

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 575 (Wahab)  
Version: January 3, 2024  
Hearing Date: January 11, 2024  
Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

Marriage: prohibition on minors

**DIGEST**

This bill prohibits minors under the age of 18 years, except emancipated minors, from entering into a marriage or a domestic partnership.

**EXECUTIVE SUMMARY**

California is one of five states that has no minimum age at which a person can enter into a marriage or a domestic partnership, provided that a person under 18 who wishes to marry or enter into a domestic partnership obtains a court order granting them permission to do so. The process by which such a court order can be obtained, as put in place by SB 273 (Hill, Ch. 660, Stats. 2018) is robust and requires, among other things, the minor who wishes to get married to be interviewed privately on two separate occasions to ensure that they are not being coerced or threatened into the marriage. According to data from the State Registrar, fewer than 20 minors have been married in the state each year since SB 273 was enacted; in 2022, the most recent year for which data are available, only 9 minors were married.

These numbers do not mean that California does not have a problem with minors marrying. There is other evidence suggesting that minors are being placed in marriages in higher numbers; it is unclear, however, whether these marriages are through the state or are predominantly extralegal “marriages” performed through a religious or other institution without state sanction. And as a general matter, early marriage correlates with bad outcomes, particularly for women and girls. Studies show that women who marry as minors are likely to be abused by their husbands and experience negative financial, health, and educational outcomes. There is not, however, qualitative evidence regarding the small number of state-sanctioned marriages performed in California each year.

This bill, as currently in print, prohibits persons under 18 from marrying or entering into a domestic partnership unless the person is an emancipated minor, and makes related changes to the state's marriage and domestic partnership laws to reflect this prohibition. Under this bill, there is no circumstance in which an unemancipated minor can consent to marriage. To the extent Californian minors are being forced into extralegal "marriages," this bill would not affect those situations.

In order to ensure that the Legislature has adequate information about the scope and nature of minor marriages in California, the author has agreed to amend the bill to (1) delete the provisions prohibiting minors from entering into a court-authorized marriage or domestic partnership and the related provisions, and (2) add provisions for the collection of accurate and precise data regarding minor marriages in California. The amendments will, among other things, require the State Registrar to compile a report with the numbers of all of the marriage certificates recorded in which one or more party is a minor, and establish a grant, to be awarded to an institution to be determined, to conduct a study of extralegal minor marriage in the state. With this information, the Legislature will be in a better position to determine how to craft policy to protect minors.

This bill is sponsored by the author. This bill is opposed by ACLU California Action and the National Center for Youth Law.

### **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Defines "minor" as an individual under 18 years of age. (Fam. Code, § 6500.)
- 2) Limits a minor's ability to give legal consent or be legally liable for their actions, including:
  - a) Providing that a minor is civilly liable for a wrong done by the minor, but is not liable for exemplary damages unless the minor was capable of knowing that the act was wrongful. (Fam. Code, § 6600.)
  - b) Providing that a minor may, in some cases, make a contract in the same manner as an adult; however, a minor cannot give a delegation of power, make a contract relating to real property, or make a contract relating to personal property not in the immediate possession or control of the minor, and the minor may, in most cases, disaffirm a contract within a reasonable time afterwards. (Fam. Code, §§ 6700, 6701, 6710.)
  - c) Providing that a minor may consent to certain medical and mental health treatments, including medical care related to the prevention or treatment of pregnancy (at any age), treatment for injuries caused by intimate partner violence (at age 12 years or older), and treatment for opioid use disorder (12

- years of age for most treatments; 16 years of age for opioid use disorder treatments involving buprenorphine). (Fam. Code, §§ 6920-6930.)
- d) Providing that a minor aged 16 years or older may, with the consent of a parent or court approval, enlist in the Armed Forces of the United States. (Fam. Code, § 6950.)
- 3) Provides that a person is an emancipated minor if any of the following conditions is satisfied:
- a) The person has entered into a valid marriage or has established a valid domestic partnership, regardless of whether the marriage or domestic partnership has been dissolved.
  - b) The person is on active duty with the Armed Forces of the United States.
  - c) The person has received a declaration of emancipation from the court, as specified. (Fam. Code, §§ 7002, 7120, 7122.)
- 4) Provides that an emancipated minor shall be considered an adult for most purposes, including:
- a) The minor's right to be supported by their parents.
  - b) The right of the minor's parents to the minor's earnings and to control the minor.
  - c) The minor's capacity to consent to medical, dental, or psychiatric care, without parental consent, knowledge, or liability.
  - d) The minor's capacity to enter into a binding contract, give a delegation of power, or buy, sell, lease, encumber, or transfer an interest in real property.
  - e) The minor's capacity to sue or be sued, and compromise, settle, arbitrate or adjust a claim or proceeding.
  - f) The minor's capacity to make or revoke a will.
  - g) The minor's capacity to establish their own residence, apply for a work permit without parental consent, and enroll in a school or college. (Fam. Code, § 7050.)
- 5) Provides that two unmarried persons 18 years of age or older, who are not otherwise disqualified, are capable of consenting to and consummating marriage or a domestic partnership. (Fam. Code, §§ 297.1, 301.)
- 6) Notwithstanding 5), permits an unmarried person under 18 years of age and otherwise qualified to consent to a marriage or domestic partnership with the consent of a parent or guardian and a court order. If the minor has no parent or guardian capable of consenting, the court may grant permission as well as issue the order. (Fam. Code, §§ 297.1, 302, 303.)
- 7) Establishes the procedure by which a minor may obtain a court order to enter into a marriage or domestic partnership, as required under 6), as follows and subject to the exceptions in 8) and 9):

