



SUPPORT HB 799 (*as House-passed*) & SB 861 (*as-intro'd*) TO END CHILD MARRIAGE IN MARYLAND

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

DID YOU KNOW THAT CHILDREN ARE BEING MARRIED RIGHT HERE IN MARYLAND?¹

During 2000-2015, over 3200 minors (children under age 18) were married. About 85% were girls.

- At least 140 children married at age 15.
- Most of these marriages were not between minors. Nearly 85% involved an adult spouse.
 - At least 69 children were victims of sex crimes (because of the ages/age differences of the parties and the fact that one of the parties was pregnant).
 - At least 237 children married adults who were 10+ years older than the child, including:
 - ◇ A 15-year-old girl married a 30-34 year-old man;
 - ◇ A 16-year-old girl married a 55+ year-old man; and,
 - ◇ A 17-year-old girl married a 45-49 year-old man.

HOW MANY OF THESE MINORS ARE BEING FORCED OR COERCED INTO MARRIAGE?

We can't know for sure. But we know that minors are marrying young, that most minors are marrying adults, that there can be significant age differences, and that minors have limited ability to advocate for themselves to refuse or prevent a marriage. All of this speaks volumes to the unequal power of the parties, and to the likelihood that coercion from parents, or "partners," or both, was a factor in many of these marriages.

We also know that forced marriage is a real problem in the United States. A 2011 national survey by the Tahirih Justice Center (Tahirih), a non-profit legal advocacy organization with offices serving the Greater DC, Baltimore, Houston, and San Francisco Bay areas, identified as many as 3,000 forced marriage cases encountered by service-providers across the U.S. over a 2-year period, many involving girls under age 18.² Tahirih's Forced Marriage Initiative staff have also worked on Maryland forced marriage cases involving girls under age 18.

HOW DOES MARYLAND'S MARRIAGE LAW PUT MINORS AT SERIOUS RISK?

As the statistics above show, the current minimum marriage age law has failed to prioritize child protection. Though one usually must be 18 to marry, marriage licenses can be granted by a clerk to 16- and 17-year-olds with parental consent or evidence that the female to be married is pregnant or has given birth to a child, and can be granted to 15-year-olds with parental consent and evidence of pregnancy/childbirth.³ Both exceptions can obscure or ignore serious safety concerns. Parental consent can hide parental coercion, and pregnancy can be evidence of rape (or statutory rape, depending on the parties' ages).⁴

A pregnant 15-year-old should trigger alarm bells and an investigation by social services, not a marriage license. The pregnancy itself could be evidence that she has already been abused by the very person she is marrying.⁵ Even when the relationship is consensual, it may involve physical, emotional or verbal abuse.⁶ Nationally, girls and young women aged 16-24 experience the highest rates of intimate partner violence among all such victims, and girls aged 16-19 face victimization rates almost triple the national average.⁷ Within a marriage, a girl can be easily isolated from anyone who can help her, and exposed to that risk round-the-clock.

WHY PERMITTING MINORS TO MARRY IS BAD PUBLIC POLICY — NOT IN THEIR BEST INTERESTS, OR MARYLAND’S:

- **Family instability** — Between 70-80% of marriages involving someone under age 18 end in divorce. For teen mothers, getting married and later divorcing can more than double the likelihood of poverty, making them worse off than teen mothers who do not marry as teens.⁸
- **Curtailed education and constrained work opportunities** — A girl’s education can be interrupted or discontinued when she marries, limiting her ability to become financially independent in the event of domestic violence or divorce. Women who marry in their teens tend to have more children, earlier, and more closely spaced, which can prevent them from accessing education and work opportunities.⁹ Women who marry before the age of 19 are 50% more likely to drop out of high school and four times less likely to graduate from college. Not surprisingly, then, a woman who marries young is a striking 31 percentage points more likely to live in poverty when she is older.¹⁰
- **Diminished mental and physical health** — A major study of women who married as children in the United States found they experienced higher rates of psychiatric disorders, and were more likely to seek health services.¹¹

These substantial personal costs can also translate into tremendous inter-generational and social costs.

DOES MARYLAND HAVE OTHER LAWS AGAINST FORCED MARRIAGE? WHY AREN’T THEY ENOUGH?

Maryland already has a criminal law against forced marriage as part of the human trafficking statute, at Md. Code Ann., Crim. Law §11-303(b)(2). But few children are willing or able to bring criminal charges against their parents, and once the marriage happens, they may be resigned to it or face other threats if they try to leave it. HB 799 / SB 861 as introduced will provide a civil law complement to existing criminal law, a powerful new tool to prevent forced marriages of children in the first place.

WHY IS A “BRIGHT-LINE” APPROACH OF AGE 18 IS NECESSARY?

The approach taken by HB 799 / SB 861 is simple, straightforward, and administrable. There is minimal burden on genuine couples, who at most may have to wait a year or so to marry, and maximum protection against those who would abuse or exploit children in the guise of marriage.

