

JAN 17 2025

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. The United Nations Children's Fund describes child
7 marriage as any formal marriage or informal union between a
8 child under the age of eighteen and an adult or another child.
9 United Nations Sustainable Development Goal 5, relating to
10 gender equality, sets the year 2030 as the target for ending
11 child marriage. The Sustainable Development goals were
12 unanimously adopted in 2015 by all one hundred ninety-three
13 United Nations member states 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 and that a child entering into
17 marriage may have been pressured or coerced into marrying,



1 especially if the child is pregnant, or the marriage may be the
2 result of sex trafficking. According to an analysis conducted
3 by the Public Broadcasting Service's Frontline program, between
4 2000 and 2015 more than two hundred seven thousand individuals
5 under the age of eighteen married in the United States. While
6 most children were sixteen or seventeen years of age at the time
7 of marriage, some were as young as twelve years old. Girls are
8 disproportionately affected by the practice of child marriage,
9 and the vast majority of these marriages were between a minor
10 female and an adult male.

11 Hawaii's laws regularly define "children" as persons who
12 are less than eighteen years of age; they are often also termed
13 "minors". Nonetheless, the law allows children as young as
14 sixteen years of age to marry. State law further authorizes the
15 family court to approve a marriage of a child who is fifteen
16 years of age. Comparatively, sexual assault laws criminalize
17 sexual conduct with a fifteen-year-old, though an exception is
18 made if the fifteen-year-old is legally married to the sexual
19 partner or the sexual partner is not more than five years older
20 than the minor victim. Based on department of health data, at
21 least eight hundred children were married in Hawaii since 2000,



1 with eighty per cent of these marriages being girls marrying
2 adult men.

3 The legislature further finds that in 2018, Delaware and
4 New Jersey became the first and second states, respectively, to
5 require that both parties to the marriage be at least eighteen
6 years of age at time of marriage. Since then, Pennsylvania,
7 Minnesota, Rhode Island, New York, Massachusetts, Vermont,
8 Connecticut, Michigan, Washington, Virginia, and New Hampshire,
9 along with American Samoa and the United States Virgin Islands,
10 have joined them to end child marriage in their jurisdictions.
11 Similar legislation has been introduced in several other states
12 as well as Congress.

13 The purpose of this Act is to end child marriage in Hawaii.

14 SECTION 2. Section 571-2, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending the definition of "guardianship of a minor"
17 to read:

18 ""Guardianship of a minor" means the duty and authority to
19 make important decisions in matters having a permanent effect on
20 the life and development of the minor and to be concerned about
21 the minor's general welfare. [It] "Guardianship of a minor"



1 includes[~~7~~] but shall not [~~necessarily~~] be limited[~~7~~, ~~in either~~
2 ~~number or kind~~] to:

3 (1) The authority to consent [~~to marriage~~,~~7~~] to enlistment
4 in the armed forces of the United States[~~7~~] or to
5 major medical, psychiatric, and surgical treatment; to
6 represent the minor in legal actions; or to make other
7 decisions concerning the minor of substantial legal
8 significance;

9 (2) The authority and duty of reasonable visitation,
10 except to the extent that the right of visitation has
11 been limited by court order;

12 (3) The rights and responsibilities of legal custody when
13 guardianship is exercised by the natural or adoptive
14 parent, except where legal custody has been vested in
15 another individual, agency, or institution; and

16 (4) The authority to consent to the adoption of the minor
17 and to make any other decision concerning the minor
18 that the minor's parents could make, when the rights
19 of the minor's parents, or only living parent, have
20 been judicially terminated as provided for in the
21 statutes governing termination of parental rights to



1 facilitate legal adoption, or when both of the minor's
2 legal parents are deceased."

3 2. By amending the definition of "residual parental rights
4 and responsibilities" to read:

5 ""Residual parental rights and responsibilities" means
6 those rights and responsibilities remaining with the parent
7 after the transfer of legal custody or guardianship of the
8 person, including[7] but not [~~necessarily~~] limited to[7] the
9 right to reasonable visitation, consent to adoption [~~or~~
10 marriage], and the responsibility for support."