- a) Family Court Services must separately interview the parties intending to marry and, if applicable, at least one of the parents or guardian of each party who is a minor. If more than one parent or guardian is interviewed, they must be interviewed separately.
- b) Family Court Services must prepare and submit to the court a written report containing an assessment of potential force, threat, persuasion, fraud, coercion, or duress by either of the parties or their family members relating to the intended marriage, as well as Family Court Services' recommendation for either granting or denying the parties permission to marry. If Family Court Services knows or reasonably suspects that either party is a victim of child abuse or neglect, Family Court Services shall submit a report of the known or suspected child abuse or neglect to the county child protective services agency.
- c) After receiving the Family Court Services report, the court must separately interview in camera (privately and off the record) each of the parties prior to making a final determination regarding the court order, and consider whether there is evidence of coercion or undue influence on the minor.
- d) If the court issues an order granting permission to marry or enter into a domestic partnership, and if one or both of the parties is a minor, the parties shall be eligible to request a marriage license no earlier than 30 days from the time the court issued the order.
- e) As parts of its order granting permission to marry or enter into a domestic partnership, the court shall, if it considers necessary, require the parties to the prospective marriage or domestic partnership to participate, prior to the marriage or establishment of the domestic partnership, in counseling concerning social, economic, and personal responsibilities incident to the marriage or domestic partnership; the parties shall not be required to confer with religious counselors of any denomination. In determining whether to order counseling, the court shall consider, among other factors, the availability of the parties to pay for counseling; the court may impose a reasonable fee to cover the cost of counseling provided by the court or county, which shall be used exclusively to cover the cost of the counseling services.
- f) For purposes of the data collection in 12)-15), the court order granting permission to enter into the marriage or domestic partnership must include the gender and date of birth of each party.
- g) Upon the issuance of an order granting permission to enter into the marriage or domestic partnership, the minor shall be provided with information regarding the rights and responsibilities of an emancipated minor; the circumstances under which a marriage or domestic partnership may be determined to be void or voidable and adjudged a nullity; the procedures for legal separation and dissolution of a marriage or termination of a domestic partnership; telephone numbers for the National Domestic Violence Hotline and the National Sexual Assault Hotline; and the conditions under which an

- unemancipated minor may leave home and seek to remain in a shelter or otherwise live separately from the minor's parent guardian and whether their consent is required, the rights of an unemancipated minor to apply for a protective order or restraining order to prevent abuse, and the rights of a minor to enter into contracts, including for legal services and mental health counseling. (Fam. Code, §§ 297.1, 304.)
- 8) Exempts, from the interview, report, and 30-day waiting period requirements (set forth in 7)(a)-(d)), a minor who is 17 years of age and has achieved a high school diploma or a high school equivalency certificate. (Fam. Code, §§ 297.1(h)(1), 304(f)(1).)
  - 9) Exempts, from the 30-day waiting period requirement, a minor who is 16 or 17 years of age and who is pregnant or whose prospective spouse or domestic partner is pregnant. (Fam. Code, §§ 297.1(h)(2), 304(f)(2).)
  - 10) Requires a person solemnizing a marriage involving a minor to return to the county recorder, along with the marriage license, a copy of the court order granting permission to marry, if one or both of the parties to the marriage were minors at the time of solemnization. (Fam. Code, § 423.)
  - 11) Requires the court order and written consent of the parent(s) or guardian(s) of each minor entering into a domestic partnership to be filed with the clerk of the court and a certified copy of the order to be filed with the Secretary of State with the Declaration of Domestic Partnership. (Fam. Code, § 297.1 (a).)
  - 12) Requires the Secretary of State to create a document, and make the document available to the public on request, updated annually by March 1 of each year, disaggregated by county, containing the following information concerning domestic partnerships registered in the preceding calendar year and in which one or both of the parties were minors at the time the domestic partnership was established:
    - a) The total number of those registered domestic partnerships.
    - b) For each domestic partnership, the age of each party at the time the domestic partnership was established.
    - c) For each domestic partnership, the gender of each party as documented on the court order, unless the court order does not include gender. (Fam. Code, § 298.8.)
  - 13) Requires the local registrar of marriages to submit to the State Registrar, at least annually, all of the following information concerning marriage certificates accepted for registration by them during the same calendar year and in which both of the parties were minors at the time of solemnization of the marriage:
    - a) The total number of those marriage certificates.

