

# *The Alarming Disconnect Between Age-Based Sex Offenses and Minimum Marriage Age*

August 2020

## ***Selected key findings<sup>1</sup>:***

- **In the majority of states, despite recent marriage-age reforms, a minor could still be married to someone with whom sex outside of marriage would be a crime.**

The analysis below yields just thirteen states where the answer to the question is definitively “no,” and only a handful of additional states where the answer is “probably not.”

- **Marriage can provide a statutory defense or exception to prosecution for statutory rape and/or other age-based sex offenses in at least 40 states<sup>2</sup> and the District of Columbia. Marriage also provides a statutory defense to prosecution for “sexual abuse of a minor or ward” under federal law (18 U.S.C. § 2243).<sup>3</sup>**

## **Introduction**

Research shows that girls who marry before age 18 face greater vulnerability to sexual and domestic violence, increased medical and mental health problems, higher drop-out rates from high school and college, greater risk of poverty, and up to 80% divorce rates.<sup>4</sup> “Child marriages” around the country have also been used to cover up forced marriages, rape, child abuse, child sexual abuse, and human trafficking.<sup>5</sup> Minors do not have the same legal rights as adults, making them more vulnerable to coercion, and leaving them with fewer options to avoid or escape a forced or abusive marriage.<sup>6</sup> Minors’ emotional and economic dependence also heightens these risks.

Many states’ laws permit individuals under age 18 to be married based on either parental consent alone, or in some cases, judicial approval.<sup>7</sup> But abusive or unfit parents can easily sign off on a child’s marriage to a predator, effectively “no questions asked,” and judicial proceedings are often bare-bones, lacking critical vetting and safeguards.

Recognizing these acute concerns, since 2015 twenty-five states have enacted changes to their minimum marriage-age laws to end or limit child marriage, and more reforms are pending.<sup>8</sup> Yet most states’ laws still fall far short of the protections that are truly needed.

Before now, the disconnect between states’ marriage-age and statutory rape laws has been cited only anecdotally.<sup>9</sup> This policy brief for the first time comprehensively compares and analyzes laws on age-based sex offenses, age of majority, and minimum marriage age. It aims to expose that the consequence of states’ left-hand (civil laws) and right-hand (criminal laws) operating inconsistently is not just incoherence. ***What the left hand ignores, and the right hand excuses, can actually operate together as a stranglehold on a vulnerable girl, trapping her in lifelong, devastating harm.***

## Understanding the Chart

Many statutory compilations ask, “at what age is a person able to consent to sex,” or, “what is the legal age of consent to sex,” which can lead to misimpressions. The age stated may simply be the *earliest* age at which a minor may engage in *some* sexual activity with *some* persons (e.g., close age peers) without anyone committing a crime, and may say little about whether state laws see a minor *beyond* that age as still vulnerable and in need of special protections against coercive sexual activity.

The chart below not only breaks out the oldest age at which a young person, *based solely on their youth or age differences* with an older party, would fall in the ambit of “statutory rape” laws or other age-based sexual offenses. It also breaks out the oldest age at which a young person, *based on a combination of their youth and their relationship with another party*, would still fall in the ambit of some sexual offenses that would otherwise not be considered criminal. This analysis provides a fuller “reality-check” on whether marriage-age laws, or marriage defenses or exceptions to age-based sex offenses, are turning a blind eye to the acute concerns about profound power imbalances and inherently coercive dynamics that pervade other sections of states’ codes.

A final note on the construction and interpretation of the chart below: the *age differences* that may trigger age-based sex offenses, or that may permit vs. prohibit a youth to marry, are not included – but these must be factored into any state’s efforts to reform its marriage-age laws to ensure that parties cannot marry at an age *or age difference* where sex between the parties outside of marriage could be a crime, as well as to reform its criminal laws to strike marriage defenses or exceptions that literally give “license” to commit offenses.

State	Oldest Age of Youth Still Covered by Some Age-Based Sex Offenses Based Solely on <i>Ages/Age Differences</i> <sup>10</sup>	Oldest Age of Youth Still Covered by Some Age-Based Sex Offenses Based on <i>Relationship of Parties</i>  ( <i>e.g., older party in a position of authority or special trust</i> )	Age of Majority	Age Floor for Marriage?	Can a Minor Be Married at an Age or Age Difference Where Sex Between the Parties Outside of Marriage Could be a Crime?  ( <i>based on age OR age + relationship</i> )	Can Marriage Provide a Statutory Defense or Exception to Prosecution for an Age-Based Sex Offense? <sup>11</sup>
Alabama	15 <sup>12</sup>	18 <sup>13</sup>	19	16	Yes <sup>14</sup>	Yes <sup>15</sup>
Alaska	15 <sup>16</sup>	17 <sup>17</sup>	18	14	Yes <sup>18</sup>	Yes <sup>19</sup>
Arizona	17	17 <sup>20</sup>	18	16	Yes <sup>21</sup>	Yes <sup>22</sup>
Arkansas	15	20 if Student K-12 <sup>23</sup>	18	16	Yes <sup>24</sup>	Yes <sup>25</sup>
California	17 <sup>26</sup>	n/a	18	NONE	Yes <sup>27</sup>	Yes <sup>28</sup>
Colorado	16 <sup>29</sup>	17 <sup>30</sup>	18	16	Probably not <sup>31</sup>	Yes <sup>32</sup>
Connecticut	15	17 <sup>33</sup>	18	16	Probably not <sup>34</sup>	Yes <sup>35</sup>
Delaware	17	17 <sup>36</sup>	18	18	No <sup>37</sup>	Yes <sup>38</sup>
Florida	17 <sup>39</sup>	17 <sup>40</sup>	18	17	No <sup>41</sup>	No
Georgia	15 <sup>42</sup>	Can incl Student K-12 of unspecified age <sup>43</sup>	18	17	No <sup>44</sup>	Yes <sup>45</sup>
Hawaii	15 <sup>46</sup>	17 <sup>47</sup>	18	15	Yes <sup>48</sup>	Yes <sup>49</sup>
Idaho	17 <sup>50</sup>	n/a	18	16	No <sup>51</sup>	Yes <sup>52</sup>
Illinois	16	17 <sup>53</sup>	18	16	Yes <sup>54</sup>	No
Indiana	15 <sup>55</sup>	17 <sup>56</sup>	18	16	No <sup>57</sup>	No

State	Oldest Age of Youth Still Covered by Some Age-Based Sex Offenses Based Solely on Ages/Age Differences	Oldest Age of Youth Still Covered by Some Age-Based Sex Offenses Based on <i>Relationship of Parties</i>  (e.g., older party in a position of authority or special trust)	Age of Majority	Age Floor for Marriage?	Can a Minor Be Married at an Age or Age Difference Where Sex Between the Parties Outside of Marriage Could be a Crime?  (based on age OR age + relationship)	Can Marriage Provide a Statutory Defense or Exception to Prosecution for an Age-Based Sex Offense?
Iowa	15	Can be “minor” or incl Student K-12 of unspecified age <sup>58</sup>	18	16	Possibly <sup>59</sup>	Yes <sup>60</sup>
Kansas	15	Can be Student K-12, or foster child of unspecified age 16+ <sup>61</sup>	18	15	Yes <sup>62</sup>	Yes <sup>63</sup>
Kentucky	17	17 <sup>64</sup>	18	17	No <sup>65</sup>	Yes <sup>66</sup>
Louisiana	16	20 (if still in secondary school) <sup>67</sup>	18	16	Probably not <sup>68</sup>	Yes <sup>69</sup>
Maine	15	17 <sup>70</sup>	18	16	Yes <sup>71</sup>	Yes <sup>72</sup>
Maryland	15	Can incl any minor who is secondary school student <sup>73</sup>	18	15	Yes <sup>74</sup>	Yes <sup>75</sup>
Massachusetts	17 <sup>76</sup>	n/a	18	NONE	Yes <sup>77</sup>	Possibly <sup>78</sup>
Michigan	15	25 <sup>79</sup>	18	NONE	Yes <sup>80</sup>	Yes <sup>81</sup>
Minnesota	15 <sup>82</sup>	17 <sup>83</sup>	18	18 <sup>84</sup>	No	No <sup>85</sup>
Mississippi	15	17 <sup>86</sup>	21	NONE	Yes <sup>87</sup>	Yes <sup>88</sup>
Missouri	16 <sup>89</sup>	Can be Student K-12 of unspecified age <sup>90</sup>	18	16	Yes <sup>91</sup>	Yes <sup>92</sup>
Montana	15	Can be Student K-12 of unspecified age, individual receiving services from youth care facility, or adolescent participant in certain programs <sup>93</sup>	18	16	Possibly <sup>94</sup>	Yes <sup>95</sup>
Nebraska	15	Could reach anyone in care and custody of Dept. of Health and Human Svcs and DHHS employee/designee <sup>96</sup>	19	17	Possibly <sup>97</sup>	No
Nevada	15	Can include student at a college or university age 16+ who has not yet received a high school diploma or GED <sup>98</sup>	18	17	Probably not <sup>99</sup>	Yes <sup>100</sup>

