

SENATE BILL 949

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CF HB 1231

By: **Senators Elfreth, Beidle, Feldman, Griffith, Guzzone, Hayes, Hettleman, Klausmeier, McCray, Smith, Sydnor, Waldstreicher, West, and Young**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Authorization for a Minor to Marry**

3 FOR the purpose of extending the jurisdiction of the equity court to include a petition for
4 and authorization for a minor to marry; altering the conditions under which an
5 individual who is 17 years old is authorized to marry; prohibiting an individual under
6 the age of 17 years from marrying; requiring an applicant for a marriage license to
7 provide a certain document to a clerk of the court; requiring a clerk of the court to
8 review a certain order before issuing a marriage license under certain circumstances;
9 authorizing a minor to file a petition for the authorization to marry in the minor's
10 own name subject to certain requirements; requiring that a certain petition contain
11 certain information; requiring the court to appoint an attorney to represent a
12 petitioner on the filing of a certain petition; authorizing a court to issue certain
13 orders under certain circumstances; requiring a court to conduct a certain interview
14 at a hearing on a certain petition; establishing a certain rebuttable presumption;
15 authorizing a court to issue an order granting authorization for a minor to marry
16 after making certain findings; prohibiting a court from issuing a certain order under
17 certain circumstances; requiring a clerk of the court to issue a certified copy of a
18 certain order under certain circumstances; authorizing the Court of Appeals to adopt
19 rules to implement certain provisions of this Act; making conforming changes; and
20 generally relating to marriage of minors.

21 BY repealing and reenacting, with amendments,

22 Article – Family Law

23 Section 1–201(b), 2–301, 2–402(b), and 2–405(c)

24 Annotated Code of Maryland

25 (2019 Replacement Volume)

26 BY adding to

27 Article – Family Law

28 Section 5–2A–01 through 5–2A–04 to be under the new subtitle “Subtitle 2A.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Emancipation of a Minor and Authorization to Marry”
2 Annotated Code of Maryland
3 (2019 Replacement Volume)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
5 That the Laws of Maryland read as follows:

6 **Article – Family Law**

7 1–201.

8 (b) An equity court has jurisdiction over:

9 (1) adoption of a child, except for a child who is under the jurisdiction of
10 any juvenile court and who previously has been adjudicated to be a child in need of
11 assistance;

12 (2) alimony;

13 (3) annulment of a marriage;

14 (4) divorce;

15 (5) custody or guardianship of a child except for a child who is under the
16 jurisdiction of any juvenile court and who previously has been adjudicated to be a child in
17 need of assistance;

18 (6) visitation of a child;

19 (7) legitimation of a child;

20 (8) paternity;

21 (9) support of a child; [and]

22 (10) custody or guardianship of an immigrant child pursuant to a motion for
23 Special Immigrant Juvenile factual findings requesting a determination that the child was
24 abused, neglected, or abandoned before the age of 18 years for purposes of § 101(a)(27)(J)
25 of the federal Immigration and Nationality Act; **AND**

26 **(11) A PETITION FOR AUTHORIZATION FOR A MINOR TO MARRY.**

27 2–301.

28 (a) An individual [16 or] 17 years old may not marry unless:

1 [(1) the individual has the consent of a parent or guardian and the parent
2 or guardian swears that the individual is at least 16 years old; or

3 (2) if the individual does not have the consent of a parent or guardian,
4 either party to be married gives the clerk a certificate from a licensed physician, licensed
5 physician assistant, or certified nurse practitioner stating that the physician, physician
6 assistant, or nurse practitioner has examined the woman to be married and has found that
7 she is pregnant or has given birth to a child.]

8 **(1) THE INDIVIDUAL PRESENTS A CERTIFIED COPY OF AN ORDER**
9 **GRANTING AUTHORIZATION FOR A MINOR TO MARRY IN ACCORDANCE WITH THE**
10 **PROVISIONS OF TITLE 5, SUBTITLE 2A OF THIS ARTICLE TO THE CLERK OF THE**
11 **CIRCUIT COURT NO EARLIER THAN 15 DAYS AFTER THE ORDER WAS ISSUED; AND**

12 **(2) THE OTHER PARTY TO BE MARRIED IS NOT MORE THAN 4 YEARS**
13 **OLDER THAN THE INDIVIDUAL.**

14 (b) [An individual 15 years old may not marry unless:

15 (1) the individual has the consent of a parent or guardian; and

16 (2) either party to be married gives the clerk a certificate from a licensed
17 physician, licensed physician assistant, or certified nurse practitioner stating that the
18 physician, physician assistant, or nurse practitioner has examined the woman to be
19 married and has found that she is pregnant or has given birth to a child.

20 (c)] An individual under the age of [15] 17 may not marry.

21 2–402.

