

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 (UN) 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 UN
13 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 2014 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 Hawai'i'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 Hawai'i 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, eleven other
7 states - Pennsylvania, Minnesota, Massachusetts, Rhode Island,
8 New York, Vermont, Connecticut, Michigan, Washington, Virginia,
9 and New Hampshire, - along with American Samoa and the U.S.
10 Virgin Islands, have enacted laws to end child marriage in their
11 jurisdictions. Similar legislation has also been introduced in
12 Congress including the Child Marriage Prevention Act of 2024.

13 Accordingly, the purpose of this Act is to end child
14 marriage in Hawai'i.

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

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

19 ""Guardianship of a minor" means the duty and authority to
20 make important decisions in matters having a permanent effect on
21 the life and development of the minor and to be concerned about



1 the minor's general welfare. [~~It~~] "Guardianship of a minor"
2 includes[~~7~~] but shall not [~~necessarily~~] be limited[~~7, in either~~
3 ~~number or kind~~] to:

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

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

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

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



1 statutes governing termination of parental rights to
2 facilitate legal adoption, or when both of the minor's
3 legal parents are deceased."

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

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

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

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

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



jurisdiction may be taken by the court of the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred;

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

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

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

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

(D) In violation of curfew;

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

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



- 1 (5) For the termination of parental rights under sections
2 571-61 through 571-63;
- 3 (6) For judicial consent to the [~~marriage~~₇] employment_[7]
4 or enlistment of a child_[7] when consent is required
5 by law;
- 6 (7) For the treatment or commitment of a mentally
7 defective or mentally ill child, or a child with an
8 intellectual disability;
- 9 (8) Under the Interstate Compact on Juveniles under
10 chapter 582 or the Interstate Compact for Juveniles
11 under chapter 582D;
- 12 (9) For the protection of any child under chapter 587A;
- 13 (10) For a change of name as provided in section
14 574-5(a)(2)(C);
- 15 (11) Concerning custody or guardianship of an immigrant
16 child pursuant to a motion for special immigrant
17 juvenile factual findings requesting a determination
18 that the child was abused, neglected, or abandoned
19 before the age of eighteen years for purposes of
20 section 101(a)(27)(J) of the federal Immigration and
21 Nationality Act. For the purposes of this paragraph,



1 "child" means an unmarried individual under the age of
2 twenty-one years; and

3 (12) Concerning emancipation of a minor pursuant to section
4 577-25."

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

7 "**§572-1 Requisites of valid marriage contract.** In order
8 to make valid the marriage contract, which shall be permitted
9 between two individuals without regard to gender, it shall be
10 necessary that:

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



- 1 (2) Each of the parties at the time of contracting the
2 marriage is at least [~~sixteen~~] eighteen years of age;
3 ~~[provided that with the written approval of the family~~
4 ~~court of the circuit within which the minor resides,~~
5 ~~it shall be lawful for a person under the age of~~
6 ~~sixteen years, but in no event under the age of~~
7 ~~fifteen years, to marry, subject to section 572-2,]~~
- 8 (3) Neither party has at the time any lawful [~~wife,~~
9 ~~husband,~~] spouse or civil union partner living, except
10 as provided in section 572-1.7;
- 11 (4) Consent of neither party to the marriage has been
12 obtained by force, duress, or fraud;
- 13 (5) Neither of the parties is a person afflicted with any
14 loathsome disease concealed from, and unknown to, the
15 other party;
- 16 (6) The parties to be married in the State shall have duly
17 obtained a license for that purpose from the agent
18 appointed to grant marriage licenses; and
- 19 (7) The marriage ceremony be performed in the State by a
20 person or society with a valid license to solemnize
21 marriages and the parties to be married and the person



1 performing the marriage ceremony be all physically
2 present at the same place and time for the marriage
3 ceremony."

