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# A BILL FOR AN ACT

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RELATING TO MARRIAGE OF MINORS.

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

1       SECTION 1. The legislature finds that there is growing  
2 recognition that child marriage is a human rights violation and  
3 a severe impediment to social and economic development. This  
4 has resulted in states and countries considering legislation to  
5 end the practice of allowing children to marry. The United  
6 Nations Children's Fund 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. The 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 are that  
15 children have not reached the threshold of adulthood that grants  
16 certain rights and responsibilities, including in some states  
17 the right to divorce, and that a child entering into marriage



1 may have been pressured or coerced into marrying, especially if  
2 the child 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 The legislature further finds that Hawaii laws typically  
13 define "children" as persons who are less than eighteen years of  
14 age; they are often also termed "minors". Nonetheless, existing  
15 law allows children as young as sixteen years of age to marry.  
16 State law further authorizes the family court to approve a  
17 marriage of a child who is fifteen years of age. Comparatively,  
18 sexual assault laws criminalize sexual conduct with a fifteen-  
19 year-old, though an exception is made if the fifteen-year-old is  
20 legally married to the sexual partner or the sexual partner is  
21 no more than five years older than the minor victim. Based on



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

4 Accordingly, to balance certain protections with existing  
5 law, the purpose of this Act is to require that when one of the  
6 parties to a marriage is a minor at the time of contracting the  
7 marriage and the other party is more than five years older than  
8 the minor, the child protective services unit of the department  
9 of human services shall investigate all parties involved in the  
10 marriage, including the prospective spouse and any person giving  
11 written consent to minor's marriage, and report its findings to  
12 the family court before the court consents to the marriage and a  
13 license may be issued.

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

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

20 (1) The respective parties do not stand in relation to  
21 each other of ancestor and descendant of any degree



1           whatsoever, two siblings of the half as well as to the  
2           whole blood, uncle and niece, uncle and nephew, aunt  
3           and nephew, or aunt and niece, whether the  
4           relationship is the result of the issue of parents  
5           married or not married to each other or parents who  
6           are partners in a civil union or not partners in a  
7           civil union;

8           (2) Each of the parties at the time of contracting the  
9           marriage is at least sixteen years of age; provided  
10          that with the written approval of the family court of  
11          the circuit within which the minor resides, it shall  
12          be lawful for a person under the age of sixteen years,  
13          but in no event under the age of fifteen years, to  
14          marry, subject to section 572-2; provided further that  
15          when one of the parties to a marriage is a minor at  
16          the time of contracting the marriage and the other  
17          party is more than five years older than the minor,  
18          the written consent of the family court of the circuit  
19          within which the minor resides shall be obtained  
20          pursuant to section 572-2;



- 1 (3) Neither party has at the time any lawful wife,  
2 husband, or civil union partner living, except as  
3 provided in section 572-1.7;
- 4 (4) Consent of neither party to the marriage has been  
5 obtained by force, duress, or fraud;
- 6 (5) Neither of the parties is a person afflicted with any  
7 loathsome disease concealed from, and unknown to, the  
8 other party;
- 9 (6) The parties to be married in the State shall have duly  
10 obtained a license for that purpose from the agent  
11 appointed to grant marriage licenses; and
- 12 (7) The marriage ceremony be performed in the State by a  
13 person or society with a valid license to solemnize  
14 marriages and the parties to be married and the person  
15 performing the marriage ceremony be all physically  
16 present at the same place and time for the marriage  
17 ceremony."

18 SECTION 3. Section 572-2, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 **"§572-2 Consent of parent or guardian[-] or family court.**

21 (a) Whenever any person who is under the age of eighteen is to



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

7 (b) When the department of health receives an application  
8 for a license to marry where one of the parties is a minor and  
9 the other party is more than five years older than the minor,  
10 the department shall inform the parties that written consent of  
11 the family court is required. The department of health shall  
12 provide written notification of the application for a license to  
13 marry to the child protective services unit of the department of  
14 human services, which shall investigate all parties involved in  
15 the marriage, including the prospective spouse and any person  
16 giving written consent to the minor's marriage. The child  
17 protective services shall submit a report of its findings to the  
18 family court within a reasonable period of not more than two  
19 weeks from the date of the application for the license to marry.  
20 Upon receipt of written consent of the family court, the



1 department of health may issue a license to marry, subject to  
2 section 572-1."

3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2060.



**Report Title:**

Marriage; Minors; Department of Health; Department of Human Services; Investigation; Family Court

**Description:**

Requires the written consent of family court for a marriage when one of the parties to the marriage is a minor at the time of contracting the marriage and the other party is more than five years older than the minor. Requires the department of health to inform the child protective services unit of the department of human services for investigation of all parties, including the prospective spouse and any person giving written consent to a minor's marriage, when one of the parties to a marriage is a minor and the other party is more than five years older than the minor. Requires the child protective services unit to provide a written report of its findings to the family court no more than two weeks from the date of the application to marry. Effective 7/1/2060. (HD1)

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