

SB-279-SD-1

Submitted on: 2/25/2021 7:34:46 PM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Rhoads, Vice Chair Keohokalole and members.

Strong support for this measure.

Let us join with the United Nations in their goal of eliminating child marriage globally by 2030. This violation of human rights should not exist ever, but most certainly not in the 21st Century.

Please Pass,

Mahalo, Ann S. Freed

Mililani, Hawaii

Members of Senate,

I testify today as an individual citizen, disabled veteran, and mother of a special needs child. I also testified at the originating SB279 hearing (verbally and written testimony).

My testimony is specific to the following statement from SB279 SD1, “Accordingly, to balance certain protections with existing law, the purpose of this Act is to require that, in the event one of the respective parties at the time of contracting the marriage 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 before the marriage is approved.”

What are those checks and balances from the department of human services? As of 26 February 2021, those standards have not been communicated to the public. How do these recommended amendments address minors with special needs? If I may recommend an alternate approach to sustaining balance of certain protections with existing law:

“...the child protective services unit of the department of human services shall investigate and report to the family court, **for a period no less than 3 years, or 18 years of age, or whichever occurs first**, before the marriage is approved.”

Allow your department of human services ample time to conduct interviews, voluntary psychiatric evaluations, and independent research of family history, economic situation, 5-year growth plans, etc. The intent would be to circumvent sex trafficking and coercion (as mentioned in SB279 SD1).

Please provide an amended example of how SB279 SD1 will change the language on the Hawaii social services website, and existing marriage license forms;

[Hawaii.gov | Search Results \(ehawaii.gov\)](#)

[Your marriage record is vital \(hawaii.gov\)](#)

Finally, how many man hours would be dedicated to these investigations? Would these investigations result in the need of additional task forces – similar to those located throughout the continental United States? Would the department of human services work in coordination with sex trafficking coalitions?

In my humble opinion, these are the kinds of inquiries that will either weaken the existing laws or strengthen them.

Thank you for your time and consideration.

Joreida Torres

Owner, JET2020 LLC

Testimony in OPPOSING Senate Bill 279 Unless Amended (Relating to Marriage of Minors)

Alex Goyette, Public Policy Associate

March 2, 2021

Chair Rhoads, Vice Chair Keohokalole, and Honorable Members of the Senate Committee on Judiciary:

The Tahirih Justice Center (Tahirih) is a non-profit legal advocacy organization has been serving survivors of domestic violence, sexual assault, human trafficking, and other abuses since 1997.

Tahirih has unique legal and policy expertise in forced and child marriage as U.S. problems. Through Tahirih's Forced Marriage Initiative, launched in 2011, we have worked on several hundred cases involving women and girls nationwide. Tahirih has also compiled extensive research on child marriage in the United States, including a 50-state statutory compilation, an in-depth report that compares and analyzes all states' minimum marriage age laws and exceptions, a compilation of stories from survivors' of child marriage in the United States, and a policy brief reflecting on progress made in the national movement to end child marriage since 2016.ⁱ

We strongly support the sponsor's intent to address child marriage in Hawaii. However, we are concerned that the language in the amended bill does not fully protect children from the harms of child marriage, in particular when that marriage is one they are forced or pressured into.

For this reason, **we submit this testimony in opposition of Senate Bill 279 as amended, and ask that this committee restore the bill to its state as introduced.**

As introduced, this important reform would have taken a simple but powerful step to protect Hawaii's children by matching the state's minimum marriage age to its legal age of adulthood (age 18),ⁱⁱ eliminating exceptions in current law that permitted over 600 children to be married in Hawaii between 2000 and 2010ⁱⁱⁱ and that leave Hawaii as 1 of only 5 states nationwide that sets a minimum marriage age younger than age 16.

As introduced this reform would have accomplished three critical commonsense objectives—preventing forced marriages of children; ensuring that both parties to a marriage are fully empowered to protect themselves from abuse; and preventing early marriages that put children at acute risk for devastating, lifelong consequences.

The amendment made by the Committee on Health fails on all three objectives, and should be removed.

