



Comparing Compromises

Varying Impacts of Laws that Limit,
But Do Not End, Child Marriage

Background

In 2016, a reform championed by the Tahirih Justice Center (Tahirih) made Virginia the first state in the country to limit marriage to legal adults – meaning only people age 18 or older, or minors emancipated through a special court proceeding, could be married in the state. This new law sparked a nationwide movement and a wave of similar reforms that has since seen 30 states pass legislation to limit or end child marriage.ⁱ Only seven of these have ended child marriage entirely by setting a minimum age of 18, no exceptions.

The remaining 23 states have taken a variety of approaches to restrict child marriage, while falling short of ending it entirely. A diverse mix of provisions has been developed over the last eight years and each state has leveraged a different combination to satisfy legislators and lobbyists and make progress on child marriage when ending it entirely is not achievable.

This practice of customized reforms has resulted in new laws that vary greatly in how effectively they prevent child marriages. At this critical juncture in the movement to end child marriage in the United States, it is important to evaluate the impact of different approaches to better inform future campaigns.

Tahirih gathered pre- and post-reform marriage license data from 16ⁱⁱ of the 23 states that passed laws to limit, but not end, child marriage. Data show the number of marriage licenses granted to minors before and after a new law went into effect,ⁱⁱⁱ allowing us to evaluate what impact the law had on preventing child marriage.^{iv}

The data gathered contain many lessons for legislators and advocates. Above all they show us that a few additional lines of bill text can make a world of difference – preventing a significant number of child marriages and providing potentially life-saving resources to those minors who do still marry – but even the most well-crafted compromise legislation will still allow some children to fall through the cracks.

What have states done to do limit child marriage?

- Set a minimum marriage age of 16 or 17 where previously there was no floor or a floor at a younger age
- Limit the age difference between two parties. Limits ranged from 2 to 7 years
- Require judicial review, with procedural safeguards of varying impact
- Emancipate minors, either prior to marriage or automatically at the time of marriage
- Deny marriage licenses for out-of-state minors or deny recognition of licenses issued to their own resident minors by other states
- Constrain or remove exceptions that specifically allow minors to marry because they are pregnant or their parents consent on their behalf

Cumulative Impact

Between 2000 and 2018, over 300,000 children married across the United States.^v These numbers are daunting and drive home the importance of passing laws to protect children from the devastating harms of child marriage.^{vi}

Taken together, the 16 reforms studied here prevented 1,172 children from marrying in the period studied.^{vii} This number represents an absolute minimum for the number of children who do not marry each year because of these legislative changes.

Accounting for a number of realities present in the data – that only 16 of 30 states were studied, that seven of the remaining 14 ended child marriage entirely and so will have had 100% reductions in child marriage, that two states only provided a single county’s data and two more only provided data from a period of a few months rather than a full year – we can confidently state that reforms passed since 2016 are preventing over 1,000 child marriages every year. Considering that many of these reforms have been in place for multiple years, legislation limiting or ending child marriage has prevented no less than 10,000 children from marrying since Virginia sparked the current wave of reforms.

While any law that fails to end child marriage entirely is imperfect, the cumulative impact of even imperfect laws should not be discounted. The annual prevention of thousands of child marriages is something to be celebrated, even as advocates continue to demand more from legislatures.

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The only way to prevent all child marriages is to set the minimum marriage age at 18, without exceptions.^{viii} Anything less than this leaves children at risk. Ultimately, all states should aspire to end child marriage.

When this is not immediately possible, advocates and legislators should consider how they can most effectively restrict child marriage given the political realities of the moment. In some cases, compromise legislation that protects the greatest number of children possible may be an appropriate stopgap until child marriage can be ended entirely.^{ix}

It is important, then, for advocates and legislators to understand what types of compromise are actually effective in preventing harm and which may simply sound good in theory. Our research reveals that to lump all compromise laws together without close examination overlooks the dramatic variations in these laws’ impacts. Assuming all compromises have equal impact risks leaving significant harm

prevention measures on the table, making perfect the enemy of the good. In this context, legislative impact should not be graded “pass/fail.”