11 SECTION 3. Section 571-11, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§571-11 Jurisdiction; children.** Except as otherwise
14 provided in this chapter, the court shall have exclusive
15 original jurisdiction in proceedings:

- 16 (1) Concerning any person who is alleged to have committed
17 an act before achieving eighteen years of age that
18 would constitute a violation or attempted violation of
19 any federal, state, or local law or county ordinance.
20 Regardless of where the violation occurred,
21 jurisdiction may be taken by the court of the circuit



1 where the person resides, is living, or is found, or
2 in which the offense is alleged to have occurred;

3 (2) Concerning any child living or found within the
4 circuit who is:

5 (A) Neglected as to or deprived of educational
6 services because of the failure of any person or
7 agency to exercise that degree of care for which
8 it is legally responsible;

9 (B) Beyond the control of the child's parent or other
10 custodian or whose behavior is injurious to the
11 child's own or others' welfare;

12 (C) Neither attending school nor receiving
13 educational services required by law whether
14 through the child's own misbehavior or
15 nonattendance or otherwise; or

16 (D) In violation of curfew;

17 (3) To determine the custody of any child or appoint a
18 guardian of any child;

19 (4) For the adoption of a person under chapter 578;

20 (5) For the termination of parental rights under sections
21 571-61 through 571-63;



(6) For judicial consent to the [~~marriage~~,] employment[,]
or enlistment of a child[,] when consent is required
by law;

(7) For the treatment or commitment of a mentally
defective or mentally ill child, or a child with an
intellectual disability;

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

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

(10) For a change of name as provided in section 574-
5(a)(2)(C);

(11) Concerning custody or guardianship of an immigrant
child pursuant to a motion for special immigrant
juvenile factual findings requesting a determination
that the child was abused, neglected, or abandoned
before the age of eighteen years for purposes of
section 101(a)(27)(J) of the federal Immigration and
Nationality Act. For the purposes of this paragraph,
"child" means an unmarried individual under the age of
twenty-one years; and



(12) Concerning emancipation of a minor pursuant to section 577-25."

SECTION 4. Section 572-1, Hawaii Revised Statutes, is amended to read as follows:

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

(1) The respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, two siblings of the half as well as to the whole blood, ~~[uncle and niece, uncle and nephew, aunt and nephew, or aunt and niece,]~~ or a person and the sibling of the person's parent, whether the relationship is the result of the issue of parents married or not married to each other or parents who are partners in a civil union or not partners in a civil union;

(2) Each of the parties at the time of contracting the marriage is at least ~~[sixteen]~~ eighteen years of age; ~~[provided that with the written approval of the family~~



~~court of the circuit within which the minor resides,
it shall be lawful for a person under the age of
sixteen years, but in no event under the age of
fifteen years, to marry, subject to section 572-2;]~~

(3) Neither party has at the time any lawful [~~wife,~~
~~husband,~~] spouse or civil union partner living, except
as 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."



1 SECTION 5. Section 572-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§572-10 [Applicant apparently under age. If]~~ Age of the
4 applicant. For any applicant for a license to marry [~~appears to~~
5 ~~any agent to be under the age of eighteen years]~~, the agent
6 shall, before granting a license to marry, require the
7 production of a certificate of birth or other satisfactory proof
8 showing the age of the applicant."

9 SECTION 6. Section 577-25, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) Any law to the contrary notwithstanding, a minor
13 shall be deemed to be emancipated if the minor has[+]

14 ~~(1) Entered into a valid marriage pursuant to chapter 572;~~

15 ~~or~~

16 ~~(2) Received]~~ received a declaration of emancipation
17 issued by the family court pursuant to this section."

18 2. By amending subsection (c) to read:

19 "(c) A minor shall be considered emancipated for the
20 purposes of, but not limited to the right to:



- 1 (1) Enter into enforceable contracts, including apartment
2 leases;
- 3 (2) Sue or be sued in the minor's own name;
- 4 (3) Retain the minor's personal earnings;
- 5 (4) Establish a separate domicile;
- 6 (5) Act autonomously, and with the rights and
7 responsibilities of an adult, in all business
8 relationships, including property transactions and
9 obtaining accounts for utilities, except for estate or
10 property matters that a court determines may require a
11 conservator or guardian ad litem;
- 12 (6) Earn a living, subject only to the health and safety
13 regulations designed to protect individuals under the
14 age of majority regardless of their legal status;
- 15 (7) File the minor's own tax returns and pay taxes
16 pursuant to applicable personal income tax laws;
- 17 (8) Authorize the minor's own preventive health care,
18 medical care, dental care, mental health care, and
19 substance abuse treatment without knowledge or
20 liability of the minor's parents or guardian;



1 (9) Apply for a driver's license or other state licenses
2 for which the minor may be eligible;

3 (10) Register for school;

4 ~~[(11) Marry;]~~

5 ~~[(12)]~~ (11) Apply to medical and other public assistance
6 programs administered by the State or its political
7 subdivisions;

8 ~~[(13)]~~ (12) If the minor is a parent, make decisions and
9 give authority in caring for the minor's child; and

10 ~~[(14)]~~ (13) Execute a will and other estate planning
11 documents, including trust documents, durable power of
12 attorney, and an advance health care directive."

