

Let's End Child Marriage in Washington: Pass HB1455/SB5695

Unchained At Last is a survivor-led nonprofit working to end forced and child marriage in Washington and across the United States through direct services and advocacy. **We at Unchained urge the state legislature to pass HB1455/SB5695 and eliminate the archaic, harmful practice of child marriage.**

The marriage age is 18,¹ but the law includes alarming loopholes: a parent may enter a 17-year-old into marriage with nothing more than a signature,² and a parent may enter a child aged 16 and younger – with no minimum age specified in the law – with approval from a superior court judge.³

These loopholes disempower and seriously endanger minors:

- The law does not require any input from a 17-year-old whose parent “consents” to their marriage, and it provides no recourse for a 17-year-old whose own parent is forcing them to marry. We have found – as we provide crucial services to forced and child marriage survivors across the U.S. – that parents almost always play an important role in facilitating a forced marriage. “Consent” is often coercion. And we have seen repeatedly that **even when a teen sobs openly and begs for help, the clerk is powerless to intervene, and the teen is powerless to prevent the marriage license from being issued.**
- Similarly, the judicial review process for children aged 16 and younger does not require any input from the child nor provide recourse for a child whose parent is forcing them to marry. The law does not require judges to interview the child; indeed it does not include any criteria that courts are required to consider before approving the marriage of a minor, other than a “showing of necessity.”
 - 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.**
- Sex with a child under age 16 is child rape if the perpetrator falls outside the close-in-age exceptions,⁴ but marriage to a child under age 16 is legal. **This contradiction makes a mockery of Washington’s statutory rape laws. Further, every time the state issues a marriage license for a child under age 16 to marry a spouse who falls outside the close-in-age exceptions, the state sends that child home to be raped.**
- Minors of any age who marry adults are automatically emancipated upon marriage,⁵ likely ending their parents’ financial obligation to them, regardless of the minors’ level of financial independence. In other circumstances, a minor cannot be emancipated unless they are at least age 16 and first prove to a court that they can manage their own financial,

¹ Revised Code of Washington (“RCW”) § 26.04.010(1).

² RCW § 26.04.210(1).

³ RCW §§ 26.04.010(2); 26.04.210(1). Note that the superior court judge must be in the county in which one of the parties resides.

⁴ RCW § 9A.44.093: The age of consent to sex is 16. RCW § 9A.44.073(1): Sex with a child under age 12 is first-degree child rape if the perpetrator is at least 24 months older than the child. RCW § 9A.44.076(1): Sex with a child aged 12 to 13 is second-degree child rape if the perpetrator is at least 36 months older than the child. RCW § 9A.44.0079(1): Sex with a child aged 14 to 15 is third-degree child rape if the perpetrator is at least 48 months older than the child.

⁵ RCW § 26.28.020.

personal, educational and other affairs.⁶ **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 to 80% of marriages before age 18 end in divorce.**⁷

- **Automatic emancipation based on marriage also creates a powerful incentive for a parent to force their child into marriage**, so the parent can evade a child support obligation or child custody battle. We have seen this happen across the U.S., including a case that recently ended up before the Idaho Supreme Court.⁸ (Remember, only one parent's "consent" is required.⁹)
- By not specifying a minimum age for marriage, Washington's laws are in line with laws in Iran¹⁰ and Yemen.¹¹

The legal loopholes are not the only problem. Child marriage is inherently dangerous:

- **Marriage before age 18 creates a "Kafkaesque" legal trap.¹² Even highly mature teens can easily be forced into marriage or forced to stay in a marriage before they turn 18 and attain the rights of adulthood:¹³**
 - Minors cannot easily escape if their parents are planning an unwanted wedding for them, because Washington State Patrol is instructed to make information about a runaway child publicly available, in an attempt to facilitate the child's safe return.¹⁴ The Washington State Department of Children, Youth and Families (DCYF) may take a runaway youth to a secure facility after trying to notify the parents.¹⁵ Further, a minor who leaves home can be classified as a youth in crisis, an at-risk youth or a child in need of services,¹⁶ which opens up the family to intervention from DCYF¹⁷ and could result in an "out-of-home placement."¹⁸
 - Minors cannot easily get help from advocates like us at Unchained, because advocates are required to report the location of a runaway child to their parent,

⁶ RCW § 13.64.050.