State	Oldest Age of Youth Still Covered by Some Age-Based Sex Offenses Based Solely on <i>Ages/Age Differences</i>	Oldest Age of Youth Still Covered by Some Age-Based Sex Offenses Based on <i>Relationship of Parties</i>  (e.g., older party in a position of authority or special trust)	Age of Majority	Age Floor for Marriage?	Can a Minor Be Married at an Age or Age Difference Where Sex Between the Parties Outside of Marriage Could be a Crime?  (based on age OR age + relationship)	Can Marriage Provide a Statutory Defense or Exception to Prosecution for an Age-Based Sex Offense?
New Hampshire	15	17 <sup>101</sup>	18	16	No <sup>102</sup>	Yes <sup>103</sup>
New Jersey	15	21 <sup>104</sup>	18	18	No <sup>105</sup>	No
New Mexico	15 <sup>106</sup>	17 <sup>107</sup>	18	NONE	Yes <sup>108</sup>	Yes <sup>109</sup>
New York	16	n/a	18	17	No <sup>110</sup>	Yes <sup>111</sup>
North Carolina	15	Can be “minor” or incl Student K-12 of unspecified age <sup>112</sup>	18	14	Yes <sup>113</sup>	Yes <sup>114</sup>
North Dakota	17 <sup>115</sup>	17 <sup>116</sup>	18	16	Yes <sup>117</sup>	No
Ohio	15	17 <sup>118</sup>	18	17	No <sup>119</sup>	Yes <sup>120</sup>
Oklahoma	15	Can be 19 if still a student of a secondary or public vocational school; otherwise, 17 <sup>121</sup>	18	NONE	Yes <sup>122</sup>	Yes <sup>123</sup>
Oregon	17	17 <sup>124</sup>	18	17	Yes <sup>125</sup>	No
Pennsylvania	15	17 or in some cases, youth or juveniles of unspecified age <sup>126</sup>	18	18	No <sup>127</sup>	Yes <sup>128</sup>
Rhode Island	15	n/a	18	NONE	Yes <sup>129</sup>	No
South Carolina	15	17, or in some cases, secondary school students of unspecified age <sup>130</sup>	18	16	Yes <sup>131</sup>	Yes <sup>132</sup>
South Dakota	15 <sup>133</sup>	n/a	18	16	No <sup>134</sup>	Yes <sup>135</sup>
Tennessee	17	17 <sup>136</sup>	18	17	Possibly <sup>137</sup>	No <sup>138</sup>
Texas	16	Can be secondary school student of unspecified age <sup>139</sup>	18	16	Yes <sup>140</sup>	Yes <sup>141</sup>
Utah	17	17 <sup>142</sup>	18	16	Yes <sup>143</sup>	Yes <sup>144</sup>
Vermont	15	17 <sup>145</sup>	18	16	Yes <sup>146</sup>	Yes <sup>147</sup>
Virginia	17	17 <sup>148</sup>	18	16	Yes <sup>149</sup>	Yes <sup>150</sup>
Washington	15	21 if still a student at a secondary or common school (incl vocational) <sup>151</sup>	18	NONE	Yes <sup>152</sup>	Yes <sup>153</sup>
West Virginia	15 <sup>154</sup>	17 <sup>155</sup>	18	NONE	Yes <sup>156</sup>	Yes <sup>157</sup>
Wisconsin	17 <sup>158</sup>	17 <sup>159</sup>	18	16	Yes <sup>160</sup>	Yes <sup>161</sup>
Wyoming	16 <sup>162</sup>	17 <sup>163</sup>	18	NONE	Yes <sup>164</sup>	Yes <sup>165</sup>
District of Columbia	15 <sup>166</sup>	19 <sup>167</sup>	18	16	Yes <sup>168</sup>	Yes <sup>169</sup>

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<sup>1</sup> This policy brief and comparative statutory analysis reflects all marriage-age reforms enacted and effective by August 1, 2020.

<sup>2</sup> As noted below, Massachusetts' statutes are unclear on this question.

<sup>3</sup> This defense shields from prosecution a perpetrator who could otherwise be subject to imprisonment for up to 15 years. It applies to a person who engages in a sex act with a minor between *ages 12 and 16*, if that person is 4 or more years older.

<sup>4</sup> See statistics and sources cited in Tahirih Justice Center, "[Child Marriage Poses Serious Risks to Children](#)" (November 2019).

<sup>5</sup> See Tahirih Justice Center, [Child Marriage in the U.S.: Survivor Story Compilation](#) (January 10, 2020).

<sup>6</sup> Legal adulthood can be attained by reaching the age of majority set by the state (in most states, age 18), or, depending on the state, through a minor's "emancipation." In many states, however, even emancipated minors do not have all the same legal rights as an adult, since emancipation may be partial, revocable, or subject to one or more exceptions, or the state may not clearly articulate by statute what rights are granted upon emancipation. See National Law Center on Homelessness & Poverty and The National Network for Youth, [Alone Without A Home: A State-by-State Review of Laws Affecting Unaccompanied Youth](#) (September 2012).

<sup>7</sup> For the text and statutory citations of marriage-age laws and exceptions in Washington, D.C. and all 50 states, see Tahirih Justice Center, "[Understanding State Statutes on Minimum Marriage Age and Exceptions](#)" (August 2020) as well as other resources available at [www.tahirih.org/childmarriage](http://www.tahirih.org/childmarriage).

<sup>8</sup> See Tahirih Justice Center, [Making Progress but Still Falling Short: A Report on the Movement to End Child Marriage in America](#) (May 13, 2020).

<sup>9</sup> See, e.g., "[Child Brides Call on U.S. States to End 'Legal Rape'](#)," *Reuters* (October 24, 2018); "[Grown Men Are Exploiting Loopholes in State Laws to Marry Children](#)," *Huffington Post* (August 30, 2017).

<sup>10</sup> See generally "Consent Laws," Rape, Abuse, Incest National Network (RAINN), <https://apps.rainn.org/policy/compare/consent-laws.cfm> (updated March 2020) (note, however, that as explained in the introduction to this chart, RAINN's resource characterizes the age at which a person is "able to consent" differently than this chart does).

<sup>11</sup> See generally "Marital Rape and Sexual Assault," AEquitas (updated April 2020), available at <https://aequitasresource.org/resources/> by clicking the button to "Request Resource." Note, however, that the AEquitas chart includes more jurisdictions in its counts and may categorize marital defenses and exceptions differently than this chart does, including because the AEquitas chart examines not only statutes but also case law.

<sup>12</sup> [Ala. Code § 13A-6-70\(c\)](#).

<sup>13</sup> See [Ala. Code § 13A-6-81](#) and [Ala. Code § 13A-6-82](#) (re: a school employee engaging in a sex act or sexual contact with a student under the age of 19 years).

<sup>14</sup> In addition to the age floor for marriage being younger than the oldest age covered by age-based sex offenses in Alabama, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may be marrying a teacher, coach or counselor, for example. The parties need only file a notarized affidavit of parental consent with the probate court.

<sup>15</sup> Threshold definitions at [Ala. Code § 13A-6-60\(2\)](#) ("deviate sexual intercourse") and [Ala. Code § 13A-6-60\(3\)](#) ("sexual contact") do not apply when the parties are married.

<sup>16</sup> See [Alaska Stat. §§ 11.41.434](#), [11.41.436](#), and [11.41.438](#).

<sup>17</sup> See, e.g., [Alaska Stat. § 11.41.436\(6\)](#) ("Sexual abuse of a minor in the second degree") and [Alaska Stat. § 11.41.440\(a\)\(2\)](#) ("Sexual abuse of a minor in the fourth degree"), which apply to a 16- or 17-year-old victim if the actor is in a "position of authority" relative to the victim. [Alaska Stat. § 11.41.470\(5\)](#) defines a person in a "position of authority" to mean "an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, babysitter, or a substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor."

<sup>18</sup> In addition to the age floor for marriage being younger than the oldest age still covered by age-based sex offenses in Alaska, no judicial approval is required for minors age 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A marriage license may be issued to minors age 16 or 17 based on parental consent alone.

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<sup>19</sup> Under [Alaska Stat. § 11.41.445\(a\)](#), the fact that the victim was the legal spouse of the defendant at the time of the offense is an affirmative defense to Alaska Stat. §§11.41.434 – 11.41.440 (Sexual abuse of a minor in the first through fourth degrees), unless the offense was committed without the victim's consent.

<sup>20</sup> [Ariz. Rev. Stat. Ann. § 13-1405](#) ("Sexual conduct with a minor") penalizes all sexual intercourse or oral sexual contact involving any person under 18 years of age, but imposes increased penalties if the defendant was in a "position of trust" relative to the minor.

<sup>21</sup> A new Arizona law enacted in 2018 set an age floor for marriage at 16 and limited age differences to not more than 3 years. However, [Ariz. Rev. Stat. Ann. § 13-1405](#) triggers a class 6 felony for sexual conduct with a minor who is at least fifteen years of age, without regard to the age differences of the parties. Of additional concern, no judicial approval is required for most minors to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A marriage license may be issued to most minors based on parental consent alone.

<sup>22</sup> [Ariz. Rev. Stat. Ann. §13-1407\(D\)](#) makes it a defense to prosecution for [Ariz. Rev. Stat. Ann. § 13-1405](#) ("Sexual conduct with a minor") that the parties were married.

<sup>23</sup> See [Ark. Code Ann. § 5-14-124\(a\)\(2\)\(A\)\(i\)](#) (2018) (victim, if enrolled in a school K-12 that employs the actor, can be less than 21 years of age).