22 (b) Except as provided in subsection (d) of this section, to apply for a license, 1 of
23 the parties to be married shall:

24 (1) appear before the clerk and give, under oath, the following information,
25 which shall be placed on an application form by the clerk:

26 (i) the full name of each party;

27 (ii) the place of residence of each party;

28 (iii) the age of each party;

29 (iv) whether the parties are related by blood or marriage and, if so,
30 in which degree of relationship;

31 (v) the marital status of each party; and

1 (vi) whether either party was married previously, and the date and
2 place of each death or judicial determination that ended any former marriage;

3 (2) sign the application form; and

4 (3) provide the clerk with:

5 (I) the Social Security number of each party who has a Social
6 Security number; AND

7 (II) A COPY OF AN OFFICIAL GOVERNMENT-ISSUED BIRTH
8 CERTIFICATE OR OTHER OFFICIAL GOVERNMENT-ISSUED DOCUMENT OR RECORD
9 DEMONSTRATING THE AGE OF EACH PARTY.

10 2-405.

11 (c) (1) If either party to be married is known to be of an age where [the
12 parental or guardian's consent and oath, or the licensed physician's certificate] A
13 **CERTIFIED COPY OF AN ORDER GRANTING AUTHORIZATION FOR A MINOR TO MARRY**,
14 required by § 2-301 of this title, is required, the clerk shall [obtain the consent and oath or
15 the certificate] **REVIEW THE CERTIFIED COPY OF THE ORDER** before issuing the license.

16 (2) [(i)] The clerk's record required under this title shall include[:

- 17 1. the consent and oath required by § 2-301 of this title, if
18 written; or
- 19 2. the fact that consent was given and an oath was made, if
20 given and made in person.

21 (ii) The licensed physician's certificate required by § 2-301 of this
22 title may not be made a part of the clerk's record] **A PHOTOCOPY OF THE CERTIFIED**
23 **COPY OF THE ORDER GRANTING AUTHORIZATION FOR A MINOR TO MARRY**
24 **REQUIRED UNDER § 2-301 OF THIS TITLE.**

25 [(3) After an individual has been issued a license in accordance with the
26 provisions of this subtitle, the clerk who issued the license shall seal the licensed
27 physician's certificate. Except on order of the court, the licensed physician's certificate shall
28 remain sealed.]

29 **SUBTITLE 2A. AUTHORIZATION FOR A MINOR TO MARRY.**

30 **5-2A-01.**

1 **(A) A MINOR WHO IS 17 YEARS OLD MAY FILE A PETITION IN THE MINOR'S**
2 **OWN NAME FOR AUTHORIZATION TO MARRY IN THE CIRCUIT COURT FOR THE**
3 **COUNTY IN WHICH THE MINOR RESIDES.**

4 **(B) A PETITION FOR AUTHORIZATION FOR A MINOR TO MARRY SHALL**
5 **CONTAIN THE FOLLOWING:**

6 **(1) THE PETITIONER'S FULL NAME, GENDER, DATE OF BIRTH, AND**
7 **ADDRESS, INCLUDING THE LENGTH OF TIME THE PETITIONER HAS RESIDED AT THE**
8 **ADDRESS;**

9 **(2) THE INTENDED SPOUSE'S FULL NAME, GENDER, DATE OF BIRTH,**
10 **AND ADDRESS, INCLUDING THE LENGTH OF TIME THE INTENDED SPOUSE HAS**
11 **RESIDED AT THE ADDRESS;**

12 **(3) A STATEMENT EXPLAINING WHY THE PETITIONER WISHES TO**
13 **MARRY, HOW THE PARTIES MET, AND HOW LONG THEY HAVE KNOWN EACH OTHER;**
14 **AND**

15 **(4) A COPY OF ANY CRIMINAL RECORDS CONCERNING EITHER PARTY**
16 **AND A COPY OF ANY PEACE ORDER OR PROTECTIVE ORDER ISSUED AGAINST EITHER**
17 **PARTY.**

18 **5-2A-02.**

19 **(A) ON THE FILING OF A PETITION FOR AUTHORIZATION FOR A MINOR TO**
20 **MARRY, A COURT SHALL:**

21 **(1) APPOINT A LAWYER TO REPRESENT THE PETITIONER;**

22 **(2) SET AN EVIDENTIARY HEARING ON THE PETITION; AND**

23 **(3) PROVIDE THE MINOR WITH THE FOLLOWING:**

24 **(I) INFORMATION ON THE RIGHTS AND RESPONSIBILITIES OF**
25 **MARRIAGE;**

26 **(II) REFERRAL INFORMATION FOR LEGAL AID AGENCIES; AND**

27 **(III) INFORMATION ON STATE AND NATIONAL HOTLINES FOR**
28 **CHILD ABUSE, DOMESTIC VIOLENCE, AND HUMAN TRAFFICKING.**

29 **(B) A COURT MAY ISSUE ANY ORDER REGARDING THE PETITION OR THE**

1 PETITIONER THAT IT CONSIDERS APPROPRIATE OR NECESSARY.

2 5-2A-03.

