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# A BILL FOR AN ACT

RELATING TO MINORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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PART I

2           SECTION 1. The legislature finds that child marriage has a  
3 negative impact on the physical, mental, social, and economic  
4 well-being of individuals who marry while underage. Women and  
5 girls who marry before age eighteen are especially at risk.  
6 Child, or underage, marriage has been linked to higher rates of  
7 diabetes, cancer, heart attacks, and strokes. Young women and  
8 girls who marry between the ages of sixteen and nineteen are  
9 three times more likely than the national average to experience  
10 intimate partner violence. Women and girls who marry while  
11 underage are often isolated from their families, friends,  
12 schools, and other support networks, making it difficult for  
13 them to escape or gain financial independence from abusive  
14 partners. Many individuals who marry while underage develop  
15 mood and anxiety disorders, including major depressive disorder.  
16 Child marriage frequently interrupts education, limits  
17 employment opportunities, and caps earning potential, and those



1 who marry while underage are thirty-one per cent more likely to  
2 live in future poverty. Underage marriages are also unlikely to  
3 be successful in the long term. Between seventy to eighty per  
4 cent of marriages where one or more partners was underage at the  
5 time of marriage ultimately end in divorce.

6 The legislature recognizes that these concerns have led  
7 many states to amend or to consider amending their laws on the  
8 minimum age for marriage. Under existing laws in Hawaii, minors  
9 as young as sixteen years of age may marry with parental  
10 consent, and family courts may approve marriages for minors as  
11 young as fifteen years of age. The department of health's  
12 office of health status monitoring found that, between 2010 and  
13 2020, one hundred and ninety-four marriages took place in the  
14 State where at least one party was a resident and one or more of  
15 the parties were under the age of eighteen. While in most cases  
16 both parties were under the age of eighteen, in some cases there  
17 were age differences between the parties of up to twenty-one  
18 years.

19 Accordingly, the purpose of this part is to protect the  
20 well-being of minors in the State by:



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- 1           (1) Raising the minimum age to marry in Hawaii from  
2                   sixteen to eighteen years of age;
- 3           (2) Providing that minors may not marry, even with  
4                   judicial or parental consent;
- 5           (3) Requiring, rather than permitting, family court judges  
6                   to declare marriage contracts void on the grounds that  
7                   one or both parties had not attained legal age at the  
8                   time of the marriage;
- 9           (4) Removing spousal cohabitation after the parties  
10                  attained legal age as an exception for an annulment to  
11                  be decreed on the grounds that at least one of the  
12                  parties was not of legal age at the time of marriage;  
13                  and
- 14          (5) Making conforming amendments.

15           SECTION 2. Section 386-43, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

- 17           "(a) The weekly benefits to dependents shall continue:
- 18           (1) To a surviving spouse or reciprocal beneficiary, until  
19                  death, remarriage, marriage, or entry into a new  
20                  reciprocal beneficiary relationship with two years'



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- 1 compensation in one sum upon remarriage, marriage, or  
2 entry into a new reciprocal beneficiary relationship;
- 3 (2) To or for a child:
- 4 (A) [~~So long as unmarried, until~~] Until attainment of  
5 the age of eighteen;
- 6 (B) So long as unmarried, until attainment of the age  
7 of:
- 8 (i) Twenty if the child is a full-time student  
9 at a high school, business school, technical  
10 school; or
- 11 (ii) Twenty-two if the child is a full-time  
12 undergraduate student at a college; or
- 13 (C) So long as unmarried, until termination of the  
14 child's incapability of self-support; [~~or~~
- 15 ~~(D) Until marriage, except that in the case of a~~  
16 ~~married child under eighteen, weekly benefits~~  
17 ~~shall continue during the period of actual~~  
18 ~~dependency until attainment of the age of~~  
19 ~~eighteen;]~~
- 20 (3) To a parent or grandparent, for the duration, whether  
21 continuous or not, of the actual dependency, provided



1           that the amount of the weekly benefits shall at no  
2           time exceed the amount payable at the time of death;  
3           and

4           (4) To or for a grandchild, brother, or sister, for the  
5           period in which that grandchild, brother, or sister  
6           remains actually and wholly dependent until attainment  
7           of the age of eighteen or termination of the  
8           incapability of self-support."