<sup>24</sup> A new Arkansas law enacted in 2019 set an age floor of 16 (in case of pregnancy), and only 16-year-olds must obtain judicial approval. For a 17-year-old, a court clerk is authorized to issue the license to a minor upon verifying parental consent. Thus, the intended spouse of a 17-year-old who is permitted to marry in Arkansas based on parental consent alone could be the minor's teacher, coach or counselor such that sex between those parties outside of marriage would violate [Ark. Code Ann. § 5-14-124\(a\)\(2\)\(A\)\(i\)](#). Moreover, the judicial approval required for pregnant 16-year-olds has vague criteria (permitting the judge to grant the petition "after consideration of the evidence and other facts and circumstances, if the judge finds that it is to the best interest of the parties"), and it is very possible the judge would not know or inquire about a history of past sex offenses involving an older intended spouse and a 16-year-old, even though the pregnancy itself could be evidence of such an offense.

<sup>25</sup> See exceptions when the victim is the actor's spouse in [Ark. Code Ann. § 5-14-124\(a\)\(1\) and \(a\)\(2\)\(A\)](#) (sexual assault in the first degree, as it pertains to sexual intercourse or deviate sexual activity with a minor or student by persons in various positions of trust or authority over the minor or student); [Ark. Code Ann. § 5-14-125\(a\)\(3\)\(A\) and \(a\)\(5\)\(A\)\(i\)](#) (sexual assault in the second degree, as it pertains to sexual contact with a person less than 14 years of age); [Ark. Code Ann. § 5-14-126\(2\)\(A\)](#) (sexual assault in the third degree, as it pertains to sexual intercourse or deviate sexual activity between a minor and another person less than 14 years of age); [Ark. Code Ann. § 5-14-127\(a\)\(1\)\(A\)\(ii\)](#) (sexual assault in the fourth degree, as it pertains to an actor age 20 or older engaging in sexual intercourse or deviate sexual activity, or [Ark. Code Ann. § 5-14-127\(a\)\(1\)\(B\)\(i\)](#), engaging in sexual contact, with a person less than 16 years of age).

<sup>26</sup> [Cal. Penal Code § 261.5](#).

<sup>27</sup> A new California law enacted in 2019 made some reforms to the process for judicial approval that is required for minors to marry, but did not ban all marriage under age 18, and, in fact, the new law failed to set any statutory age floor for marriage.

<sup>28</sup> [Cal. Penal Code § 261.5\(a\)](#) states that "[u]nlawful sexual intercourse is an act of sexual intercourse accomplished with a person **who is not the spouse of the perpetrator**, if the person is a minor."

<sup>29</sup> [Colo. Rev. Stat. § 18-3-402\(1\)\(d\)\(e\)](#).

<sup>30</sup> See [Colo. Rev. Stat. § 18-3-405.3\(3\)](#) ("[s]exual assault on a child by one in a position of trust") makes sexual contact of a victim age 15 or older but less than 18 years of age a class 4 felony.

<sup>31</sup> A new Colorado law enacted in 2019 set an age floor for marriage at 16, required judicial approval and the appointment of a guardian ad litem for the minor to investigate "best interests" and to file a report with the court addressing several factors, including the independent ability of the minor to manage the minor's own financial, personal, educational, and other affairs. It is very unlikely that a guardian ad litem would advise, or a judge would approve, the marriage of a 16-year-old to a person 10 or more years older (outside of marriage, sex between those parties would violate [Colo. Rev. Stat. § 18-3-402\(1\)\(e\)](#)), or where the other party was in a position of trust with respect to the 16-year-old (outside of marriage, sex between those parties would violate [Colo. Rev. Stat. § 18-3-405.3\(3\)](#)).

<sup>32</sup> There are exceptions to the application of the age-based offenses in [Colo. Rev. Stat. § 18-3-402\(1\)\(d\)\(e\)](#) and [Colo. Rev. Stat. § 18-3-405\(1\)](#) (sexual assault on a child less than 15 years of age) and [Colo. Rev. Stat. § 18-3-405.3](#) if the parties are married.

<sup>33</sup> See, e.g., [Conn. Gen. Stat. Ann. § 53a-71](#) ("Sexual assault in the second degree") setting forth a number of circumstances in which a person in a position of authority or special trust over a minor, such as a teacher or coach of a secondary school student, would be prohibited from engaging in sexual intercourse with the minor.



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<sup>34</sup> A new Connecticut law enacted in 2017 set an age floor for marriage at 16, required judicial approval, and directed the judge to consider factors including whether there is coercion and whether the marriage would be “detrimental” to the minor. It is unlikely that a minor would obtain judicial approval to marry someone with whom, outside or marriage, sexual intercourse would violate [Conn. Gen. Stat. Ann. § 53a-71](#).

<sup>35</sup> Threshold definitions at [Conn. Gen. Stat. Ann. § 53a-65\(2\) and \(3\)](#) for “sexual intercourse” and “sexual contact” exclude married parties from the scope of sexual offenses, except for a specific statute at [Conn. Gen. Stat. Ann. § 53a-70b](#) that applies to “sexual assault in [a] spousal or cohabiting relationship.”

<sup>36</sup> See, e.g., [Del. Code Ann. tit. 11, § 778\(3\)](#) (2010) and “position of trust, authority, or supervision” (such as a teacher, counselor, or coach, as further defined at [Del. Code Ann. tit. 11, § 761\(e\)\(2\)](#)) over a child who is younger than age 18.

<sup>37</sup> A new Delaware law enacted in 2018 set an age floor for marriage of 18, no exceptions.

<sup>38</sup> There remains an exception to the application of [Del. Code Ann. tit. 11, § 770\(a\)\(2\)](#), “rape in the fourth degree,” a class C felony for sex between a person age 30 or older and a victim under age 18, “if the victim and person are married at the time of such intercourse.”

<sup>39</sup> [Fla. Stat. § 794.05\(1\)](#) (“Unlawful sexual contact with certain minors”) applies to “a person 24 years of age or older who engages in sexual activity with a person 16 or 17 years” old.

<sup>40</sup> [Fla. Stat. § 775.0862](#) (“Sexual offenses against students by authority figures; reclassification”) applies to “a person 18 years of age or older who is employed by, volunteering at, or under contract with a school,” and a student under age 18, and increases the felony level of certain sexual offenses when they involve such parties. However, it does not appear that this statute establishes an independent criminal offense.

<sup>41</sup> A new Florida law enacted in 2018 set an age floor for marriage of 17, and a 17-year-old may only marry someone no more than 2 years older. Age-based sex offenses based solely on ages/age differences of the parties in Florida are relevant to a 17-year-old only if the other party is age 24 or older. It is concerning, however, that no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor.

<sup>42</sup> [Ga. Code Ann. § 16-6-3\(a\)](#) (defining statutory rape as “sexual intercourse with any person under the age of 16 years and not his or her spouse”).

<sup>43</sup> [Ga. Code Ann. § 16-6-5.1](#) (“Improper sexual contact by employee or agent”) applies to school employees and students.

<sup>44</sup> A new Georgia law enacted in 2019 not only set an age floor for marriage of 17, but also set specific circumstances in which a judge must deny a minor approval to marry, including where the other party stands or stood in a position of authority or special trust with respect to the minor.

<sup>45</sup> As noted above, [Ga. Code Ann. § 16-6-3](#) (“Statutory rape”) is defined to exclude married parties; however, if a female victim is less than 10 years of age, marriage is expressly not a defense ([Ga. Code Ann. § 16-6-1](#) (“Rape”)).

<sup>46</sup> See [Haw. Rev. Stat. §§ 707-730, 707-731](#), and [707-732](#) (sexual assault in the first through third degrees).

<sup>47</sup> [Haw. Rev. Stat. § 707-731\(1\)\(d\)](#) (“Sexual assault in the second degree”) can reach a minor victim age 16 or older if the person is acting in a “professional capacity to instruct, advise, or supervise the minor.”

<sup>48</sup> In addition to the age floor for marriage being younger than the oldest age still covered by age-based sex offenses in Hawaii, no judicial approval is required for minors age 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A marriage license may be issued to minors age 16 or 17 based on parental consent alone.

<sup>49</sup> The age-based provisions of [Haw. Rev. Stat. §§ 707-730, 707-731](#) and [707-732](#) (sexual assault in the first through third degrees) all only apply if the person is not legally married to the minor.

<sup>50</sup> [Idaho Code § 18-6101](#).

<sup>51</sup> A new Idaho law enacted in 2020 (effective date July 1, 2020) set an age floor for marriage of 16 and also limited age differences to less than 3 years. Age-based sex offenses are not triggered for a 16- or 17-year-old unless the age difference of the parties is 3 years or greater. Of concern, however, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A county recorder, after verifying ages and age differences as well as parental consent, issues the marriage license to the minor.

<sup>52</sup> [Idaho Code § 18-6107](#) provides a defense against prosecution for rape based on ages/age differences when the parties are married.

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<sup>53</sup> [720 Ill. Comp. Stat. 5/11-1.60\(f\)](#) makes it the crime of “aggravated criminal sexual abuse” if an actor age 17 or older “holds a position of trust, authority, or supervision” over a victim as old as 17.

