



‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine

Testimony on behalf of the
Hawai‘i State Commission on the Status of Women

In Support of S.B. 2424 SD2

Dear Chair Yamane, Vice Tam, and Honorable Members,

The Hawai‘i State Commission on the Status of Women **supports** the intent of S.B. 2424 SD2, which seeks to screen for problematic child marriages. All child marriages where the adult party, almost always an adult man, is 5 years older than the minor are problematic and should be banned—even if the minor believes he loves her. It is easy for adults to manipulate minors. The power imbalance in this situation is inherently problematic and incompatible with gender equality.

Sincerely,

Khara Jabola-Carolus
Executive Director

SB-2424-SD-2

Submitted on: 3/16/2022 10:47:10 AM

Testimony for HHH on 3/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Rainbow Family 808	Support	Written Testimony Only

Comments:

Rainbow Family 808 supports SB2424. Please pass this bill. Thank you.

Mike Golojuch, Sr., Secretary/Board Member, Rainbow Family 808

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 904 Honolulu, Hawaii 96813

Phone: (808) 489-9549

Web site: <http://www.hysn.org> E-mail: info@hysn.org

Carole Gruskin, President

Judith F. Clark, Executive Director

Bay Clinic

Big Brothers Big Sisters Hawaii

Big Island Substance Abuse Council

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Collins Consulting, LLC

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children's Justice Center of Maui

Get Ready Hawai'i

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action Network

Hawaii Health & Harm

Reduction Center

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Kokua Ohana Aloha (KOA)

Maui Youth and Family Services

Na Pu'uwai Molokai Native

Hawaiian Health Care Systems

P.A.R.E.N.T.S., Inc.

Parents and Children Together (PACT)

PHOCUSED

PFLAG - Kona Big Island

Planned Parenthood of the

Great Northwest and

Hawaiian Islands

Residential Youth Services

& Empowerment (RYSE)

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community

Center

The Catalyst Group

March 16, 2022

To: Representative Ryan Yamane, Chair,
And members of the Committee on Health, Human Services and
Homelessness

TESTIMONY IN SUPPORT OF SB 2424 SD 2 RELATING TO MARRIAGE OF MINORS

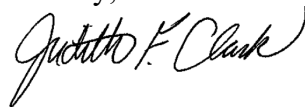
Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, supports SB 2424 SD 2 Relating to Marriage of Minors.

HYSN supports laws and practices that protect minors from sexual and other forms of exploitation by adults. We believe that, when an adult marries a minor who is five or more years younger, there may be risk of harm and exploitation.

HYSN agrees that Child Welfare Services should conduct an investigation and make a report to the Court prior to approval of the marriage.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director

SB-2424-SD-2

Submitted on: 3/16/2022 2:07:19 PM

Testimony for HHH on 3/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ashley Galacgac	AF3IRM Hawai'i	Support	Written Testimony Only

Comments:

Chair Yamane, Vice Chair Tam, and Honorable Members,

Please pass SB2424. There is no such thing as a child spouse. This measure helps to safeguard vulnerable children from harm and coercion. Thank you for your leadership on this measure.

SB-2424-SD-2

Submitted on: 3/16/2022 8:20:34 PM

Testimony for HHH on 3/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

The age for marriage should be 21 and not Before.

SB-2424-SD-2

Submitted on: 3/16/2022 9:20:54 PM

Testimony for HHH on 3/18/2022 9:30:00 AM

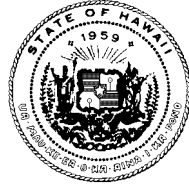
Submitted By	Organization	Testifier Position	Testify
Susan Diana Harvey	Individual	Support	Written Testimony Only

Comments:

I support SB 2424. Ideally, only individuals who are 18 years or older should be able to get married. One reason is if the minor is a victim of spousal abuse he/she cannot receive services as a victim unless given permission by his/her spouse. Though this does not make it illegal to marry a minor it does put a process in place to investigate the adult marrying the minor as well as the adult giving consent to the marriage for the minor.