Instead, we should look closely at what has worked and what has not so we can take better advantage of opportunities to push for laws that, while imperfect, can protect as many children as possible in the short term, especially when the status quo allows for egregious harm to be done.

Here are the lessons we can learn from the compromise legislation passed in states since 2016:

Limiting marriage to legal adults, with a robust and protective judicial process, offers the most protection

Of the 16 states studied, five passed laws that limited marriage to legal adults. These laws set a minimum marriage age at 18, with exceptions only for emancipated minors granted the legal rights of an adult after going through a special court proceeding with a number of built-in procedural protections meant to ferret out coercion or abuse.

What states limit marriage to legal adults?

Virginia, Texas, Kentucky, Ohio, Indiana, and Georgia limit marriage to legal adults. All except Indiana provided data for this report.

Every state that limited marriage to legal adults reduced the number of children married by at least 73%. Most were even more effective; while Ohio's law saw a 73% reduction in children married,^x the other five states reduced their numbers by between 87% (Virginia) and 96% (Georgia). None of these states saw more than 23 minors marry in the post-reform period studied. The largest impact of any state was in Georgia, which reduced the number of children married from 155 to just six.

Importantly, these laws not only prevent child marriages, but also empower those minors who do marry by ensuring they have the legal rights of an adult. While not a perfect failsafe, this can make an important difference in those minors' ability to successfully seek supportive services or leave the marriage if they face abuse.

While these laws represent a best-case scenario for states where “18, no exceptions” is not politically achievable in the near term, it is also clear that they remain imperfect and continue to allow children to be subjected to the harms of child marriage. Even these laws have allowed marriages with concerning dynamics to proceed. In both Virginia and Kentucky, for example, judges approved marriages between a minor and

an adult nine years older. So while these laws represent important progress and the best of the compromise options, we know the fact that most *other* child marriages were prevented will mean little to the children involved in the ones that were approved, or to the dozens of others who will continue marrying under these states' laws each year. Ultimately, one child married is too many. We urge these states to revisit the issue and pass legislation to end child marriage entirely.

For judicial review, the devil is in the details

Many states turn to the judiciary to make case-by-case determinations on child marriages. The top line summary of these laws – that minors must get permission from a judge before marrying – conceals important details that determine how effective or ineffective such provisions are at preventing harm.

For example, take three states that set a minimum age of 16 and required all minors to obtain judicial approval before marrying. Colorado's law reduced child marriage by 74%, while Connecticut's and New Hampshire's were far less effective. So, what was the difference?

Colorado's reform includes an important procedural safeguard. Courts must appoint a *guardian ad litem* to investigate and report on the relationship, and the court may only approve the marriage if they determine that marriage is in the minor's "best interest."^{xi} Connecticut and New Hampshire's laws do not involve any independent party to report on the minor's interests.^{xii}

The most effective laws go even further than Colorado's, not only appointing an attorney to represent the minor but also requiring several other safeguards as part of the judicial review process.

Elements of a protective judicial review process

- Court appoints counsel to the minor
- Require emancipation prior to marriage
- Court must make an inquiry into the facts of the case
- Judge must hold a hearing and issue written findings
- Judge must interview minor privately
- Require consideration of several detailed criteria, such as:
 - The minor's capacity, maturity, and self-sufficiency
 - Whether marriage is voluntary
 - Criminal records and history of protection orders
 - Age difference between parties
- Consider "best interest" of minor, which is not determined by pregnancy and/or parental consent
- Require heightened standard of proof for "best interest"
- Decision made by a judge with expertise in family or juvenile law
- Authorize judge to issue other protective orders instead of a marriage license if concerns are flagged
- Include a waiting period between authorization and issuance of marriage license
- Provide the minor with information on the harmful impacts of child marriage, and resources available to them should they need legal or social services

Age floors lower than 18 accomplish very little on their own

States that set a floor under age 18 accomplish very little unless that age floor is accompanied by other, more protective measures. When states have set a new age floor that falls below age 18, it is typically set at 16 or 17. Because the data show that most child marriages involve minors aged 16 and 17, it is unsurprising that legislation to simply set an age floor at 16 does little to stop a large proportion of child marriages from occurring.