<sup>54</sup> In addition to the age floor for marriage being younger than the oldest age still covered by age-based sex offenses in Illinois, no judicial approval is required for older minors to marry, and thus no one vets the underlying circumstances of the marriage or risks that the intended spouse may pose to the minor. A county clerk may issue a marriage license to older minors with parental consent alone.

<sup>55</sup> Several criminal laws ([Ind. Code §§35-42-4-3](#) , [Ind. Code §§35-42-4-6](#) , [Ind. Code §§35-42-4-7](#) (2019), and [Ind. Code §§35-42-4-9](#) (2019) penalize sex with children under age 16 and examine the age differences of the parties.

<sup>56</sup> Indiana law penalizes, as the crime of “child seduction,” sex between a 16- or 17-year-old and a person in a position of special authority or trust, like a teacher, counselor, or law enforcement officer ([Ind. Code § 35-42-4-7](#)).

<sup>57</sup> A new Indiana law enacted in 2020 (effective date July 1, 2020) set an age floor for marriage of 16 and also limited age differences to no more than 4 years; it also set specific circumstances in which a judge must deny a minor approval to marry, including where the other party stands or stood in a position of authority or special trust with respect to the minor.

<sup>58</sup> See [Iowa Code §709.14](#) (lascivious conduct with a minor by a person in a position of authority); [Iowa Code § 709.15](#) sexual exploitation by a counselor, therapist, or school employee)

<sup>59</sup> In Iowa, all minors must obtain judicial approval to marry but the criteria are fairly minimal. The judge must find that the minor is capable of assuming the responsibilities of marriage and find that the marriage is in the minor’s best interests, and is instructed that pregnancy alone does not establish that marriage is in the minor’s best interests. However, it is very possible that a judge would not know or inquire, for example, whether the intended spouse was in a position of authority over the minor.

<sup>60</sup> Marriage exempts sex acts from the definition of several sex offenses: [Iowa Code Ann. § 709.4](#) (2013) (exemption from third degree sexual abuse, even when the victim is **12 to 15** years old, if parties are married and cohabitating); see also marriage exemptions in [Iowa Code Ann. § 709.8](#) (lascivious acts with a child) and [Iowa Code Ann. § 709.12](#) (indecent contact with a child). For criminal law purposes, Iowa generally defines a child as under 14 years of age. See [Iowa Code Ann. § 702.5](#).

<sup>61</sup> See [Kan. Stat. Ann. § 21-5512](#) (unlawful sexual relations; but see exception to definition if parties are married)

<sup>62</sup> In addition to the age floor for marriage being younger than the oldest age still covered by age-based sex offenses in Kansas, no judicial approval is required for older minors to marry, and thus no one vets the underlying circumstances of the marriage or risks that the intended spouse may pose to the minor. A clerk may issue a marriage license to older minors with parental consent alone.

<sup>63</sup> Marriage provides a defense to prosecution of several sex offenses: [Kan. Stat. Ann. §21-5503\(3\)](#) (rape as defined as sexual intercourse with child under age 14); [Kan. Stat. Ann. §21-5504\(e\)](#) (criminal sodomy with a child between ages 14 and 16; aggravated if child is under age 14); [Kan. Stat. Ann. §21-5506\(e\)](#) (indecent liberties with a child between ages 14 and 16; aggravated if child is under age 14); and [Kan. Stat. Ann. §21-5512](#) (unlawful sexual relations, e.g., between teachers and students).

<sup>64</sup> [Ky. Rev. Stat. Ann. § 510.110\(d\)](#) makes sexual contact between a person in a position of authority or special trust and a minor sexual abuse in the first degree.

<sup>65</sup> A new Kentucky law enacted in 2018 not only set an age floor for marriage of 17, but also limited age differences to 4 years or less. Age-based sex offenses are not triggered for a 16- or 17-year-old unless the age difference of the parties is 10 years or greater. In addition, the new law set specific circumstances in which a judge must deny a minor approval to marry, including where the other party stands or stood in a position of authority or special trust with respect to the minor.

<sup>66</sup> See [Ky. Rev. Stat. Ann. § 510.035](#) (if parties are married, it does not constitute an offense based solely on sexual intercourse with person under age 16).

<sup>67</sup> See [La. Stat. Ann. § 14:81.4](#) (prohibited sexual conduct between educator and student; but note exemption from definition if victim is married to the offender).

<sup>68</sup> A new Louisiana law enacted in 2019 set an age floor for marriage of 16 and limited age differences to less than 3 years. However, at least one age-based sex offense ([La. Stat. Ann. § 14:80.1](#), misdemeanor carnal knowledge of a juvenile) can be triggered if the age difference is “greater than 2 years.” If the parties marrying have an age difference of 2.5 years, therefore, sex between the two outside of marriage would be a crime. Still, the new Louisiana law also now requires minors seeking to marry to obtain judicial approval, and the judge must consider several factors including whether there is evidence of coercion or violence, which would likely preclude judicial approval where sex between the parties outside of marriage would be a crime.

<sup>69</sup> See, e.g., [La. Stat. Ann. § 14:80](#) and [La. Rev Stat § 14:80.1](#) (both felony and misdemeanor “carnal knowledge of a juvenile” exempt parties from the definition of the offense when the victim is the spouse of the offender).



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<sup>70</sup> See, e.g., [17-A Me. Rev. Stat. Ann. § 255-A](#) (“Unlawful sexual contact”) which includes several subparts that apply to victims under age 18 (e.g., when the older party is a teacher or school employee) and [17-A Me. Rev. Stat. Ann. § 254](#) (“Sexual abuse of minors”) which includes sex with a student age 16 or 17 by a school employee age 21 or older.

<sup>71</sup> A new Maine law enacted in 2020 (effective June 16, 2020) set an age floor for marriage of 16 and limited the age difference of the parties to 3 years. However, there is no judicial approval required that would examine the relationship of the parties to determine whether, for example, the older party is the minor’s teacher or counselor.

<sup>72</sup> Marriage is a defense to certain charges of sexual abuse of minors under [17A Me. Rev. Stat. Ann § 254](#) (sex with a person age 14 or 15 by an actor at least 5 years older; sex with a student age 16 or 17 by a school employee age 21 or older), certain charges of unlawful sexual contact under [17-A Me. Rev. Stat. Ann. § 255-A](#) (including, at subsections E-1 and F-1, where the person is **less than 12 years old** and the other party is **at least 3 years older**), visual sexual aggression against child under [17-A Me. Rev. Stat. Ann. § 256](#), sexual misconduct with a child under 14 years of age under [17-A Me. Rev. Stat. Ann. § 258](#), and certain charges of unlawful sexual touching under [17-A Me. Rev. Stat. Ann. § 260](#).

<sup>73</sup> [Md. Code Ann., Crim. Law § 3-308\(c\)](#) prohibits sex between a school employee and a minor student.

<sup>74</sup> In addition to the age floor for marriage being younger than the oldest age covered by age-based sex offenses in Maryland, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may be marrying a school employee, for example. A clerk is authorized to issue the license to a minor upon verifying parental consent and/or evidence of pregnancy or childbirth (both parental consent and pregnancy/childbirth are required for a 15-year-old to marry; either parental consent or evidence of pregnancy/childbirth is required for 16- and 17-year-olds).

Maryland is one of only 5 states that still have such an express pregnancy exception to a minimum marriage age of 18 (together with Arkansas, New Mexico, North Carolina, and Oklahoma). Most states have eliminated any such exceptions they once had, recognizing that a pregnancy at such a young age can result from rape (forcible or statutory), or can signal other coercive control elements in the parties’ relationship including re: contraception.

<sup>75</sup> [Md. Code Ann., Crim. Law § 3-318](#) provides a broad defense against prosecution for all age-based sex offenses (among other sex offenses) if the parties were legally married at the time of the offense.

<sup>76</sup> A seldom-enforced statute criminalizes inducing a person under age 18 to have unlawful sexual intercourse. [Mass. Gen. Laws Ann. ch. 272 § 4](#).

<sup>77</sup> In Massachusetts, all minors must obtain judicial approval to marry, and while an obligation to consider the minor’s best interests might be inferred and on that basis some petitions may be denied, the only actual statutory criteria is to verify parental consent to the minor’s marriage.

<sup>78</sup> Massachusetts’ age-based sex offense statutes begin with “Whoever unlawfully has sexual intercourse...” without further elaboration as to what constitutes “*unlawful* sexual intercourse.” See, e.g., [Mass. Gen. Laws Ann. ch. 265, § 23](#) and [Mass. Gen. Laws Ann. ch. 265, § 23A](#). The general understanding may have been “outside of marriage,” but in 2018, statutory reforms repealed the former crime of “fornication.” See <https://www.mass.gov/info-details/massachusetts-law-about-sex>. This calls into question whether any “marriage defense” to statutory rape still exists, even if it did prior to 2018.

<sup>79</sup> [Mich. Comp. Laws Ann. § 750.520d\(1\)\(e\)-\(g\)](#) relate to students between the ages of 16-18; students between the ages of 16 and 26 receiving special education services; and individuals age 16+ residing in a foster home.

<sup>80</sup> In addition to the fact that there is no statutory age floor for marriage in Michigan, no judicial approval is required for minors age 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A county clerk may issue a marriage license to minors age 16 or 17 based on parental consent alone.