Please pass this bill to protect our minors.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 17, 2022

TO: The Honorable Representative Ryan I. Yamane, Chair
House Committee on Health, Human Services, & Homelessness

FROM: Cathy Betts, Director

SUBJECT: **SB 2424 SD2 – RELATING TO MARRIAGE OF MINORS.**

Hearing: March 18, 2022, 9:30 a.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent, provides comments, requests clarification, and suggests further amendments.

PURPOSE: The purpose of this measure 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)

The SD1 amended the measure by:

- (1) Clarifying that when one of the parties to a marriage is a minor at the time of contracting the marriage and the other party is more than five years older than the minor, the Department of Human Services' Child Protective Services Unit is required to investigate all parties involved in the 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; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

The SD2 amended the measure by:

- (1) Clarifying that written consent of the Family Court is required 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;
- (2) Specifying 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;
- (3) Specifying that the Department of Health shall 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;
- (4) Specifying that the Child Protective Services shall 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;
- (5) Inserting an effective date of July 30, 2075, to encourage further discussion; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

The Department appreciates the clarification of the SD1 and SD2. However, DHS Department requests further clarification. As currently drafted, it is still lawful for minors to be married and minors to marry someone who is five years older, with the consent of the Family Court. As the DHS Child Welfare Branch (CWS) (not unit) investigates reports of child abuse and neglect, it is unclear what standard other than investigating child abuse and neglect the Legislature intends CWS to follow. Also, it is unclear what the effect of a disposition of "not

confirmed" will mean regarding the pending marriage. The Department clarifies that a finding of "not confirmed" has nothing to do with whether the couple is suitable for marriage.

The Child Welfare Services Branch is mandated to investigate reports of child abuse or neglect of children. Pursuant to section 350-1, Hawaii Revised Statutes (HRS), "child abuse or neglect" means the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child's care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed.

If any party is from out of state, it will be challenging to complete an investigation in the two weeks proposed, especially if the consenting parent or guardian or family home is not in the State of Hawai'i, and we can't verify their identity or relationship to the minor.

Also, if we considered background checks as a minimum, a Hawaii criminal history check would require the parties' written consent, a fee, and time. If the person is from out of state, written consent and fingerprints are required to conduct a national background check and will take longer to obtain. Fingerprinting is also required to obtain a national background check for a Hawaii resident. CWS would also likely check whether the child is on a missing children's list, which may also take some time to gather. If any party is a non-U.S. citizen visiting the country, it is unclear what the expectation is regarding an assessment and how one can be done timely.

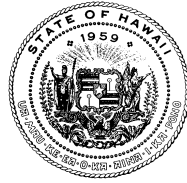
Based on the statistics provided by the Department of Health, the number of these marriages between minors and an adult more than five years older is small. If this bill passes, CWS requests the effective date be significantly extended to give CWS, the Department of the Attorney General, the Department of Health, and the Judiciary, the opportunity to discuss the process and procedures to facilitate these investigations and potentially recommend additional legislation.

Additionally, while CWS social workers are considered experts in child protective services or child welfare services, they are not mental health experts; a qualified mental health expert should determine issues related to capacity. Currently, CWS lacks the additional staff, expertise, and resources to investigate and submit reports to the court for marriage contracts

of minors. The measure does not include any appropriation for additional staff or resources for CWS to develop, train, and implement these investigations.

Alternatively, the DHS requests an appropriation to retain a marriage and family therapist or other qualified mental health professional to consult and assist with the needed investigation.

Thank you for the opportunity to provide comments on this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
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**Testimony COMMENTING on SB2424 SD2
RELATING TO MARRIAGE OF MINORS.**

REP. RYAN I. YAMANE
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Hearing Date: March 18, 2022

Room Number: Video and 329

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The Department of Health (DOH) expresses concerns with the
3 wording of SB2424 SD2 that may significantly impact implementation. Proposed subsection
4 572-2(b) requires DOH to report to the Department of Human Services (DHS) upon receipt of an
5 application for marriage where one of the parties is a minor and at least five years younger than
6 the other party. This notification subsequently triggers an investigation that shall last no longer
7 than two weeks by DHS to substantiate the facts provided by the couple, including the legitimacy
8 of parental or guardian's consent.