Forced marriages can happen in the U.S. for many reasons. They can arise in families and communities where parents expect to control the marriage choices of their children, or

ATLANTA

230 Peachtree Street NW
Atlanta, GA 30303
Suite 1960
Tel: 470-481-4700
Fax: 470-481-7400
Atlanta@tahirih.org

BALTIMORE

211 E. Lombard Street
Suite 307
Baltimore, MD 21202
Tel: 410-999-1900
Fax: 410-630-7539
Baltimore@tahirih.org

GREATER DC | NATIONAL

6400 Arlington Boulevard
Suite 400
Falls Church, VA 22042
Tel: 571-282-6161
Fax: 571-282-6162
TTY: 711
GreaterDC@tahirih.org
Justice@tahirih.org

HOUSTON

1717 St. James Place
Suite 450
Houston, TX 77056
Tel: 713-496-0100
Fax: 713-481-1793
Houston@tahirih.org

SAN FRANCISCO BAY AREA

881 Sneath Lane
Suite 115
San Bruno, CA 94066
Tel: 650-270-2100
Fax: 650-466-0006
SFBayArea@tahirih.org

tahirih.org

where marrying young is the norm. Some individuals are pushed to marry to prevent or address sex or pregnancy outside of marriage, or as a cover-up for rape or sexual abuse. Sometimes, an abusive dating partner will threaten or coerce an individual into marriage. In other cases, sexual predators can target, “groom,” and then pressure vulnerable girls to marry them, in order to further isolate and control them and to have round-the-clock access to them without fear of prosecution. Children can also be compelled to marry when poor, abusive, or neglectful parents try to offload them on others. Some parents even seek to gain financially from such arrangements. When a judge is asked to approve such a marriage, they all too often act as a simple rubber stamp for this parental coercion.

While both adults and children can face forced marriages, children are especially susceptible to coercion, and particularly disempowered to advocate for themselves because of their legal status as minors. Many “escape routes” that are wide open to adults are closed, or much more challenging to access, for minors.

Without being able to exercise self-help options minors must rely on systems-help, but are often reluctant to do so because of mandatory reporting laws on child abuse. They realize that disclosing abuse could set in motion serious consequences over which they would have no control, including that their parents could go to jail, or that they and their siblings could be put into foster care.

SB 279 SD 1 injects CPS into a situation for which they are not trained, potentially causing further harm to the minor party to the marriage. In Tahirih’s experience across the country, child protective services invariably fails to investigate forced marriage allegations, typically considering it outside their mandate, or does not take appropriate action. CPS staff are not typically trained to handle situations involving an abuser who is not the parent/guardian – such as the intended spouse of a minor. They are also not typically trained in the nuance of forced marriage cases so will be unlikely to spot the warning signs and will fail to intervene at all, let alone effectively. Involvement of inadequately trained CPS staff can subject a girl to retaliation, causing her to rescind any request for help and making it more difficult for advocates to work with her as her family begins to monitor her more closely or even moves up the date of the marriage.

The amended SB 279 may harm minors who intend to marry a spouse greater than 5 years in age difference, but it provides *no* protection for the majority of minors^{iv} who marry an adult closer in age – leaving in place a dangerous status quo.

Age gap is not the best indicator or predictor of abuse. Relationships between close-in-age peers can be every bit as violent and manipulative as those between couples with a larger age gap. If one partner is over age 18, the rights they are granted as an adult give them a significant degree of additional power in the relationship compared to their minor partner, setting the table for manipulation and exploitation backed by the force of Hawaiian law granting rights to one partner while denying them to the other. SB 279 SD 1 does nothing to address this imbalance for the majority of minors who face child marriage.

SB 279 SD 1 would also preserve Hawaii’s current minimum marriage age of just 15 years old, keeping the state as one of only 5 nationwide that sets a statutory age floor below 16. Among other protection issues, the preservation of such a low age floor means that the bill lacks protections for even obviously harmful cases by having the state of Hawaii continue to grant marriage licenses to couples for whom sex outside of marriage would be a criminal offense.^v

The bill will also fail to protect girls from the domino effects of marrying underage, which can dramatically heighten their vulnerability to abuse. Up to 80% of marriages involving someone underage end in divorce, and teen mothers who marry and later divorce can be made worse-off long-term—more than twice as likely to live in future poverty—than teen mothers who do not marry.

