
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 Hawaii 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 Hawaii
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 approves the marriage.

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

15 **"§572-1 Requisites of valid marriage contract.** In order
16 to make valid the marriage contract, which shall be permitted
17 between two individuals without regard to gender, it shall be
18 necessary that:

- 19 (1) The respective parties do not stand in relation to
20 each other of ancestor and descendant of any degree
21 whatsoever, two siblings of the half as well as to the



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

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



1 minor's marriage, and report its findings to the
2 family court before the marriage is approved;

3 (3) Neither party has at the time any lawful wife,
4 husband, or civil union partner living, except as
5 provided in section 572-1.7;

6 (4) Consent of neither party to the marriage has been
7 obtained by force, duress, or fraud;

8 (5) Neither of the parties is a person afflicted with any
9 loathsome disease concealed from, and unknown to, the
10 other party;

11 (6) The parties to be married in the State shall have duly
12 obtained a license for that purpose from the agent
13 appointed to grant marriage licenses; and

14 (7) The marriage ceremony be performed in the State by a
15 person or society with a valid license to solemnize
16 marriages and the parties to be married and the person
17 performing the marriage ceremony be all physically
18 present at the same place and time for the marriage
19 ceremony."

20 SECTION 3. New statutory material is underscored.

21 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Marriage; Legal Age; Minors; Department of Human Services; Child Protective Services Unit; Investigation

Description:

Requires the Department of Human Services' Child Protective Services Unit to investigate all parties involved in a marriage, including the prospective spouse and any person giving written consent to minor's marriage, and report its findings to the family court before the court approves the 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. (SD1)

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