9 Approximately two-thirds of marriage licenses are issued to out-of-state couples. It may be
10 infeasible for DHS to conduct an investigation if one of the parties' legal residence is another US
11 state or a foreign country. The proposed workflow may only be workable if the minor is a
12 resident of Hawaii.

13 DOH respectfully provides the following data for context, which were derived from marriage
14 license data that may inform the deliberations of the Legislature. Approximately 20,000 licenses
15 are issued each year. In general, marriage with persons under the age of 18 is an uncommon
16 occurrence, but there are a small number of outlier cases that prompt closer scrutiny proposed by
17 this measure precisely because of the age difference.

18

1 Hawaii-Based Couples

2 From 1/1/2010 to 9/30/2020, out of 237,163 marriages there were 216 people under the age of 18
3 (153 brides and 63 grooms), or 0.09% where both partners claims Hawaii residency. A further
4 breakdown reveals:

5 • Brides:

- 6 ○ 16 years old = 30
- 7 ○ 17 years old = 108

8 • Grooms:

- 9 ○ 16 years old = 8
- 10 ○ 17 years old = 48

11 The vast majority of couples are within a few years of each other, i.e., teens marrying teens, but
12 there are a small number of outliers ranging from 10 to 21 years age difference for both bride and
13 groom, e.g. thirty-plus year old man/woman marrying teen girl/boy.

14 Couples with Hawaii Resident and Mainland/Other Partner

15 In the same time frame, 19 marriages involved a person under 18 and a non-resident. Similar to
16 Hawaii-only couples, most participants were within a few years of each other though there were
17 two clear outliers where the groom was older by many years. Also, one state of origin for both
18 bride and groom is over-represented, with the rest mostly from the West Coast but not
19 exclusively.

20 • Brides:

- 21 ○ 16 years old = 6
- 22 ○ 17 years old = 9

23 • Grooms:

- 24 ○ 16 years old = 2
- 25 ○ 17 years old = 5

1 Thank you for the opportunity to testify.

2 **Offered Amendments:** N/A.

3

Testimony to the Senate Committee on Human Services and Committee on Health | February 10, 2022
SB2424: Relating to Marriage of Minors – OPPOSE

Chair San Buenaventura, Chair Keohokalole, Vice Chair Ihara, Vice Chair Baker and distinguished committee members:

Unchained At Last is a survivor-led nonprofit dedicated to ending forced and child marriage in Hawai'i and across the U.S. through direct services and advocacy. **We at Unchained urge the state legislature to vote "NO" on SB2424.**

The marriage age is 18,¹ but loopholes allow marriage before that age. Parents may enter a 16- or 17-year-old into marriage with nothing more than a signature, without any input from the minor.² Parents may marry off a 15-year-old with judicial approval.³

These loopholes disempower and seriously endanger minors

- The law provides no recourse for teens whose parents are forcing them into an unwanted marriage. We have found – as we provide crucial services to forced and child marriage survivors across the U.S. – that when an individual is forced to marry, the perpetrators are almost always the parents. And we have seen repeatedly that even when a teen sobs openly and begs for help, the clerk is powerless to intervene.
- The judicial review process does not require judges to interview the minor; indeed it does not include any criteria courts are required to consider before approving the marriage of a 15-year-old other than the requirement that the minor reside in the court's jurisdiction.⁴ This gives courts wide discretion to approve, for example, marriage between a child and a registered sex offender.
- Even a more robust judicial-review process would put the onus on a teen whose parents are forcing them to marry to figure out how to explain their predicament to the court without facing repercussions at home. Due to this pressure, **every teen we have worked with has stayed silent or lied to the court.**
- A child is automatically emancipated upon marriage,⁵ which likely ends their parents' financial obligation to them, regardless of the child's level of financial or emotional independence. **This automatic emancipation through marriage without regard to financial status can force the minor to become financially dependent on their spouse, and it can lead to teen homelessness,** especially since 70-80% of marriages before age 18 end in divorce.⁶
- 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.⁷ Between 2000 and 2019, at least one and possibly two adults age 20 or older married 15-year-olds⁸ and received a "get out of jail free" card.