States with that set an age floor of 17 prevented only slightly more marriages than those with otherwise comparable laws but a floor of 16. While an age floor of 17 does prevent 16-year-olds from marrying, it seems that the floor may not prevent the child

marriage from happening, but instead just delays the marriage until after the child has turned 17.

This should not be taken to mean that age floors alone are not worth pursuing. If nothing else, they prevent horrific scenarios where younger children (15 and below) have been married to adults. While such marriages are rare even where they are legal, they do still occur and they are absolutely worth preventing with a firm age floor.

There may also be some value delaying a marriage from age 16 to 17. A 17-year-old is one year closer to obtaining her legal rights as an adult and may have more ability to pursue social and economic independence from an adult spouse sooner. If nothing else, the delayed marriage means an additional year in which a 16-year-old can live unmarried, and perhaps seek to prevent the marriage from happening.

Limiting age differences adds strength to other measures

Those states that did not end child marriage or institute a protective judicial review process often pursued simple legislation that looked at nothing more than the age of each party, establishing an age floor under which no minor may marry and a maximum age difference between the parties. These simple laws do nothing to screen individual cases for signs of abuse and are nowhere near as effective as laws that include a strong judicial review process. They do, however, still succeed as a blunt instrument for preventing some child marriage.

This makes sense, since most cases involve a minor marrying an adult. The combination of an age floor and a strict limitation on age difference, like the 2-year age gap limit established in Florida, rules out the possibility of many child marriages proceeding. Limitations allowing for larger age gaps are less effective at preventing child marriage.

Nevertheless, even loose age difference limitations like Utah's 7-year gap have some value. Research suggests that intimate partner homicide is more common in couples

Where do states draw the line on age difference?

- Florida: 2 years
- Arizona: 3 years
- Idaho: 3 years
- Missouri: 3 or 4 years, depending on age of the minor
- Tennessee: 4 years
- Utah: 7 years

Georgia, Texas, Kentucky, Virginia, Colorado, Ohio, Connecticut, New Hampshire, Arkansas, and Maine do not limit age differences.

with large age differences.^{xiii} In the end, age difference restrictions have similar utility to age floors set at 16 or 17 – they may not prevent a large number of marriages, but they do at least rule out some of the more horrifying scenarios where a very young child marries a much older adult.

Age difference limits also have additive value for laws relying on protective judicial review processes. Even the most effective laws studied – those that instituted an emancipation requirement and strong judicial review processes – allowed some marriages that could have been prevented by setting an age difference limit. Had Georgia, Ohio, Texas, Kentucky, or Virginia included a two-year age difference limit on top of the judicial review process, they could have prevented even more child marriages from occurring, particularly those with striking age gaps.

Weaker reforms initially outperformed expectations

Many states' reforms determine who may or may not marry based entirely on the ages of the parties involved, providing a minimum age below which no one may marry and a maximum age difference beyond which no one may marry a minor. These weaker laws are less effective than those that include a protective judicial review, but many of them did prevent more marriages than would be expected based purely on the ages

What is a law's "projected impact?"

For states that provided detailed data including the ages of every party who married, and whose laws rely only on parties' age to determine whether they can marry, we can easily determine how many marriages the law "should" have prevented.

For example, say in 2021 a state had 100 child marriages. 50 marriages were between 17- and 20-year-olds, and the other 50 were between 17- and 28-year-olds. Say this state passes a 2022 law setting an age floor of 17, and an age difference limit of 5 years.

The new age floor would not be projected to prevent any marriages based on pre-reform data, but the age difference limit would prevent the 50 marriages between a 17- and 28-year-old. The other 50 marriages, between people aged 17 and 20, would still be legal under the new law.

