

APPENDIX A: All States and D.C.

ANALYSIS OF STATE LAWS ON MINIMUM MARRIAGE AGE AND EXCEPTIONS THAT PERMIT INDIVIDUALS UNDER AGE 18 TO MARRY

(assessment includes all laws enacted by August 2020)

Selected Provisions That Can Make Forced or Coerced Marriages of Children <i>Easier</i> and <i>More Likely</i>										
State	No Age Floor Set by Statute, or Low Age Floor (Below Age 16)	Official Proof of Age is <u>Not Required</u> in All Instances	Nothing Expressly Prohibits Clerks From Issuing Marriage Licenses to Out-of-State, Un-Emancipated Minors	Parental Consent Can Lower the Legal Age to Marry Below Age 18 ¹	Pregnancy Can Drop the Legal Age to Marry Even Lower Than With Parental Consent Alone	When Parental Consent is Required, the Consent of Only One Parent May Be Enough	Clerks, Not Judges, Can Approve All Underage Marriage Licenses ²	Older Minors (Typically, Age 16+) Can Be Approved to Marry Without Getting Judicial Approval ³	When Judicial Approval is Required, the Judge Doesn't Have to Specialize in Family Law or Juvenile Matters ⁴	When Judicial Approval is Required, the Judge is Given Little to No Guidance for Making Decisions ⁶
Alabama		X	X	X		X	X	X	N/A	N/A
Alaska	(14)	X	X	X		X		X	X	X
Arizona		X	X	X		X		X	X	
Arkansas		X	X	X	X	X		X	X	X
California	X	X	X			X			X	<i>in some cases</i>
Colorado			X							
Connecticut		X				X			X	
Delaware	Not applicable — minimum marriage age is 18, no exceptions									
Florida		X	X	X			X	X	N/A	N/A

State	No Age Floor Set by Statute, or Low Age Floor (Below Age 16)	Official Proof of Age is <u>Not Required</u> in All Instances	Nothing Expressly Prohibits Clerks From Issuing Marriage Licenses to Out-of-State, Un-Emancipated Minors	Parental Consent Can Lower the Legal Age to Marry Below Age 18 ¹	Pregnancy Can Drop the Legal Age to Marry Even Lower Than With Parental Consent Alone	When Parental Consent is Required, the Consent of Only One Parent May Be Enough	Clerks, Not Judges, Can Approve All Underage Marriage Licenses ²	Older Minors (Typically, Age 16+) Can Be Approved to Marry Without Getting Judicial Approval ³	When Judicial Approval is Required, the Judge Doesn't Have to Specialize in Family Law or Juvenile Matters ⁴	When Judicial Approval is Required, the Judge is Given Little to No Guidance for Making Decisions ⁶
Georgia										
Hawaii	(15)	X	X	X				X		X
Idaho		X	X	X		X	X	X	N/A	N/A
Illinois		X	X	X				X	X	
Indiana										
Iowa		X	X	X		X			X	
Kansas	(15)	X	X	X		X		X	X	X
Kentucky						X			X	
Louisiana			X							
Maine		X	X	X		X	X	X	N/A	N/A
Maryland	(15)	X	X	X	X	X	X	X	N/A	N/A
Massachusetts	X	X		X		X			X	X
Michigan	X	X	X	X		X		X	X	X
Minnesota	Not applicable — minimum marriage age is 18, no exceptions									
Mississippi ⁵	X		X	X				X	X	X
Missouri			X	X		X	X	X	N/A	N/A
Montana			X			X			X	
Nebraska			X	X		X	X	X	N/A	N/A