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

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

12 SECTION 6. Section 580-22, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§580-22~~ **Nonage.** An action to annul a marriage on the
15 ground that one of the parties was under legal age, may be
16 brought by the parent or guardian entitled to the custody of the
17 minor, or by any person admitted by the court to prosecute as
18 the friend of the minor. In no case shall the marriage be
19 annulled on the application of a party who was of legal age at
20 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 7. Section 572-2, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§572-2 Consent of parent or guardian. Whenever any~~
6 ~~person who is under the age of eighteen is to be married, the~~
7 ~~written consent of his or her parents, or guardian or other~~
8 ~~person in whose care and custody he or she may be, shall~~
9 ~~accompany the application for a license to marry. No license~~
10 ~~shall be issued to any minor who is under the jurisdiction of~~
11 ~~the family court without the written consent of a judge of such~~
12 ~~court."~~]

13 SECTION 8. Section 572-9, Hawaii Revised Statutes, is
14 repealed.

15 [~~"§572-9 Persons under age. Whenever any person who is~~
16 ~~under the age of eighteen, whose parents are dead, or who is a~~
17 ~~ward of a family court, applies for a license to marry, he or~~
18 ~~she shall set forth in the statement accompanying the~~
19 ~~application, the name of his or her guardian or of any other~~
20 ~~person in whose care and custody he or she may be."~~]



1 SECTION 9. Section 577-25, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§577-25 Emancipation of certain minors. (a) Any law to~~
4 ~~the contrary notwithstanding, a minor shall be deemed to be~~
5 ~~emancipated if the minor has:~~

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

7 ~~or~~

8 ~~(2) Received a declaration of emancipation issued by the~~
9 ~~family court pursuant to this section.~~

10 ~~(b) An emancipated minor shall be considered to have the~~
11 ~~rights and responsibilities of an adult; provided that nothing~~
12 ~~in this section shall:~~

13 ~~(1) Be deemed to confer upon an emancipated minor the~~
14 ~~right to vote in any federal, state, or county~~
15 ~~election, or the right to purchase, possess, consume,~~
16 ~~or sell alcoholic beverages, tobacco products, or~~
17 ~~electronic smoking devices;~~

18 ~~(2) Prevent the petitioning minor from continuing to~~
19 ~~receive educational, mental health, or other services~~
20 ~~the minor is receiving solely due to the minor's age;~~

21 ~~or~~



~~(3) Change the status of the emancipated minor to be deemed a minor in connection with any criminal law or affect the exclusive original jurisdiction of the family court over such persons under sections 571-11(1) and (12).~~

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

~~(1) Enter into enforceable contracts, including apartment leases;~~

~~(2) Sue or be sued in the minor's own name;~~

~~(3) Retain the minor's personal earnings;~~

~~(4) Establish a separate domicile;~~

~~(5) Act autonomously, and with the rights and responsibilities of an adult, in all business relationships, including property transactions and obtaining accounts for utilities, except for estate or property matters that a court determines may require a conservator or guardian ad litem;~~

~~(6) Earn a living, subject only to the health and safety regulations designed to protect individuals under the age of majority regardless of their legal status;~~



- ~~(7) File the minor's own tax returns and pay taxes pursuant to applicable personal income tax laws;~~
- ~~(8) Authorize the minor's own preventive health care, medical care, dental care, mental health care, and substance abuse treatment without knowledge or liability of the minor's parents or guardian;~~
- ~~(9) Apply for a driver's license or other state licenses for which the minor may be eligible;~~
- ~~(10) Register for school;~~
- ~~(11) Marry;~~
- ~~(12) Apply to medical and other public assistance programs administered by the State or its political subdivisions;~~
- ~~(13) If the minor is a parent, make decisions and give authority in caring for the minor's child; and~~
- ~~(14) Execute a will and other estate planning documents, including trust documents, durable power of attorney, and an advance health care directive.~~
- ~~(d) A minor who has reached the age of sixteen years who seeks to be emancipated may file a petition for a declaration of emancipation with the family court in the circuit in which the~~



~~1 minor resides. The petition shall be filed on behalf of the
2 minor seeking emancipation by any state agency or an attorney of
3 the minor, and a parent or guardian of a minor shall not, in
4 their individual capacity or as a representative or agent of the
5 minor, petition for emancipation of the minor.~~

~~6 (c) The petition for a declaration of emancipation shall
7 be signed and verified by the petitioning minor, and shall
8 include:~~