<sup>81</sup> [Mich. Comp. Laws Ann. § 750.520d\(1\)\(e\)-\(f\)](#) have exceptions to the application of the offense if the parties are married; [Mich. Comp. Laws Ann § 750.520L](#) has an exception to the application of the offense if parties are married and the sole basis is that the younger party was under age 16.

<sup>82</sup> See [Minn. Stat. §§ 609.342, 609-343, 609-344, and 609-345](#).

<sup>83</sup> [Minn. Stat. § 609.344\(e\)](#) applies when the actor is or was in a position of authority over the younger party.

<sup>84</sup> A new Minnesota law just signed May 12, 2020 (effective August 1, 2020) set an age floor for marriage of 18, no exceptions.

<sup>85</sup> A prior sweeping marriage defense that had applied to age-based sex offenses ([Minn. Stat. Ann. § 609.349](#) (“Voluntary relationships”)) was repealed in 2019.

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<sup>86</sup> See [Miss. Code Ann. 97-3-95\(2\)](#) applies the crime of sexual battery to sex with a child under age 18 by a person in a position of “trust or authority,” expansively defined by statute to include “without limitation the child’s teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach”; see also [Miss. Code Ann. § 97-5-27](#) prohibits dissemination of sexually oriented materials to persons under age 18 or using a computer to lure or entice them to engage in sexual contact and [Miss. Code Ann. § 97-5-24](#) requires a report to the district attorney of any sexual involvement of any student under age 18 with a school employee.

<sup>87</sup> In addition to the fact that there is no statutory age floor for marriage in Mississippi, no judicial approval is required for male minors between the ages of 17 and 21 to marry, and female minors between the ages of 15 and 21 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A court clerk may issue a marriage license to minors in those age ranges based on parental consent alone; and for males younger than age 17 and females younger than age 15, the judicial approval criteria is only that “sufficient reasons exist and that the parties desire to be married to each other” and that the minor has parental consent.

<sup>88</sup> [Miss. Code Ann. § 97-3-65](#) exempts married parties from the definition of statutory rape, even when the child is *under 14 years of age*. And [Miss. Code Ann. § 97-3-99](#) provides a general defense to other sexual offenses that are not forcible and non-consensual, including age-based sexual battery, if the parties are married and not separated and not living apart.

<sup>89</sup> [Mo. Rev. Stat. § 566.034](#) makes it statutory rape for anyone age 21 or older to have sexual intercourse with a person who is less than 17 years of age.

<sup>90</sup> [Mo. Rev. Stat. § 566.086](#) makes sexual contact with a student by a school official, employee, or volunteer a class E felony.

<sup>91</sup> A new Missouri law enacted in 2018 set an age floor for marriage at 16 and prevents anyone age 21 or older from marrying a minor. However, there is no judicial approval required that would examine the relationship of the parties to determine whether, for example, the older party is the minor’s teacher or counselor.

<sup>92</sup> [Mo. Rev. Stat. § 566.023](#) makes the fact that the defendant was married to the victim at the time of the offense an affirmative defense to certain age-based sex offenses: statutory rape in the first and second degree, sodomy in the first and second degree, and child molestation (crimes which can include a victim *less than 12 years old*).

<sup>93</sup> See [Mont. Code Ann. § 45-5-501\(1\)\(a\)\(vi\), \(B\)\(viii\) and \(B\)\(x\)](#). The provision on “youth care facilities” encompasses a wide range of such facilities from youth foster homes to child-care agencies, and reaches employees or volunteers with authority over the victim or providing treatment to the victim. The provision referring to a “private alternative adolescent residential or outdoor program” reaches programs for youth experiencing emotional, behavioral, or learning problems.

<sup>94</sup> In Montana, all minors must obtain judicial approval to marry but the criteria are fairly minimal. The judge must find that the minor is capable of assuming the responsibilities of marriage and find that the marriage is in the minor’s best interests, and is instructed that pregnancy alone does not establish that marriage is in the minor’s best interests. However, it is very possible that a judge would not know or inquire, for example, whether the intended spouse was an employee of a school or adolescent program where the minor was a student or participant.

<sup>95</sup> The provisions applying to sex between a program participant and an employee of a “private alternative adolescent residential or outdoor program,” or between an employee or volunteer of a youth care facility and a youth receiving services, or between a student and a school employee or volunteer who has ever had a position of authority over the student, do not apply if the parties are married. [Mont. Code Ann. §45-5-501\(1\)\(d\), \(e\) and \(g\)](#).

<sup>96</sup> See [Neb. Rev. Stat. § 28-322.04](#) (sexual abuse of a protected individual).

<sup>97</sup> In Nebraska, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may be a “protected individual” and the intended spouse an employee/designee of the Department of Health and Human Services. A county clerk is authorized to issue the license to a minor upon verifying parental consent.

<sup>98</sup> [Nev. Rev. Stat. 201.540](#), [Nev. Rev. Stat. 201.550](#) and [Nev. Rev. Stat. 201.555](#) all relate to situations that, as in Montana, involve persons in a position of authority over the youth in schools or entities providing services to children.

<sup>99</sup> A new Nevada law enacted in 2019 set an age floor for marriage at 17 and requires judicial approval for a minor to marriage, which will be granted only in “extraordinary circumstances” and upon “clear and convincing evidence” including that marriage is in the minor’s best interests. The judge must consider factors including maturity of minor and age differences of parties.

<sup>100</sup> [Nev. Rev. Stat. § 200.373](#) is stated in the negative – that it is no defense to a charge of forcible rape if the parties are married. This leaves open the possibility that it is a defense to non-forcible rape (like statutory rape) if the parties are married. There is a clear exemption in the provisions at [Nev. Rev. Stat. § 201.540](#), [Nev. Rev. Stat. § 201.550](#) and [Nev. Rev. Stat. § 201.555](#) (re: persons in a position of authority over the youth) if the parties are married.

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<sup>101</sup> Some sex offenses defined by the relationship of the parties could encompass adolescents of unspecified age, e.g., if they are in a juvenile detention facility. See [N.H. Rev. Stat. Ann. §632-A:3\(IV\)\(a\)\(1\)](#). Under [N.H. Rev. Stat. Ann. § 632-A:2\(k\)](#), ages are specified – it is aggravated felonious sexual assault if the perpetrator engages in sexual penetration with a victim that is over 13 but under 18 years of age and the perpetrator is in a position of authority over the victim and uses that authority to coerce the victim.

<sup>102</sup> A new New Hampshire law enacted in 2019 required a judge to find “clear and convincing evidence” that a marriage is in the best interest of a minor before granting approval, and moreover instructed: “In no circumstance shall a justice or judge grant permission to marry under this section if sexual contact or sexual penetration between the parties would, but for the solemnization of the proposed marriage, constitute sexual assault, felonious sexual assault, or aggravated felonious sexual assault under RSA 632-A.” [N.H. Rev. Stat. § 457:7\(II\)](#).

<sup>103</sup> The age-based sex offenses set forth in [N.H. Rev. Stat. § 632-A:3](#) (felonious sexual assault) do not apply when the victim is a “legally married spouse,” except when the victim is under age 13.

<sup>104</sup> See [N.J. Stat. Ann. § 2C:14-2c.\(5\)](#). A victim as old as 21 only falls in the ambit of this provision if a “pupil” age 18+ who has not yet received a high school diploma and the actor is a school employee, contracted provider, or volunteer who has supervisory or disciplinary power over the victim. Another provision at [N.J. Stat. Ann. § 2C:14-2c.\(3\)\(b\)](#) reaches sex between a youth age “at least 16 but less than 18” and an “actor has supervisory or disciplinary power of any nature or in any capacity over the victim.”

<sup>105</sup> A new New Jersey law enacted in 2018 set an age floor for marriage of 18, no exceptions. The only way an age-based sex offense would still apply outside of marriage to a youth age 18-21 is in the extremely limited circumstance in which that youth is still in high school and the intended spouse is a school employee or volunteer with supervisory or disciplinary power. See *supra*, note 100. But the answer in this column is still “no” because a “pupil” above age 18 would not be a “minor.”

<sup>106</sup> Note: RAINN’s chart lists the age of consent to sex as “17.” However, purely age-based sex offenses (that hinge solely on ages/age differences) only reach children under age 16. To be encompassed by other age-based sex-offenses, a child between the ages of 13-18 generally must *also* have been subjected to force or coercion, or other factors must be present, such as that the other party is in a position of authority over the child who used that authority to force the child to submit. See New Mexico Statutes [N.M. Stat. Ann. §30-9-11](#) (Criminal sexual penetration) and [N.M. Stat. Ann. § 30-9-13](#) (Criminal sexual contact of a minor). It is true that some additional offenses have provisions that apply to all children under age 18 – for example, [N.M. Stat. Ann. §30-9-14.3](#) (Aggravated indecent exposure) and [N.M. Stat. Ann. § 30-6A-3](#) (Sexual exploitation of children), but those statutes also include other elements that must be proven (e.g., for aggravated indecent exposure, an intent to intimidate, public display; or, for sexual exploitation of children, an intent to possess or distribute obscene material depicting a child participating in a prohibited sex act). See *also* [New Mexico Statutes, Chapter 30, Article 37](#) (Sexually oriented material harmful to minors), which is limited to children under age 16.