- b) For each of those marriages, the age of each party at the time of solemnization of the marriage.
  - c) For each of those marriages, the gender of each party as documented in the court order, unless the court order does not include gender. (Health & Saf. Code, § 102356(a).)
- 14) The local registrar of marriages may, but is not required, to submit the information in 13) if the local registrar of marriages did not receive a copy of the court order from the person solemnizing the marriage, as required in 8). (Health & Saf. Code, § 102356(c).)
- 15) Requires the State Registrar to create a document, and make the document available to the public on request, updated annually by March 1 of each year, disaggregated by county, containing the information received from the local registrars under 13). (Health & Saf. Code, § 102233.)
- 16) Permits a minor to make a valid premarital agreement or other marital property agreement if the minor is emancipated, has obtained a court order and permission to marry as required in 5), or has entered or is entering a marriage that is valid in the jurisdiction where the marriage is solemnized. (Fam. Code, § 1501.)
- 17) Permits a party to terminate a domestic partnership in one of two ways:
- a) Through a Notice of Termination of Domestic Partnership filed with the Secretary of State, provided that the domestic partnership is not more than five years in duration, there are no children of the relationship of the parties, and other conditions are met. This process allows the parties to terminate the domestic partnership without filing a proceeding for dissolution with the courts. (Fam. Code, § 299(a)-(b).)
  - b) Through a proceeding for the dissolution of a domestic partnership, nullity of domestic partnership, and legal separation of partners in a domestic partnership in the superior court. This proceeding is essentially the same as a proceeding for dissolution of marriage. (Fam. Code, § 299(d).)
- 18) Permits a party to terminate a marriage through a proceeding for dissolution of marriage in the superior court, which is commenced through the filing of a petition. (Fam. Code, div. 6, §§ 2000 et seq.)
- 19) Provides that a marriage is voidable and may be adjudged a nullity if, at the time of the marriage, certain conditions existed, including:
- a) The party who commences the proceeding to have the marriage adjudged a nullity was a minor, unless the party entered into the marriage with the requisite court order and permission from a parent or guardian.

- b) Consent of either party was obtained by fraud, unless the party whose consent was obtained by fraud afterwards, with full knowledge of the facts constituting the fraud, freely cohabitated with the other as their spouse.
  - c) Consent of either party was obtained by force, unless the party whose consent was obtained by force afterwards freely cohabitated with the other as their spouse. (Fam. Code, § 2210.)
- 20) Establishes the crime of unlawful sexual intercourse with a minor, provided the perpetrator is not the spouse of the minor, as follows:
- a) An adult (defined as a person aged 18 years or older) who engages in an act of unlawful sexual conduct with a minor less than two years younger than the adult is liable for a civil penalty not to exceed \$2,000.
  - b) An adult who engages in an act of unlawful sexual intercourse with a minor at least two years younger than the adult is liable for a civil penalty not to exceed \$5,000.
  - c) A person who engages in an unlawful act of sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator is guilty of a misdemeanor.
  - d) A person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony and shall be punished by imprisonment of up to three years and liable for a civil penalty not to exceed \$10,000.
  - e) A person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or felony, and shall be punished for a term of imprisonment of up to four years and a civil penalty not to exceed \$25,000. (Pen. Code, § 261.5.)

This bill:

- 1) Prohibits a person under 18 years of age from marrying or entering into a domestic partnership, unless the person is an emancipated minor.
- 2) Repeals the provisions related to the court order procedure for a minor to enter into a marriage or domestic partnership.
- 3) Modifies the conditions under which a minor may make a valid premarital agreement, so that a minor may make a valid premarital agreement or other marital property agreement if the minor is emancipated, the minor entered into a marriage in this state pursuant to a court order and parental permission prior to January 1, 2025, or the minor has entered or is entering a marriage that is valid in the jurisdiction where the marriage is solemnized.
- 4) Provides that a marriage is voidable and may be adjudged a nullity of the person who commences, or on whose behalf the proceeding is commenced, was a minor at

the time the party entered into the marriage, unless the party entered into the marriage pursuant to a court order and parental permission prior to January 1, 2025.