3 (A) AT THE HEARING, THE COURT SHALL CONDUCT AN IN CAMERA
4 INTERVIEW OF THE PETITIONER SEPARATE FROM THE PETITIONER'S PARENTS OR
5 GUARDIANS AND INTENDED SPOUSE.

6 (B) (1) THE SUPPORT OF A PARENT OR GUARDIAN FOR THE MARRIAGE
7 MAY NOT BE USED AS EVIDENCE THAT MARRIAGE IS IN THE BEST INTERESTS OF THE
8 PETITIONER.

9 (2) IN DETERMINING WHETHER TO GRANT A PETITION UNDER THIS
10 SECTION, THE FACT THAT THE PETITIONER OR THE PETITIONER'S INTENDED
11 SPOUSE IS PREGNANT OR THAT THEY HAVE A CHILD TOGETHER IS NOT SUFFICIENT
12 EVIDENCE THAT MARRIAGE ARE IN THE BEST INTEREST OF THE PETITIONER.

13 (C) AFTER A HEARING, A COURT MAY ISSUE AN ORDER GRANTING
14 AUTHORIZATION FOR A MINOR TO MARRY IF THE COURT MAKES WRITTEN FINDINGS
15 THAT:

16 (1) THE PETITIONER IS A COUNTY RESIDENT WHO IS AT LEAST 17
17 YEARS OLD;

18 (2) THE INTENDED SPOUSE OF THE PETITIONER IS NOT MORE THAN 4
19 YEARS OLDER THAN THE PETITIONER;

20 (3) THE PETITIONER SEEKS TO MARRY VOLUNTARILY AND FREE
21 FROM FORCE, COERCION, OR FRAUD;

22 (4) THE PETITIONER UNDERSTANDS THE RIGHTS, RESPONSIBILITIES,
23 AND OTHER CONSEQUENCES OF MARRIAGE; AND

24 (5) MARRIAGE IS IN THE BEST INTEREST OF THE PETITIONER.

25 (D) A COURT MAY NOT ISSUE AN ORDER GRANTING AUTHORIZATION FOR A
26 MINOR TO MARRY UNDER THIS SECTION IF THE COURT DETERMINES THAT:

27 (1) THE INTENDED SPOUSE OF THE PETITIONER:

28 (I) AT ANY TIME HAS BEEN IN A POSITION OF AUTHORITY OVER
29 THE PETITIONER OR IN A POSITION OF SPECIAL TRUST WITH THE PETITIONER OR
30 HAS HAD A PROFESSIONAL RELATIONSHIP WITH THE PETITIONER; OR

1 **(II) HAS BEEN CONVICTED OR ADJUDICATED DELINQUENT FOR:**

2 **1. ANY CRIME AGAINST A MINOR;**

3 **2. A CRIME OF VIOLENCE UNDER § 14-101 OF THE**
4 **CRIMINAL LAW ARTICLE;**

5 **3. A SEXUAL CRIME UNDER SUBTITLE 3 OF THE**
6 **CRIMINAL LAW ARTICLE; OR**

7 **4. HUMAN TRAFFICKING UNDER SUBTITLE 11 OF THE**
8 **CRIMINAL LAW ARTICLE;**

9 **(2) ONE PARTY IS PREGNANT OR HAS A CHILD WITH THE OTHER**
10 **PARTY THAT EVIDENCES THAT THE PETITIONER WAS THE VICTIM OF A SEXUAL**
11 **CRIME COMMITTED BY THE INTENDED SPOUSE; OR**

12 **(3) A PROTECTIVE ORDER WAS ISSUED AGAINST THE INTENDED**
13 **SPOUSE OF THE PETITIONER RELATING TO DOMESTIC VIOLENCE, REGARDLESS OF**
14 **WHETHER THE PETITIONER WAS THE VICTIM.**

15 **(E) THE COURT MAY ISSUE ANY OTHER ORDER OR IMPOSE ANY CONDITION**
16 **ON AN ORDER THAT IT CONSIDERS NECESSARY FOR THE PROTECTION OF THE**
17 **PETITIONER.**

18 **(F) ON THE ISSUANCE OF AN ORDER GRANTING AUTHORIZATION FOR A**
19 **MINOR TO MARRY, THE CLERK OF THE COURT SHALL PROVIDE A CERTIFIED COPY**
20 **OF THE ORDER TO THE PETITIONER.**

21 **5-2A-04.**

22 **THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT THE PROVISIONS**
23 **OF THIS SUBTITLE.**

24 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
25 **October 1, 2020.**