



2020 Report on Child Marriage in the United States A National Overview of Child Marriage Data and Law

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I. An Overview of Child Marriage

A. A Brief History of Child Marriage

The tradition of child marriage has changed over time as cultural norms evolved, with the economic concerns of families driving de facto marital rules since the Early Modern era. Historically, most cultures considered the age of puberty, and the capacity for reproduction, to be the guide for determining a minimum legal age to marry. However, research reveals that, in societies as early as ancient Rome, the actual age of puberty often varied from public belief and consequences for illegally early marriages were typically not imposed.¹ Because marriage's "sole essential characteristic" was the negotiated property exchange between two families, girls were eligible to be married off at the discretion of their families at the start of and prior to menstruation throughout the Middle Ages.² Rules were flexible based on the economic needs and desires of families.

Firmer minimum marital ages emerged in Europe as parental authority over their children's marriages waned. Flexible, paternal control over marriage dictated until the thirteenth century when the Roman Catholic Church took over marital regulation and "marriage became a more clearly and rigidly defined institution."³ Catholic regulation outlawed polygamy, incest, and adultery, declared nonmarital children illegitimate and ineligible to inherit property, diminished the importance of parental consent, and introduced the Roman age of consent at fourteen for boys and twelve for girls.⁴ After the Protestant Reformation, the state took over marital regulation and, in an effort to stop young couples from marrying and passing on family property without their parents' approval, voided marriages by individuals under the age of twenty-one who lacked parental consent.⁵ The rule "reinforced the centrality of marriage as the institution

through which families controlled property and wealth.”⁶ Since then, most legal history in Europe placed the ‘age of majority,’ the legal term for the age at which an individual is considered an adult,⁷ at twenty-one.

In the United States, state marital laws were largely shaped by English common law, and they produced a system in which legal impediments to marriage revolved around parental consent as opposed to strict age minimums for marriage. The “relative ease with which couples can enter legally valid marriages, the presumption in favor of a marriage’s validity despite the presence of legal impediments or noncompliance with formalities, and the delegation of a gatekeeping function to parents whose children intend to marry despite having yet to attain the presumptive age of consent,” were all characteristics of early English common law that were persevered in the American legal system.⁸ These marital laws gave parents the ability to police their children’s marriages while their children were under the ‘age of majority.’ While there were marital age of consent laws, noncompliant marriages were generally extended legal recognition as ‘common law marriages,’ and judges increasingly relaxed evidence requirements needed to show their existence.⁹ Despite these irregularities, the universal age of majority in America remained at age twenty-one until World War II needs prompted Congress to lower it to eighteen; the Act contained provisions that explicitly permitted marriages below eighteen with parental and judicial consent.¹⁰ Throughout the years, age of consent laws consistently prioritized parental control of marriages instead of elevating child protection, and statutes contained loopholes allowing for approved child marriages.

B. Current Rates of Child Marriage

Today, rates of child marriage are high across the globe. According to UNICEF, fifteen million girls are married before their eighteenth birthday every year, which amounts to approximately 41,000 child brides per day.¹¹ In developing countries, the rates of child marriage are worse: 1 in 3 girls get married by age eighteen and 1 in 9 girls get married by age fifteen.¹² Worldwide, approximately 650 million women and girls alive today were married before they turned eighteen.¹³ For males, a study analyzing data from 82 countries found that approximately 1 in 30 boys get married as children.¹⁴ UNICEF estimated that 115 million boys and men alive today were married before they turned eighteen. This brings the total number of child brides and grooms worldwide to 765 million.¹⁵

In the United States, child marriage remains a pervasive issue. A 2018 study analyzing marriage license data from 41 states found that at over 200,000 minors, 87% girls and 13% boys, were married in the United States between 2000 and 2015.¹⁶ A different study, looking at the mental health of child brides in America, estimated between 8.9% and 11.96% of women are married as minors in the United States.¹⁷ While the general public often assumes that child marriage is an issue that doesn't pertain to America, it is widespread across the country today.