- 5) Modifies the emancipated minor statute, so that a person may become an emancipated minor through marriage if the person entered into a valid marriage either (1) in another state or country, or (2) in this state pursuant to a court order and parental permission prior to January 1, 2025.
- 6) Modifies the reporting requirements for the Secretary of State, local registrars, and State Registrar regarding minor marriages and domestic partnerships, so that the reports will include information about only emancipated minors who entered into a marriage or domestic partnership.

### COMMENTS

#### 1. Author's comment

According to the author:

I firmly believe that the state of California should make every effort to protect children from opportunities for abuse and coercion. SB 575 prohibits the marriage of a minor child, unless already legally emancipated. In a state that believes we should put “children on a path to a healthier future by focusing on their minds, bodies, and environments,” we all have a responsibility to ensure children maintain their rights to bodily and intellectual autonomy for healthy development.

#### 2. Minor marriage in California: the law

California is one of five states that has no minimum age for marriage or domestic partnerships, along with Mississippi, New Mexico, Oklahoma, and Washington.<sup>1</sup> While a minor – a person under the age of 18 – cannot consent to marriage on their own, a minor can still enter into a marriage with the permission of a parent or guardian and a court order.<sup>2</sup> The other four states with no minimum age for marriage do not have a court-approval requirement for all minors who wish to marry.<sup>3</sup>

---

<sup>1</sup> *E.g.*, Tahirih Justice Center, Understanding State Statutes on Minimum Marriage Age and Exceptions (Updated Nov. 30, 2023), p. 2. Going forward, this analysis uses “marriage” to refer to both marriage and domestic partnerships; as a general matter, there are far fewer concerns about minors entering into domestic partnerships than marriage.

<sup>2</sup> Fam. Code, §§ 302, 303. If the minor has no parent or guardian to give consent, the court can give consent along with its order. (*Id.*, § 303.)

<sup>3</sup> Understanding State Statutes on Minimum Marriage Age and Exceptions, *supra*. Mississippi requires a court order for males under the age of 17 and females under the age of 15. (*Id.* at p. 39.) New Mexico and Oklahoma require a court order for persons under 16 years of age. (*Id.* at pp. 45, 53-54.) Washington

Prior to 2019, the procedure by which a minor could obtain a court order to marry was sparse.<sup>4</sup> The Judicial Council created a form, the FL-910, for the minor requesting consent to submit to the court; the form required the minor and their proposed spouse to provide their names, dates of birth, and contact information, and to attach proof of permission from a parent or guardian.<sup>5</sup> The form notified the minor that the court might order the parties premarital counseling prior to issuing the order.<sup>6</sup> And that was it.<sup>7</sup>

In 2018, the Legislature enacted SB 273,<sup>8</sup> which significantly expanded the statewide procedure through which a minor could obtain consent to marry. Under SB 273, when a minor seeks a court order to marry, Family Court Services must first interview each party intending to marry and at least one parent or guardian of each proposed minor spouse; if Family Court Services interviews more than one parent or guardian, the interviews must be conducted separately.<sup>9</sup> Family Court Services then must prepare and submit to the court a report based on the interviews containing any finding of potential force, threat, persuasion, fraud, coercion, or duress by either of the parties or their family members relating to the intended marriage, and a recommendation for either granting or denying the request for marriage.<sup>10</sup> After receiving the report, the court must separately interview each of the parties to the intended marriage in camera (privately and off the record) before making a final determination regarding the request.<sup>11</sup> As part of the determination, the court must consider whether there is evidence of coercion or undue influence on the minor.<sup>12</sup> If the court issues an order permitting the marriage, the parties are not eligible to request a marriage license until 30 days after the court order was issued.<sup>13</sup> The court also retains its ability to order the parties to premarital counseling.<sup>14</sup>

The SB 273 framework has two exceptions. First, a minor who is 17 years of age and has achieved a high school diploma or high school equivalency certificate is exempt from

---

requires a court order for persons under 17. (*Id.* at p. 65.) In no case do the court processes appear as thorough, or as cognizant of the risk of coercion on the minor, as California's.

<sup>4</sup> See Sen. Com. on Judiciary, Analysis of Sen. Bill No. 273 (2017-2018 Reg. Sess.) as amended May 3, 2017.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.* Some counties opted to impose a more rigorous screening process. (*Ibid.*) For example, Sacramento County Superior Court required, in addition to the FL-910, the minor to complete an Underage Marriage Permission Applicant Information form; required the minor and their parent(s) or guardian(s) to be interviewed by Family Court Services; and required Family Court Services to submit a report including a recommendation for the judge to review. (*Ibid.*)

<sup>8</sup> SB 273 (Hill, Ch. 660, Stats. 2018).

