



Protecting Immigrant
Women and Girls
Fleeing Violence

Testimony in **SUPPORT** of House Bill 337 (Minimum Legal Marriage Age)

Jeanne Smoot, Senior Counsel for Policy & Strategy

For Hearing on May 2, 2018

Dear Chairwoman Poore and Honorable Members of the Senate Elections and Government Affairs Committee:

The Tahirih Justice Center (Tahirih) is a non-profit legal advocacy organization has been serving survivors of domestic violence, sexual assault, human trafficking, and other abuses since 1997.

Tahirih has unique legal and policy expertise in forced and child marriage as U.S. problems. Through Tahirih's Forced Marriage Initiative, launched in 2011, we have worked on hundreds of cases involving women and girls nationwide. Tahirih has also compiled extensive research, including a 50-state report released in August 2017 that analyzes states' minimum marriage age laws and exceptions. The report identifies how these laws and exceptions can either help protect children from harm, or instead expose them to greater risk.ⁱ

We submit this testimony in strong support of House Bill 337. This important measure would build on legislative reforms Delaware initiated in 2007, when a bill was signed into law to require all minors (children under age 18)ⁱⁱ to petition a Family Court judge for approval to be married.

The past reforms were motivated by alarming evidence brought to legislators' attention by court officers themselves that the then-prevailing law left entirely unprotected "minors who are coerced by parents and partners into marriages that do no[t] serve their best interests." Such cases included *a pregnant 14-year-old girl compelled to marry a man 10 years her senior*.ⁱⁱⁱ A civil union in these circumstances would perversely conflict with Delaware's statutory rape laws, which classify sex with anyone under age 16 as a felony, and yet it was routinely state-sanctioned.

Unfortunately, past legislative reforms did not go far enough to protect children. Among other shortcomings: there is still no firm age "floor" below which a child cannot be married so long as a judge approves; there is no court-appointed attorney to represent the child's best interests and provide her objective advice about her rights and options; and a child approved to marry remains, legally, a child, since the process does not vet her maturity and capacity to be self-supporting nor grant her full emancipation (the legal rights and status of an adult).^{iv}

In such circumstances, as examples given in Tahirih's report and our own extensive case experience reveals, an at-risk girl remains acutely vulnerable to coercion. She can easily be threatened and intimidated into giving coached answers to a judge's questions.

We therefore applaud this bill to eliminate all exceptions in Delaware law that permit children to be married.^v House Bill 337 would take a simple but powerful step to better

Atlanta
142 Walker Street SW
Atlanta, GA 30301
Tel: 470-481-4700
Fax: 470-481-7400
Atlanta@tahirih.org

Baltimore
201 N. Charles St.
Suite 920
Baltimore, MD 21201
Tel: 410-999-1900
Fax: 410-630-7539
Baltimore@tahirih.org

Greater DC | National
6402 Arlington Blvd.
Suite 300
Tel: 571-282-6161
Fax: 571-282-6162
TTY: 711
Falls Church, VA 22042
GreaterDC@tahirih.org
Justice@tahirih.org

Houston
1717 St. James Place
Suite 450
Houston, TX 77056
Tel: 713-496-0100
Fax: 713-481-1793
Houston@tahirih.org

San Francisco Bay Area
881 Sneath Lane
Suite 115
San Bruno, CA 94066
Tel: 650-270-2100
Fax: 650-466-0006
SFBayArea@tahirih.org

www.tahirih.org

protect Delaware’s children, by making the legal minimum marriage age the same as the age of legal adulthood (age 18).^{vi}

This reform will accomplish 3 critical commonsense objectives—preventing forced marriages of children; ensuring that both parties to a marriage are fully empowered to protect themselves from abuse; and preventing early marriages that put children at serious risk for devastating, lifelong consequences.

Forced marriages can happen in America for many reasons. They can arise in families and communities where parents expect to control the marriage choices of their children, and where marrying young is the norm. Some individuals are pushed to marry to prevent or address sex or pregnancy outside of marriage, or as a cover-up for rape or sexual abuse. Sometimes, an abusive dating partner will threaten or coerce an individual into marriage. In other cases, sexual predators can target, “groom,” and then pressure vulnerable girls to marry them, in order to further isolate and control them and to have round-the-clock access to them without fear of prosecution. Children can also be compelled to marry when poor, abusive or neglectful parents try to offload them on others. Some parents even seek to gain financially from such arrangements.

While both adults and children can face forced marriages, children are especially susceptible to coercion, and are particularly disempowered to advocate for themselves because of their legal status as minors. Many “escape routes” that are wide open to adults are closed, or much more challenging to access, for minors.