State	No Age Floor Set by Statute, or Low Age Floor (Below Age 16)	Official Proof of Age is <u>Not Required</u> in All Instances	Nothing Expressly Prohibits Clerks From Issuing Marriage Licenses to Out-of-State, Un-Emancipated Minors	Parental Consent Can Lower the Legal Age to Marry Below Age 18 ¹	Pregnancy Can Drop the Legal Age to Marry Even Lower Than With Parental Consent Alone	When Parental Consent is Required, the Consent of Only One Parent May Be Enough	Clerks, Not Judges, Can Approve All Underage Marriage Licenses ²	Older Minors (Typically, Age 16+) Can Be Approved to Marry Without Getting Judicial Approval ³	When Judicial Approval is Required, the Judge Doesn't Have to Specialize in Family Law or Juvenile Matters ⁴	When Judicial Approval is Required, the Judge is Given Little to No Guidance for Making Decisions ⁶
Nevada		X				X			X	
New Hampshire			X			X				X
New Jersey	Not applicable—minimum marriage age is 18, no exceptions									
New Mexico	X	X	X	X	X	X		X		X
New York						X			X	
North Carolina	(14)	X	X	X	X	X		X	X	
North Dakota			X	X		X	X	X	N/A	N/A
Ohio										
Oklahoma	X		X	X	X	X		X	X	X
Oregon		X	X	X		X	X	X	N/A	N/A
Pennsylvania	Not applicable — minimum marriage age is 18, no exceptions									
Rhode Island	X	X	X	X		X		X		
South Carolina			X	X		X	X	X	N/A	N/A
South Dakota			X	X		X	X	X	N/A	N/A
Tennessee		X	X	X			X	X	N/A	N/A
Texas									X	
Utah ⁷		X	X			X			X	
Vermont		X	X	X		X	X	X	N/A	N/A

State	No Age Floor Set by Statute, or Low Age Floor (Below Age 16)	Official Proof of Age is <u>Not Required</u> in All Instances	Nothing Expressly Prohibits Clerks From Issuing Marriage Licenses to Out-of-State, Un-Emancipated Minors	Parental Consent Can Lower the Legal Age to Marry Below Age 18 ¹	Pregnancy Can Drop the Legal Age to Marry Even Lower Than With Parental Consent Alone	When Parental Consent is Required, the Consent of Only One Parent May Be Enough	Clerks, Not Judges, Can Approve All Underage Marriage Licenses ²	Older Minors (Typically, Age 16+) Can Be Approved to Marry Without Getting Judicial Approval ³	When Judicial Approval is Required, the Judge Doesn't Have to Specialize in Family Law or Juvenile Matters ⁴	When Judicial Approval is Required, the Judge is Given Little to No Guidance for Making Decisions ⁶
Virginia		X								
Washington	X	X	X	X		X		X	X	X
West Virginia	X	X	X	X		X		X	X	X
Wisconsin			X	X		X	X	X	N/A	N/A
Wyoming	X	X	X	X		X		X	X	X
District of Columbia		X	X	X		X	X	X	N/A	N/A
Total jurisdictions (States + D.C.)	10: <u>no</u> age floor 5: <u>low</u> age floor	29	37	32	5	35	15	30	22	12

Endnotes

1. Kansas (for 16-17 year olds) and Massachusetts (for all minors) nominally require judicial approval as well, but the sole express criteria for the judge's decision is whether there is parental consent. And in Kansas, if both parents consent, judicial approval is not required. Arizona, Florida, Missouri, and Tennessee require not only parental consent but also set a maximum age difference between the parties. Still, parental consent is the gatekeeper to an exception. Some states in this column also require judicial approval under certain circumstances, but for the majority of minors, parental consent suffices.

2. Some states permit court-emancipated minors to marry as the only exception to a minimum marriage age of 18; other states require all minors to get judicial approval to marry, or require judicial approval for some minors under some circumstances. Some states require judicial approval, but the sole express criteria for the judge's decision is whether there is parental consent (see above). None of those states are given an "x" in this column. Arizona is also not given an "x." Even though the vast majority of minors to whom marriage licenses are issued in Arizona will not see a judge (because there is a simple "parental consent" exception that can be handled by a clerk), Arizona does have an alternative exception to a minimum marriage age of 18 for court-emancipated minors. If a minor's parents were to oppose the minor's marriage, it is possible under those circumstances that the minor would seek to be emancipated by a court in order to be eligible to marry under this alternative exception.

3. As noted above, while Massachusetts nominally requires all 16-17 year olds to get judicial approval, the sole express criteria for the judge's decision is whether there is parental consent. Kansas is given an "x" in this column because, notwithstanding a nominal judicial approval requirement, it can be entirely set aside if both parents consent.

4. "N/A" in this table may mean simply that Tahirih's specific critiques of states' judicial approval processes do not apply to that jurisdiction because all marriage license applications involving minors can be approved by a clerk. Put another way, "N/A" states may still be problematic with respect to judicial approval processes—insofar as they have no such processes at all.

