



Protecting Immigrant
Women and Girls
Fleeing Violence

**Testimony in SUPPORT of HB 5442
(to eliminate exceptions to age 18 as the minimum legal age to marry)**

Submitted to the Connecticut General Assembly, Joint Committee on Judiciary

For public hearing March 6, 2017 at 10:00 a.m.

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Dear Co-Chairs Doyle, Kissel and Tong; Vice-Chairs McLachlan, Stafstrom and Winfield; and Honorable Joint Committee Members:

The Tahirih Justice Center (Tahirih) is a national non-profit legal advocacy organization that aims to end violence against women and girls through direct services, policy advocacy, and training and education. Since Tahirih opened in 1997, we have helped over 20,000 women and children.

A 2011 Tahirih survey identified thousands of cases of forced marriage encountered by just 500 service-providers nationwide in only a 2-year period. We are leading efforts to address forced marriage as a domestic problem in the United States, and we have worked on hundreds of forced marriage cases ourselves, about half of which have involved minors (those under age 18).

We know from our work on the frontlines of this problem that **minors face steep legal and practical obstacles when they try to prevent or escape a marriage they do not want**, and that **child marriage can lead to devastating, lifelong harm.**ⁱ

Put another way: **there are inherent child-protection concerns in every child marriage.** Whether a girl is 17 or 13, she can face many of the same legal obstacles to self-advocacy, and whether the marriage is forced or voluntary, she can face the same long-term, irreparable harm.

HB 5442 sets a clear, straightforward, and easily administrable standard that does not rely on overtaxed judges and court clerks to identify and protect against all the threats a childⁱⁱ may be facing to pressure her (or him) to marry underage. Instead, by limiting the right to marry to adults age 18 or older, the bill protects children from such threats in the first place.

Below we provide information about child marriages in the state, how the current law contains loopholes that can facilitate abuse and exploitation, and how limitations on minors' legal rights can disable them from protecting themselves from forced marriages and other abuse.

We applaud Representatives Cook and Elliott for co-sponsoring HB 5442 to protect children in Connecticut by eliminating all exceptions to age 18 as the minimum legal age to marry, and we urge the Committee to support the bill.

HOW MANY MINORS HAVE BEEN MARRIED IN CONNECTICUT?

During the decade from 2000-2010, 982 minors were married. Nearly 90% of them were married to adults, and almost half the time, those adults were 21 or older, and sometimes much older. Nearly 90% of the minors were girls, and the youngest girl was just 14.ⁱⁱⁱ

The number of minors marrying each year has declined over the last decade, consistent with national trends. Regardless, advocates are very concerned that any minors still getting married in 2017 are very likely to be particularly vulnerable individuals with *no* say in the matter, versus those individuals whose families and/or partners respect their wishes, and who are able to say, "I want to wait until I am older to get married."^{iv}

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WHAT DOES CONNECTICUT LAW CURRENTLY SAY ON MINIMUM MARRIAGE AGE?

The youngest age at which one can independently consent to marry in Connecticut is 18. Between age 16 and 18, the consent of a parent or guardian is required (or, if the minor has no parent or guardian who is a U.S. resident, the probate judge of the district in which the minor resides must give consent). Under age 16, the probate judge for the district in which the minor resides must give consent.

IN WHAT WAYS DOES THE CURRENT LAW FAIL TO PRIORITIZE CHILD PROTECTION?

Connecticut's current law leaves several loopholes that can facilitate abuse and exploitation, including because:

1) There is a no statutory age “floor” below which a child cannot be married—among other alarming consequences, this means that, depending on ages/age differences, some judge-approved marriages amount to judge-sanctioned statutory rape.^v

2) Parental consent (which can actually be parental coercion) can lower the marriage age. In addition, the consent of only one parent is enough, preventing a possibly more protective parent's opposition to the marriage from being taken into account.

3) Older minors can be approved to marry without ever going before a judge. Judicial approval is only required for parties under age 16. Yet 16-17 year olds are equally at risk of forced marriages, if not more so, than younger minors, and nearly equally disempowered to prevent or escape them.

In any state with an age-differentiated regime like this, a parent (or a predator posing as a parent) need only wait until the child is past the age at which judicial approval is needed to avoid any questions being asked at all, so that they can simply and summarily sign off on the marriage before a court clerk.