HB 799 / SB 861 recognizes that age 18 (the age of “majority,” or legal adulthood) should be the minimum age to consent to marry because an adult is more empowered than a child to protect herself from being forced or coerced to marry, and from being abused within a marriage.¹²

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ENDNOTES

1. Analysis is based on marriage data in annual statistical reports of the Maryland Dept. of Health and Mental Hygiene, available at <http://dhmh.maryland.gov/vsa/Pages/reports.aspx>. Over 1/3 of the time in Maryland, minors married adults age 21 or older. Consistent with national trends, the number of marriages each year involving minors in Maryland is declining, from a high of 316 minors in 2001, to a low of 86 minors in 2015. Advocates are very concerned, however, that the minors who are still getting married today represent particularly vulnerable teens with *no say in the matter*, versus those teens 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."
2. See "Forced Marriage in Immigrant Communities in the United States," Tahirih Justice Center: September 2011, available at <http://www.tahirih.org/wp-content/uploads/2015/03/REPORT-Tahirih-Survey-on-Forced-Marriage-in-Immigrant-Communities-in-the-United-States.pdf>. For more information, please visit the Tahirih Justice Center at www.tahirih.org or its Forced Marriage Initiative at www.preventforcedmarriage.org.
3. See Md. Code Ann. §2-301.
4. See "Table Four, Age-Based Sex Crimes," prepared by the Maryland Coalition Against Sexual Assault and the Sexual Assault Legal Institute, available at <http://www.mcasa.org/mcasaWeb/wp-content/uploads/2011/10/Table-Four-Final-2011.pdf>. Adult perpetrators of statutory rapes may even try to shield themselves from prosecution by using such pregnancy exceptions to marry minors.
5. And, in fact "[b]eing physically or sexually abused makes teen girls six times more likely to become pregnant." See [loveisrespect.org](http://www.loveisrespect.org) factsheet available at http://www.loveisrespect.org/pdf/Dating_Abuse_Statistics.pdf.
6. See Centers for Disease Control and Prevention, information about Teen Dating Violence, available at http://www.cdc.gov/violenceprevention/intimatepartnerviolence/teen_dating_violence.html.
7. See [loveisrespect.org](http://www.loveisrespect.org/pdf/Dating_Abuse_Statistics.pdf) factsheet available at http://www.loveisrespect.org/pdf/Dating_Abuse_Statistics.pdf.
8. 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. 10, 11, and 15, available at <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2467&context=facpubs>.
9. See, e.g., Naomi Seiler, "Is Teen Marriage a Solution?" (Center for Law and Social Policy, April 2002), at pp. 7-9, available at <http://www.clasp.org/resources-and-publications/archive/0087.pdf>.
10. See Gordon B. Dahl, "Early Teen Marriage and Future Poverty," *Demography* (August 2010: 47(3): 689-718), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3000061/>.
11. 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), available at <http://pediatrics.aappublications.org/content/pediatrics/early/2011/08/24/peds.2011-0961.full.pdf>. This recent study added to "previous research [that] 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." See Bridget M. Kuehn, "Early Marriage Has Lasting Consequences on Women's Mental Health," *news@JAMA* (August 29, 2011), medical news posts by *The Journal of the American Medical Association*, available at <http://newsatjama.jama.com/2011/08/29/early-marriage-has-lasting-consequences-on-women%e2%80%99s-mental-health/>.
12. At age 18, an individual gains the legal rights of an adult. See Maryland Code on Courts and Judicial Proceedings, §3-8A-01 (defining an individual under age 18 as a "child"); see also COML §1-103 and §1-401 (defining age 18 as the age of majority). In some cases, a minor can be "emancipated" (declared a legal adult by a court), but how this can actually happen falls into "gray space" in Maryland, and in any event, may only be "partial". See "Emancipation of a Minor," The People's Law Library of Maryland, available at <http://www.peoples-law.org/emancipation-minor> (last updated July 13, 2015).

Among other major handicaps to self-advocacy, an individual's status as a minor can make it difficult to leave home if they are facing a forced marriage threat or being abused, and can pose obstacles to finding refuge with a supportive relative or friend, or in a shelter. 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 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 "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," <http://www.harfordcountymd.gov/DocumentCenter/View/2371>, at pp. 35-36, and *Report of the SB764/HB823 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.").

Minors also face challenges entering contracts for goods or services they need. Under Maryland law, "The age of majority as it pertains to the capacity to contract is 18 years of age." (Md. Commercial Law Code Ann. § 1-103 (c)(1)). Combined with the general legal principle that contracts entered by minors are voidable by the minor, this limitation can be substantial "because adults are wary of entering into one sided contracts." See "Homeless Youth," <http://www.harfordcountymd.gov/DocumentCenter/View/2371>, at pp. 12-13.