Likewise, states with no "x" in the last two columns of this table may still be problematic with respect to judicial approval processes because those processes only apply anyway to younger minors (leaving older minors without the benefit of any judicial inquiry whatsoever), or because judges have no statutory limit on how young a child can be permitted to marry, or for other reasons. In this way, all columns of this table must be read and evaluated together, and in conjunction with Tahirih's other statutory analyses, in order to fully understand the true nature of negligence vs. vigilance in that state's minimum marriage age laws.

5. Mississippi is the only state with a statute that expressly sets different exceptions to the minimum marriage age based on gender. This leaves girls more vulnerable to forced marriages than boys.

6. See n. 1 above re: states in which judicial approval is only to verify parental consent. In California, too, if a minor is age 17 and has a high school diploma, judicial approval serves only to verify parental consent, though the judicial approval requirement is more detailed for all other minors.

7. Judicial approval can be granted in Utah either by a juvenile court, or by a "court commissioner" — an appointed, quasi-judicial officer. Utah is given an "x" in the column about specialized judges because it is unclear what special expertise such court commissioners would have, and because, while they must be admitted to practice law in Utah, they are not judges.

APPENDIX B-1: All States and D.C.

ANALYSIS OF STATE LAWS ON MINIMUM MARRIAGE AGE AND EXCEPTIONS THAT PERMIT INDIVIDUALS UNDER AGE 18 TO MARRY

(assessment includes all laws enacted by August 2020)

Selected Provisions That, Working Together, Can Make Forced or Coerced Marriages of Children <i>Harder</i> and <i>Less Likely</i>								
State	Parties Must Be At Least Age 16 <i>(Noted if no statutory floor, or low floor)</i>	Parties Must Be At Least Age 17	There is a Maximum Age Difference Between Parties	Official Proof of Age is Expressly Required in All Instances	Statute Makes Clear that Only In-State Minors Can Get Judicial Approval to Marry	All Un-Emancipated Minors Must Get Judicial Approval to Marry <i>(Noted if no judge is ever required, or if judicial approval requirement only applies in some cases)</i>	A Waiting Period is Always Required Before a Marriage License Can Be Issued to a Minor	Minor is Given Info on Rights, Resources for Domestic Violence
Alabama	✓					No judge		
Alaska	14					Judicial approval required only if minor is younger than age 16		
Arizona	✓		≤ 3 years		✓	Court order of emancipation required only if there is no parental consent ¹		
Arkansas	✓					Judicial approval required only if one or both parties is age 16 ²	✓ 5 days	
California	No floor					✓	<i>in some cases</i> ¹⁹	✓
Colorado	✓			✓		✓		
Connecticut	✓				✓	✓		
Delaware	Not applicable—minimum marriage age is 18, no exceptions							
Florida		✓	≤ 2 years		N/A	No judge		

State	Parties Must Be At Least Age 16 <i>(Noted if no statutory floor, or low floor)</i>	Parties Must Be At Least Age 17	There is a Maximum Age Difference Between Parties	Official Proof of Age is Expressly Required in All Instances	Statute Makes Clear that Only In-State Minors Can Get Judicial Approval to Marry	All Un-Emancipated Minors Must Get Judicial Approval to Marry <i>(Noted if no judge is ever required, or if judicial approval requirement only applies in some cases)</i>	A Waiting Period is Always Required Before a Marriage License Can Be Issued to a Minor	Minor is Given Info on Rights, Resources for Domestic Violence
Georgia ⁷		✓	≤ 4 years	✓	✓	✓	✓ 15 days	✓
Hawaii	15				✓	Judicial approval required only if minor is age 15		
Idaho	✓		<3 years		N/A	No judge		
Illinois	✓					Judicial approval required only if there is no parental consent		
Indiana	✓		≤ 4 years	✓	✓	✓	✓ 15 days	
Iowa	✓					✓		
Kansas	15					Judicial approval required only if minor is age 15 ³		
Kentucky		✓	≤ 4 years	✓	✓	✓	✓ 15 days	✓
Louisiana	✓		<3 years	✓		✓		
Maine	✓				N/A	No judge		
Maryland	15				N/A	No judge		
Massachusetts	No floor				✓	✓		
Michigan	No floor					Judicial approval required only if minor is younger than age 16		
Minnesota	Not applicable— minimum marriage age is 18, no exceptions							
Mississippi	No floor			✓		Judicial approval required only if female is younger than age 15 or male is younger than age 17 ⁴		