⁷ Vivian Hamilton, *The Age of Marital Capacity: Reconsidering Recognition of Adolescent Marriage*, William & Mary Law School Scholarship Repository (2012). Note, though, that minors might not be allowed to file for divorce independently until they turn 18, as explained below.

⁸ Carver v. Hornish, No. 49320 (Idaho 2022). See: <https://isc.idaho.gov/appeals/49320.pdf/>.

⁹ RCW § 26.04.210(1).

¹⁰ Justice for Iran, *Veiled and Wed: Enforced Hijab Laws, Early Marriages, and Girl Children in the Islamic Republic of Iran*, Submission to the UN Committee on the Rights of the Child (February 2015), https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19746_E.pdf: "According to the Islamic Republic civil code, the legal age of marriage in Iran is set at age 13 for girls and age 15 for boys. However, the same Act allows girls below the age of 13 and boys below the age of 15 to be wed, conditioned on the consent of their father and the permission of a judge."

¹¹ Kara Hunerson, et. al., *Child Marriage in Yemen: A Mixed Methods Study in Ongoing Conflict and Displacement*, Journal of Refugee Studies (2 February 2021), <https://academic.oup.com/jrs/advance-article/doi/10.1093/jrs/feaa144/6126388>: "Though Yemen has endorsed efforts to end child marriage and proposed a law in 2014 setting the minimum age of marriage at 18, that law was never officially ratified, leaving the legal age of marriage unclear."

¹² Nicholas Kristof, *A 14-Year-Old Bride, Wed to Her Rapist, Playing on a Jungle Gym*, New York Times (19 June 2021), <https://www.nytimes.com/2021/06/19/opinion/sunday/child-marriage-rape.html>.

¹³ RCW § 26.28.010: The age of adulthood is 18.

¹⁴ RCW § 43.43.510.

¹⁵ RCW § 13.32A.128.

¹⁶ RCW §§ 82.08.02917; 13.32A.30.

¹⁷ RCW § 13.32A.010.

¹⁸ RCW § 13.32A.120.

law enforcement or DCYF.¹⁹ If we or other advocates harbored a minor without their parent's consent, we could be charged with a gross misdemeanor.²⁰

- Where would minors go even if they could escape? We have found that domestic violence shelters across the U.S. routinely turn away unaccompanied minors, due to funding guidelines and/or liability concerns. Youth shelters are not a solution, because they are not confidential: They must notify the parents within 72 hours that the minor is there, or else notify DCYF.²¹
- Minors cannot easily retain an attorney to help them with their complex legal needs, because most contracts with children, including retainer agreements, are voidable.²² In our experience, lawyers are reluctant to take on minors as clients based on a voidable retainer agreement.
- Minors are not allowed to bring a legal action in their own name.²³ **A minor aged 15 or younger cannot seek a protective order if their spouse turns abusive.²⁴ Perhaps most shockingly, a minor who marries another minor is not even allowed to file independently for divorce.²⁵**
- Note that marriage emancipates *some* minors and gives them *some* rights of adulthood. However:
 - These rights of adulthood are given only to minors who marry adults.²⁶ A minor who marries another minor is not emancipated.
 - An emancipated minor's rights are limited; they do not extend, for example, to "health and safety regulations relevant to the minor because of the minor's age."²⁷ It is unclear, therefore, whether an emancipated minor is allowed to leave home to escape an abusive spouse. In our experience, domestic violence shelters typically are hesitant to accept even emancipated minors.
 - Emancipated minors may face difficulties accessing the limited rights they do have. Imagine, for example, how a landlord would feel about renting an apartment to a 16- or 17-year-old, even if the teen is emancipated.
 - Crucially, in the case of an unwanted marriage, the limited rights of emancipation arrive too late, only after a minor has endured the trauma of the forced marriage.

¹⁹ RCW § 13.32A.082.

²⁰ RCW § 13.32A.080(2).