Across cultures, various factors contribute to the high prevalence of child marriage; drivers include gender inequality, cultural tradition, poverty, and economic/social insecurity.¹⁸ Together, these factors fuel and sustain high rates of the practice worldwide. In cultures with patriarchal values, there is often a large emphasis placed on controlling the sexuality and virginity of daughters.¹⁹ Compounded with the social and economic profits that accompany child marriages, these attitudes incentivize the marriage of young girls over generations. In more

impoverished countries, marrying off girls is seen as a financial solution to secure the future of both the family and the girls themselves.²⁰ In fact, “more than half of girls from the poorest families in the developing world are married as children.”²¹ In many of these cultures, families view an investment in their son’s education are more valuable than an investment in their daughter’s education, and they use the marriage of young girls as a means to lessen the economic burden on the family, repay debts, manage disputes, and form social, political, and economic alliances.²² Periods of social and economic insecurity also catalyze child marriage, evidenced by the fact that child marriage rates increase during times of conflict and humanitarian crises.²³ Of the ten countries with the highest child marriage rates worldwide, nine are considered fragile states. These factors and more coalesce to contribute to the ongoing, global issue of child marriage.

C. Negative Consequences of Child Marriage

Child marriage triggers severe negative health effects in victims of child marriage and their subsequent offspring. The risk of death spikes for individuals who are victims of child marriage. Girls who marry under the age of fifteen are five times as likely to die during pregnancy and childbirth than adult women, and 70,000 adolescents die annually in developing countries as a result of child marriage.²⁴ According to the World Health Organization, the leading cause of death globally for girls between the ages of fifteen and nineteen is complications from pregnancy and childbirth.²⁵ In addition to the increased risk of death, child mothers face heightened risks of getting serious health conditions like obstetric fistula, a debilitating condition that renders girls incontinent and often results in the death of the baby within the first week of life,²⁶ and sexually transmitted infections and diseases.²⁷ A study in Kenya and Zambia found that girls married

between the ages of 15 and 19 were 75% more likely to contract HIV than sexually active, unmarried girls of the same age.²⁸ Child brides are also more likely to face sexual, physical, and emotional abuse.²⁹ In India, a study by the International Center for Research on Women found that girls who married before age 18 faced physical violence twice as often and sexual violence three times as often as girls who married after their eighteenth birthday.³⁰ Life-threatening health effects also plague infants and children born out of child marriages. Stillbirths and newborn deaths are 50% higher among offspring of child mothers than offspring of mothers between the ages of 20 and 29.³¹

Child marriage also results in developmental consequences bearing individual and societal costs, both socially and economically. Victims of child marriage face increased educational obstacles that impact the rest of their lives. In some nations, “there is evidence of almost a binary option of either going to school or getting married early.”³² So, as young girls enter marriages, they are significantly less likely to receive education and the countless, life-changing benefits that follow. For girls, increased educational attainment contributes to fewer child births, increased lifetime earnings, improved household income, reduced likelihood of experience intimate partner violence, and increased decision-making ability.³³ Thus, the consequences of diminished educational attainment for girls due to child marriage entrench gender inequality. A 2006 study found that eliminating child marriage and early pregnancies could potentially reduce the gender gap in education by about half.³⁴ There is also a larger economic impact: reduced female earnings combined with the extreme fertility and population growth consequences of child marriage have a ripple effect that impacts the global economy and the intergenerational transmission of poverty.³⁵ Research shows that “if child marriage had ended in 2015, the global

economy could have saved \$566 billion by 2030.”³⁶ In addition to being a dire social issue, child marriage is also a deeply economic one.

D. International Child Marriage Law in a Nutshell

Child marriage has received international condemnation, and the United Nations has made an active effort to limit it across the globe. Until 2015, two major international law treaties served as the foundation of the international condemnation of child marriage as a violation of human rights: The Convention on the Rights of the Child (“CRC”)³⁷ and the Convention on the Elimination of Discrimination against Women (“CEDAW”).³⁸ The CRC, considered one of the most universally endorsed and ratified treaties in history, defined all humans below the age of eighteen as children.³⁹ Together, the conventions internationally denounce the practice of child marriage. In 2015, the UN Sustainable Development Goals (“SDGs”), a set of goals considered to be “the crowning achievement of the development agenda,” went further and highlighted child marriage as a threat to global development.⁴⁰ The SDGs incorporated the primary aims of both the CRC and the CEDAW, and it called for the elimination of “all harmful practices, such as child, early and forced marriage and female genital mutilations” in SDG No. 5.3.⁴¹ The call to action has been ongoing; the UN General Assembly has since passed three separate resolutions calling for UN Member States to strengthen and accelerate action to address child, early and forced marriage in 2014, 2016, and 2018.⁴²