State	Parties Must Be At Least Age 16 <i>(Noted if no statutory floor, or low floor)</i>	Parties Must Be At Least Age 17	There is a Maximum Age Difference Between Parties	Official Proof of Age is Expressly Required in All Instances	Statute Makes Clear that Only In-State Minors Can Get Judicial Approval to Marry	All Un-Emancipated Minors Must Get Judicial Approval to Marry <i>(Noted if no judge is ever required, or if judicial approval requirement only applies in some cases)</i>	A Waiting Period is Always Required Before a Marriage License Can Be Issued to a Minor	Minor is Given Info on Rights, Resources for Domestic Violence
Missouri	✓		Other party must be < 21 years old	✓	N/A	No judge		
Montana	✓			✓		✓		
Nebraska		✓		✓	N/A	No judge		
Nevada		✓	Age difference is considered			✓		
New Hampshire	✓			✓	✓	✓		
New Jersey	Not applicable— minimum marriage age is 18, no exceptions							
New Mexico	No floor					Judicial approval required only if minor is younger than age 16		
New York		✓	Age difference is considered	✓		✓		✓
North Carolina	14					Judicial approval required only if minor is younger		
North Dakota	✓			✓	N/A	No judge		
Ohio		✓	≤ 4 years	✓		✓	✓ 14 days	
Oklahoma	No floor			✓		Judicial approval required only if minor is younger than age 16 ⁶	✓ 72 hours	
Oregon		✓			N/A	No judge		
Pennsylvania	Not applicable— minimum marriage age is 18, no exceptions							
Rhode Island	No floor					Judicial approval required only if minor is younger than age 16		

State	Parties Must Be At Least Age 16 <i>(Noted if no statutory floor, or low floor)</i>	Parties Must Be At Least Age 17	There is a Maximum Age Difference Between Parties	Official Proof of Age is Expressly Required in All Instances	Statute Makes Clear that Only In-State Minors Can Get Judicial Approval to Marry	All Un-Emancipated Minors Must Get Judicial Approval to Marry <i>(Noted if no judge is ever required, or if judicial approval requirement only applies in some cases)</i>	A Waiting Period is Always Required Before a Marriage License Can Be Issued to a Minor	Minor is Given Info on Rights, Resources for Domestic Violence
South Carolina	✓			✓	N/A	No judge		
South Dakota	✓			✓	N/A	No judge		
Tennessee		✓	< 4 years		N/A	No judge		✓
Texas	✓			✓	✓	✓		
Utah ⁸	✓		≤ 7 years			✓		
Vermont	✓				N/A	No judge		
Virginia	✓		Age difference is considered			✓		
Washington	No floor					Judicial approval required only if minor is younger		
West Virginia	No floor					Judicial approval required only if minor is younger		
Wisconsin	✓			✓	N/A	No judge		
Wyoming	No floor				✓	Judicial approval required only if minor is younger		
District of	✓				N/A	No judge		
Total jurisdictions (States and D.C.)	23	9	11	18	10	17	6	5

Endnotes

How to interpret this table: Twenty-five states have enacted legal reforms to end or limit child marriage since just 2016, when the Tahirih Justice Center sparked the national movement by securing a new law in Virginia that was the first to limit marriage to legal adults. However, there are relatively few “√” marks in the above table, which speaks volumes to how many states’ laws still fail to consider, let alone address, the acute child protection concerns raised by child marriage. Moreover, even when a state may receive a few “√” marks above, its minimum marriage age laws may still fall dramatically short of what is needed to protect children from forced marriages and other harm. Thus, all columns of this table must be read and evaluated together, and in conjunction with Tahirih’s other statutory analyses, in order to fully understand the true nature of negligence vs. vigilance in that state’s minimum marriage age laws.