In 2023 we could project the state to see roughly 50 fewer child marriages – a 50% reduction.

of parties who married prior to implementation. Some states saw as much as a 20-30% additional reduction in children married beyond their law's projected impact.

This may be evidence of a few things. First, there may be a normative impact of running a campaign and passing legislation aimed at addressing the harmful impacts of child marriage. Essentially, a campaign that results in a weak new law may still send a message to the state's residents that child marriage is a bad thing which should be closely scrutinized and restricted.

It is also possible that there is confusion about the actual legislative impact of laws that do pass. Many laws that fall short of ending child marriage have nonetheless been described as doing so by media outlets and legislative sponsors and it is possible that this leads to a misperception that child marriage is illegal even where it is not, reducing the number of people who attempt to marry a child in those states.

Finally, there may be a natural decline in child marriages over the same period that "prevents" child marriages entirely independent of new laws. Previous research^{xiv} has shown this to be the case over long periods of time, though sharp declines over short periods like those studied here are not the norm.

These impacts beyond projection could fade over time as public memory of the campaign and new law recedes or perceptions correct to reality. Many laws receive significant media coverage as they go through the legislative process, and again around their effective date, but this coverage is often short lived. This eliminates a key vector by which both normative messages that "child marriage is bad" or misconceptions that "the state just made child marriage illegal" would be sent.

No state's law was seen to have a declining impact over time in this dataset, though it will be important to continue monitoring to see if this plays out over a longer timeframe.

Some states saw impact grow over time

States where reforms have been in place for multiple years generally saw their impact maintained over time, and some reforms' effectiveness even increased, preventing a larger number of child marriages as time passed. This occurred in three states that had created or expanded judicial review processes, and one state that empowered clerks to reject more child marriages.

This suggests that it may take time for officials to gain knowledge and share best practices for reviewing child marriage cases, and highlights the importance of training all judges and clerks responsible for implementing new laws.

Conclusions

There are several conclusions to be drawn from the data gathered here, the foremost of which is that no compromise reform will prevent all child marriages. Even the most effective reform, Georgia's, still saw six children marry in the year after the new law went into effect. The 96% reduction in child marriages in that state, while certainly a victory, is surely little comfort to those six individual children. To effectively protect all children from the harm of child marriage states must set the minimum marriage age at the age of majority, with no room for exceptions.

However, reform must not be oversimplified. To dismiss a reform like Georgia's in the same category as one like Maine's, which merely set an age floor of 16 and did not demonstrably prevent *any* child marriages, would be an egregious oversight. The 100+ children whose marriages *were* prevented in Georgia the year after reform have been protected from serious harm and had the trajectory of their lives changed profoundly. This should not be undervalued. While even one child married in the U.S. is too many, public policy campaigns rarely achieve their goals overnight. Impactful, incremental progress should not be dismissed out of hand, especially when the status quo in many states is causing significant harm.

When it comes to laws limiting but not ending child marriage, the devil truly is in the details. Legislators and advocates should strive to end child marriage entirely, but where that is not possible, they must consider that leaving harm reductions on the table also puts children at risk. It may be appropriate to push for as many safeguards as can be won now, while resolving to continue advocating until all children are protected from the harms of child marriage.

In the end, the picture is more nuanced than a simple headline. The data show us that laws limiting child marriage do prevent harm, but they do not prevent 100% of it. They show us that a few additional lines of bill text can make a world of difference, but that even the most well-constructed compromise may yet allow some children fall through the cracks. They show us that some provisions are more impactful than others, but that every additional safeguard matters and is worth fighting for. The cumulative weight of small victories makes a large difference, but small victories are not enough.

Tahirih celebrates all the gains made in this national movement, and we resolve to keep pushing until the final goal is achieved: an end to all child marriage in the United States.

For more details on the data gathered or for information on the impact of a specific state's reform, please contact Tahirih Justice Center's Forced Marriage Initiative: FMI@tahirih.org

ⁱ A summary of the reforms passed since 2016, see *Summary of Marriage Age Reforms Achieved across the U.S.*, available at <https://www.tahirih.org/pubs/summary-of-marriage-age-reforms-achieved-across-the-u-s/>.