~~9 (1) The minor's full name and birth date;~~

~~10 (2) A certified copy of the minor's birth certificate, if
11 available;~~

~~12 (3) The name and last known address of the minor's parents
13 or guardian;~~

~~14 (4) The minor's present address and duration of the
15 minor's residency at that address;~~

~~16 (5) A declaration by the minor attesting that:~~

~~17 (A) The minor resides separately and apart from the
18 minor's parents or guardian at the minor's own
19 will;~~

~~20 (B) The minor is managing or has the ability to
21 manage the minor's financial affairs, including~~



1 ~~supporting documentation of the minor's income~~
2 ~~and expenses;~~

3 ~~(C) The minor is managing or has the ability to~~
4 ~~manage the minor's personal and social affairs,~~
5 ~~including supporting documentation on proof of~~
6 ~~housing; and~~

7 ~~(D) The source of the minor's income is not derived~~
8 ~~from any activity in violation of any laws of the~~
9 ~~State or the United States; and~~

10 ~~(6) Any other information deemed necessary by the court.~~

11 ~~The judiciary shall prepare and make available to the public~~
12 ~~forms that may be used for emancipation proceedings.~~

13 ~~(f) Upon receipt of the petition, the court shall:~~

14 ~~(1) Set a date for hearing on the petition as soon as~~
15 ~~practicable;~~

16 ~~(2) Issue a summons requiring the appearance of the~~
17 ~~minor's parents or guardian and any other person~~
18 ~~deemed necessary by the court unless the parents or~~
19 ~~guardian and the person deemed necessary by the court~~
20 ~~promise in writing to appear voluntarily; and~~



~~(3) Appoint a guardian ad litem to represent the interest of the minor throughout the pendency of the minor's emancipation proceedings.~~

~~Nothing in this subsection shall be construed to prevent the petitioning minor from obtaining the minor's own legal counsel to represent the minor in the emancipation proceeding.~~

~~(g) The fees and costs of a guardian ad litem appointed pursuant to subsection (f) may be paid for by the court, unless the minor or the minor's parents or guardian have sufficient funds.~~

~~(h) Proceedings for a petition for declaration of emancipation shall be heard by the court separately from hearings of adult cases and without a jury. The court shall grant the petition and issue a declaration of emancipation if it finds clear and convincing evidence that:~~

~~(1) The minor is at least sixteen years of age;~~

~~(2) The minor is a resident of the State;~~

~~(3) The minor resides separately and apart from the minor's parents or guardian at the minor's own will, with or without the parents' or guardian's consent,~~



~~and in absence of undue influence or coercion by a
third party;~~

~~(4) The minor is managing or has the ability to manage the
minor's financial affairs;~~

~~(5) The minor is managing or has the ability to manage the
minors' personal and social affairs;~~

~~(6) The source of the minor's income is not derived from
any activity in violation of any laws of the State or
the United States;~~

~~(7) The minor understands the minor's rights and
responsibilities as an emancipated minor in the State,
and has been given the time and opportunity to
consider alternatives to emancipation, if any, before
conclusion of the hearing;~~

~~(8) The minor is not seeking emancipation under duress,
including by coercion of a parent, guardian, or any
other third party; and~~

~~(9) Emancipation is in the best interest of the minor.~~

~~A declaration of emancipation issued by the court shall be
conclusive evidence that the minor is emancipated and shall~~



~~1 terminate the rights of the minor's parents to the custody,~~
~~2 control, services, and earnings of the minor.~~

~~3 (i) A declaration of emancipation obtained by fraud or by~~
~~4 the withholding of material information shall be voidable. A~~
~~5 petition to void a declaration of emancipation on the ground~~
~~6 that the declaration was obtained by fraud or by the withholding~~
~~7 of material information may be filed by any person with the~~
~~8 family court that issued the declaration of emancipation.~~

~~9 (j) A declaration of emancipation of a minor who has~~
~~10 subsequently become indigent with no means of support shall be~~
~~11 subject to rescission. A petition to rescind a declaration of~~
~~12 emancipation on the ground that the minor has become indigent~~
~~13 may be filed by:~~

