

## Pass H631: Let's End Child Marriage in Vermont

Unchained At Last is a survivor-led nonprofit working to end forced and child marriage in Vermont and across the United States through direct services and advocacy. **We at Unchained urge the state legislature to pass H631 and eliminate the archaic, harmful practice of child marriage.**

The marriage age is 18,<sup>1</sup> but the law includes an alarming loophole: A parent may enter a 16 and 17-year-old into marriage merely by signing a form, without any input from the teen.<sup>2</sup>

This loophole disempowers and seriously endangers minors:

- The law provides no recourse for 16- and 17-year-olds whose parents are forcing them into an unwanted marriage. We have found – as we provide crucial services to forced and child marriage survivors across the U.S. – that when an individual is forced to marry, the perpetrators are almost always the parents. And we have seen repeatedly that **even when a teen sobs openly and begs for help, the clerk is powerless to intervene.**
- Minors are automatically emancipated upon marriage,<sup>3</sup> likely ending their parents' financial obligation to them, regardless of the minors' level of financial independence.<sup>4</sup> In other circumstances, a minor cannot be emancipated unless they first prove to a court that they can manage own financial, personal, educational and other affairs.<sup>5</sup> **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 70-80% of marriages before age 18 end in divorce.<sup>6</sup>

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

- **Marriage before age 18 creates a “Kafkaesque” legal trap.<sup>7</sup> 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:<sup>8</sup>**
  - Minors cannot easily escape if their parents are planning an unwanted wedding for them, because an unemancipated minor who leaves home is considered a “runaway”<sup>9</sup> and a “child in need of care or supervision.”<sup>10</sup> Police may take such a minor into custody and release them to their parent or guardian or to a designated shelter for runaway youth.<sup>11</sup>

<sup>1</sup> 18 Vermont Statutes Annotated (V.S.A.) § 5142.

<sup>2</sup> 18 V.S.A. § 5142(1). Note that only one parent's signature is required.

<sup>3</sup> 12 V.S.A. § 7151(a)(1)(A).

<sup>4</sup> 12 V.S.A. § 7156(a)(6).

<sup>5</sup> 12 V.S.A. § 7151(b).

<sup>6</sup> 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.

<sup>7</sup> 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>.

<sup>8</sup> 1 V.S.A. § 173: The age of adulthood is 18.

<sup>9</sup> 13 V.S.A. § 1311(a)(2).

<sup>10</sup> 33 V.S.A. §§ 5102(3); 5301.

<sup>11</sup> 33 V.S.A. § 5301: A child may be taken into custody if an officer has reasonable grounds to believe the child has run away from a parent or guardian; 33 V.S.A. § 5304: Shelters throughout the state are designated for children taken into custody pursuant to 33 V.S.A. § 5301.

- Where would minors go even if they could escape? Domestic violence shelters likely would turn away a minor, since shelter staffers could be criminally prosecuted for sheltering or aiding a runaway minor.<sup>12</sup>
  - While designated shelters for runaway youth are exempted from prosecution for unlawfully sheltering or aiding a runaway minor,<sup>13</sup> they are not a solution in a forced marriage situation. Minors may remain at designated shelters for no longer than 21 days, unless an officer seeks an emergency care order.<sup>14</sup> The entire purpose of the designated shelter is to reunite the minor with their parents, guardian or legal custodian.<sup>15</sup> Also, unlike domestic violence shelters, designated shelters for runaway youth are not confidential: They must notify a minor's parents, guardian, or custodian that the minor has been taken into custody and make reasonable efforts to mediate the differences between the parties.<sup>16</sup>
- Minors cannot easily retain an attorney to help them with their complex legal needs, because most contracts with children, including retainer agreements, are voidable.<sup>17</sup> In our experience, lawyers are reluctant to take on minors as clients based on a voidable retainer agreement.
- Minors also cannot independently bring a legal action,<sup>18</sup> which creates additional obstacles when trying to escape a forced marriage.
- Minors who are married are considered "emancipated" and do attain some rights of adulthood.<sup>19</sup> However:
  - Emancipated minors' rights are limited; they do not extend, for example, to laws with specific age requirements under the state or federal constitution or state or federal laws.<sup>20</sup>
  - 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 were emancipated. In our experience, domestic violence shelters typically are hesitant to accept even emancipated minors.
  - 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.

<sup>12</sup> 13 V.S.A. § 1311(b).

<sup>13</sup> 13 V.S.A. § 1311(c): "Exempt from the prohibitions of this section are: (1) a shelter, or the directors, agents, or employees of a shelter, designated by the Commissioner for Children and Families pursuant to 33 V.S.A. § 5304, provided that the requirements of 33 V.S.A. § 5303(b) are satisfied..."; 33 V.S.A. § 5303(b): "Upon delivery of a child to a shelter, the shelter program director or his or her designee shall notify the child's parents, guardian, or custodian that the child has been taken into custody and make reasonable efforts to mediate the differences between the parties."

<sup>14</sup> 33 V.S.A. § 5303(c)-(d).

<sup>15</sup> 33 V.S.A. § 5303.

<sup>16</sup> 33 V.S.A. § 5303(b).

<sup>17</sup> 1 V.S.A. § 173: The age of adulthood is 18; 12 V.S.A. § 7156(a)(1): An emancipated minor is recognized as an adult for purposes of entering a binding contract.

