

STATEMENT re: HB 5442

on conditions for the issuance of marriage licenses to individuals under age 18

May 11, 2017

- **Expressing concerns that safeguards built into judicial approvals of petitions for minors to marry will not work as the House intends, and**
- **Urging Senate amendments to strengthen protections against abuse and exploitation of children in the guise of marriage**

The Tahirih Justice Center (Tahirih) has national legal and policy expertise in the problems of forced and child marriage in the U.S. We have documented thousands of cases encountered by other service-providers in recent years, and have worked on hundreds of cases ourselves.

Tahirih strongly supported HB 5442 as-introduced to set the legal minimum marriage age at 18, without exception. We continue to believe this approach offers the best possible regime of protection against forced or coerced marriages, and against the many well-documented risks and harms of marriage before age 18 (whether forced or voluntary).

While HB 5442 has since been amended in ways that limit but do not end child marriage in Connecticut, we thank the Joint Committee on the Judiciary and the House for recognizing that the state's current minimum marriage age laws do not promote the health, safety or welfare of children, and for taking action to amend those laws.

HB 5442 would require:

- An age "floor" of 16, in line with the state's minimum age for emancipation (a court order granting a minor the legal rights and status of an adult) and minimum age of consent for sex;
- That a Probate Court judge hears the petition for permission to marry underage, and considers some criteria like whether the marriage is entered "voluntarily"; and
- That parental consent alone is not enough for a judge to grant the petition.

This would represent progress from the most alarming aspects of the status quo. Under current law, there is no lower age limit so long as a Probate Court judge approves, and parental consent (which can actually be coercion) is enough for clerks to issue licenses to 16-17 year olds.

However, the bill passed by the House on Tuesday unfortunately stops well short of the protection it clearly intends.

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There are at least 3 critical protectionsⁱ that are missing from HB 5442:

- An attorney to represent the minor;
- An opportunity for the minor to be interviewed by the judge in private; and
- That the minor be granted emancipation at the same time as permission to marry.

Without an attorney to advise the minor about her rights and options, many girls will not feel safe disclosing threats they are facing, out of fear or uncertainty of the consequences to themselves or others.

Without a private interview with the judge, a minor being threatened by parents or a partner a few feet away from them in open court will not speak up or will only give coached (coerced) answers.

And without emancipation, a minor that is granted permission to marry is still, under the law, a *child*.

In fact, in Connecticut, married minors are not even automatically emancipated – being married only makes them eligible to petition to emancipate, but they must return to a court to ask for the actual order. An at-risk minor has little chance or opportunity to ever make that return trip.

What's more, *emancipation only after marriage comes too late* for a girl who, before marriage, lacks the full rights and options a legal adult would have to prevent it from happening in the first place. Following a forced marriage, she can face forced sex on the wedding night and for the rest of her married life. Even if after she legally becomes an adult, she may despair that she has passed the point of no return, and give up trying to escape.

For all these reasons, any individual under age 18 who is granted permission by a court to marry should be simultaneously emancipated by that court.

It is crucial to offer a girl this final self-help safeguard if the judicial-approvals process fails to detect or protect her from a forced or abusive marriage. It will enable her to leave the courtroom newly empowered to take other steps on her own to avoid an unwanted marriage, to seek safety, and to establish and maintain her independence.

Tahirih Justice Center urges the Senate, at a minimum, to make the 3 crucial amendments highlighted above. Without them, even if HB 5442 is enacted, the abuse and exploitation of children in the guise of marriage will evade detection, and Connecticut's children will be left without meaningful protection.

*For draft amendment language, or for further information or questions, please contact:
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ⁱ Tahirih has additional serious concerns about what is *included* in the bill – for example, that judges must consider only whether the marriage would be “detrimental,” a far lower standard than whether the marriage would actually be in the minor’s “best interests” – and about what is *excluded* – for example, an inquiry into whether there is any history of violence between the parties, or whether the intended (typically adult) spouse has a record of convictions for crimes of violence or crimes against children. We prioritize above only the 3 most crucial elements missing from the current bill, but look forward to continuing to work with legislators to improve protections in the future.