

Support H1709/S937: End Child Marriage in Massachusetts

Child marriage is an urgent problem in Massachusetts. The marriage age is 18, but the law includes a dangerous loophole: Children of *any* age may marry if they have judicial approval and parental “consent.”¹

Dangers in the Current Law

- When a child is forced to marry, the perpetrators are almost always the parents. Parental “consent” is often parental “coercion.”
- Judges have wide discretion to approve even marriages with a spousal age difference that constitutes statutory rape, or where a child is marrying a registered sex offender. Indeed, judges approved 92% of child marriage petitions from 2010 to 2014.²
- Even a more robust judicial review process still would put the onus on a child who is being forced to marry to choose whether to be honest with the court and face the repercussions at home, or to lie to the court.
- Children are effectively disempowered through the process, entered into marriages by parents and a judge.
- Sex with a child under age 16 is considered rape.³ This makes a mockery of statutory rape laws: Marrying a child 15 or younger is legal, but sex within the marriage is rape.⁴

Devastating Consequences of Child Marriage

- Children can easily be forced into marriage or forced to stay in a marriage before they turn 18 and become legal adults.⁵ Even at 17, they cannot:
 - Enter a domestic violence shelter without a parent⁶;
 - Seek help from Department of Children & Families in case of spousal abuse (DCF intervenes only when the abuser is a parent or parent substitute);⁷
 - Retain an attorney easily (contracts with children, including retainer agreements, are voidable⁸); or
 - Independently bring a legal action.⁹ **Children can be entered into marriages by parents and a judge but are *not* allowed to file for divorce in their own name.**
- Child marriage destroys girls’ health, education and economic opportunities, and increases their risk of experiencing violence.¹⁰ **The U.S. State Department has called marriage before 18 a “human rights abuse.”**¹¹
- Those who marry before 18 have a 70-80% chance of divorcing—and teen mothers who marry and then divorce are more likely to suffer economic deprivation and instability than teen mothers who stay single.¹²

Alarming Statistics

- 1,246 children as young as 13 were married here between 2000 and 2018. At least 83% were girls wed to adult men.¹³
- 59 of these children were not yet 16 and therefore unable to consent to sex under Massachusetts law.¹⁴

Simple Legislative Solution

H1709/S937 costs nothing, harms no one and saves girls from a human rights abuse: It keeps the marriage age at 18 but eliminates the dangerous loophole that allows child marriage. Other states are passing the same legislation. More information at www.unchainedatlast.org.

¹ Mass. General Laws c. 207 §§ 24-25. Note: Case law sets the marriage age as 14 for boys and 12 for girls, a gender difference that probably is unconstitutional.

² Jim Morrison, *Advocates Raise Concerns About Child Marriage in Mass.*, Boston Globe (10 August 2016).

³ M.G.L. c. 265 §§ 22A, 23; *Glover v. Callahan*, 12 N.E.2d 194, 196 (Mass. 1937).

⁴ M.G.L. c. 265 §§ 22A, 23; Mass. St. 1974, c. 474 § 7; *Commonwealth v. Chretien*, 417 N.E.2d 1203, 1207-08 (Mass. 1981).

⁵ M.G.L. c. 231 §§ 85O-85P: The age of adulthood is 18.

⁶ Telephone call with Haven, a domestic violence counseling service at Massachusetts General Hospital, 28 April 2017

(http://www.mghpcs.org/SocialService/Programs/Haven/Learn_Services.asp).

⁷ M.G.L. c. 119 § 1.

⁸ *Slaney v. Westwood Auto*, 322 N.E.2d 768, 771 (Mass. 1975).

⁹ Mass. R. Civ. P. 17(b). See M.G.L. c. 231, § 140C (procedure for approval of settlements in minors’ suits, including appointment of guardian). *And see* Mass. R. Domestic Rels. 17(b); M.G.L. c. 208 (divorce); M.G.L. c. 207, § 14 (annulment); 2 John G. DiPiano et al., *Massachusetts Domestic Relations* § 22-9 (5th ed. 2016) (abuse prevention order (citing M.G.L. c. 209A, §§ 1, 3)).

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

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

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

¹³ Based on marriage-license data Unchained retrieved from the Massachusetts Registry of Vital Records and Statistics.

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