<sup>9</sup> Fam. Code, § 304(a). The procedures laid out in Family Code section 304 are identical to the procedures put in place for domestic partnerships. (*See id.*, § 297.1.)

<sup>10</sup> *Id.*, § 304(a). If Family Court Services believes that either party is a victim of child abuse or neglect, they must report the abuse or neglect to the county child protective services. (*Ibid.*)

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Id.* at § 304(b).

<sup>14</sup> *Id.* at § 304(c).

the Family Court Services and in camera interview procedure and the 30-day waiting period to obtain a marriage license.<sup>15</sup> And if a minor is 16 or 17 years of age and pregnant, or their prospective spouse is pregnant, they are exempt from the 30-day waiting period.<sup>16</sup>

SB 273 also put in place enhanced data-gathering requirements for marriages involving minors. Prior to the enactment of SB 273, there was no mandated tracking of how many minors petitioned for, and were granted, permission to marry each year. Nevertheless, certain counties were able to provide information about their petitions to the Committee, which were set forth in the Committee's analysis of SB 273, including:

- The County of Los Angeles reported the highest number of petitions, with approximately 44 petitions for a minor to marry in the previous five years.
- The County of Alameda reported 5-10 petitions per year.
- The County of San Bernardino reported 21 petitions between 2012 and 2015.
- The County of Orange reported 12 petitions between 2012 and 2015.
- Several other counties, including Solano, Napa, Mendocino, Monterey, San Benito, Shasta, Fresno, and Kern, reported 1-2 per year.
- A number of other counties reported that they could not report data on minor marriage petitions because they did not track the information, or did not respond to the inquiry.<sup>17</sup>

In order to provide the Legislature and other stakeholders with information about the prevalence of minor marriage in the state, SB 273 implemented a reporting requirement: on an annual basis, county registrars must report to the State Registrar the number of marriage certificates involving a minor that was returned with the court order giving the minor permission to marry; the State Registrar then must, by March 1 of each year, compile those reports into a single report setting forth the number of minor marriages, the age of each party to the marriage, and the gender of each party (where available) on a county-by-county basis.<sup>18</sup> The report must be made available to the public on request, but the State Registrar is not required to publish the report.<sup>19</sup> For marriage certificates involving a minor that are not returned with a court order, the county registrar may, but is not required to, include those marriages in the report to the State Registrar.<sup>20</sup>

---

<sup>15</sup> *Id.* at § 304(f)(1).

<sup>16</sup> *Id.* at § 304(f)(2).

<sup>17</sup> Sen. Com. on Judiciary, Analysis of Sen. Bill No. 273 (2017-2018 Reg. Sess.) as amended May 3, 2017, p. 8.

<sup>18</sup> Health & Saf. Code, §§ 102233, 102356. The Secretary of State is required to compile a similar report for domestic partnerships recorded in which one or both parties is a minor. (Fam. Code, § 298.8.)

<sup>19</sup> Health & Saf. Code, § 102233(c).

<sup>20</sup> *Id.*, § 102356(c).

### 3. Minor marriage in California: the numbers

The number of marriages involving minors in California is unknown. There are a number of reasons for the uncertainty.

The SB 273 reports for state-sanctioned marriages involving minors show that very few minors are entering into legal marriages each year. The report for 2022, the most recent report, showed the following statewide totals for marriages of minors:

- 2019: 17 minors.
- 2020: 11 minors.
- 2021: 11 minors.
- 2022: 9 minors. All of the minors married were aged 16 or 17 years, and the biggest age gap was between a 17-year-old and a 23-year-old.<sup>21</sup>

As noted above in Part 2, a county recorder may, but is not required to, report on marriage certificates for minors that were returned without the authorizing court order. As such, it is possible that these numbers are understated. On the other hand, the fact that the numbers are lower than those reported prior to the implementation of SB 273 may indicate that SB 273's more rigorous examination process has been successful in weeding out cases where the minor's consent is not actually freely given.

Other reports, however, indicate that minor marriage is much more prevalent. Unchained At Last, an organization dedicated to ending minor marriage, estimated that 23,588 minors were married legally in California between 2000 and 2018; because the study did not rely on actual marriage certificate data, it is unclear how this number was reached.<sup>22</sup> The study also showed a sharp decline in minor marriage in the 2000-2018 time period, with 76,396 minor marriages nationwide in 2000, and 2,493 minor marriages nationwide in 2018.<sup>23</sup> Approximately 96 percent of the minors married were 16 or 17 years of age.<sup>24</sup> However, because these numbers predate the implementation of SB 273 – and do not rely on California marriage certificate data – it is unclear how useful they are in assessing the current prevalence of minor marriage in California.