<sup>107</sup> See [N.M. Stat. Ann. § 30-9-11](#) and [N.M. Stat. Ann § 30-9-13](#). In addition to the circumstances referenced in endnote 35 above, criminal sexual contact of a minor in the fourth degree also encompasses sexual contact between school employees or volunteers and students.

<sup>108</sup> In addition to the fact that there is no statutory age floor for marriage in New Mexico, no judicial approval is required for minors age 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A county clerk may issue a marriage license to minors age 16 or 17 based on parental consent alone. Moreover, New Mexico is one of only 5 states remaining that still have an express pregnancy exception (see note *supra*, re: Maryland, notes 64-66, at 3), which raises particular concern given that it perversely applies to children **under age 16**, the age range most meant to be protected by age-based sex offenses.

<sup>109</sup> New Mexico Statutes [N.M. Stat. Ann. §30-9-11\(G\)\(1\)](#) contains an exception to criminal sexual penetration of a child age 13 to 16 if the parties are married; see *also* [N.M. Stat. Ann. §30-9-11\(G\)\(2\)](#) and [N.M. Stat. Ann. § 30-9-13\(D\)\(2\)](#), which contain an exception for school employees or volunteers married to students age 13 to 18.

<sup>110</sup> A new New York law enacted in 2017 raised the age floor for marriage to 17 and also required judicial approval. Among other provisions, an attorney must be appointed to the minor and the judge must interview the minor privately; the judge must also consider several factors to vet the intended marriage including whether there is coercion or a history of violence or power imbalance between the parties.

<sup>111</sup> [New York Penal Law § 130.10\(4\)](#) provides a defense if the parties are married and the basis for a lack of consent is solely the victim’s incapacity to consent because he or she was less than seventeen years old. It is conceivable this defense could extend even to the 1<sup>st</sup> degree rape of a child **under age 11** ([New York Penal Law § 130.35](#)).

<sup>112</sup> See [N.C. Gen. Stat. Ann. § 14-27.32](#) (“Sexual activity with a student”) and [N.C. Gen. Stat. Ann. § 14-202.4\(d\)](#) (defining “student”); see *also* [N.C. Gen. Stat. Ann. § 14-27.31](#) (“Sexual activity [with a minor victim] by substitute parent or custodian”).

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<sup>113</sup> In addition to the age floor for marriage being younger than the oldest age still covered by age-based sex offenses in North Carolina, no judicial approval is required for minors age 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A marriage license may be issued to minors age 16 or 17 based on parental consent alone. Moreover, North Carolina is one of only 5 states remaining that still have an express pregnancy exception (see note *supra*, re: Maryland), which raises particular concern given that it perversely applies to children **under age 16**, the age range most meant to be protected by age-based sex offenses.

<sup>114</sup> [N.C. Gen. Stat. Ann. §14-27-25](#) (“Statutory rape of person who is 15 years of age or younger”), [N.C. Gen. Stat. Ann. §14-27.30](#) (“Statutory sexual offense with a person who is 15 years of age or younger”), and [N.C. Gen. Stat. Ann. §14-27.32](#) (“Sexual activity with a student”) all include exceptions if the parties are married.

<sup>115</sup> While some age-based sex offenses relate to children who are less than 15 years old (see, e.g., [N.D. Cent. Code Ann. § 12.1-20-03\(1\)\(d\)](#) (“gross sexual imposition”), [N.D. Cent. Code Ann. § 12.1-20-05](#) (“Corruption or solicitation of minors”) reaches an adult who engages in a sexual act with a “minor” age 15 or older.

<sup>116</sup> [N.D. Cent. Code Ann. § 12.1-20-07\(1\)\(e\)](#) (“Sexual assault) relates to sexual contact with a “minor” age 15 or older by anyone who is a parent, guardian, or “otherwise responsible for general supervision of the other person's welfare.”

<sup>117</sup> In addition to the age floor for marriage being younger than the oldest age covered by age-based sex offenses in North Dakota, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may be marrying a person “responsible for the [minor's] welfare.” A “recorder, or designated official” is authorized to issue the license to a minor upon verifying parental consent.

<sup>118</sup> [Ohio Rev. Code Ann. § 2907.03\(7\)-\(9\) and \(12\)-\(13\)](#) (“Sexual battery”) relate to a “minor” where the other party stands in a particular relationship to the minor (e.g., teacher, coach, or cleric).

<sup>119</sup> A new Ohio law enacted in 2019 not only set an age floor for marriage of 17 and limited age differences to 4 years or less, but also required a judge to appoint the minor petitioning to marry an attorney to serve as guardian ad litem, and to determine that the minor made the decision “free from force or coercion” and that the marriage is in the minor’s “best interests.” See [Ohio Rev. Code Ann. § 3101.041](#). These provisions should prevent judicial approval of a marriage between a minor and someone in a relationship of special trust or authority to the minor, the only age-based sex offenses that apply to 17-year-olds.

<sup>120</sup> [Ohio Rev. Code Ann. § 2907.02\(A\)\(1\)\(b\)](#) exempts sexual conduct **even with a child under age 13** from the definition of “rape.” See similar exemptions for married parties from the age-based sex offenses in [Ohio Rev. Code Ann. § 2907.04\(A\)](#) (“Unlawful sexual conduct with a minor”) and [Ohio Rev. Code Ann. § 2907.05\(A\)\(4\)](#) (“Gross sexual imposition”).

<sup>121</sup> See [Okla. Stat. tit. 21, § 1111\(A\)\(8\) and \(10\)](#) (Rape) and [Okla. Stat. tit. 21, § 888v2\(B\)\(5\) and \(8\)](#) (Forcible sodomy) (relating to a victim younger than 20 who is still a student where the perpetrator is a school employee, or at least 16 but less than 18 and a perpetrator who is “responsible for the child’s health, safety, or welfare,” to include any adult residing in the child’s home or employee of certain residential or day treatment programs).

<sup>122</sup> In addition to the fact that there is no statutory age floor for marriage in Oklahoma, no judicial approval is required for minors age 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A marriage license may be issued to minors age 16 or 17 based on parental consent alone. Moreover, Oklahoma is one of only 5 states remaining that still have an express pregnancy exception (see note *supra*, re: Maryland), which raises particular concern given that it perversely applies to children **under age 16**, the age range most meant to be protected by age-based sex offenses.

<sup>123</sup> [Okla. Stat. tit. 21, § 1111\(A\)\(8\) and \(10\)](#) exempts married parties from the scope of rape as defined in that section, including the age-based provisions (e.g., applying to a victim under age 16).

<sup>124</sup> See [Or. Rev. Stat. § 163.425](#) (2<sup>nd</sup> degree sexual abuse if a person subjects another to intercourse and at any time that person was the victim’s sports coach).

<sup>125</sup> In addition to the age floor for marriage being the same as an age still covered by age-based sex offenses in Oregon, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may, in fact, be marrying a sports coach or another person in a position of authority or special trust. A county clerk is authorized to issue the license to a minor upon verifying parental consent.

<sup>126</sup> See, e.g., [18 Pa. Cons. Stat. § 3124.3](#) (“Sexual assault by sports official, volunteer or employee of nonprofit association”) relates to a child under age 18 who is participating in the sports program or other non-profit program or activity; [18 Pa. Cons. Stat. § 3124.2\(a.1\)](#) (“Institutional sexual assault”) refers, e.g. to youth or juvenile facilities and [18 Pa. Cons. Stat. § 3124.2\(a.2\)](#) (“Schools”) includes vocational-technical schools, without specifying an age or age range for victims.



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<sup>127</sup> A new Pennsylvania law just signed May 8, 2020 (effective 60 days after signing) set an age floor for marriage of 18, no exceptions. The only way an age-based sex offense would still apply outside of marriage to a youth older than age 18 is in the extremely limited circumstance in which that youth is still in a youth or juvenile facility, or attending a vocational-technical school and the intended spouse is an employee or agent of the facility or a volunteer or employee of the school. See *supra*, note 122. But the answer in this column is still “no” because a “youth” above age 18 would not be a “minor.”

<sup>128</sup> [18 Pa. Cons. Stat. § 3122.1](#) makes an exception for married parties to felony statutory sexual assault, even if the difference is *11 or more years*. However, marriage is not an express exception to rape of a child under age 13 ([18 Pa. Cons. Stat. §3121\(c\)](#)).

<sup>129</sup> In addition to the fact that there is no statutory age floor for marriage in Rhode Island, no judicial approval is required for minors age 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A marriage license may be issued to minors age 16 or 17 based on parental consent alone.

<sup>130</sup> See [S.C. Code 1976 § 16-3-755\(B\)-\(D\)](#) (“Sexual battery”) relates to sex between an enrolled student (age 16-17 or 18+, the difference affecting the severity of the penalties) and a person affiliated with a secondary school “in an official capacity” (e.g., teachers, counselors, bus drivers, or coaches).

<sup>131</sup> In addition to the age floor for marriage being younger than the oldest age covered by age-based sex offenses in South Carolina, no judicial hearing is required when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may be marrying a school employee, for example. With parental consent alone, the marriage license can be issued.

