

JAN 21 2022

A BILL FOR AN ACT

RELATING TO MARRIAGE OF MINORS.

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

1 SECTION 1. The legislature finds that nationally and
2 internationally there is growing recognition that child marriage
3 is a human rights violation and a severe impediment to social
4 and economic development, resulting in states and countries
5 considering legislation to end the practice of allowing children
6 to marry. UNICEF describes child marriage as any formal
7 marriage or informal union between a child under the age of
8 eighteen and an adult or another child. United Nations
9 Sustainable Development Goal 5, relating to gender equality,
10 sets the year 2030 as the target for ending child marriage. The
11 Sustainable Development goals were unanimously adopted in 2015
12 by all one hundred ninety-three United Nations member states
13 including the United States.

14 The concerns about allowing children to marry is that they
15 have not reached the threshold of adulthood that grants certain
16 rights and responsibilities, including in some states the right
17 to divorce, and that a child entering into marriage may have



1 been pressured or coerced into marrying, especially if the child
2 is pregnant, or the marriage may be the result of sex
3 trafficking. According to an analysis conducted by the Public
4 Broadcasting Service's Frontline program, between 2000 and 2014
5 more than two hundred seven thousand individuals under the age
6 of eighteen married in the United States. While most children
7 were sixteen or seventeen years of age at the time of marriage,
8 some were as young as twelve years old. Girls are
9 disproportionately affected by the practice of child marriage
10 and the vast majority of these marriages were between a minor
11 female and an adult male.

12 Hawaii's laws regularly define "children" as persons who
13 are less than eighteen years of age; they are often also termed
14 "minors." Nonetheless, existing law allows children as young as
15 sixteen years of age to marry. State law further authorizes the
16 family court to approve a marriage of a child who is fifteen
17 years of age. Comparatively, sexual assault laws criminalize
18 sexual conduct with a fifteen-year-old, though an exception is
19 made if the fifteen-year-old is legally married to the sexual
20 partner or the sexual partner is no more than five years older
21 than the minor victim. Based on data from the department of



1 health, at least eight hundred children were married in Hawaii
2 since 2000, with eighty per cent of these marriages being girls
3 marrying adult men.

4 Accordingly, to balance certain protections with existing
5 law, the purpose of this Act is to require that, in the event
6 that one of the respective parties at the time of contracting
7 the marriage is a minor and the other party is more than five
8 years older than the minor, the child protective services unit
9 of the department of human services shall investigate and report
10 to the family court before the marriage is approved.

11 SECTION 2. Section 572-1, Hawaii Revised Statutes, is
12 amended to read as follows:

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

17 (1) The respective parties do not stand in relation to
18 each other of ancestor and descendant of any degree
19 whatsoever, two siblings of the half as well as to the
20 whole blood, uncle and niece, uncle and nephew, aunt
21 and nephew, or aunt and niece, whether the



1 relationship is the result of the issue of parents
2 married or not married to each other or parents who
3 are partners in a civil union or not partners in a
4 civil union;

5 (2) Each of the parties at the time of contracting the
6 marriage is at least sixteen years of age; provided
7 that with the written approval of the family court of
8 the circuit within which the minor resides, it shall
9 be lawful for a person under the age of sixteen years,
10 but in no event under the age of fifteen years, to
11 marry, subject to section 572-2; provided further that
12 in the event that one of the parties is a minor and
13 the other party is more than five years older than the
14 minor, the child protective services unit of the
15 department of human services shall investigate and
16 report to the family court before the marriage is
17 approved;

18 (3) Neither party has at the time any lawful wife,
19 husband, or civil union partner living, except as
20 provided in section 572-1.7;



(4) Consent of neither party to the marriage has been obtained by force, duress, or fraud;

(5) Neither of the parties is a person afflicted with any loathsome disease concealed from, and unknown to, the other party;

(6) The parties to be married in the State shall have duly obtained a license for that purpose from the agent appointed to grant marriage licenses; and

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

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be "J. Smith", is written over a horizontal line.

S.B. NO. 2424

Report Title:

Marriage; Legal Age

Description:

Requires that in the event that one of the respective parties to a marriage contract is a minor and the other party is more than five years older than the minor, the child protective services unit of the Department of Human Services shall investigate and report to the Family Court of the Circuit in which the minor resides before the marriage is approved.

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