1. Most minors who marry in Arizona will not see a judge, because there is a simple “parental consent” exception that can be handled by a clerk. However, Arizona does have an alternative exception to a minimum marriage age of 18 for court-emancipated minors. Only resident minors can petition an Arizona court for emancipation. Similarly, only resident minors can petition a Texas court for emancipation and thereby access an exception to a minimum marriage age of 18. However, in Arizona, Texas, and Virginia, a minor emancipated by another state court can also qualify for this exception.

2. Judicial approval can only be obtained at that age in Arkansas if the female is pregnant or has already given birth to a child.

3. Kansas nominally requires judicial approval as well as parental consent for 16-17 year olds, but if both parents consent, judicial approval is not required.

4. Mississippi is the only state with a statute that expressly sets different exceptions to the minimum marriage age based on gender. This leaves girls more vulnerable to forced marriages than boys.

5. Judicial approval can only be obtained at that age in North Carolina if the female is pregnant or has already given birth to a child and the male is the father or putative father.

6. Judicial approval can only be obtained at that age in Oklahoma if the female is pregnant or has already given birth to a child, or in settlement of a suit brought “for seduction or paternity.”

7. Georgia recognizes emancipation “by operation of law” when a minor under age 18 has already been married, or is on active duty with the U.S. armed forces. Such emancipated minors do not need judicial approval to marry, but are still subject to the other minimum marriage age requirements (floor of age 17, 4-year limit on age differences, 15-day waiting period, and premarital education).

8. Utah is given a “√” in the column about requiring judicial approval for all minors, even though “judicial approval” can be granted either by a juvenile court, or by a “court commissioner” — an appointed, quasi-judicial officer who must be admitted to practice law in Utah, but is not a judge.

9. In California, a waiting period of 30 days between the court order granting judicial approval and the issuance of a marriage license does not apply if the minor is age 17 and has a high school diploma, or if the minor is age 16 or 17 and pregnant.

APPENDIX B.2:

States Where Judicial Approval is Required for All Minors

ANALYSIS OF STATE LAWS ON MINIMUM MARRIAGE AGE AND EXCEPTIONS THAT PERMIT INDIVIDUALS UNDER AGE 18 TO MARRY

(assessment includes all laws enacted by August 2020)

Selected Provisions That, Working Together, Can Make Forced or Coerced Marriages of Children <i>Harder</i> and <i>Less Likely</i>																
State	PROCEDURAL SAFEGUARDS are followed							SUBSTANTIVE CRITERIA are considered					“BEST INTERESTS” CANNOT BE SHOWN based solely on ¹⁰		JUDGE CAN TAKE OTHER STEPS to protect and/or empower minor ¹³	
	Specialized Family or Juvenile Court Judge Must Make Decision	Inquiry into Facts is Authorized or Required ²	Judge Must Hold Hearing and Issue Written Findings	Minor is Appointed Counsel ³	Judge Must Interview Minor Privately ⁴	There is a Heightened Proof Standard ⁵	Several Detailed Criteria Must Be Considered	Maturity and/or Capacity of Minor ⁶	Whether Marriage is Voluntary ⁷	Criminal Records, Protection Orders, and/or History of Abuse ⁸	Age Difference Between Parties	Best Interests of Minor ⁹	Pregnancy or Birth of Child	Parental Consent	Judge Expressly Authorized to Issue Other Orders ¹¹	Minor is Emancipated Before Marriage ¹²
California		✓			✓				✓							
Colorado	✓	✓		✓				✓				✓	✓			
Connecticut								✓	✓							
Georgia	✓	✓		✓			✓	✓	✓	✓	✓	✓	✓	✓		✓
Indiana	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Iowa								✓				✓	✓			
Kentucky		✓			✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