Despite international efforts to end child marriage, cultural and religious exemptions to child marriage laws facilitate its continuation. Many countries allow exceptions to minimum marital ages when there is parental consent, court authorization, or customary or religious laws that take precedence over national law.⁴³ Most of these exceptions reflect deep-rooted gender inequality,

a dynamic that makes child marriage disproportionately harm girls and women. An analysis by the World Policy Analysis Center found that 93 countries legally allow for girls to marry before the age of eighteen and 54 countries allow for girls to marry 1 to 3 years younger than boys.⁴⁴ These legal frameworks reinforce existing gender inequalities. Religion is often put forward as a reason to allow child marriages, even though the UN Population Fund asserts that “there are no major religious traditions that require child marriage,” and “it would be wrong to say that child marriage warrants protection as a cultural or religious practice.”⁴⁵ Some countries have different age requirements based on religious affiliation. For example, in the Philippines, the minimum age to marry is twenty-one, but Muslim boys can marry at fifteen and Muslim girls can marry at puberty.⁴⁶ Religious and cultural exemptions to marital age of consent laws are common across the globe. The Pew Research Center identified at least 117 nations that allow children to marry through these kinds of legal loopholes.

Most countries have some form of exemption to their legal minimum marriage age



Note: Most exemptions involve requiring courts or parents to give permission for a child to marry.
Source: Pew Research Center analysis of U.S. State Department country reports on human rights practices for 2015.
Supplemental data taken from the United Nations Population Fund. U.S. data taken from Cornell University Law School Legal Information Institute.

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II. Child Marriage in the United States

A. An Overview of Child Marriage in the United States

Child marriage is a pervasive issue in the United States with devastating domestic consequences. Approximately 40 children are married each day in the United States.⁴⁷ Child marriage advocacy group, Unchained At Last, estimates that 248,000 children were married in America between 2000 and 2010,⁴⁸ and marriage license data shows that at least three states granted 12-year-olds marriage licenses and at least 14 states granted 13-year-olds marriage licenses during that period.⁴⁹ The problem is vast, and mounting U.S.-based evidence reflects the consequences of child marriage in America. Between 70% and 80% of marriages involving a child in the U.S. end in divorce, and child marriage followed by divorce doubles the likelihood that child mothers will descend into poverty.⁵⁰ Girls in the U.S. who marry before the age of 19 are also 50% more likely to drop out of high school and four times less likely to graduate from college.⁵¹ From a health perspective, studies show that victims of child marriage in the U.S. are acutely vulnerable to higher rates of psychiatric disorders⁵² as well as physical, emotional, or verbal abuse.⁵³ Like the global consequences of child marriage, the domestic consequences carry with them tremendous intergenerational and societal costs for America.⁵⁴

Despite the persisting issue of child marriage, there has been a consistent failure by the American government to take federal action to confront the problem. On one hand, the U.S. Congress failed to ratify the two UN conventions that are the bedrock of international denunciation of child marriage. America is one of only three countries to not have ratified the CRC.⁵⁵ It also stands alone as the only country in the Western hemisphere, and the only industrialized democracy, that has not ratified the CEDAW.⁵⁶ On the other hand, there is no

federal law banning child marriage in America.⁵⁷ As a result, child marriage is governed by the states under our federalist legal structure.

State autonomy over the issue of child marriage makes it difficult to curtail. Among other things, states set different minimum age laws. So, while states like Delaware and New Jersey have universally banned child marriage,⁵⁸ states with more lenient laws consistently approve marriages involving children under the age of eighteen. For example, Missouri is known as a ‘destination wedding spot’ for child brides. A *The Kansas City Star* report found evidence of individuals rushing to the state to marry fifteen-year-old brides; “some traveled up to 1,800 miles to Missouri, from as far off as Oregon, Idaho, Utah, Florida and every other state in the region.”⁵⁹ The decentralized system creates a legal framework in which certain states strongly protect against child marriage while others facilitate the practice. Absent federal action outlawing child marriage, most state laws still offer various avenues through which child marriage persists.