ⁱⁱ Tahirih gathered data from the following states: Georgia, Texas, Kentucky, Virginia, Utah, Colorado, Ohio, Florida, Tennessee, Connecticut, Missouri, New Hampshire, Arkansas, Idaho, Arizona, and Maine.

ⁱⁱⁱ The nature of data available makes it easiest to evaluate laws' impacts in terms of the number of children who married before and after a reform, and not the potentially changing nature of those marriages that do go forward. How empowered are these minors once married? Were they provided information, resources, and clearly-established legal rights, or simply allowed to marry with no additional safeguards? What impact, if any, have such provisions had on the day to day lives of those minors that are allowed to marry in such states? These impacts are harder to measure and outside the scope of this report.

^{iv} In the places where complete state-level data is not available, Tahirih gathered data from the state's most populous county: Maricopa County in Arizona and Salt Lake County in Utah. This makes data for those places somewhat less reliable, as the underlying demographics and socio-economic environments of a state's largest city are likely to differ in important ways from those of smaller cities or rural areas. We have kept this in mind when evaluating the impact of legislation, generally excluding these places from analysis.

Specific data are for internal Tahirih use only, as required by privacy laws in a number of states.

^v Data compiled in "[Child Marriage in North Carolina: New Evidence and Policy Recommendations](#)," *International Center for Research on Women* (August 2020) and "[United States' Child Marriage Problem](#)," *Unchained at Last* (April 2021).

^{vi} See research compiled at <https://www.tahirih.org/pubs/child-marriage-poses-serious-risks-to-children/>.

^{vii} Most states provided a full year of data. In states where multiple years of post-reform data were available, we have used the most recent data. Three states were unable to provide year-long data, so larger or smaller time periods were used.

In Texas, data comes from six-month periods running from September to February; in Florida a five-month period from July to December is used. New Hampshire uses multi-year periods pre- and post-reform, which was necessary to create a dataset large enough that the state could release it without violating the privacy of the low number of persons marrying underage both before and after the reform.

^{viii} In states where the age of majority is higher, the minimum marriage age should be set at the age of majority.

^x This consideration must be made carefully, on a case-by-case basis, with the needs of survivors at the center of the conversation. Choosing to pursue compromise where a complete end to child marriage may be possible in the short term needlessly allows harm to continue, and may dampen the momentum needed to end child marriage entirely. On the other hand, resisting compromise where a complete end to child marriage is not possible allows the harm of the status quo to continue every year that a legislature fails to act. The harm done by accepting nothing short of the ideal where it is not immediately possible should be considered alongside the harms of compromising where an end to child marriage could be achieved. Advocates and legislators must center survivors and children, present and future, in making these decisions.

^x The relative lack of impact in Ohio may be related to the fact that rates of child marriage were already lower in the state pre-reform. Every other state in this category saw at least 150 children marry annually pre-reform, while Ohio only saw 48. The number of minors married in Ohio post-reform (13) was similar to that of other states that limited marriage to legal adults (ranging from 6 to 23), but the lower initial number means the state's "percent decrease" is smaller than its peers.

^{xi} Tahirih does not believe marriage is ever in a minor's best interest, but the statutes of many states do allow judges to make this determination.

^{xii} The statutory language used in Colorado and every other state statute can be found online at <https://www.tahirih.org/pubs/understanding-state-statutes-on-minimum-marriage-age-and-exceptions/>.

^{xiii} Breitman N, Shackelford TK, Block CR, "Couple Age Discrepancy and Risk of Intimate Partner Homicide," *Violence Vict.* 2004 Jun;19(3):321-42. Available at <https://pubmed.ncbi.nlm.nih.gov/15631284/>.

^{xiv} Anjali Tsui, Dan Nolan, and Chris Amico, "Child Marriage in America: By the Numbers," *Frontline*, (July 6, 2017). Available at <http://apps.frontline.org/child-marriage-by-the-numbers/>.

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