²¹ RCW § 13.32A.082.

²² RCW 26.28.030; *Paulson v. McMillan*, 111 P.2d 983 (Wash. 1941).

²³ RCW § 12.04.140: A minor may bring an action only through a parent, guardian, guardian ad litem or next friend.

²⁴ RCW § 26.50.020(2)(b): A child under age 16 may file a petition alleging domestic violence only through a parent, guardian, guardian ad litem or next friend.

²⁵ RCW § 26.28.020: A minor who marries an adult is emancipated and should have the right to file for divorce, but a minor who marries a minor is not emancipated and cannot independently bring a legal action.

²⁶ *Ibid.*

²⁷ RCW § 13.64.060(2).

- Marriage before age 18 is recognized as a “human rights abuse.”²⁸ **It destroys nearly every aspect of American girls’ lives, including their health, education and economic opportunities²⁹ and even their physical safety.³⁰**
- 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 to 80% divorce rate.³¹
- **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.³² Indeed, individuals in the U.S. who married before age 18 report high rates of unwanted or unplanned pregnancies.³³ 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 sex and to endure pregnancy and childbirth without their consent.

Child marriage is happening at an alarming rate:

- Some **4,831 minors, as young as 13, were married in Washington** between 2000 and 2018.³⁴
- Some **80% were girls wed to adult men** an average of 4.03 years older.³⁵
- Between 2000 and 2014, **at least 35 and possibly as many as 48 marriages occurred with a spousal age difference that would have been considered a sex crime outside of marriage.**³⁶

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 an acknowledgement of paternity.³⁷ Such

²⁸ 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>.

²⁹ Fraidy Reiss, *Child Marriage in the United States: Prevalence and Implications*, Journal of Adolescent Health (December 2021), <https://www.sciencedirect.com/science/article/pii/S1054139X21003414>.

³⁰ 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>.

³¹ 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>.

³² 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>.

³³ 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>.

³⁴ Fraidy Reiss, *Child Marriage in the United States: Prevalence and Implications*, Journal of Adolescent Health (December 2021), <https://www.sciencedirect.com/science/article/pii/S1054139X21003414>.

³⁵ Based on Unchained’s analysis of marriage-license data from the Washington Department of Health, Center for Health Statistics, for the period 2000 to 2014.

³⁶ Alissa Koski, et. al., *Child Marriage or Statutory Rape?*, Journal of Adolescent Health (pending publication).

³⁷ RCW § 26.26.300.

acknowledgement confers upon the father all the rights and duties of a parent.³⁸ (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 legally escape. Using a minor's current financial dependence to justify an early marriage is harmful public policy that sets up the minor for a lifetime of dependence. **Not only does financial dependence contribute to the risk of domestic violence,³⁹ but many abuse survivors cite financial dependence as the main reason they felt compelled to stay in a violent home.⁴⁰**
- **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,⁴¹ not a solution to it.**

Under the United Nations Sustainable Development Goals, 193 countries – including the U.S. – have promised to end child marriage by year 2030.⁴² **States across the U.S. and around the world are keeping this promise by banning all marriage before 18, without exceptions.⁴³** Specifically, they are passing legislation that keeps the marriage age at 18 and eliminates any loopholes (#18NoExceptions). **Legislation to this effect harms no one, costs nothing and ends a human rights abuse.**

But Washington is falling behind the rest of the country and the world. A bill introduced in the 2017-2018 session to eliminate marriage before age 18 (HB3012, then-Rep. Derek Stanford) died at the end of the session. The same bill was introduced in the 2019-2020 session (HB1883, then-Rep. Derek Stanford) but met the same fate.

Washington must catch up to the rest of the world by passing **HB1455/SB5695, sponsored by Rep. Monica Stonier and Sen. Derek Stanford**, and banning all marriage before age 18, no exceptions. It is way past time to end the archaic, sexist, harmful practice of child marriage.

³⁸ RCW § 26.26.320.

³⁹ 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>.

⁴⁰ 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>.

⁴¹ 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>.

⁴² 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."

⁴³ See: <https://www.unchainedatlast.org/child-marriage-progress/>.