State	PROCEDURAL SAFEGUARDS are followed							SUBSTANTIVE CRITERIA are considered					“BEST INTERESTS” CANNOT BE SHOWN based solely on ¹⁰		JUDGE CAN TAKE OTHER STEPS to protect and/or empower minor ¹³	
	Specialized Family or Juvenile Court Judge Must Make Decision	Inquiry into Facts is Authorized or Required ²	Judge Must Hold Hearing and Issue Written Findings	Minor is Appointed Counsel ³	Judge Must Interview Minor Privately ⁴	There is a Heightened Proof Standard ⁵	Several Detailed Criteria Must Be Considered	Maturity and/or Capacity of Minor ⁶	Whether Marriage is Voluntary ⁷	Criminal Records, Protection Orders, and/or History of Abuse ⁸	Age Difference Between Parties	Best Interests of Minor ⁹	Pregnancy or Birth of Child	Parental Consent	Judge Expressly Authorized to Issue Other Orders ¹¹	Minor is Emancipated Before Marriage ¹²
Louisiana	✓	✓			✓		✓	✓	✓	✓	✓					
Massachusetts																
Montana								✓				✓	✓			
Nevada						✓		✓			✓	✓	✓			
New Hampshire	✓					✓						✓				
New York		✓	✓	✓	✓		✓	✓	✓	✓	✓					✓
Ohio	✓			✓				✓	✓		✓	✓				✓
Texas				✓				✓				✓				✓
Utah ¹									✓		✓	✓			✓	
Virginia	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Total States: 17	7	8	3	7	5	2	6	13	10	6	9	13	8	3	4	7

Endnotes

How to interpret this table: Twenty-five states have enacted legal reforms to end or limit child marriage since just 2016, when the Tahirih Justice Center sparked the national movement by securing a new law in Virginia that was the first to limit marriage to legal adults. However, there are relatively few states and few “√” marks in the above table, which speaks volumes to how many states’ laws still fail to consider, let alone address, the acute child protection concerns raised by child marriage. Moreover, even when a state may receive a few “√” marks above, its minimum marriage age laws may still fall dramatically short of what is needed to protect children from forced marriages and other harm. Thus, all columns of this table must be read and evaluated together, and in conjunction with Tahirih’s other statutory analyses, in order to fully understand the true nature of negligence vs. vigilance in that state’s minimum marriage age laws.

This table excludes states that do not require *all* un-emancipated minors to get judicial approval to marry. North Carolina, for example, is not included despite the fact that the state outlines a detailed judicial approval process with several measures meant to serve as safeguards, like the appointment of a guardian ad litem to investigate the circumstances and to represent the minor’s best interests; it is excluded because those protections only apply to 14–15 year olds in case of pregnancy. With such a low age floor and a pregnancy exception, especially for minors so young that they fall within the ambit of the state’s statutory rape laws, North Carolina’s laws as a whole do not reflect best practices. As another example, Kansas is not included because with the consent of both parents, the judicial approval requirement can be entirely set aside. Tahirih urges states with judicial approval exceptions to ensure that they apply to *all* un-emancipated minors, of whatever age and in all circumstances.

1. Judicial approval can be granted in Utah either by a juvenile court, or by a “court commissioner” — an appointed, quasi-judicial officer . Utah is not given an “√” in the column about specialized judges because it is unclear whether or what special expertise such court commissioners would have, and because, while they must be admitted to practice law in Utah, they are not judges.

2. This column is meant to recognize greater diligence than a vague, general call for a judicial inquiry into the circumstances surrounding the marriage. Still, we have been generous in granting “√” marks in this column as some states have fairly limited inquiries beyond the courtroom and the immediate proceeding. For example, in California, Family Court Services interviews the parties and prepares a report. In New York, there is a review of prior court orders. In Virginia, a Department of Social Services investigation and report *may* be ordered but is not required. Other states require more expansive inquiries. Colorado appoints a guardian ad litem and requires an investigation and report to guide the judge’s decision-making. We also granted “√” marks in this column for states with detailed in-courtroom inquiries. In Georgia, for example, judicial approval to marry is made part of an emancipation proceeding. In addition to other extensive criteria related to both determinations, Georgia requires affidavits from individuals such as teachers, counselors or social workers who have personal knowledge of the minor’s circumstances and believe emancipation to be in the minor’s best interests. Again, though, some states with detailed inquiries were excluded from this chart because judicial approval (and thus the inquiries) is only required if the minor is younger than age 16: for minors that young, in Rhode Island, an investigation and report by the Department of Human Services is required, and in North Carolina, a guardian ad litem investigation and report is required.

3. North Carolina also appoints a guardian ad litem (GAL) to investigate and promote the minor’s best interests with respect to a petition to marry — but only minors age 14 or 15 and in cases involving a pregnancy are required to get judicial approval and thus, they are the only minors who are appointed a GAL.