Women who marry as teens are also more likely to have more children overall and to do so more quickly, to drop out of school, to have fewer work opportunities, and to wind up poor. They also experience more medical and mental health problems, both short- and long-term.^{vi} All this can increase their dependence, and limit their options in the event of divorce or domestic violence.

In sum, there are significant child-protection concerns inherent to every child marriage. Hawaii's current law on minimum marriage age turns a blind eye to these concerns, and SB 279 SD I does nearly nothing to address them.

There is a rapidly growing national movement to overhaul antiquated minimum marriage age laws that put children at risk. Since 2016, 11 states have effectively ended child marriage. Delaware, New Jersey, Minnesota, and Pennsylvania have all passed bills prohibiting marriage under age 18, with no exceptions. Virginia, Texas, New York, Kentucky, Ohio, Georgia, and Indiana passed more complex bills limiting marriage to legal adults (age 18 or older, with a limited exception for court-emancipated minors). Several other states also have pending bills that, like SB 279 in its original form, would ban all marriage under age 18 if passed this year.

Hawaii should assert its place as a leader in this historic movement by taking swift action now to restore SB 279 to its form as introduced.

The Tahirih Justice Center urges this Committee to oppose Senate Bill 279 SD I unless amended to its form as introduced to end child marriage in Hawaii.

ⁱ A full copy of Tahirih's 50-state report, along with other resources, is available at www.tahirih.org/childmarriagepolicy.

ⁱⁱ See Haw. Rev. Stat. Ann. § 571-2 (2011). (defining any person under age 18 as a "child").

ⁱⁱⁱ See statistics compiled in New York Times, "11 Years Old, a Mom, and Pushed to Marry Her Rapist in Florida" (May 26, 2017), available at <https://www.nytimes.com/>.

^{iv} See testimony submitted by Hawaii Department of Health (February 12, 2021).

^v See Haw. Rev. Stat. §§ 707-730, 707-731, and 707-732 (sexual assault in the first through third degrees).

^{vi} See research cited in Tahirih Justice Center, "Child Marriage Poses Serious Risks to Children," available at www.tahirih.org/childmarriagepolicy.

SB-279-SD-1

Submitted on: 3/1/2021 6:42:11 AM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Bilyk	Individual	Support	No

Comments:

SB 279 SD1 Relating to Marriage of Minors

I support this bill.

Patricia L Bilyk, RN, MPH, MSN

Testimony to the Senate Committee on Judiciary | March 2, 2021
SB279: Relating to Marriage of Minors – SUPPORT WITH AMENDMENTS

Chair Rhoads and distinguished committee members: Unchained At Last is the only organization dedicated to ending forced and child marriage in Hawai'i and across the U.S. through direct services and advocacy. **Unchained urges you to amend and then vote "YES" on SB279.**

Child Marriage Is a Serious Problem

The marriage age is 18, but dangerous loopholes allow 16- and 17-year-olds to marry with parental "consent" and 15-year-olds to marry with parental consent and judicial approval.¹

Dangers in the Current Law

- When a child is forced to marry, the perpetrators are typically the parents. Parental "consent" is often "coercion."
- Judges have wide discretion to approve even the marriage of a child who is too young to consent to sex.
- Even more robust judicial review process still would put the onus on a child who is being forced to marry to choose whether to be honest with the court and face the repercussions at home, or to lie to the court.
- Children are effectively disempowered through the process, entered into marriages by parents and/or a judge.
- A child is automatically emancipated upon marriage,² which likely ends their parents' financial obligation to them, regardless of the child's level of financial or emotional independence.
- Typically, an adult age 20 or older who has sex with a 15-year-old can be charged with sexual assault – but not if they are married to each other.³ Between 2000 and 2019, at least one and possibly two adults age 20 or older married 15-year-olds⁴ and received a "get out of jail free" card.