~~14 (1) The minor declared emancipated;~~
~~15 (2) The minor's parents or former guardian; or~~
~~16 (3) The corporation counsel or county attorney of the~~
~~17 county in which the minor resides,~~
~~18 with a family court in the circuit in which the minor or the~~
~~19 parents or former guardian resides.~~



1 ~~(k) Upon filing of a petition to void or rescind a~~
2 ~~declaration of emancipation pursuant to subsection (i) or (j),~~
3 ~~the court shall:~~

4 ~~(1) Set a date for hearing on the petition as soon as~~
5 ~~practicable; and~~

6 ~~(2) Issue a summons requiring the appearance of the minor~~
7 ~~if the minor is not the petitioner, the minor's~~
8 ~~parents or former guardian, and any other person~~
9 ~~deemed necessary by the court unless the minor, the~~
10 ~~minor's parents or former guardian, and the person~~
11 ~~deemed necessary by the court promise in writing to~~
12 ~~appear voluntarily. Summons issued to the parents or~~
13 ~~former guardian of the minor shall be accompanied by a~~
14 ~~statement that they may be liable to provide support~~
15 ~~to the minor, including provision of medical insurance~~
16 ~~coverage, if the declaration of emancipation is voided~~
17 ~~or rescinded. Liability shall not accrue to a parent~~
18 ~~or guardian of a minor whose emancipation has been~~
19 ~~voided or rescinded until the parent or guardian has~~
20 ~~actual notice of the voidance or rescission.~~



~~(1) Proceedings for a petition to void or rescind a declaration of emancipation shall be heard by the court separately from hearings of adult cases and without a jury. The court shall grant the petition and issue an order.~~

~~(1) Voiding the declaration of emancipation if the court finds clear and convincing evidence that the declaration was obtained by fraud or by the withholding of material information; or~~

~~(2) Rescinding the declaration of emancipation if the court finds clear and convincing evidence that the rescission of the declaration of emancipation will be in the best interest of the minor.~~

~~The voiding or rescission of a declaration of emancipation shall not alter any contractual obligation or right or any property right or interest that arose during the period that the declaration was in effect.~~

~~(m) Service of summons issued pursuant to this section shall be made personally by the delivery of a copy thereof, together with a copy of the relevant petition, to the person summoned; provided that if a judge determines that personal service of the summons is impracticable, the judge may order~~



~~service by certified or registered mail addressed to the last known address or by publication, or both. Service effected no less than forty-eight hours before the time fixed in the summons for the return thereof shall be sufficient to confer jurisdiction; provided that jurisdiction shall be conferred if any person who might be so summoned appears voluntarily at the time and place appointed and waives the service and the notice.~~

~~Service of summons, process, or any notice required by this section may be made by any suitable person under the direction of the court and upon request of the court shall be made by any police officer.~~

~~(n) Notwithstanding any other law to the contrary, and except as otherwise provided in this section, the court shall order reasonable fees for counsel, experts, and other costs of services required in relation to a petition for declaration of emancipation, including reasonable fees for service of process of the petition, summons, and notice of hearing, to be paid by the minor's parents or guardian, regardless of whether the fees were incurred by the minor or other parties or ordered by the court.~~



~~(e) The petitioner or any other person admitted as party to a petition hearing concerning emancipation of a minor pursuant to this section may file an appeal from the court's issuance of or denial of a declaration of emancipation, an order voiding a declaration of emancipation, or an order rescinding a declaration of emancipation pursuant to section 571-54.~~

~~(p) As used in this section:~~

~~"Emancipation" means termination of the rights of the parents of a minor to the custody, control, services, and earnings of a minor.~~

~~"Guardian" means a person appointed or qualified by a court as a guardian of an individual and includes a limited guardian, but excludes a person who is merely a guardian ad litem.~~

~~"Minor" means a person under the age of majority."]~~

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

INTRODUCED BY: Karl Rhoad



S.B. NO. 560

Report Title:

Marriage; Legal Age

Description:

Raises the minimum age requirement to enter into marriage from sixteen to eighteen years of age. Removes the parental consent and written approval by the family court requirements for a minor to marry. Removes 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.