9           SECTION 3. Section 571-2, Hawaii Revised Statutes, is  
10          amended as follows:

11          1. By amending the definition of "guardianship of a minor"  
12          to read:

13                "Guardianship of a minor" means the duty and authority to  
14          make important decisions in matters having a permanent effect on  
15          the life and development of the minor and to be concerned about  
16          the minor's general welfare. It includes, but shall not  
17          necessarily be limited, in either number or kind to:

18                (1) The authority to consent [~~to marriage,~~] to enlistment  
19                in the armed forces of the United States[~~;~~] or to  
20                major medical, psychiatric, and surgical treatment; to  
21                represent the minor in legal actions; or to make other



- 1 decisions concerning the minor of substantial legal  
2 significance;
- 3 (2) The authority and duty of reasonable visitation,  
4 except to the extent that the right of visitation has  
5 been limited by court order;
- 6 (3) The rights and responsibilities of legal custody when  
7 guardianship is exercised by the natural or adoptive  
8 parent, except where legal custody has been vested in  
9 another individual, agency, or institution; and
- 10 (4) The authority to consent to the adoption of the minor  
11 and to make any other decision concerning the minor  
12 that the minor's parents could make, when the rights  
13 of the minor's parents, or only living parent, have  
14 been judicially terminated as provided for in the  
15 statutes governing termination of parental rights to  
16 facilitate legal adoption, or when both of the minor's  
17 legal parents are deceased."
- 18 2. By amending the definition of "residual parental rights  
19 and responsibilities" to read:
- 20 "Residual parental rights and responsibilities" means  
21 those rights and responsibilities remaining with the parent



1 after the transfer of legal custody or guardianship of the  
2 person, including, but not necessarily limited to, the right to  
3 reasonable visitation, consent to adoption [~~or marriage~~], and  
4 the responsibility for support."

5 SECTION 4. Section 571-11, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§571-11 Jurisdiction; children. Except as otherwise  
8 provided in this chapter, the court shall have exclusive  
9 original jurisdiction in proceedings:

10 (1) Concerning any person who is alleged to have committed  
11 an act prior to achieving eighteen years of age that  
12 would constitute a violation or attempted violation of  
13 any federal, state, or local law or county ordinance.  
14 Regardless of where the violation occurred,  
15 jurisdiction may be taken by the court of the circuit  
16 where the person resides, is living, or is found, or  
17 in which the offense is alleged to have occurred;

18 (2) Concerning any child living or found within the  
19 circuit:

20 (A) Who is neglected as to or deprived of educational  
21 services because of the failure of any person or



- 1 agency to exercise that degree of care for which  
2 it is legally responsible;
- 3 (B) Who is beyond the control of the child's parent  
4 or other custodian or whose behavior is injurious  
5 to the child's own or others' welfare;
- 6 (C) Who is neither attending school nor receiving  
7 educational services required by law whether  
8 through the child's own misbehavior or  
9 nonattendance or otherwise; or
- 10 (D) Who is in violation of curfew;
- 11 (3) To determine the custody of any child or appoint a  
12 guardian of any child;
- 13 (4) For the adoption of a person under chapter 578;
- 14 (5) For the termination of parental rights under sections  
15 571-61 through 571-63;
- 16 (6) For judicial consent to the [~~marriage~~,] employment[~~]~~  
17 or enlistment of a child[~~]~~ when consent is required  
18 by law;
- 19 (7) For the treatment or commitment of a mentally  
20 defective or mentally ill child, or a child with an  
21 intellectual disability;



1 (8) Under the Interstate Compact on Juveniles under  
2 chapter 582 or the Interstate Compact for Juveniles  
3 under chapter 582D;

4 (9) For the protection of any child under chapter 587A;  
5 and

6 (10) For a change of name as provided in section  
7 574-5(a)(2)(C)."