Devastating Consequences of Child Marriage

- Teens can easily be forced into marriage or forced to stay in a marriage before they turn 18.⁵ Even at 15, 16 or 17, they cannot easily leave home,⁶ enter a domestic violence shelter,⁷ retain an attorney⁸ or bring a legal action including seeking a protective order.⁹
- Child marriage destroys girls' health, education and economic opportunities, and increases their risk of experiencing violence.¹⁰ **The U.S. State Department has called marriage before 18 a "human rights abuse."**¹¹
- Those who marry before 18 have a 70-80% chance of divorcing – and teen mothers who marry and then divorce are more likely to suffer economic deprivation and instability than teen mothers who stay single.¹²

¹ Haw. Rev. Stat. §§ 572-1, 572-2, 572-9, 572-10.

² Haw. Rev. Stat. § 577-25.

³ Haw. Rev. Stat. §§ 707-730, 707-732.

⁴ Based on marriage license data from Hawai'i Department of Health, retrieved by Unchained and analyzed by Dr. Alissa Koski and her graduate students at McGill University in Montreal (expected to be published soon).

⁵ Haw. Rev. Stat. § 577-1: The age of adulthood is 18.

⁶ Leaving home before 18 is a status offense. See Haw. Rev. Stat. §§ 571-2, 571-11(2)(B). See also Hawai'i State Judiciary, *Juvenile Proceedings*, available at https://www.courts.state.hi.us/self-help/juvenile/juvenile_proceedings.

⁷ Unchained has found domestic violence shelters across the U.S. typically do not accept minors who are unaccompanied by a parent or guardian because of the potential legal liability minors bring.

⁸ Contracts with minors, including retainer agreements with attorneys, are generally voidable. See Haw. Rev. Stat. § 577-1. See also *Jellings v. Pioneer Mill Co.*, 30 Haw. 184, 186-87 (Haw. 1927).

⁹ Haw. Rev. Stat. §§ 551-2, § 587A-16(a). Note that children are automatically emancipated upon marriage and should get the rights listed here, but those rights arrive too late for a child facing a forced marriage.

¹⁰ Fraidy Reiss, *Why Can 12-Year-Olds Still Get Married in the United States*, Washington Post (10 February 2017).

¹¹ <https://2009-2017.state.gov/documents/organization/254904.pdf>.

¹² <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2467&context=facpubs>.

Alarming Statistics

- 811 children age 15 to 17 were married in Hawai'i between 2000 and mid-2020.
- 82% were girls wed to adult men.¹³

Simple Legislative Solution

SB279 as introduced would have cost nothing, harmed no one and save girls from a human rights abuse. It would have kept the marriage age at 18 and eliminated the dangerous loopholes that allow marriage before that age – the same approach that states across the U.S. and countries around the world are taking.

Harmful Amendment to SB279

However, SB279 has since been amended so that it would no longer eliminate the dangerous loopholes in current statute. Instead, SB279 as amended would keep the loopholes in place and require child protective services (“CPS”) to “investigate and report to the family court” when a minor marries someone more than five years older. This amendment would defeat the purpose of the bill and render it useless:

- The bill as amended does not mitigate the high risk of forced child marriage. Close-in-age exceptions might make sense in the context of statutory rape, since studies show sex between a minor and a partner who is close in age is less likely to be coercive than sex between a minor and a much older adult.¹⁴ However, when a child is forced to marry, the perpetrators are almost always the parents, so the power imbalance of concern is between the child and the parents, not the child and the spouse or future spouse. Limiting the age difference between the spouses in no way addresses this power imbalance nor reduces the likelihood of forced marriage.
- The bill as amended does nothing to address the devastating, lifelong consequences of child marriage, which are no less severe if a child marries someone close to their age.
- The bill as amended continues to allow adults age 20 or older to marry 15-year-olds and legally rape them. What is the point of a CPS investigation that confirms a statutory rape of a child is about to occur and then allows it to happen?
- A CPS investigation, like judicial review, puts the onus on a terrified child to alert the investigator that they are being forced to marry.
- It is unclear how the amended bill would work for 16- or 17-year-olds. The bill would require CPS to report its findings to the court, but the court is not involved in the marriage of 16- and 17-year-olds.

