

ADDRESSING CHILD MARRIAGE IN OHIO THROUGH LEGISLATION

The devastating consequences facing women and girls, who are disproportionately impacted by child marriage, demonstrate the need to take legislative action to modernize Ohio's marriage laws.

A number of policy solutions would close or reduce the legal loopholes that leave girls open to exploitation and coercion, often leading to forced or child marriage.

LEGISLATIVE SOLUTIONS AND RECOMMENDATIONS¹:

A survey of each state's unique approach to marriage laws reveals numerous strategies the Ohio legislature can evaluate and adapt to fit the needs of those working to end exploitive child marriages in our state. The most powerful approaches are discussed below.

- ✓ **Update marriage laws to allow only legal adults to wed:** Three states – New York, Texas, and Virginia – have updated their laws to limit marriage to only legal adults. Setting the minimum marriage age to 18 years old, without exceptions, is the most effective and straightforward solution to end child marriage. Studies of child marriage in the U.S. have shown that 16 and 17 year olds are at the highest risk of forced child marriage.
- ✓ **Setting the “age floor” to the age of majority (18 years old), is the most powerful first step in eliminating child marriage in the United States:** Some states have taken steps to set the “age floor” to 16 or 17, however, this age group is at the highest risk of forced or coerced marriage. Currently, twenty-five states have no threshold age, meaning that as long as certain exceptions are met in those states, a child of any age could be married. In Ohio, minors are exempted from the threshold requirement if a female minor is pregnant (or already given birth) and the male is the father/putative father.
- ✓ **Require judges to consider the minor's best interest in cases where judicial approval is needed to wed:** There are now 17 states that require judges to consider the minor's best interests when deciding whether to give judicial approval of the marriage. Ohio's statute only states that judges should consider “all of the facts.”
- ✓ **Require more substantive criteria to be considered by judges in cases where judicial approval is needed to wed:** Many states now require judges to consider a number of substantive criteria before approving a marriage involving a minor, including the maturity of the minor, any criminal records, the age difference between the parties, and the best interest of the minor. Ohio does not require judges to consider any of these criteria. Instead, Ohio's statute only requires judges to consider “all of the facts.”
- ✓ **Parental consent should not be the gatekeeper to judicial approval for marriage involving a minor:** The New York and Virginia statutes require more than just parental consent for a judge to approve a marriage involving a minor. However, in most other states, including Ohio, there is little guidance offered to judges in these cases, meaning that they often have no way of knowing whether parental consent is actually coercion or whether a pregnancy is the result of rape.

- ✓ **State law should add safeguards to make forced or coerced marriages of minors less likely and more difficult in circumstances when judicial approval is needed for minors to wed:** States have passed safeguards, such as appointing the minor counsel, putting measures in place to protect the minor's privacy or confidentiality, and/or requiring the judge to issue written findings following a hearing. Ohio does not require any of these extra protections.
- ✓ **State marriage laws should apply the same, equal treatment to individuals, regardless of gender:** Ohio is one of only 5 states with separate statutes containing different marriage age standards for boys and girls. For example, while Ohio boys under 18 years of age require the consent of both parents and judicial approval to wed, these criteria only apply to girls under the age of 16.
- ✓ **Pregnancy alone should not be the determinant to give judicial approval of a marriage:** Ohio is one of only six states that completely eliminates the age "floor" if the girl to be married is pregnant or has already given birth, essentially allowing girls of any age to marry if they are pregnant. These cases ignore the very real risk that the minor in question may have been raped or is facing coercion from their parents to marry.
- ✓ **Ohio should strengthen residency requirements for those seeking marriage licenses:** Ohio is one of many states with weak residency requirements that do not prohibit the issuing of a marriage license to out-of-state, emancipated minors. These stronger residency requirements can help prevent marriages from happening in Ohio between individuals traveling across state lines to avoid more protective laws in their own state.
- ✓ **In order to provide minors with access to full legal rights as an adult in the event that they need to end or escape a marriage, Ohio law should consider marriage a strong enough case to allow emancipation:** Unlike many other states, Ohio no longer has an emancipation law, meaning that there is no legal process by which a minor can petition the court for emancipation. Currently, Ohio courts will consider the process on a case-by-case basis, which makes the process difficult and confusing to navigate for minors.

Ohio legislators should explore these marriage law reforms in order to end child marriage in the state. Enacting legislative safeguards to protect minors from being forced or coerced into a marriage will have a measurable impact on the lives and well-being of girls and women.

For more information, visit our website at
WWW.WOMENSPUBLICPOLICYNETWORK.ORG

¹The following legislative solutions and policy recommendations are based on research and data compiled in the Tahiri Justice Center report *"Falling Through the Cracks: How Laws Allow Child Marriage to Happen in Today's America"* published in August 2017 and available online here: <http://www.tahiri.org/pubs/falling-through-the-cracks-how-laws-allow-child-marriage-to-happen-in-todays-america/>.