The author also provided Committee Staff with another tally from Unchained At Last. These numbers are purportedly based on their analysis of data from the U.S. Census Bureau American Community Survey (ACS) and show how many 15-to-17-year-olds in California reported they had been married in the previous 12 months:

- 2017: 7,716 15-to-17 year olds.
- 2018: 7,856 15-to-17 year olds.
- 2019: 8,096 15-to-17 year olds.

---

<sup>21</sup> California Department of Public Health, California 2022 Information Concerning Marriages of Minors (Feb. 7, 2023).

<sup>22</sup> Unchained At Last, United States' Child Marriage Problem: Study Findings (Apr. 2021), pp. 8, 12.

<sup>23</sup> *Id.* at p. 5.

<sup>24</sup> *Ibid.*

- 2020: 8,100 15-to-17 year olds.
- 2021: 8,789 15-to-17 year olds.<sup>25</sup>

These numbers are staggeringly high. Indeed, these numbers are significantly higher than Unchained At Last's 2000-2018 numbers, which averaged out to about 1,310 marriages per year without accounting for the general decline in minor marriages over time. The reason for the discrepancy is unclear, and as far as Committee staff are aware, there is no reason to believe county registrars are hiding literally tens of thousands of minor marriages. Instead, several other factors are likely at play.

One significant factor is the prevalence of extralegal "marriages." As the bill's opponents, ACLU California Action and the National Center for Youth Law, note, the state's court process for minor marriage has

...not stopped the practice of coercing minors into relationships that are called "marriage," but are not sanctioned by the state. These forced, *extralegal* "marriages" are part of a complex global problem with its roots in misogyny, poverty, social norms, and instability, for which there is no single solution and which demands a context-specific approach to address the systems, norms, and behaviors that drive it.

Because Unchained at Last's numbers do not purport to count only state-sanctioned marriages, the tally likely includes minors who were coerced into marriage without any state oversight.<sup>26</sup> The author of this bill, cognizant of the problem of extralegal marriage in the state, authored a bill to make it a misdemeanor to solemnize a marriage involving a minor without the requisite court order, but the bill was held in the Assembly Appropriations Committee.<sup>27</sup>

The ACS data reported by Unchained at Last also do not specify whether the marriages took place in California or in another, more permissive jurisdiction (either another state or another country). Finally, if two surveyed minors married each other, the survey would count them both.

Committee staff attempted to locate other data, but it appears that nearly all sources purporting to report on the number of minor marriages cite back to one of the two Unchained At Last reports. In the absence of straightforward, reliable data regarding (1) the number of minors getting married in California each year, and (2) whether those

---

<sup>25</sup> See Jetha, *Child brides: a campaign starts to ban underage marriages in California*, CalMatters (Jun, 23, 2023), <https://calmatters.org/politics/2023/06/child-marriage-california/> (reporting Unchained At Last estimated numbers). All links in this analysis are current as of January 10, 2024.

<sup>26</sup> Of course, outside a legal marriage, consummation of the relationship would be, at a minimum the crime of unlawful sexual intercourse with a minor (Pen. Code, § 261.5) and might be rape (*id.*, § 261); any adults involved in the "marriage" could arguably be guilty of human trafficking of a minor (*id.*, § 236.1).

<sup>27</sup> See SB 404 (Wahab, 2023).

minors are getting married through the legal process or in extralegal ceremonies, it is difficult to determine whether the legal process put in place by SB 273 has been effective at protecting marriage for the minors who are freely consenting and preventing minors from being coerced into marriage.

##### 5. Minor marriage in California: the effects

There is little question that, as a general matter, marrying as a minor leads to negative outcomes, particularly for women and girls. For example, the International Center for Research on Women reports that girls who marry before age 19 are 50 percent more likely than unmarried girls to drop out of high school, and 4 times less likely to complete college; moreover, teen mothers who marry before giving birth are less likely to return to school than those who do not marry.<sup>28</sup> Early marriage has a long-term impact on a woman's likelihood of living in poverty: women who complete fewer than 12 years of schooling and marry before the age of 16 are significantly more likely to live in poverty than women who complete fewer than 12 years of schooling but do not marry before the age of 16.<sup>29</sup> The same study reports that 18 in 20 women participating in a study of minor marriage reported experiences of physical, sexual, or emotional abuse by their husbands during the marriage, and 11 out of 20 reported financial abuse by their husbands.<sup>30</sup>