State child marriage laws are fraught with legal loopholes, and the lack of the following characteristics in state laws allow child marriage to occur across the country: age floors, proof of age requirements, and residency requirements. State laws lacking an age floor open the door widely for child marriage. Most states’ laws set the age of consent for marriage at eighteen but allow an array of exceptions to the rule.⁶⁰ Without an age floor, a child of any age can be issued a marriage license as long as exceptions are met. Age floors with no exceptions are one of the best ways to prevent child marriage in the United States. Even with such age protections, however, laws lacking proof of age requirements still create child marriage loopholes. Marriage license data shows that, even in states with age floors, impermissibly young children have been

married because proof of age was not required.⁶¹ Similarly, laws that lack residency requirements allow individuals to circumvent strong age protections against child marriage. Without residency requirements, individuals can cross state lines to engage in child marriage. This is how ‘destination wedding spots’ for child marriage emerge.

Parental and judicial consent exceptions to state child marriage laws also facilitate child marriage in America; both exceptions make adults gatekeepers to the marriage of children and sacrifice child protection. Parent consent exceptions “post one of the greatest concerns with respect to forced marriages, since parental consent can so easily equal parental coercion.”⁶² Yet, consent by at least one parent is often enough to acquire a license for a marriage involving a child. Even when parental consent isn’t on its own enough for approval of child marriage, it often drives the outcome in judicial approval processes instead of the wishes of the minor.⁶³ Consistently, adults prefer and protect the desires of other adults instead of children. This occurs in the context of judicial consent exceptions as well. In a variety of ways, assigning judges the responsibility for approving marriages involving minors is problematic. Judges generally lack knowledge about the intricacies of child marriage, coercive control, and intimate partner violence that are at play in these situations.⁶⁴ They also lack the experience, training, and resources needed to conduct sufficiently diligent inquiries that may be necessary to evaluate cases.⁶⁵ Both parental and judicial consent can be motivated by factors other than the wellbeing of the child, and child marriage exceptions that hinge on such consent puts children in danger.

Beyond legal loopholes, unofficial marriages are another avenue through which child marriage persists in the United States. These unofficial marriages take several forms including conjugal cohabitation, marriage by adoption, and marriage by contract. Conjugal cohabitation

occurs when the marital parties reside together but never obtain a marriage license through the state, much like a common law marriage. Marriage by adoption occurs when an elder spouse adopts the younger in order to gain legal rights and protections and still avoid laws prohibiting child marriage. Finally, marriage by contract occurs when a parent contracts on behalf of their underage child and promises that the child will wed the other party once they achieve the ‘age of majority.’ Some of these unofficial marriages are never registered, and others are registered once a child reaches the legal age. Still, even when the union exists outside the legal bounds of marriage, children endure the harms inflicted by the practice.

B. State by State Analysis of Child Marriage Laws

Alabama

Since 2000, Alabama has had the 4th highest number of total child marriages in the nation, with 8,600 marriages occurring in the state between 2000 and 2015, including the marriage of a fourteen-year-old girl to a seventy-four-year-old man.⁶⁶ While the law changed in 2003 to raise the minimum age from fourteen to sixteen, the practice has still been tracked at rates of nearly 5% as recently as 2014.⁶⁷ In Alabama, no pregnancy exception exists and a child under sixteen now cannot enter into a marriage under any circumstances; sixteen and seventeen-year-olds can marry with parental consent.⁶⁸ There has been no further legislative action against child marriage.

