
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 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 (UNICEF) describes child marriage as any
7 formal marriage or informal union between a child under the age
8 of 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 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 Hawai'i laws typically define "children" as persons who are
13 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 Hawai'i
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 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 parents, or
2 guardian or other person in whose care and custody he or she may
3 be, shall accompany the application for a license to marry. No
4 license shall be issued to any minor who is under the
5 jurisdiction of the family court without the written consent of
6 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 30, 2075.



Report Title:

Marriage; Legal Age; Minors; Department of Health; 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. Provides that when the Department of Health receives an application for a license to marry where one of the parties is a minor and the other party is more than five years older than the minor, the Department of Health shall inform the parties that written consent of the Family Court is required. Requires the Department of Health to provide written notification of the application for a license to marry to the Child Protective Services Unit of the Department of Human Services which shall investigate all parties involved in the marriage, including the prospective spouse and any person giving written consent to the minor's marriage. Requires the Child Protective Services to submit a report of its findings to the Family Court within a reasonable period of not more than two weeks from the date of the application for the license to marry. Provides that upon receipt of written consent of the Family Court, the Department of Health may issue a license to marry. Takes effect 7/30/2075. (SD2)

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