Let's End Child Marriage

Please **amend SB279 back to its original form and vote YES** so we can end child marriage, a human rights abuse that destroys girls' lives. (More information about child marriage is at unchainedatlast.org.)

¹³ Based on marriage-license data Unchained retrieved from the Hawai'i Department of Health.

¹⁴ <https://www.gutmacher.org/journals/psrh/2010/08/partner-age-differences-educational-contexts-and-adolescent-female-sexual>.

Testimony to the Senate Committee on Judiciary | March 2, 2021
SB279: Relating to Marriage of Minors – SUPPORT WITH AMENDMENTS

Chair Rhoads and distinguished committee members: Unchained At Last is the only organization dedicated to ending forced and child marriage in Hawai'i and across the U.S. through direct services and advocacy. **Unchained urges you to amend and then vote "YES" on SB279.**

Child Marriage Is a Serious Problem

The marriage age is 18, but dangerous loopholes allow 16- and 17-year-olds to marry with parental "consent" and 15-year-olds to marry with parental consent and judicial approval.¹

Dangers in the Current Law

- When a child is forced to marry, the perpetrators are typically the parents. Parental "consent" is often "coercion."
- Judges have wide discretion to approve even the marriage of a child who is too young to consent to sex.
- Even more robust judicial review process still would put the onus on a child who is being forced to marry to choose whether to be honest with the court and face the repercussions at home, or to lie to the court.
- Children are effectively disempowered through the process, entered into marriages by parents and/or a judge.
- A child is automatically emancipated upon marriage,² which likely ends their parents' financial obligation to them, regardless of the child's level of financial or emotional independence.
- Typically, an adult age 20 or older who has sex with a 15-year-old can be charged with sexual assault – but not if they are married to each other.³ Between 2000 and 2019, at least one and possibly two adults age 20 or older married 15-year-olds⁴ and received a "get out of jail free" card.

Devastating Consequences of Child Marriage

- Teens can easily be forced into marriage or forced to stay in a marriage before they turn 18.⁵ Even at 15, 16 or 17, they cannot easily leave home,⁶ enter a domestic violence shelter,⁷ retain an attorney⁸ or bring a legal action including seeking a protective order.⁹
- Child marriage destroys girls' health, education and economic opportunities, and increases their risk of experiencing violence.¹⁰ **The U.S. State Department has called marriage before 18 a "human rights abuse."**¹¹
- Those who marry before 18 have a 70-80% chance of divorcing – and teen mothers who marry and then divorce are more likely to suffer economic deprivation and instability than teen mothers who stay single.¹²

¹ Haw. Rev. Stat. §§ 572-1, 572-2, 572-9, 572-10.

² Haw. Rev. Stat. § 577-25.

³ Haw. Rev. Stat. §§ 707-730, 707-732.

⁴ Based on marriage license data from Hawai'i Department of Health, retrieved by Unchained and analyzed by Dr. Alissa Koski and her graduate students at McGill University in Montreal (expected to be published soon).

⁵ Haw. Rev. Stat. § 577-1: The age of adulthood is 18.

⁶ Leaving home before 18 is a status offense. See Haw. Rev. Stat. §§ 571-2, 571-11(2)(B). See also Hawai'i State Judiciary, *Juvenile Proceedings*, available at https://www.courts.state.hi.us/self-help/juvenile/juvenile_proceedings.

⁷ Unchained has found domestic violence shelters across the U.S. typically do not accept minors who are unaccompanied by a parent or guardian because of the potential legal liability minors bring.

⁸ Contracts with minors, including retainer agreements with attorneys, are generally voidable. See Haw. Rev. Stat. § 577-1. See also *Jellings v. Pioneer Mill Co.*, 30 Haw. 184, 186-87 (Haw. 1927).

⁹ Haw. Rev. Stat. §§ 551-2, § 587A-16(a). Note that children are automatically emancipated upon marriage and should get the rights listed here, but those rights arrive too late for a child facing a forced marriage.

¹⁰ Fraidy Reiss, *Why Can 12-Year-Olds Still Get Married in the United States*, Washington Post (10 February 2017).

¹¹ <https://2009-2017.state.gov/documents/organization/254904.pdf>.

¹² <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2467&context=facpubs>.