¹ Hawaii Revised Statutes (Haw. Rev. Stat.) §§ 572-1; 572-2; 572-9; 572-10.

² *Id.*

³ *Id.*

⁴ Haw. Rev. Stat. § 572-1(2). Note that judicial review is not required for the marriage of 16- or 17-year-olds.

⁵ Haw. Rev. Stat. § 577-25.

⁶ Vivian Hamilton, *The Age of Marital Capacity: Reconsidering Recognition of Adolescent Marriage*, William & Mary Law School Scholarship Repository (2012), <https://scholarship.law.wm.edu/facpubs/1430>.

⁷ Haw. Rev. Stat. §§ 707-730, 707-732.

⁸ Alissa Koski, *et. al.*, *Child Marriage or Statutory Rape?*, Journal of Adolescent Health (pending publication).

Devastating Consequences of Child Marriage

- Teens can easily be forced into marriage before they turn 18.⁹ Even at 15, 16 or 17, they cannot easily leave home,¹⁰ enter a domestic violence shelter,¹¹ retain an attorney¹² or bring a legal action including seeking a protective order.¹³
- Marriage before age 18 is recognized as a “human rights abuse.”¹⁴ **It destroys nearly every aspect of American girls’ lives, including their health, education and economic opportunities¹⁵ and even their physical safety.¹⁶**
- Teen mothers who marry and then divorce are more likely to suffer economic deprivation and instability than teen mothers who stay single – and, as noted above, teen marriage has a 70-80% divorce rate.¹⁷
- **Child marriage undermines reproductive and sexual rights.** Globally, child marriage is associated with higher rates of sexually transmitted infections including HIV, as well as early and unwanted pregnancies, because child brides often are unable to negotiate safe sex and access to medical care.¹⁸ Indeed, individuals in the U.S. who married before age 18 report high rates of unwanted or unplanned pregnancies.¹⁹ Child marriage can easily be forced marriage, and in our experience, a forced marriage at any age typically means the loss of reproductive rights, with survivors forced to have unprotected marital sex and to endure pregnancy and childbirth without their consent.

Child marriage is happening at an alarming rate

- 811 children age 15 to 17 were married in Hawai‘i between 2000 and mid-2020.²⁰
- 82% were girls wed to adult men.²¹
- Between 2000 and 2019, at least one and possibly two adults age 20 or older married 15-year-olds and received a “get out of jail free” card.²²

Waiting until 18 to marry brings obvious benefit, and it does not cause harm, beyond an inconvenience, for teens who are eager to marry but must hold off for a matter of months

- **A girl is pregnant and wants to co-parent? She and the father can easily co-parent outside of marriage** by merely signing a voluntary acknowledgement of paternity under oath and filing it with the department of health.²³ Such acknowledgement “confers or imposes rights, privileges, duties, and

⁹ Haw. Rev. Stat. § 577-1: The age of adulthood is 18.

¹⁰ 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.

¹¹ 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.

¹² 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).

¹³ 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.

¹⁴ U.S. Department of State, et al., *United States Global Strategy to Empower Adolescent Girls* (March 2016), <https://2009-2017.state.gov/documents/organization/254904.pdf>.

¹⁵ Fraidy Reiss, *Child Marriage in the United States: Prevalence and Implications*, Journal of Adolescent Health (December 2021), [https://www.jahonline.org/article/S1054-139X\(21\)00341-4/fulltext](https://www.jahonline.org/article/S1054-139X(21)00341-4/fulltext).

¹⁶ Individuals in the U.S. who were married before age 18 report high rates of physical, sexual, financial or emotional abuse during their marriage as well as unwanted or unplanned pregnancies. See: Aditi Wahi et al., *The Lived Experience of Child Marriage in the United States*, Social Work Public Health (12 February 2019), <https://pubmed.ncbi.nlm.nih.gov/30747055>. Note that this is consistent with global trends. See, for example: Rachel Kidman, *Child Marriage and Intimate Partner Violence: A Comparative Study of 34 Countries*, International Journal of Epidemiology (April 2017), <https://academic.oup.com/ije/article/46/2/662/2417355>.