4) Consent to the marriage of a child under age 16 rests entirely in the discretion of a non-specialist probate judge to whom the statute gives absolutely no parameters or limitations.

While the Probate Court does handle some types of matters involving juveniles (such as guardianship and emancipation), the Superior Court handles most matters involving sensitive juvenile and family relationships: its Family Division, for example, hears cases on divorce, custody, child abuse and neglect, and petitions for temporary restraining orders (for protection from abuse); and its Juvenile Matters subdivision runs 12 specialized courts statewide that handle matters such as neglected children and families in crisis. A probate judge may lack the training, experience, and sensitivity, therefore, to detect that the child herself does not want to get married and is being coerced to do so, and a probate judge may also lack the authority to address abuse and threats even if they are identified as factors. Moreover, the statute does not mention any criteria the judge must consider, not even the child's “best interests.”

In addition, a child must face an intimidating court process without anyone to represent or advise her about her rights or options other than her parent(s)—who unfortunately may be abusive, neglectful, exploitative and self-interested, rather than focused on the child's best interests. Without a safe opportunity to disclose her true circumstances, a child will only give coached answers to a judge's questions rather than speak up, for fear that it would only make matters worse for her later—that she will be beaten, kicked out, cut off, or face other punishment and retaliation.

WHAT LIMITATIONS ON MINORS' LEGAL RIGHTS DISABLE THEM FROM PREVENTING FORCED MARRIAGES AND OTHER ABUSE?

We highlight below just a few illustrative examples that, in Tahirih's experience, make it very difficult for minors to prevent or escape a marriage they do not want, and/or raise the stakes when they try to take steps to protect themselves^{vi}:

- **Unlikely access to protective orders:** Minors can theoretically obtain civil restraining orders against abuse by parents—but to qualify, a person must be “subjected to a continuous threat of physical pain or physical injury, stalking or a pattern of threatening” (Conn. Gen. Stat. Ann §46b-15). For various reasons, forced marriage victims may find that standard difficult to meet.

As a threshold matter, the protective order standard and related statutory sections focus on *imminent physical harm and threats*, and thus may not be expansive enough to encompass the full range of emotional abuse (e.g., relentless pressure and criticism, a parent’s terroristic threats of self-harm or that the child will be considered “dead” to the family unless she submits to the marriage) and economic coercion (e.g., threats to kick the child out of the home) that are common in forced marriage cases.^{vii}

In addition, children facing a forced marriage are often kept deliberately isolated and monitored to prevent any attempt to contact the authorities or reach out for help, making it unlikely they could meet with an attorney or advocate to help them navigate a protective order application, or ever make it to a courthouse.

- **Difficulty running away, staying with a friend, or finding safety in a shelter:** It is a crime to interfere with the custody of a child under age 16. See Conn. Gen. Stat. Ann. §53a-98. So “Good Samaritans” (the family of a friend or classmate, for example) may be reluctant to offer a child fleeing abuse a place to stay, for fear of being charged with harboring a runaway.

Moreover, if any child under age 18 is considered to have run away without “just cause,” her family may be deemed a “family with service needs” (“FWSN”). If the parents then report their runaway daughter to the police and say that they are a FWSN, the police must look for her and tell the parents where she is, and among other possible actions, may return her home or take her to an agency providing services to children (such as a temporary youth shelter). However, the agency may only provide services to such a child “unless or until the child’s parent or guardian at any time refuses to agree to those services.” See Conn. Gen Stat. Ann. §46b-149a.

- **Uncertainty and fear of consequences to themselves, or to loved ones:** This can keep minors from ever reporting abuse, or from taking other steps to advocate for themselves. There is a well-documented “chilling effect” when minors realize that disclosing abuse could set in motion serious consequences over which they would have no control (for example, that their parents could go to jail or that they/their siblings could be put into foster care).^{viii}

These legal limitations and others can close “escape routes” for minors that are wide open to adults facing abuse and coercion. Practical limitations, including a dependence on parents for support during middle and high school years, also severely constrain minors’ options if they are faced with a marriage they do not want.