8 SECTION 5. Section 572-1, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§572-1 Requisites of valid marriage contract. In order  
11 to make valid the marriage contract, which shall be permitted  
12 between two individuals without regard to gender, it shall be  
13 necessary that:

14 (1) The respective parties do not stand in relation to  
15 each other of ancestor and descendant of any degree  
16 whatsoever, two siblings of the half as well as to the  
17 whole blood, uncle and niece, uncle and nephew, aunt  
18 and nephew, or aunt and niece, whether the  
19 relationship is the result of the issue of parents  
20 married or not married to each other or parents who



- 1 are partners in a civil union or not partners in a  
2 civil union;
- 3 (2) Each of the parties at the time of contracting the  
4 marriage is at least [sixteen] eighteen years of age;  
5 ~~[provided that with the written approval of the family~~  
6 ~~court of the circuit within which the minor resides,~~  
7 ~~it shall be lawful for a person under the age of~~  
8 ~~sixteen years, but in no event under the age of~~  
9 ~~fifteen years, to marry, subject to section 572-2,]~~
- 10 (3) Neither party has at the time any lawful wife,  
11 husband, or civil union partner living, except as  
12 provided in section 572-1.7;
- 13 (4) Consent of neither party to the marriage has been  
14 obtained by force, duress, or fraud;
- 15 (5) Neither of the parties is a person afflicted with any  
16 loathsome disease concealed from, and unknown to, the  
17 other party;
- 18 (6) The parties to be married in the State shall have duly  
19 obtained a license for that purpose from the agent  
20 appointed to grant marriage licenses; and



1           (7) The marriage ceremony be performed in the State by a  
 2           person or society with a valid license to solemnize  
 3           marriages and the parties to be married and the person  
 4           performing the marriage ceremony be all physically  
 5           present at the same place and time for the marriage  
 6           ceremony."

7           SECTION 6. Section 572-10, Hawaii Revised Statutes, is  
 8           amended to read as follows:

9           "~~§572-10 [Applicant apparently under age. If any~~  
 10          ~~applicant for a license to marry appears to any agent to be~~  
 11          ~~under the age of eighteen years, the]~~ Age of applicants. The  
 12          agent shall~~[7]~~ require, before granting a license to marry, the  
 13          production of a certificate of birth or other satisfactory proof  
 14          showing the age of ~~[the applicant]~~ both applicants."

15          SECTION 7. Section 580-21, Hawaii Revised Statutes, is  
 16          amended to read as follows:

17          "§580-21 Grounds for annulment. (a) The family court, by  
 18          a decree of nullity, may declare void the marriage contract for  
 19          any of the following causes, existing at the time of the  
 20          marriage:



- 1           (1) That the parties stood in relation to each other of  
2            ancestor and descendant of any degree whatsoever,  
3            ~~[brother and sister]~~ two siblings of the half as well  
4            as the whole blood, uncle and niece, uncle and nephew,  
5            aunt and nephew, or aunt and niece, whether the  
6            relationship is the result of the issue of parents  
7            married or not married to each other;
- 8           ~~[(2) That the parties, or either of them, had not attained~~  
9            ~~the legal age of marriage;~~
- 10          ~~+(3)]~~ (2) That ~~[the husband had an undivorced wife living,~~  
11          ~~or the wife had an undivorced husband]~~ either of the  
12          parties had an undivorced spouse living;
- 13          ~~[(4)]~~ (3) That one of the parties lacked the mental  
14          capacity to consent to the marriage;
- 15          ~~+(5)]~~ (4) That consent to the marriage of the party  
16          applying for annulment was obtained by force, duress,  
17          or fraud, and there has been no subsequent  
18          cohabitation; and
- 19          ~~+(6)]~~ (5) That one of the parties was a sufferer of or  
20          afflicted with any loathsome disease and the fact was



1           concealed from, and unknown to, the party applying for  
2           annulment.