¹⁷ Vivian Hamilton, *The Age of Marital Capacity: Reconsidering Recognition of Adolescent Marriage*, William & Mary Law School Scholarship Repository (2012), <https://scholarship.law.wm.edu/facpubs/1430>.

¹⁸ United Nations Children’s Fund (UNICEF), *Ending Child Marriage: Progress and Prospects* (July 2014), <https://data.unicef.org/resources/ending-child-marriage-progress-and-prospects>.

¹⁹ Aditi Wahi et al., *The Lived Experience of Child Marriage in the United States*, Social Work Public Health (12 February 2019), <https://pubmed.ncbi.nlm.nih.gov/30747055>.

²⁰ Fraidy Reiss, *Child Marriage in the United States: Prevalence and Implications*, Journal of Adolescent Health (December 2021), [https://www.jahonline.org/article/S1054-139X\(21\)00341-4/fulltext](https://www.jahonline.org/article/S1054-139X(21)00341-4/fulltext).

²¹ Based on marriage-license data Unchained retrieved from the Hawai‘i Department of Health.

²² Alissa Koski, et. al., *Child Marriage or Statutory Rape?*, Journal of Adolescent Health (pending publication).

²³ Haw. Rev. Stat. § 584-4(a)(6); §584-23.6.

obligations”²⁴ that extend “to every such child and to every such parent, regardless of the marital status of the parents.”²⁵ (Again, note that a pregnant teenage girl in the U.S. who marries is highly likely to divorce and then much more likely to suffer economic deprivation and instability than a pregnant girl who stays single, as explained above.)

- **A teen needs financial, healthcare, housing or other resources they cannot get from their parents?** We must make options available to teens that do not require them to enter a contractual sexual relationship from which they cannot easily escape. Using a minor’s current economic dependence to justify an early marriage is harmful public policy that sets up the minor for a lifetime of dependence. **Not only does economic dependence contribute to the risk of domestic violence,²⁶ but many abuse survivors cite economic dependence as the main reason they felt compelled to stay in a violent home.²⁷**
- **A teen is in an abusive home and needs an escape?** Again, we must make options available to vulnerable teens that do not require them to enter a contractual sexual relationship from which they cannot legally escape. **Marriage before 18 is a known driver of domestic violence,²⁸ not a solution to it.**

SB2424 Is Not a Solution

- **SB2424 does not eliminate the dangerous loopholes in current statutes.** Instead, SB2424 keeps the loopholes in place and requires child protective services (“CPS”) to “investigate and report to the family court” when a minor marries someone more than five years older. SB2424 will not eliminate child marriage and is harmful:
 - The bill 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.²⁹ 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 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 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 SB2424 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.

²⁴ Haw. Rev. Stat. § 584-1.

²⁵ Haw. Rev. Stat. § 584-2.

²⁶ RF Bornstein, *The Complex Relationship Between Dependency and Domestic Violence: Converging Psychological Factors and Social Forces*, *American Psychologist* (September 2006), <https://www.ncbi.nlm.nih.gov/pubmed/16953747>.

²⁷ Nancy Salamone, *Domestic Violence and Financial Dependency*, *Forbes* (2 September 2010), <https://www.forbes.com/2010/09/02/women-money-domestic-violence-forbes-woman-net-worth-personal-finance.html>.

²⁸ Individuals in the U.S. who were married before age 18 report high rates of physical, sexual, financial or emotional abuse during their marriage as well as unwanted or unplanned pregnancies. See: Aditi Wahi et al., *The Lived Experience of Child Marriage in the United States*, *Social Work Public Health* (12 February 2019), <https://pubmed.ncbi.nlm.nih.gov/30747055>. Note that this is consistent with global trends. See, for example: Rachel Kidman, *Child Marriage and Intimate Partner Violence: A Comparative Study of 34 Countries*, *International Journal of Epidemiology* (April 2017), <https://academic.oup.com/ije/article/46/2/662/2417355>.