Alaska

Alaska permits a child to marry at age sixteen or seventeen with parental consent.⁶⁹ Children as young as fourteen can marry if a judge determines the marriage to be in the “best interests” of the minor and there is parental consent, the parents are “unreasonably” withholding consent, or the parents are unable to give consent for some other reason.⁷⁰ In early 2018, State Senator Berta Gardner introduced HB 310 which aimed to prohibit marriage under eighteen and only allowed marriage for emancipated minors over sixteen.⁷¹ The bill was referred to the State Affairs and Judiciary committees, but no further progress has been made.⁷² Despite this, Alaska still boasts the lowest rates of child marriage in the United States.⁷³

Arizona

Arizona updated its child marriage law in 2018.⁷⁴ Arizona’s law now bans marriage entirely for children below the age of sixteen, and it allows sixteen and seventeen-year-olds to marry only if they are emancipated or have parental consent. In these cases, Arizona law *also* requires an age

difference of no more than three years between marital parties.⁷⁵ Prior to 2018, sixteen and seventeen-year-old children could marry with just parental consent, and children under sixteen could marry with parental consent and judicial consent.⁷⁶

Arkansas

In April 2019, Arkansas Governor Asa Hutchinson signed into law HB 1708, which bans marriage for those under seventeen unless the child is at least sixteen and pregnant.⁷⁷ Arkansas previously allowed boys to marry at seventeen and girls at sixteen with parental consent.⁷⁸ This difference in minimum age exemplifies the gendered nature of child marriage practices. However, as of July 2019 when HB 1708 came into effect, the age was raised to seventeen for both boys and girls.⁷⁹ Arkansas maintains a pregnancy exception, permitting children over sixteen but under eighteen to marry with proof of pregnancy *and* parental consent.⁸⁰ If the underage child had already given birth, the court may still authorize a marriage if it believes the marriage would be in the “best interests” of the parties.⁸¹

California

In 2018, California state Senator Jerry Hill drafted a bill aimed at prohibiting marriage for all individuals under eighteen years of age.⁸² The legislation passed, but the law still allows any person under the age of eighteen to marry with the consent of at least one parent.⁸³ California imposes additional requirements on the parties for child marriage, including mandatory interviews of the parties, considerations of a number of factors, requests for premarital counseling if deemed necessary, and other surmountable hurdles.⁸⁴ Nevertheless, California law permits children to marry as young as zero, and the legal barriers fail to function as significant hindrances to the practice of child marriage. No other legislation is currently pending.

Colorado

In Colorado, the law previously allowed sixteen and seventeen-year-olds to marry with parental consent and allowed children under sixteen to marry with parental and judicial consent.⁸⁵ State Rep. Chris Hansen introduced HB1316 in 2019, which prohibits marriage entirely under age sixteen and adds the additional requirement of judicial approval for sixteen and seventeen-year-olds seeking to marry.⁸⁶ The bill was signed by Governor Polis and enacted in May 2019.⁸⁷ In March 2019, HB1251 was introduced with the aim of increasing the age of marriage to eighteen years and only allowing an exception for emancipated minors.⁸⁸ The bill failed.

Connecticut

Connecticut’s family law places the legal age of marriage at eighteen, but minors sixteen and over can be married with parental consent *and* the authorization of a probate judge located in the district where the minor resides.⁸⁹ Until October 1, 2017, judicial approval was not required for minors over sixteen; they only needed parental consent.⁹⁰ Additionally, minors could be married under the age of sixteen if the probate judge for the district in which the minor resided provided his or

her written authorization on the marriage license.⁹¹ While Connecticut has yet to raise the marriage age to eighteen without exception, it is one of several states with an un-waivable residency requirement for minors petitioning for a marriage license.⁹² This un-waivable residency requirement ensures minors cannot be taken across state lines to marry in Connecticut; they must be a resident of the state and district in which they are requesting a marriage license.⁹³ In 2017, HB5442 was proposed in the State House, which aimed to end marriage of those under eighteen. In support of the bill, one woman offered her testimony, where she shared her story of child marriage: she was engaged at eight years old and married at fifteen and stated, “I lost my youth and my mental health is just not the same. The happy go lucky little girl is gone. I can go months now without laughing. He robbed me of my childhood... It should not be legal to marry off your child under eighteen in any state.”⁹⁴ The enacted version of the bill maintained the exception for those over sixteen.⁹⁵ In January of 2019, state Senator Matt Lesser introduced a similar bill in the State Senate to end child marriage for any children under the age of eighteen, without exception, but the bill was vetoed in June 2019.⁹⁶

Delaware

Delaware successfully banned child marriage in June 2018 and became the first state to fully ban child marriage in the United States.⁹⁷ Prior to 2018, children under eighteen could marry when their parents petitioned the court with an order.⁹⁸ Delaware already had one of the lowest rates of child marriage as of 2014, and, with the passage of this new law, child marriage rates in the state should reach 0% of children legally married.