<sup>132</sup> See [S.C. Code Ann. § 16-3-658](#) provides that a person cannot be guilty of criminal sexual conduct, under code sections that include [S.C. Code Ann. § 16-3-655](#) (“Criminal sexual conduct with a minor”), with a victim who is a legal spouse, unless the couple is living apart (and the offense is reported within 30 days!). This “marriage exception” has its own exception, however in not applying to a “purported marriage entered into by a male under the age of sixteen or a female under the age of fourteen” – a confusing construction that effectively means anyone *under* the statutory age “floor” for marriage *cannot benefit* from the marriage exception. A new South Carolina law enacted in 2019 that clarified a minimum marriage age for all of 16 (codified at [S.C. Code § 20-1-250](#))), and yet age-based sex offenses based solely on age only apply to those under age 16. Still, certain sexual battery crimes have both age-based and relationship-based elements, and since marriage of the parties prevents a prosecution. See [S.C. Code 1976 § 16-3-755\(B\)-\(D\)](#), “sexual battery” as it relates to students and persons affiliated with a secondary school in an official capacity, and [subpart \(E\)](#).

<sup>133</sup> It could be argued that the oldest age is actually 17, since [S.D. Codified Laws §22-22-24.3](#) makes it a felony to cause a “minor” to engage in an activity that is harmful to minors, involves nudity, or is obscene, and [S.D. Codified Laws §22-24A-5](#) makes it a crime to solicit a “minor” to engage in a prohibited sexual act. In that case, the answer would be “Yes” in the column asking whether a youth can marry at an age/age difference where sex between the parties outside of marriage could be a crime.

<sup>134</sup> While the age floor for marriage is not clearly younger than the oldest age covered by age-based sex offenses in South Dakota, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage or risks that may be posed by the intended spouse. A register of deeds is authorized to issue the license to a minor upon verifying parental consent.

<sup>135</sup> [S.D. Codified Laws § 22-22-7](#) (“Sexual contact with a child under sixteen”) and a similar misdemeanor offense at [S.D. Codified Laws § 22-22-7.3](#) both exempt married parties, but there is no marital exception under [S.D. Codified Laws § 22-22-1](#) to statutory rape (sexual penetration) of a child under age 16.

<sup>136</sup> [Tenn. Code Ann. § 39-13-509](#) (“Sexual contact with a minor; Sexual contact by an authority figure”); [Tenn. Code Ann. §39-13-527](#) (“Sexual battery by an authority figure”); and [Tenn. Code Ann. § 39-13-532](#) (“Statutory rape by an authority figure”) all deal with the abuse of a position of trust or power over a minor to accomplish the sexual contact.

<sup>137</sup> A new Tennessee law enacted in 2018 not only set an age floor for marriage of 17, it also limited age differences to *less than 4 years*. Age-based sex offenses are not triggered for a 17-year-old unless the age difference of the parties is *4 years or more*. See [Tenn. Code Ann. § 39-13-506](#). However, [Tenn. Code Ann. § 39-13-527](#) (“Sexual battery by an authority figure”) does not specify a required age difference between the parties and thus it is possible, especially as there is no judge involved in Tennessee to vet the circumstances of a marriage involving a 17-year-old minor, that the other party could be in a position of authority or special trust with respect to the minor.

<sup>138</sup> [Tenn. Code Ann. § 39-13-501\(8\)](#) expressly defines “victim” for sexual offenses to include the spouse of the defendant.

<sup>139</sup> See [Texas Penal Code Ann. § 21.12](#) (“Improper relationship between educator and student”).

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<sup>140</sup> A new Texas law enacted in 2017 effectively set an age floor for marriage of 16, since a minor is required to be court-emancipated in order to marry and in Texas, the minimum age to be eligible to emancipate is 16. However, the age floor of 16 for marriage is not specified in the marriage-age statute; nor are there limits on the age differences of the parties when a minor marries. The offense of “sexual assault of a child” ([Texas Penal Code Ann. § 22.011](#)) would encompass a 16-year-old if the other party is more than 3 years older.

<sup>141</sup> [Texas Penal Code Ann. § 22.011\(e\)](#) provides an affirmative defense to “sexual assault of a child” between the ages of 14 and 17 if the parties are married, but does not provide any marriage defense at [Texas Penal Code Ann. § 22.021](#) to the “aggravated sexual assault” under age 14. [Texas Penal Code Ann. § 21.12](#) (“Improper relationship between educator and student”) also provides an affirmative defense if the parties are married.

<sup>142</sup> Under [Utah Code Ann. § 76-5-406\(j\)\(k\)](#), an act of sexual intercourse is without the consent of the victim if the victim is between ages 14 and 18, and the actor occupies a “position of special trust” in relation to the victim (a long list of such persons, including scout leaders, teachers, babysitters, coaches, volunteers in schools, and religious leaders, is set forth at [Utah Code Ann. § 76-5-404.1\(c\)](#)).

<sup>143</sup> A new Utah law enacted in 2019 raised the age floor for marriage to 16 and limited age differences to *no more than 7 years*; however, under [Utah Code Ann. § 76-5-406\(2\)\(k\)](#), an act of sexual intercourse is without the consent of the victim if the victim is between ages 14 and 18, and the actor is *more than three years older*. Also, [Utah Code Ann. § 76-5-401.2](#) (“Unlawful sexual conduct with a 16- or 17-year-old”) applies to an actor who is *at least 7 years older*. Finally, under [Utah Code Ann. § 76-5-402](#), sexual intercourse without the victim’s consent is rape, and the offense applies “whether or not the actor is married to the victim.” The new Utah law on marriage-age, then, effectively state-sanctions rape in any case in which the older party is more than 3 years older.

<sup>144</sup> See [Utah Code Ann. § 76-5-407](#) (“Applicability of part – ‘penetration’ or ‘touching’ sufficient to constitute offense”), enumerating several age-based sex offenses among others to which the “provisions of this part do not apply” if they involve “consensual conduct between individuals married to each other.”

<sup>145</sup> [Vt. Stat. Ann. 13, § 3252\(d\)](#) (“Sexual assault”), prohibits a “sexual act with a child who is under the age of 18 and is entrusted to the actor’s care by authority of law”; [Vt. Stat. Ann. 13, § 3258](#) (“Sexual exploitation of a minor”) prohibits a sexual act with a minor if the actor is at least 48 months older and is “in a position of power, authority or supervision over the minor by virtue of the actor’s undertaking the responsibility, professionally or voluntarily, to provide for the health or welfare of minors, or guidance, leadership, instruction, or organized recreational activities for minors.”

<sup>146</sup> In addition to the age floor for marriage being younger than the oldest age covered by age-based sex offenses in Vermont, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may be marrying a person in a “position of power, authority or supervision over the minor,” for example. A town clerk is authorized to issue the license to a minor upon verifying parental consent.

<sup>147</sup> [Vt. Stat. Ann. 13, § 3252\(c\)\(1\)](#) provides an exception what would otherwise be sexual assault if the minor is under age 16 and the parties are married and “the sexual act is consensual.”

<sup>148</sup> See [Va. Code Ann. § 18.2-370.1](#) (“Taking indecent liberties with child by person in custodial or supervisory relationship”), which applies to an actor over age 18 and a child under age 18 but at least age 15.

<sup>149</sup> A new Virginia law enacted in 2016 effectively set an age floor for marriage of 16, since a minor is required to be court-emancipated in order to marry and in Virginia, the minimum age to be eligible to emancipate is 16. However, the age floor of 16 for marriage is not specified in the marriage-age statute; and while the judge vetting the petition submitted by a minor for approval to emancipate and be married is instructed to consider “age differences,” there is no specific maximum age difference set by statute. The offense at [Va. Code Ann. § 18.2-371](#) would encompass a 16-year-old if the other party is age 18 or older.

<sup>150</sup> Virginia’s Code is inconsistent with respect to when marriage provides an exception or defense. For example, [Va. Code Ann. § 18.2-371](#) (“Causing or encouraging acts rendering children delinquent, abused, etc.”), only criminalizes sexual intercourse “upon or by a child 15 or older *not his spouse*.”

Curiously, there is also an express marriage exception in the part of [Va. Code Ann. § 18.2-370](#) (“Taking indecent liberties with children”) that makes it a felony for an adult to *expose* his or her genitals to a child under age 15, but not in the part that criminalizes the actor proposing that the child *fondle* the actor’s genitals, nor in the part that criminalizes the actor proposing that the child *engage in a sexual act*. A neighboring code provision related to “Taking indecent liberties with child by person in custodial or supervisory relationship” ([Va. Code Ann. § 18.2-370.1](#)), which applies to an actor over age 18 and a child under age 18 but at least age 15, provides a marriage exception to all the actions – exposing genitals, proposing fondling, proposing sex acts – that would otherwise constitute a felony offense.

There is expressly no marriage defense for Va. Code Ann. § 18.2-61 (statutory rape of a child under age 13), and none provided in [Va. Code Ann. § 18.2-63](#) (“Carnal knowledge of child between thirteen and fifteen years of age”) or [Va. Code Ann. § 18.2-](#)



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[67.4:2](#) (“Sexual abuse of a child under 15”), a misdemeanor re: an adult perpetrator and a child victim between the ages of 13 and 15.