On a global scale, child, early, and forced marriage (CFEM) is entwined with conditions of poverty, displacement, and societal pressures.<sup>31</sup> CFEM is most prevalent in the most impoverished and most rural regions of the world; “[o]f the 25 countries with the lowest gross domestic product, 12 have rates of child marriage above 40 percent.”<sup>32</sup> The United States Department of State considers CFEM “a human rights abuse that contributes to economic hardships and leads to under-investment in girls’ educational and health care needs [and] undermines economic productivity, threatens sustainable growth and development, and fosters conditions that enable or exacerbate violence and insecurity, including domestic violence.”<sup>33</sup>

Advocates for abolishing marriage in the United States for persons below 18 years of age argue that it is hypocritical to treat minor marriage as a human rights abuse abroad while permitting it at home. That’s probably accurate, to a point – to the extent that states permit minor marriage without proper safeguards and protections for the minors

---

<sup>28</sup> International Center for Research on Women, *Child Marriage in the United States: A Synthesis of Evidence on the Prevalence & Impact* (Aug. 2020), p. 3, available at [https://www.icrw.org/wp-content/uploads/2020/08/child-marriage-in-the-US-prevalence-impact\\_8-2020\\_ICRW.pdf](https://www.icrw.org/wp-content/uploads/2020/08/child-marriage-in-the-US-prevalence-impact_8-2020_ICRW.pdf).

<sup>29</sup> *Id.* at p. 4.

<sup>30</sup> *Id.* at p. 3.

<sup>31</sup> United States Department of State, *United States Global Strategy to Empower Adolescent Girls* (2016), p. 5, available at <https://2009-2017.state.gov/documents/organization/254904.pdf>.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Id.* at pp. 4-5.

getting married, the data suggest that American girls and women are more likely to experience the conditions of poverty and abuse that characterizes CFEM globally.

But data on the effect of minor marriage in California since the enactment SB 273 – like reliable data on the frequency of minor marriage – is scant. Without knowing more about the handful of minors who, according to the State Registrar, get married in California every year, it is unclear whether it is appropriate to assume that these court-approved marriages necessarily bear the same risks and downsides as minor marriages national or globally. The author’s office confirmed that they did not discuss this bill with any minors who were married through the SB 273 system, and because this bill was gutted and amended on January 3, 2024, Committee staff did not have the opportunity to reach out and independently investigate. As such, it is still an open question whether the minors who get married under the SB 273 regime do, in fact, need saving – or whether the SB 273 regime is working to ensure that only the minors who are capable of giving meaningful consent, and who in fact give that consent, are being married under the laws of the state.

6. This bill prohibits persons under the age of 18, except for emancipated minors, from entering into a marriage or domestic partnership

This bill raises the marriage age, and the age for entering into a domestic partnership, to 18, except for emancipated minors. Under this bill, unemancipated persons under 18 years of age could not consent to marriage or a domestic partnership under any circumstances. Emancipated minors remain able to consent to a marriage or domestic partnership without a court order. The bill also makes changes to the existing laws surrounding premarital agreements, dissolution, and who qualifies as an emancipated minor to reflect the new age minimum for marriage, and deletes the process by which a minor can obtain a court order to marry. Finally, the bill modifies the reporting requirements for tracking marriages and domestic partnerships involving minors, so that only those involving emancipated minors are reported; additionally, the bill requires county registrars to report such marriages to the State Registrar on a quarterly basis, and deletes the provision permitting a county registrar not to report such a marriage if it is not accompanied by a court order.

By eliminating an unemancipated minor’s right to consent to marriage, this bill runs contrary to several bills the Legislature has enacted recently that expand minors’ rights to consent to matters that affect them deeply – such as health care, abortion and reproductive care, and mental health treatment. The author notes that the state still prohibits minors from engaging in many other activities, such as smoking and drinking, and argues that the bill is consistent with those limitations. This argument is complicated, however, by the fact that the Supreme Court has held that marriage is a fundamental right.<sup>34</sup> While this holding has not been extended to minors – and surely

---

<sup>34</sup> E.g., *Obergefell v. Hodges* (2015) 576 U.S. 644, 664; *Turner v. Safley* (1987) 482 U.S. 78, 95.

would not be extended to minors in an unqualified manner – it compels the Legislature to be more circumspect in curtailing the right to marry than, say, the ability to rent a car.

As it stands, the dearth of information about how, and how many, minors are entering into marriages means that there is no way to assess the impact of this bill. If most “marriages” involving minors are extralegal, as the evidence from the State Registrar suggests, then changing the legal marriage age would not prevent those “marriages” and do little to fix the problem the author seeks to solve. If the SB 273 process is working, then this bill would prevent minors capable of consent from entering into marriages they want to be in. If there were evidence that the SB 273 process is not working and the courts are permitting marriages where the minor is consenting as a result of coercion or fear, then the Legislature would need to decide whether to reform the SB 273 process or raise the marriage age; but there is no evidence either way.