Alarming Statistics

- 811 children age 15 to 17 were married in Hawai'i between 2000 and mid-2020.
- 82% were girls wed to adult men.¹³

Simple Legislative Solution

SB279 as introduced would have cost nothing, harmed no one and save girls from a human rights abuse. It would have kept the marriage age at 18 and eliminated the dangerous loopholes that allow marriage before that age – the same approach that states across the U.S. and countries around the world are taking.

Harmful Amendment to SB279

However, SB279 has since been amended so that it would no longer eliminate the dangerous loopholes in current statute. Instead, SB279 as amended would keep the loopholes in place and require child protective services (“CPS”) to “investigate and report to the family court” when a minor marries someone more than five years older. This amendment would defeat the purpose of the bill and render it useless:

- The bill as amended does not mitigate the high risk of forced child marriage. Close-in-age exceptions might make sense in the context of statutory rape, since studies show sex between a minor and a partner who is close in age is less likely to be coercive than sex between a minor and a much older adult.¹⁴ However, when a child is forced to marry, the perpetrators are almost always the parents, so the power imbalance of concern is between the child and the parents, not the child and the spouse or future spouse. Limiting the age difference between the spouses in no way addresses this power imbalance nor reduces the likelihood of forced marriage.
- The bill as amended does nothing to address the devastating, lifelong consequences of child marriage, which are no less severe if a child marries someone close to their age.
- The bill as amended continues to allow adults age 20 or older to marry 15-year-olds and legally rape them. What is the point of a CPS investigation that confirms a statutory rape of a child is about to occur and then allows it to happen?
- A CPS investigation, like judicial review, puts the onus on a terrified child to alert the investigator that they are being forced to marry.
- It is unclear how the amended bill would work for 16- or 17-year-olds. The bill would require CPS to report its findings to the court, but the court is not involved in the marriage of 16- and 17-year-olds.

Let's End Child Marriage

Please **amend SB279 back to its original form and vote YES** so we can end child marriage, a human rights abuse that destroys girls' lives. (More information about child marriage is at unchainedatlast.org.)

¹³ Based on marriage-license data Unchained retrieved from the Hawai'i Department of Health.

¹⁴ <https://www.gutmacher.org/journals/psrh/2010/08/partner-age-differences-educational-contexts-and-adolescent-female-sexual>.

SB-279-SD-1

Submitted on: 3/1/2021 8:32:14 AM

Testimony for JDC on 3/2/2021 9:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kawehi Bringas	Individual	Support	No

Comments:

March 1 2021

To: Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

From: Kawehi Bringas

Subject: Support of Senate Bill 279 SD1, Relating to Marriage of Minors

Aloha, my name is Kawehi Bringas. I am currently a junior at Kalaheo High School and part of the school's student council. I strongly believe that SB 297 SD1 would be a significant change for our community and would like to ask for your support. This bill allows a process of safety for the minors involved in marriage, as it gives child protective services the ability to investigate and report to family court before the marriage is approved.

Child marriage is a worldwide issue that affects numerous adolescents. The United Nations website states there are "37,000 girls under the age of 18 [that] are married each day". In some cases, the minor is forced into the settlement because of reasons they have no power over. These purposes possibly being poverty, religion, tradition, or their way for survival. It's also inevitable to consider the rash decision being a result of human trafficking.

Statistics continue to voice the concerns on this matter as "1 in 9 girls are married before 15 years old" (International Women's Health Coalition). These are young girls who are missing the opportunity to properly mature in health and education aspects. A marriage status is a commitment that needs a great amount of effort. The minors are instantly forced into dealing with adult experiences, such as sexual relationships and finances, without having a chance to live their youth freely. Child pregnancy is at a high risk in these situations and could cause great consequences. Unfortunately, it has been studied that "complications in

pregnancy and childbirth is the leading cause of death in girls, ages 15-19 years old” (NCBI).

To prevent our youth from the negative outcomes of child marriage, it’s crucial for our community to go forth with a proposal that will ensure their protection. Thank you for the opportunity to express my concerns. I hope you will consider supporting SB 279 SD1, in hopes for a better future for all children.