



**Forced Marriage Initiative**

## Protect Kentucky's Children From Forced Marriage and Other Harms of Child Marriage

The legal minimum marriage age in all U.S. states should be set at the age of majority. While adults can also be forced into marriage, and can also find themselves in marriages by choice that are abusive or exploitative, children are uniquely vulnerable to coercion and especially disabled – legally and practically – from preventing or leaving a marriage that threatens them with harm.

### WHAT DOES KENTUCKY LAW SAY ON MINIMUM MARRIAGE AGE?

The youngest age at which one can independently consent to marry in Kentucky is 18. For 16- and 17-year-olds, only parental consent is required.<sup>1</sup> Under age 16, in case of pregnancy, either or both parties may apply to a district judge for permission to marry.<sup>2</sup>

### IN WHAT WAYS DO THE CURRENT MINIMUM MARRIAGE AGE LAWS FAIL TO PRIORITIZE CHILD PROTECTION?

Kentucky's current minimum marriage age laws are among the worst in the nation, including because:

- There is no statutory age “floor” below which a child cannot be married;
- Parental consent (which can hide parental coercion) can lower the legal age to marry below age 18, and the consent of only one parent can suffice;
- Pregnancy (which can be evidence of rape) can lower the legal age to marry below age 18;<sup>3</sup>
- Older minors can be approved to marry without ever going before a judge, since judicial approval is only required for parties under age 16; and,
- For parties under age 16, the decision rests entirely “in the discretion of the judge,” with no further guidance.

***These laws have permitted 11,000 children, some as young as age 13, to be married in recent years.***<sup>4</sup>

Kentucky has the third highest number of children married in the country, resulting in steep personal, intergenerational, and societal costs.<sup>5</sup> The best barrier against forced marriages of children specifically, and against the risks and harms of child marriage generally, is to eliminate all exceptions that permit children under age 18 to marry. This approach sets a simple, clear, and straightforward standard that leaves no room for misinterpretation or misapplication. If this is not possible, the only exception should be for legal adults (age 18 or older, or mature, self-sufficient minors who have been emancipated by a court after a special proceeding).<sup>6</sup>

*For more information and resources on child marriage in the United States, visit [tahirih.org/childmarriagepolicy](http://tahirih.org/childmarriagepolicy).*

**TAHIRIH JUSTICE CENTER FORCED MARRIAGE INITIATIVE**

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<sup>1</sup> Parental consent can be given by either father or mother if married, or by both parents if divorced or legally separated and both have joint custody. If they do not have joint custody, the consent only of the custodial parent is required.

<sup>2</sup> In case of pregnancy, parties aged 16-17 who do not have parental consent may also seek permission to marry from a district judge.

<sup>3</sup> This provision is particularly alarming. Based on the ages/age differences of the parties and the presumption in such circumstances that a minor could not have consented to sex, a number of age-based sex offenses may apply to an intended adult spouse: rape in the 2<sup>nd</sup> or 3<sup>rd</sup> degree, sexual abuse in the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree, and sexual misconduct. (See Ky. Rev. Stat. Ann §§510.050, 510.060, 510.110, 510.120, 510.130, and 510.140).

Only 9 states have such an express pregnancy exception. To the contrary, some states have eliminated pregnancy exceptions they once had, and/or have legislated instead that pregnancy is *not* determinative of whether a marriage is in a minor's best interests.

<sup>4</sup> See June Leffler, "[As Child Marriages Drop, Hundreds Still Marry in Kentucky Each Year](#)" (Kentucky Center for Investigative Reporting/WFPL.org, August 29, 2017); see also Nicholas Kristof, "[11 Years Old, A Mom, and Pushed to Marry Her Rapist in Florida](#)" (New York Times Op-Ed, May 26, 2017).

<sup>5</sup> See Kristof, *supra*; see also Tahirih's backgrounder on Child Marriage in the U.S. at <http://www.tahirih.org/wp-content/uploads/2016/11/Tahirih-Child-Marriage-Backgrounder.pdf>.

<sup>6</sup> A [2016 position statement by the International Academy of Family Lawyers](#) urges legal reforms in every country and state 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." New laws enacted in Virginia in 2016 and Texas in 2017 limit marriage to legal adults (age 18 or older, with an exception only for court-emancipated minors).