The issues presented by the question of minor marriage – such as whether it ever makes sense to allow a legal agreement to transform statutory rape into consensual sex, or how mature a minor should be before they can meaningfully consent to something as (theoretically) permanent as marriage – are real, and they are serious. It ultimately may be the best choice for the state to establish a minimum marriage age, which may or may not include a court-approval procedure for minors of a certain age. But without state-specific evidence on which to rely, any proposed solution would be based on guesses and generalizations, not facts, and could cause unintended negative consequences.

## 7. Amendments

In order to address the gaps in the data – both qualitative and quantitative – discussed in this analysis, the author has agreed to amendments that will provide the Legislature with the information it needs to craft informed and effective policy on this issue. The amendments will:

- Delete all provisions requiring a person to be at least 18 years of age, or be an emancipated minor, in order to enter into a marriage or a domestic partnership, and reinstate the existing provisions of the Family Code that account for court-authorized minor marriages and domestic partnerships (including the SB 273 framework).
- Retain the bill’s amendments to Health & Safety Code section 102356, which eliminate a county registrar’s discretion, as part of its report to the State Registrar on minor marriage, to not report a marriage involving a minor if the court order was not returned along with the marriage certificate.
- Add a new section to the Health and Safety Code requiring the State Registrar to compile a report, disaggregated by county, of all marriage certificates in which one or both parties to the marriage was a minor for the years 2019-2024, inclusive. Because this report will set forth all marriage certificates involving minors, including those not reported by county registrars, this report should give

the Legislature a complete picture of the scope of state-sanctioned minor marriage through the SB 273 process.

- Add a new section creating a grant, in an amount and to an institution to be determined, for a study of the prevalence, conditions of, and circumstances surrounding extralegal minor marriage in California.

Because of the timing of this hearing, these amendments will be taken in the Senate Appropriations Committee.

#### 8. Arguments in opposition

According to ACLU California Action and the National Center for Youth Law:

We have two primary concerns with a blanket marriage ban for minors. First, we are concerned that such a ban could drive young people who are already in abusive relationships further underground, out of the reach of social services. We are not confident that parents who coerce their children into relationships would be deterred by a ban on legal marriage – instead they could insist on a religious or other form of cultural marriage outside of the legal system. Under existing law, petitioning a court for a marriage license would bring state scrutiny to problematic relationships. But a young person in a coerced, underground relationship is even further from a safety net. For example, in California, marriage emancipates, giving married minors the right to divorce, to hire an attorney, and to access any service an adult can access.

Second, we are concerned about the consequences for those young people who willingly enter a marriage, such as young parents who want to further solidify their family relationship and have already taken on adult responsibilities. We know from our work with parenting students that becoming a parent is often a motivator for youth, helping them set new life and educational goals. Denying these young people the right to marry – without compelling evidence that it will solve an existing problem – further stigmatizes their relationships and tells them they can't make healthy decisions for themselves and their families. Instead of a ban on marriages for minors, we urge legislators and advocates to continue advancing policies to expand access to culturally specific education about healthy relationships and minor rights for young people and their families; and remove barriers to resources and interventions for young people who do find themselves in abusive or coerced relationships. We would welcome the opportunity to work together to this end.

**SUPPORT**

None received

**OPPOSITION**

ACLU California Action  
National Center for Youth Law

**RELATED LEGISLATION**

Pending Legislation: SB 404 (Wahab, 2023) makes it a misdemeanor for any person, aged 18 years or older to knowingly and willfully sanction or solemnize a marriage or domestic partnership between a minor and another person where the minor did not obtain a court order as required under the Family Code. SB 404 is pending before the Assembly Appropriations Committee.

Prior Legislation:

AB 1286 (Petrie-Norris, 2021) would have required the State Registrar to provide the report on marriages involving minors to the Legislature on an annual basis; required a county registrar to submit its reports identifying the number of marriage certificates submitted involving a minor to the State Registrar on a quarterly basis; and required any county registrar in a county in which no marriage certificate involving a minor was received for that quarter to submit to the State Registrar a report stating that no such certificate was accepted for registration. AB 1286 died in the Assembly Appropriations Committee.

SB 273 (Hill, Ch. 660, Stats. 2018) created additional requirements and court oversight before a minor can marry or establish a domestic partnership. *See* Part 2 of this analysis for further discussion.

\*\*\*\*\*