4. In New Hampshire, the judge *may* interview the minor privately in chambers, but is not required to do so. In Utah, “any inquiry” *may* be conducted by the judge in chambers, but this is not the same as requiring the minor to be interviewed separately and privately. In Louisiana the statute directs that “there shall be a separate in camera interview of the prospective spouses,” and while the language does not specify “of each of the prospective spouses,” in context it implies that the parties should be interviewed separately. Joint interviews — whether with parents or a prospective spouse — will not enable a minor to safely disclose abuse, threats, or other coercion she may be facing.

5. In Nevada and New Hampshire, judicial approval to marry cannot be granted unless the court finds “clear and convincing evidence” that the marriage is in the minor’s best interests. The Nevada statute also directs that such approval can only be granted in “extraordinary circumstances.”

6. We have been generous in granting Iowa a “√” mark in this column, given that the statute’s only vague requirement is that the judge find the minor is “capable of assuming the responsibilities of marriage.”

Endnotes

7. Judges in North Carolina must find that the parties “agree to marry” and judges in Mississippi must find that the parties “desire to marry,” but those states are not included in this table because judicial approval is only required in certain cases.

8. In California, Family Court Services must report known or reasonably suspected child abuse or neglect, presumably based on staff interviews with the minor and/or the minor’s parent(s). This may be helpful, but is not the same level of diligence as the court actually requesting or pulling records of past abuse or neglect by parents or of inter-personal violence by an intended spouse. It is also unclear how any finding of child abuse or neglect is to be weighed by California courts in determining whether to grant or deny a petition for a minor to marry.

9. Two states fall short in this category because courts must only consider whether the marriage would “endanger the...safety of the minor” (New York) or would be “detrimental” (Connecticut), which establishes a far lower bar than whether the marriage would actually be in the minor’s best interests.

10. There are additional states that, by inference to the totality of circumstances that must be considered, also do not permit a “best interests” inquiry to rest on whether there is a pregnancy or parental consent. However, the states recognized in these columns *expressly* address pregnancy and/or parental consent and clarify that they cannot alone be sufficient evidence of a minor’s best interests.

11. In Kentucky and Indiana, judges are authorized to make any other orders that the court deems appropriate for the minor’s protection and to impose any other condition on the grant of the petition that the court determines is reasonable under the circumstances; in Virginia, judges may “make any other orders regarding the matter which the court deems appropriate”; and in Utah, judges may require the minor to continue to attend school and “any other conditions that the court deems reasonable under the circumstances.” In Louisiana, the judge is not expressly authorized to issue other orders (e.g., such as an order of protection), but is required to report to law enforcement or child protective services “any evidence of human trafficking, sexual assault, domestic violence, coercion, or undue influence” and, upon such a finding, deny the petition to marry.

Judges in California, Utah and Indiana may order a minor and an intended spouse to participate in premarital counseling; however, California is not given a “√” mark in this column because such counseling, depending on whether it is taken by both parties together and whether it is provided by clergy or a professionally licensed counselor, can increase the pressure on a minor to marry rather than give her objective information about the risks of marrying young.

12. Recent legislative reforms in Colorado did not require that a minor be fully emancipated alongside a grant of judicial approval to marry, but they did clarify that married minors have some important rights, including the right to file legal motions and petitions on the minor’s own behalf. Also, in Texas the nature of the “judicial approval” proceeding is a judicial grant of emancipation based on demonstrated maturity and capacity. A court-emancipated minor may marry in Texas, but the court does not grant judicial approval to marry as such, nor vet the intended marriage or spouse.

Tahirih urges that any minor who is judicially approved to marry be emancipated *before* marriage, as a final “fail-safe” to empower the minor to avoid a forced marriage that the court may not have detected because the minor was too afraid or uncertain of the consequences to herself or others to disclose it in the proceeding. Emancipation that is granted only *after* marriage may come too late for a minor who needed the legal rights of an adult to take self-help steps (like leaving home, or staying with a friend or in a confidential shelter) to protect herself from entering that marriage in the first place.

13. As noted in Appendix B-1, after recent legislative reforms in California, Georgia, Kentucky, New York and Tennessee, minors are also now provided with information on their rights and on resources available to victims of domestic violence and other abuse; in Florida, all parties applying to marry are directed to information on the rights and responsibilities of parties to a marriage.