3           (b) The family court, by a decree of nullity, shall  
4 declare void the marriage contract on the ground that the  
5 parties, or either of them, had not attained the legal age of  
6 marriage at the time of the marriage."

7           SECTION 8. Section 580-22, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§580-22 Nonage.** An action to annul a marriage on the  
10 ground that one of the parties was under legal age[7] may be  
11 brought by the parent or guardian entitled to the custody of the  
12 minor, or by any person admitted by the court to prosecute as  
13 the friend of the minor. In no case shall the marriage be  
14 annulled on the application of a party who was of legal age at  
15 the time it was contracted[7 nor when it appears that the  
16 parties, after they attained the legal age, had for any time  
17 freely cohabited as man and wife]."

18           SECTION 9. Section 572-2, Hawaii Revised Statutes, is  
19 repealed.

20           ~~["§572-2 Consent of parent or guardian. Whenever any~~  
21 ~~person who is under the age of eighteen is to be married, the~~



1 ~~written consent of his or her parents, or guardian or other~~  
2 ~~person in whose care and custody he or she may be, shall~~  
3 ~~accompany the application for a license to marry. No license~~  
4 ~~shall be issued to any minor who is under the jurisdiction of~~  
5 ~~the family court without the written consent of a judge of such~~  
6 ~~court." ]~~

7 SECTION 10. Section 572-9, Hawaii Revised Statutes, is  
8 repealed.

9 [~~"§572-9 Persons under age. Whenever any person who is~~  
10 ~~under the age of eighteen, whose parents are dead, or who is a~~  
11 ~~ward of a family court, applies for a license to marry, he or~~  
12 ~~she shall set forth in the statement accompanying the~~  
13 ~~application, the name of his or her guardian or of any other~~  
14 ~~person in whose care and custody he or she may be." ]~~

15 SECTION 11. Section 577-25, Hawaii Revised Statutes, is  
16 repealed.

17 [~~"§577-25] Emancipation of certain minors. Any law to~~  
18 ~~the contrary notwithstanding, a minor who has been married~~  
19 ~~pursuant to chapter 572 shall be deemed to be emancipated and~~  
20 ~~shall be regarded as though he or she were of legal age and~~  
21 ~~shall have all the rights, duties, privileges, and~~





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1 or she were of legal age and shall have all the rights, duties,  
2 privileges, and responsibilities provided by the civil law to a  
3 person who has reached the age of majority under civil law;  
4 provided that:

5 (1) Nothing in this section shall be deemed to confer upon  
6 ~~[such]~~ the emancipated person the right to vote in any  
7 federal, state, or county election or the right to  
8 purchase, possess, or sell alcoholic beverages; ~~[and]~~

9 (2) Nothing in this section shall change the status of  
10 ~~[such]~~ emancipated persons as minors in connection  
11 with any criminal law, nor affect the exclusive  
12 original jurisdiction of the family court over ~~[such]~~  
13 these persons under section 571-11(1) ~~[7]~~; and

14 (3) Nothing in this section shall be deemed to confer upon  
15 a partially emancipated minor any rights and  
16 responsibilities aside from those specified in the  
17 order of the court.

18 (b) For purposes of this section~~[7]~~:

19 "Guardian" has the same meaning as defined in section

20 327-2.



1       "Mature minor" means a person over sixteen years of age but  
2 under eighteen years of age who has demonstrated the ability and  
3 capacity to manage the minor's own affairs and to live wholly or  
4 partially independently of the minor's parents, guardians, or  
5 custodians.

6       [~~"minor"~~] "Minor" means a person under the age of  
7 majority[-] but not less than sixteen years old.

8       "Parent" has the same meaning as defined in section 327-2.