<sup>151</sup> [Wash. Rev. Code Ann. § 9A.44.093](#) and [§ 9A.44.096](#) cover first and second degree “sexual misconduct with a minor.” They encompass persons in various positions of significant relationship or special trust to a young victim (including, as defined at [Wash. Rev. Code Ann. § 9A.44.010\(8\)\(a\)\(b\)](#), a person “who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors” or a person “who in the course of his or her employment supervises minors.”) These provisions expressly extend, in the case of school employees at least 60 months older who have sexual intercourse or contact with an enrolled student, to a victim not more than 21 years old.

<sup>152</sup> In addition to the fact that there is no statutory age floor for marriage in Washington, no judicial approval is required for minors age 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A marriage license may be issued to minors age 17 based on parental consent alone.

<sup>153</sup> [Wash. Rev. Code Ann. § 9A.44.073](#), [Wash. Rev. Code Ann. § 9A.44.076](#), and [Wash. Rev. Code Ann. § 9A.44.079](#) all contain marriage exceptions for what would otherwise be felony rape of a child in the first through third degrees based on the ages/age differences of the perpetrator and victim, including a child victim **less than twelve years old**. [Wash. Rev. Code Ann. § 9A.44.083](#), [Wash. Rev. Code Ann. § 9A.44.086](#), and [Wash. Rev. Code Ann. § 9A.44.089](#) all contain marriage exceptions for what would otherwise be felony child molestation in the first through third degrees based on the ages/age differences of the perpetrator and victim, including a child victim **less than twelve years old**. And [Wash. Rev. Code Ann. § 9A.44.093 \(1\)\(a\)\(b\)](#) and [Wash. Rev. Code Ann. § 9A.44.096\(1\)\(a\)\(b\)](#) (re: persons with a significant relationship or special position with respect to the child victim) also include exceptions when the parties are married.

<sup>154</sup> A person is deemed incapable of consent to a sexual act when they are less than 16 years old. [W. Va. Code Ann. § 61-8B-2](#).

<sup>155</sup> See [W. Va. Code Ann. § 61-8D-5](#) (“Sexual abuse by a parent, guardian, custodian or person in a position of trust to a child”), and [W. Va. Code Ann. § 61-8D-1](#), which defines a “child” as a person under 18 years of age who has not been emancipated.

<sup>156</sup> In addition to the fact that there is no statutory age floor for marriage in West Virginia, no judicial approval is required for minors age 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A county clerk may issue a marriage license to minors age 16 or 17 based on parental consent alone.

<sup>157</sup> [W. Va. Code Ann. § 61-8B-3\(a\)\(2\)](#) (“Sexual assault in the first degree”) does not apply if the parties are married, even if the younger party is **younger than 12 years old**. [W. Va. Code Ann. § 61-8B-5\(a\)\(2\)](#) (“Sexual assault in the third degree”) also contains marriage exceptions to what would otherwise be a felony, applying to anyone age 16 or older (and at least four years older than the victim) who has sexual intercourse with anyone under age 16. Notably, “married” includes parties living together as married, regardless of the legal status of their relationship. [W. Va. Code Ann. § 61-8B-1](#). There is no marriage exception to similar provisions at [W. Va. Code Ann. §§ 61-8B-7 and 61-8B-9](#) (sexual abuse in the first and third degrees) that criminalize sexual *contact* between persons based on their ages/age differences.

<sup>158</sup> See [Wis. Stat. Ann. § 948.09](#), making it a misdemeanor to have sexual intercourse with a “child...who has attained the age of 16 years” if the “defendant has attained the age of 19 years” and the parties are not married; see also [Wis. Stat. Ann. § 948.01\(1\)](#) (defining “child”).

<sup>159</sup> See [Wis. Stat. Ann. § 948.085](#) (“Sexual assault of a child placed in substitute care,” making it a felony to have sexual contact or sexual intercourse with a child by an actor who works or volunteers at a group home, a shelter care facility, or similar facility); [Wis. Stat. Ann. § 948.095](#) (“Sexual assault of a child by a school staff person or a person who works or volunteers with children”).

<sup>160</sup> In addition to the age floor for marriage being younger than the oldest age still covered by age-based sex offenses in Wisconsin, no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may, in fact, be marrying an employee or volunteer of a school or shelter care facility, for example. A county clerk is authorized to issue the license to a minor upon verifying parental consent.

<sup>161</sup> Several misdemeanor-level age-based sex offenses do not apply if the parties are married. See [Wis. Stat. Ann. § 948.09](#) (“Sexual intercourse with a child age 16 or older”); [Wis. Stat. Ann. § 948.093](#) (“Underage sexual activity”). And at least two felony-level age-based sex offense also do not apply if the parties are married. See [Wis. Stat. Ann. § 948.095](#) (“Sexual assault of a child by a school staff person or a person who works or volunteers with children”); [Wis. Stat. Ann. § 948.10](#) (“Exposing genitals, pubic area, or intimate parts”). However, the statute making it a first or second degree felony to have sexual intercourse or sexual contact with a child under age 16 ([Wis. Stat. Ann. § 948.02](#) (“Sexual assault of a child”)) expressly states that the marriage of the defendant to the complainant is **not** a bar to prosecution.

<sup>162</sup> [Wyo. Stat. Ann. § 6-2-316\(a\)\(iv\)](#) (“Sexual abuse of a minor in the third degree”) can apply to a victim under age 17 with whom an actor age 17 or older has taken “immodest, immoral or indecent liberties.”

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<sup>163</sup> [Wyo. Stat. Ann. § 6-2-316](#) or [Wyo. Stat. Ann. § 6-2-317](#) (“sexual abuse of a minor” in the third and fourth degree), punishable by up to 5-15 years in prison, can apply to a victim as old as age 17 if the actor occupies a “position of authority” in relation to the victim. This term is defined in [Wyo. Stat. Ann. § 6-2-301](#) to include “that position occupied by a parent, guardian, relative, household member, teacher, employer, custodian... or any other person who, by reason of his position, is able to exercise significant influence over a person.” [Wyo. Stat. Ann. § 6-2-303\(a\)\(ix\)](#) (“Sexual assault in the second degree”) reaches an actor who inflicts “sexual intrusion” on a victim if the “actor is an employee or volunteer of an elementary or secondary public or private school who, by virtue of the actor’s employment or volunteer relationship with the school, has interaction with the victim who is a student or participant in the activities of the school and is more than four (4) years older than the victim.”

<sup>164</sup> In addition to the fact that there is no statutory age floor for marriage in Wyoming, no judicial approval is required for minors aged 16 or 17 to marry, and thus no one vets the underlying circumstances of the marriage or risks the intended spouse may pose to the minor. A county clerk may issue a marriage license to minors age 16 or 17 based on parental consent alone.

<sup>165</sup> It is possible that marriage could be a defense to [Wyo. Stat. Ann. § 6-2-303\(a\)\(ix\)](#) (relating to sex between school employees or volunteers and students), since that subpart “ix” is excluded from a list of other sub-parts as to which [Wyo. Stat. Ann. § 6-2-307](#) expressly states that the marriage of the actor to the victim does not provide any defense.

<sup>166</sup> [D.C. Code § 22-3001\(3\)](#) defines a “child” as someone under age 16 and [§ 22-3001\(5A\)](#) defines a “minor” as someone under age 18. For age-based sex offenses to apply to a “minor,” there has to be another element, such as a “significant relationship,” defined in [D.C. Code § 22-3001\(10\)\(D\)](#) to include “[a]ny employee or volunteer of a school, church, synagogue, mosque, or other religious institution, or an educational, social, recreational, athletic, musical, charitable, or youth facility, organization, or program, including a teacher, coach, counselor, clergy, youth leader, chorus director, bus driver, administrator, or support staff, or any other person in a position of trust with or authority over a child or a minor.”

<sup>167</sup> See, e.g., [D.C. Code §§ 22-3009.03](#) and [22-3009.04](#) cover first and second degree “sexual abuse of a secondary education student” and reach any “teacher, counselor, principal, coach, or other person of authority in a secondary level school” who engages in either sexual conduct or a sexual act “with a student under the age of 20 years enrolled in that school or school system.” Other code provisions apply age-based sex offenses to an actor in a “significant relationship” with a “minor.”

<sup>168</sup> In addition to the age floor for marriage being younger than the oldest age still covered by age-based sex offenses in Washington, D.C., no judge is involved when a minor seeks to marry, and thus no one vets the underlying circumstances of the marriage to see if the minor may, in fact, be marrying a teacher, counselor, or someone else occupying a position of authority or in a significant relationship with the minor. A clerk is authorized to issue the license to a minor upon verifying parental consent.

<sup>169</sup> [D.C. Code § 22-3011\(b\)](#) provides that “marriage or domestic partnership between the defendant and the child or minor at the time of the offense is a defense” to prosecution for several offenses that would otherwise constitute child sexual abuse and sexual abuse of a minor: [D.C. Code §§ 22-3008](#) and [22-3009](#) (first and second degree “child sexual abuse”); [D.C. Code §§ 22-3009.01](#) and [22-3009.02](#) (first and second degree “sexual abuse of a minor”); [D.C. Code §§ 22-3009.03](#) and [22-3009.04](#) (first and second degree “sexual abuse of a secondary education student”); [D.C. Code § 22-3010](#) (“Enticing a child or minor,” which reaches anyone “at least 4 years older than a child or being in a significant relationship with a minor”); and [D.C. Code § 22-3010.01](#) (“Misdemeanor sexual abuse of a child or minor,” which includes an adult who is in a “significant relationship with a minor”).