf>. §

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