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

15 "**§580-22 Nonage.** An action to annul a marriage on the
16 ground that one of the parties was under legal age~~[7]~~ may be
17 brought by the parent or guardian entitled to the custody of the
18 minor, or by any person admitted by the court to prosecute as
19 the friend of the minor. In no case shall the marriage be
20 annulled on the application of a party who was of legal age at
21 the time it was contracted~~[- nor when it appears that the~~



1 ~~parties, after they attained the legal age, had for any time~~
2 ~~freely cohabited as a married couple]."~~

3 SECTION 8. Section 587A-15, Hawaii Revised Statutes, is
4 amended by amending subsections (c) and (d) to read as follows:

5 "(c) Unless otherwise provided in this section or as
6 otherwise ordered by the court, a child's family shall retain
7 the following rights and responsibilities after a transfer of
8 temporary foster custody or foster custody, to the extent that
9 the family possessed the rights and responsibilities [~~prior to~~]
10 before the transfer of temporary foster custody or foster
11 custody:

12 (1) The right of reasonable supervised or unsupervised
13 visitation at the discretion of the authorized agency
14 or the court;

15 (2) The right to consent to adoption[~~, to marriage,~~] or to
16 major medical or psychological care or treatment; and

17 (3) The continuing responsibility to support the child,
18 including repayment for the cost of any care,
19 treatment, or other service provided by the authorized
20 agency or the court for the child's benefit.



1 (d) If an authorized agency has permanent custody, it has
2 the following duties and rights:

3 (1) Assuming the parental and custodial duties and rights
4 of a legal custodian and family member;

5 (2) Determining where and with whom the child shall live;
6 provided that the child shall not be placed outside
7 the State without prior order of the court;

8 (3) Ensuring that the child is provided with adequate
9 food, clothing, shelter, psychological care, physical
10 care, medical care, supervision, and other necessities
11 in a timely manner;

12 (4) Monitoring whether the child is being provided with an
13 appropriate education;

14 (5) Providing all required consents for the child's
15 physical or psychological health or welfare, including
16 medical, dental, psychiatric, psychological,
17 educational, employment, recreational, and social
18 needs;

19 (6) Providing consent for the child's application for a
20 driver's instructional permit, provisional driver's
21 license, or driver's license;



(7) Providing consent to adoption[~~7~~] and change of name[~~7~~
~~and marriage~~]; and

(8) Submitting a written report to the court if the child
leaves the home of the permanent custodian for a
period of seven consecutive days or more. The report
shall state the child's current situation and shall be
submitted on or before the tenth day, excluding
Saturdays, Sundays, and holidays, after the child
leaves the home."

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

~~["§572-2 Consent of parent or guardian. Whenever any
person who is under the age of eighteen is to be married, the
written consent of his or her parents, or guardian or other
person in whose care and custody he or she may be, shall
accompany the application for a license to marry. No license
shall be issued to any minor who is under the jurisdiction of
the family court without the written consent of a judge of such
court."]~~

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



1 [~~"§572-9 Persons under age. Whenever any person who is~~
2 ~~under the age of eighteen, whose parents are dead, or who is a~~
3 ~~ward of a family court, applies for a license to marry, he or~~
4 ~~she shall set forth in the statement accompanying the~~
5 ~~application, the name of his or her guardian or of any other~~
6 ~~person in whose care and custody he or she may be."~~]

7 SECTION 11. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect upon its approval.

10 INTRODUCED BY: Michelle D. Sudano



S.B. NO. 528

Report Title:

Marriage; Legal Age

Description:

Raises the minimum age to enter into marriage from sixteen to eighteen years of age. Repeals the authority of parents and the family court to consent to a minor's marriage. Repeals spousal cohabitation after the parties attain legal age as an exception for an annulment based on nonage. 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.