²⁹ <https://www.guttmacher.org/journals/psrh/2010/08/partner-age-differences-educational-contexts-and-adolescent-female-sexual>.

Simple Legislative Solution

States across the U.S. are moving to eliminate all marriage before 18, without exceptions. Specifically, they are keeping the marriage age at 18 but eliminating the dangerous loopholes that allow adults to enter minors into marriage with little or no input from the minor, before the minor has the legal rights necessary to navigate a contract as serious as marriage. **Legislation to this effect harms no one, costs nothing and ends a human rights abuse.** Due to this national movement to end child marriage, **Hawai'i, which does not impose a residency requirement for the marriage of 16- or 17-year-olds,³⁰ risks becoming a destination site for child marriage.**

Governments around the world are also moving to eliminate marriage before age 18, since 193 countries – including the U.S. – have promised to end child marriage by year 2030, under United Nations Sustainable Development Goal 5.3.³¹

Let's End Child Marriage

For the numerous reasons expressed above, we are in strong opposition to SB2424 and respectfully urge you to **vote "NO" on SB2424,** unless the bill is amended to remove the dangerous loopholes that allow child marriage, so we can end child marriage, a human rights abuse that destroys girls' lives.

³⁰ Haw. Rev. Stat. § 572-1(2); 572-6.

³¹ United Nations Department of Economic and Social Affairs, *Sustainable Development* (2015), <https://sdgs.un.org/goals/goal5>: Goal 5 is "Achieve gender equality and empower all women and girls." Target 5.3 is "Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation." Indicator 5.3.1 is "Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18."



Testimony in **OPPOSING** Senate Bill 2424 Unless Amended (Relating to Marriage of Minors)

Alex Goyette, Senior Public Policy Associate

March 18, 2022

Chair Yamane, Vice Chair Tam, and Honorable Members of the House Committee on Health, Human Services, & Homelessness:

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 sponsors' intent to address child marriage in Hawaii. However, we are concerned that the 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 2424, and ask that this committee issue an unfavorable report unless amended to end child marriage in Hawaii.**

This measure leaves in place Hawaii's current statute that fails to tie the state's minimum marriage age to the legal age of adulthood (age 18),ⁱⁱ preserving exceptions that permitted over 600 children to be married in Hawaii between 2000 and 2010ⁱⁱⁱ and that leave Hawaii as one of only four states nationwide that sets a minimum marriage age younger than age 16.

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 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

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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. 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 2424 introduces 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, child protective services across the country invariably fails to investigate legitimate forced child 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 recant any request for help and making it more difficult for advocates to work with her as her family, believing she has disclosed abuse and asked for help, begins to monitor her more closely, cut off their communication entirely, or even moves up the date of the marriage.

SB 2424 may harm minors who intend to marry a spouse greater than 5 years in age difference, while also providing *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 2424 does nothing to address this imbalance for the majority of minors who face child marriage.

SB 2424 would also preserve Hawaii’s current minimum marriage age of just 15 years old, keeping company with only four other states nationwide that sets a statutory age floor so dangerously low. Among other protection issues, the preservation of such a low age floor means that the bill lacks protections for even the most 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 also fails 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 2424 does nearly nothing to address them in any meaningful way.

There is a rapidly growing national movement to overhaul antiquated minimum marriage age laws that put children at risk. Since 2016, 12 states have effectively ended child marriage. Delaware, New Jersey, Minnesota, Pennsylvania, Rhode Island, and New York have all passed bills prohibiting marriage under age 18, with no exceptions. Virginia, Texas, 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 would tie marriage age to legal adulthood if passed this year.

Hawaii should assert its place as a leader in this historic movement by issuing amending SB 2424 to set a minimum marriage age of 18, without exceptions. This is the simplest, best way to protect Hawaii's children from the harms of forced and child marriage.

**The Tahirih Justice Center urges this Committee to oppose Senate
Bill 2424 unless amended 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.