**HB 5442 would enact critical reforms to the legal marriage age, and by taking just one simple step, would offer powerful protection to vulnerable children.
Tahirih Justice Center urges the Committee to favorably report HB 5442.**

ⁱ See Tahirih Justice Center backgrounder, “Child Marriage in the United States: A Serious Problem with a Simple First-Step Solution” (Nov. 7, 2016), available at: <http://www.tahirih.org/wp-content/uploads/2016/11/Tahirih-Child-Marriage-Backgrounder.pdf>, underscoring the many harms that can result from marriage before age 18, including more medical and mental health problems, curtailed education, limited work opportunities, higher risk of future poverty, and greater vulnerability to domestic violence.

ⁱⁱ By statute in Connecticut, a “child” is defined as any person under age 18 who has not been legally emancipated. See Conn. Gen. Stat. §46b-120. Age 18 is the age of majority, at which “emancipation” automatically occurs, granting an individual the legal rights of an adult. A court order can also emancipate a child age 16 or older in certain circumstances. See Conn. Gen. Stat. §§46b-150 et seq. Un-emancipated minors are legally subject to their parents’ control.

ⁱⁱⁱ Age-at-marriage statistics for Connecticut were obtained and compiled by Unchained At Last (www.UnchainedAtLast.org). Percentages were calculated by the Tahirih Justice Center (www.tahirih.org).

^{iv} In addition, the fact that relatively few minors marry each year in Connecticut means that setting the age to marry at the age of majority (18) would have very minimal burden on a fairly small number of individuals. Genuine couples would have to wait at most a year or so to marry. At the same time, at-risk girls could be saved from many years of abuse.

^v This aspect of Connecticut's current minimum marriage age laws is particularly alarming. It is not until age 16 in Connecticut that an individual can legally have sex with anyone their own age or older. Below that age, "statutory rape" statutes apply.

That is, based on the ages/age differences of the parties and the presumption in such circumstances that a minor was incapable of consenting to sex, several age-based sex offenses can apply to the parties to be married, such as: Sexual Assault in the 1st Degree (sexual intercourse with a child younger than 13 if the actor is more than 2 years older (Conn. Gen. Stat. Ann. §53a-70(a)(2)); and Sexual Assault in the 2nd Degree (sexual intercourse with a child between age 13 and 16 if the actor is more than 3 years older (Conn. Gen. Stat. Ann. §53a-71(a)(1)).

While "sexual intercourse" is defined for these age-based offenses (see Conn. Gen. Stat. Ann. §53a-65) so as to exempt spouses from prosecution, that "marriage loophole" enables predators a workaround to reach girls with whom they could not otherwise legally have sex.

In addition, if a girl is *already pregnant* at the time of the petition to marry, and the parties are at ages/age differences covered by these statutory rape laws, the pregnancy itself would be proof that the girl was *already raped*.

^{vi} An additional child-protection concern is that once married, a minor may be considered emancipated and "DCF [Department of Children and Families] cannot pursue abuse or neglect petitions involving emancipated minors." See Susan Price-Livingston, *Emancipation Procedures*, Connecticut General Assembly, Office of Legislative Research, Report No. 2002-R-0008 (Jan. 3, 2002). Thus, a minor who was coerced by a parent to marry and leave home, and then is subjected to spousal abuse, would be beyond the reach and help of Child Protective Services.

^{vii} See, e.g., that "family violence" is defined to exclude "verbal abuse" unless there is "present danger and the likelihood that physical violence will occur" (Conn. Gen. Stat. Ann. §46b-38a(1)), and, that the crime of "threatening" is said to occur when, "by physical threat" a person "intentionally places or attempts to place another person in fear of imminent serious physical injury." (Conn. Gen. Stat. §53a-62). In Tahirih's 2011 survey on forced marriage cases in the U.S., four out of the five most commonly reported tactics that families used—emotional blackmail, isolation and control, social ostracism, and economic threats—did not involve physical violence. Survey report available at www.preventforcemarriage.org.

^{viii} Fresh research underscores how reticent children and teens are to reveal abuse. A recent poll of individuals using the confidential "live chat" service of the National Domestic Violence Hotline found that nearly half of those under age 18 had not asked anyone else for help for fear that the person would be legally required to report what was shared (e.g., to Child Protective Services or law enforcement). See Lippy, C., Burk, C., & Hobart, M. (2016). *There's no one I can trust: The impact of mandatory reporting on the help-seeking and well-being of domestic violence survivors*. A report of the National LGBTQ DV Capacity Building Learning Center, Seattle, WA.