<sup>18</sup> Vermont Rules of Civil Procedure § 17(b). Note, though, that a 16- or 17-year-old may independently seek a protective order, per 15 V.S.A. §§ 1102; 1103.

<sup>19</sup> 12 V.S.A. § 7156(a). Note that minors are emancipated upon marriage and should be allowed to independently file for divorce and also seek relief from abuse against family or household members, including parents or spouses. See 12 V.S.A. § 7156(a)(2): An emancipated minor is recognized as an adult for purposes of litigation and settlement of controversies, including the ability to sue and be sued; 15 V.S.A. § 1101(2); 15 V.S.A. § 1103: A minor age 16 or 17, or a minor of any age who is in a dating relationship, may seek a protective order on their own behalf.

<sup>20</sup> 12 V.S.A. § 7156(b).

- Marriage before age 18 is recognized as a “human rights abuse.”<sup>21</sup> **It destroys nearly every aspect of American girls’ lives, including their health, education and economic opportunities<sup>22</sup> and even their physical safety.<sup>23</sup>**
- 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 70-80% divorce rate.<sup>24</sup>
- **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.<sup>25</sup> Indeed, individuals in the U.S. who married before age 18 report high rates of unwanted or unplanned pregnancies.<sup>26</sup> 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 **289 minors were married in Vermont** between 2000 and 2021.<sup>27</sup>
- About **80% were girls wed to adult men** an average 4.96 years older.<sup>28</sup>
- **Two of the children were age 15**, even though marriage is not allowed before age 16.<sup>29</sup> Further, the spouse of one of the 15-year-olds could otherwise have been charged with a sex crime, but the marriage license became a get-out-of-jail-free card for a would-be child rapist.<sup>30 31</sup> A clearly defined marriage age of 18, without loopholes, could help prevent this from happening again.

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 a voluntary acknowledgement of parentage and filling it

<sup>21</sup> 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>.

<sup>22</sup> 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>.

<sup>23</sup> 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>.

<sup>24</sup> 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>.

<sup>25</sup> 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>.

<sup>26</sup> 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>.

<sup>27</sup> Based on Unchained’s analysis of marriage-license data from the Vermont Department of Health for the period 2000 to 2021. See 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>.

<sup>28</sup> Based on Unchained’s analysis of marriage-license data from the Vermont Department of Health for the period 2000 to 2021. Note that the average age difference is based on data for the period 2000 to 2019.

<sup>29</sup> *Id.*

<sup>30</sup> Alissa Koski, et al., *Child Marriage or Statutory Rape?*, *Journal of Adolescent Health* (pending publication).

<sup>31</sup> 13 V.S.A. § 3252(c): Consensual sex with a person under age 16 is a crime unless the parties are married or – under a “close-in-age exception” that became law in May 2006 – the perpetrator is younger than 19 and the victim is at least 15. One 15-year-old was wed to an 18-year-old in 2000, prior to the passage of the close-in-age exception. The other 15-year-old was wed to an 18-year-old in 2006; for this analysis, Unchained assumed they wed after the close-in-exception passed.

with the Department of Health.<sup>32</sup> Such acknowledgement confers upon the father all the rights and duties of a parent.<sup>33</sup> (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 easily escape. Using a minor's current economic dependence to justify an early marriage is harmful public policy that sets up the minor for a lifetime of dependence. **Not only does economic dependence contribute to the risk of domestic violence,<sup>34</sup> but many abuse survivors cite economic dependence as the main reason they felt compelled to stay in a violent home.<sup>35</sup>**
- **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,<sup>36</sup> not a solution to it.**

The solution is simple: **H631, sponsored by Rep. Carol Ode, would keep the marriage age at 18 but eliminate the dangerous loophole** that allows adults to enter minors into marriage with little or no input from the minor, before the minor has the legal rights necessary to navigate a contract as serious as marriage. **Passing H631 harms no one, costs nothing and ends a human rights abuse.**

**States across the U.S. are moving to pass similar legislation to eliminate all marriage before 18, without exceptions.** If Vermont does not act now, it could become the "destination site" for child marriage, especially since most of Vermont's neighbors already have ended child marriage<sup>37</sup> and the state does not impose a residency requirement for marriage.<sup>38</sup>

**Governments around the world are also moving to end child marriage,** since 193 countries – including the U.S. – have pledged to end child marriage by year 2030, per United Nations Sustainable Development Goal 5.3.<sup>39</sup>

**But Vermont is falling behind.** We must not wait until 2029 to keep our promise to the world, while hundreds of girls are being subjected to a human rights abuse. We must act now to end the archaic, harmful practice of child marriage.

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<sup>32</sup> 15C V.S.A. §§ 301; 305; 310.

<sup>33</sup> 15C V.S.A. § 305(a).

<sup>34</sup> 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>.

<sup>35</sup> 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>.

<sup>36</sup> 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>.

<sup>37</sup> Delaware, New Jersey, Pennsylvania, New York and Rhode Island have all ended all marriage before 18, as has Minnesota.

<sup>38</sup> Vermont Department of Health, *Getting Married in Vermont*, [https://www.healthvermont.gov/sites/default/files/documents/pdf/HS\\_VR\\_GettingMarriedinVermont\\_FAQs.pdf](https://www.healthvermont.gov/sites/default/files/documents/pdf/HS_VR_GettingMarriedinVermont_FAQs.pdf).

<sup>39</sup> 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."