



## **HB0855 Family Law – Marriage – Age Requirements**

Presented to the Hon. Luke Clippinger and Members of the House Judiciary Committee

March 7, 2019 1:00 p.m.

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### **POSITION: OPPOSE**

NARAL Pro-Choice Maryland urges the Senate Judicial Proceedings Committee to give **an unfavorable report on HB0855** Family Law – Marriage – Age Requirements, sponsored by Delegate Vanessa Atterbeary.

Our organization is an advocate for reproductive health, rights, and justice. As part of our efforts to protect reproductive freedom for all Marylanders, we work to ensure every child-bearing individual has the right to decide if, when, and how many children to have. We honor pregnancy in all its complexity. In doing so, we support pregnant and parenting youth as they navigate the challenges of building their families in good health, in safety, and with dignity.

NARAL Pro-Choice Maryland advocates against forced marriage at any age. HB0855 as currently written pits two important reproductive justice issues against each other – eradicating forced marriage and the timing of marriage when creating a family. Stripping young people of the right to marry should not be taken lightly. As Maryland does not have an emancipation statute and the current marriage law lacks judicial review, the mature youth seeking marriage would be denied legal relief to demonstrate best interests in applying for a marriage license. This is unacceptable. If judicial review is considered, it must be a reasonable process.

As current law stands, 16 and 17-year old youth are allowed to marry if they either obtain parental or legal guardian consent *or* receive a certificate from a licensed medical care provider stating that one of the individuals to be married is pregnant or has recently given birth. Individuals under the age of 15 are not allowed to marry unless they obtain *both* parental or legal guardian consent as well as the required certificate from the medical care provider. As stated in MD Family Law, Section 2 §3–303, the age of consent to sex in Maryland is 16. For many youth who become pregnant, the right to marry contributes to pregnancy decision-making. Maryland should not pass a law that will discriminate against youth who seek to marry according to one's belief system and result in pregnancy decisions made against their better judgement.

Each year, approximately 800 young women under the age of 18 in Maryland give birth. Youth seek marriage for a variety of reasons, including and not limited to, having access to a spouse's health insurance coverage, seeking priority in housing assistance, solidifying custody rights, receiving military spousal benefits, and adhering to one's cultural and religious norms. Although the national advocates for this bill seek to assist a young woman's struggle against parents and legal guardians forcing her into marriage, it also ignores challenges a youth may face when ostracized by her family for being pregnant or having become a new parent. These youth should have the right to build a new home with a loving, supportive partner through legal marriage. It ignores the right for a pregnant or parenting youth to use legal marriage to safely escape from an abusive home or where criminal activity is present. It ignores the youth being forced out of her home for being pregnant that has the maturity and means to create a new home for her family. A legal marriage communicates the seriousness of the commitment to forming a family, influencing opportunities for

permanent housing and employment. It dismisses the realities and goals of those seeking to build new families when parents are missing, deceased, or incarcerated.

HB0855 conveys stigma against young people by questioning their capacity to engage in life affirming decision-making. The right to marry is a human right. The decision of the timing of one's marriage may be based on the need to gain certain benefits of marriage that will contribute to a positive pregnancy outcome and a safe environment to raise a child. Pregnancy is a timely medical event. The argument that youth can have a religious ceremony to demonstrate commitment or just delay legal marriage until both parties are at least 18 years of age is missing the point. The decision to carry to term and form a new family is universal no matter the age of the new parents. Respecting family formation is a core principal of reproductive justice. We respect the autonomy of young people when it comes to their reproductive health, including decisions about family planning and pregnancy. We cannot respect their autonomy on one hand and deny it on the other. We cannot say that youth have agency and maturity to be single parents or co-parent, to make an 18-year commitment to raise a child, yet deny them the right to solidify co-parenting with marriage. Furthermore, no one has an interest in subjecting pregnant youth to reproductive coercion. Faced with abusive parents, a youth may choose to terminate a pregnancy for fear that she will be unable to provide a safe home for a new baby, or be forced by parents or legal guardians to surrender a new baby to adoption as a condition of the youth remaining in her home.

In 2017, an amendment was heard on second reading of SB0670 – the bill introduced to ban marriage under age 18 - to require that a licensed counselor or therapist certify that the minor seeking the marriage license is not being forced or coerced. After a long, robust debate in the Maryland House that cut across party lines, race, gender, religion, and class, it was defeated by a mere 8 votes, with 4 abstaining. In our opinion, state legislators were looking for alternatives to the proposed bill, with the best interests of all young people in mind. **We recommend placing a ban for those under the age of 16 – the age of consent to sex in Maryland, and in keeping with the state's statutory rape laws.** In 2017 and 2018, advocates in Maryland who work to assist survivors of domestic violence, sexual assault, and human trafficking conveyed their concerns with passing a marriage ban at 18 and their problems with this legislation; we are disappointed that those concerns were not being taken seriously. Continuing opposition to this bill should not come as a surprise this year.

We greatly respect the passion and determination of our legislators in seeking ways to stop forced marriage in Maryland, but feel strongly that HB0855 does not do enough to realize reproductive justice in this particular issue. We urge the Maryland General Assembly to not ignore that youth have agency and the right to act in their best interests. Maturity evolves from facing life challenges, resolving conflicts, and increasing one's responsibilities. Maturity is not suddenly granted by achieving the numerical age of 18. We must try harder to suspend old notions of how all youth should act and meet youth where they really are.

Forced marriage is a form of domestic violence. We believe that more public awareness of this issue is needed in Maryland so that women and girls of any age know that they can seek assistance through advocacy groups to create safety plans to help stop a forced marriage before it happens, or provide advocacy through the state's marriage annulment and divorce laws. We hope that together we can create a systems advocacy approach against forced marriage that also respects the different maturity levels, family support, cultural norms, and individual circumstances of young people. We must not violate the rights of 16 and 17 year-olds to marry when willingly forming their families and acting in their own best interests. For these reasons, NARAL Pro-Choice Maryland **urges an unfavorable report on HB0855.** Thank you for your time and consideration.