Without being able to exercise self-help options, minors must rely on systems-help. But minors are often reluctant to seek help due to mandatory reporting laws on child abuse. They realize that disclosing abuse could set in motion serious consequences over which they would have no control (including that their parents could go to jail or that they and their siblings could be put into foster care).

Even when minors do make a report, it may get them nowhere or even make matters worse for them. In Tahirih’s experience across the country, child protective services invariably fails to investigate forced marriage allegations, typically considering it outside their mandate, or they do not take appropriate action. This can subject a girl to retaliation for reaching out, make her retreat and rescind her request for help, make it more difficult for advocates to work with her as her family monitors her more closely going forward, and/or make the family move up the date of the marriage.

In addition to addressing all these forced marriage concerns, HB 337 would ensure that any parties that do willingly marry will do so on equal legal footing, rather than leaving a minor party at such a harsh legal disadvantage in the relationship.

Of critical and equal importance, the bill will also spare girls from the domino effects of marrying underage that can dramatically heighten their vulnerability to abuse.

Up to 80% of marriages involving someone underage end in divorce, and teen mothers who marry and later divorce can be made worse-off long-term—more than twice as likely to live in future poverty—than teen mothers who do not marry. Women who marry as teens are also more likely to have more children overall and to do so more quickly, to drop out of school, to have fewer work opportunities, leading to future poverty. They also experience more medical and mental health problems, both short- and long-term.^{vii} All this can increase their dependence and limit their options in the event of divorce or domestic violence.

In sum, there are significant and inherent child-protection concerns in every child marriage, and Delaware’s current law on marriage ages does not go far enough to address these concerns.

There is a fast-growing national movement to overhaul antiquated minimum marriage age laws that put children at risk. Several states (Virginia, Texas, New York, and Kentucky) have enacted laws over the last few years that limit marriage to legal adults. Bills like HB 337 to ban child marriage are pending in New Jersey, Pennsylvania, and Louisiana, and many other states are also considering related legislative reforms. Delaware should assert its place as a leader among them by taking swift action to advance this bill now.

The Tahirih Justice Center urges this Committee to report House Bill 337 favorably to end child marriage in Delaware.

ⁱ A full copy of Tahirih’s 50-state report is available at www.tahirih.org/childmarriagepolicy.

ⁱⁱ The legal dividing line between a “child”/“minor” and an “adult” is drawn at the age of majority or “full age,” which Delaware statute sets at age 18. See Del. Code Ann. title 1, § 302. Children are legally subject to parental control in many respects and do not have the same rights that adults can exercise – for example, to directly file legal actions in court, to live or work wherever they choose, or to enter binding legal contracts – and thus children have much more limited options to protect themselves from abuse or exploitation.

The fact that a petition for judicial approval of a minor’s marriage has to be brought, per Del. Code Ann. title 13, §123 (c) by a “parent, legal guardian or next friend on the minor’s behalf,” rather than by the minor herself, underscores just how legally disabled minors are from self-advocacy.

ⁱⁱⁱ See Women’s E-News, “Age of Consent Muddles Law on Marriage vs. Rape,” (June 7, 2007), available at <https://womensenews.org/2007/06/age-consent-muddles-law-marriage-vs-rape/>

^{iv} Delaware is in the minority of states (20) that do not have a defined statutory process to enable mature minors who are capable of living independently and supporting themselves to petition a court for a declaration of emancipation. See *Alone Without a Home: A State-by-State Review of Laws Affecting Unaccompanied Youth* (National Law Center for Homelessness and Poverty and The National Network for Youth: September 2012), available at https://www.nlchp.org/Alone_Without_A_Home, at pp. 104-118.

Judicial emancipation can be an important tool to empower minors to advocate for themselves and can help prevent forced or abusive marriages. Minors may avoid resorting to an early marriage that poses its own steep risks to health, safety and welfare if emancipation is an option instead to escape an abusive home. Emancipated minors can also take steps to protect themselves from being forced by abusive, neglectful, exploitative or unfit parents into a marriage against their will.

^v Between 2000 and 2010, 200 children were married in Delaware. See statistics compiled in New York Times, “11 Years Old, a Mom, and Pushed to Marry Her Rapist in Florida” (May 26, 2017), available at <https://www.nytimes.com/>.

^{vi} See *supra*, n ii.

^{vii} See specific statistics and sources cited in Tahirih Justice Center, “Child Marriage in the United States: A Serious Problem with a Simple First-Step Solution” (October 23, 2017), available at www.tahirih.org/childmarriagepolicy.