9       (c) The circuit court in the county where the minor  
10 resides, is found, owns property, or in which a court action  
11 affecting the interests of the minor is pending may, upon the  
12 filing of a petition by the minor, and after any hearing or  
13 notice to all persons as set forth in subsections (f), (g), and  
14 (h), enter a finding that the minor is a mature minor and order  
15 complete or partial emancipation of the minor.

16       (d) The court shall retain continuing jurisdiction over  
17 the proceedings until the emancipated minor reaches the age of  
18 eighteen and may modify or terminate its previous emancipation  
19 orders; provided that any subsequent modification or termination  
20 of a previous order shall be effective only prospectively and  
21 shall not affect any rights, duties, obligations, or causes of



1 action existing prior to the modification or termination of any  
2 order.

3 (e) The petition for emancipation shall be verified and  
4 shall include:

5 (1) The age of the minor;

6 (2) Confirmation that the minor is a resident of, owns  
7 real estate in, or is a party in any case pending in  
8 the State;

9 (3) A description of the cause for which the minor seeks  
10 to obtain partial or complete emancipation;

11 (4) The names of the minor's parents and their address or  
12 addresses, if living;

13 (5) The names and addresses of any guardians or custodians  
14 appointed for the minor;

15 (6) Documentation supporting a finding that the minor is a  
16 mature minor who has demonstrated the ability and  
17 capacity to manage the minor's own affairs; and

18 (7) Documentation confirming that the minor has lived  
19 wholly or partially independently of the minor's  
20 parents, guardian, or custodian.



1       (f) All persons named in the petition shall be given  
2 written notice within twenty-one days after the filing of the  
3 petition for emancipation. Those persons shall have a right to  
4 be present at any hearing and to be represented by counsel. All  
5 notices shall be served on the persons named in the petition  
6 either by personal service or by certified mail.

7       (g) Before proceeding to a hearing on the petition for  
8 emancipation of a mature minor, the court shall advise all  
9 persons present of the nature of the proceedings and of their  
10 rights and responsibilities if an order of emancipation should  
11 be entered.

12       (h) If, after the hearing, the court determines that the  
13 minor is a mature minor who is of sound mind and has the  
14 capacity and maturity to manage the minor's own affairs,  
15 including financial affairs, and that the best interests of the  
16 minor and the minor's family will be promoted by declaring the  
17 minor an emancipated minor, the court shall enter a finding that  
18 the minor is an emancipated minor within the meaning of this  
19 section, or that the mature minor is partially emancipated with  
20 any limitations the court deems appropriate.



1        (i) No order of complete or partial emancipation shall be  
 2 entered under this section if there is any objection by the  
 3 minor. An order of complete or partial emancipation may be  
 4 entered under this section if there is an objection by the  
 5 minor's parents or guardian only if the court finds, after a  
 6 hearing and in writing, that emancipation would be in the best  
 7 interests of the minor.

8        (j) Any judgment or order allowing or denying a complete  
 9 or partial emancipation is a final order for purposes of  
 10 appeal."

PART III

12        SECTION 13. This Act does not affect rights and duties  
 13 that matured, penalties that were incurred, and proceedings that  
 14 were begun before its effective date.

15        SECTION 14. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17        SECTION 15. This Act shall take effect upon its approval.

18

INTRODUCED BY:



JAN 25 2021



# H.B. NO. 733

**Report Title:**

Marriage; Legal Age; Annulment; Emancipation

**Description:**

Raises the minimum age to marry from 16 to 18 years of age. Provides that minors may not marry, even with parental or judicial consent. Requires family court judges to declare marriage contracts void on the grounds that one or both parties had not attained legal age at the time of marriage. Removes spousal cohabitation after the parties attained legal age as an exception for an annulment on the grounds that at least one of the parties was not of legal age at the time of the marriage. Allows a court to order the complete or partial emancipation of a minor under certain circumstances. Makes conforming amendments.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