Florida

Florida began prohibiting marriage for all children under the age of seventeen in March 2018 when the state passed SB140.⁹⁹ The law permits seventeen-year-olds to marry only if there is parental consent and an age difference of two years or less between the parties.¹⁰⁰ While no action has been taken to further limit child marriage, this change did result in a drop in overall child marriage; between July and December of 2017 prior to the law change, there were 125 marriages involving children, and between that same time period in 2018 after the law change, there were only 48 marriages.¹⁰¹

Georgia

Georgia previously permitted children to marry as young as sixteen with parental consent.¹⁰² In March 2019, HB228 passed the State Senate with unanimous support, which changed the law to permit only emancipated seventeen-year-olds to marry.¹⁰³ Further, the law requires the older party be no more than four years the child’s senior, and both parties must present certification of completed premarital education.¹⁰⁴ The law became effective in July 2019.¹⁰⁵ No further legislative action has been taken.

Hawaii

Hawaii permits children to marry at sixteen with parental consent; fifteen-year-olds may marry if they also acquire judicial consent.¹⁰⁶ No children are permitted to marry under fifteen under any circumstances.¹⁰⁷ In January 2019, SB419 and HB790 were introduced, both of which aim to ban child marriage entirely; both bills were referred to and currently sit in committee.¹⁰⁸

Idaho

Idaho law allows minors to marry at sixteen with parental consent, and it allows minors to marry younger with both parental consent and judicial approval.¹⁰⁹ Judges are required to consider an expert opinion from a physician as to whether the minor is physically and mentally able to “assume full martial duties” before providing their consent.¹¹⁰ Proposed and rejected in February 2019, H0098 would have limited the age difference to three years for all underage marriages, but still permit sixteen and seventeen-year-olds to marry with parental consent and with an additional requirement of judicial consent.¹¹¹ No further legislation has been proposed, but State Rep. Melissa Wintrow aims to keep the issue in the forefront.¹¹²

Illinois

Illinois allows children sixteen and older to marry with parental consent from both parents *or* judicial consent.¹¹³ Although Illinois has no pending bills to amend their child marriage laws, U.S. Rep. Bobby Rush (D-Ill.) introduced in the Federal House of Representatives the “Child Marriage Prevention Act” in early 2018. The bill, currently sitting in committee, aims to end child marriage nationally.¹¹⁴

Indiana

Indiana has not amended its child marriage laws in over two decades.¹¹⁵ Indiana allows marriage for seventeen-year-olds with parental consent.¹¹⁶ The state allows children as young as fifteen to marry with both parental consent *and* court approval *if* the girl is pregnant, regardless of whether the pregnancy resulted from rape.¹¹⁷ There is currently no pending legislation to raise the minimum age or close loopholes.

Iowa

Children in Iowa may be married as young as sixteen with parental consent *and* court approval.¹¹⁸ A judge can *override* a lack of parental consent if they determine consent was “unreasonably” withheld.¹¹⁹ Such a loophole raises concerns of subjective standards. The law grants significant power to a district court judge to decide whether the parties appear capable of assuming the responsibilities of marriage and whether the marriage serves the “best interest” of the child(ren).¹²⁰ Furthermore, proof of age is not required at the time of marriage. Marriages of parties later found to be under eighteen remain valid, although voidable. A party that falsely represented their age in

order to marry can void the marriage by presenting a birth certificate before their eighteenth birthday.¹²¹ It does not appear any legislation regarding child marriage has been proposed yet.

Kansas

In Kansas, children are able to marry as young as sixteen with parental *or* judicial consent.¹²² Children can marry as young as fifteen if the court consents after due investigation finding that the marriage is in the “best interest” of the child.¹²³ There is currently no pending legislation to limit or eliminate child marriage in the state.

Kentucky

In spring 2018, Kentucky amended their laws pertaining to child marriage by passing SB48.¹²⁴ Kentucky passed laws similar to Tennessee which bans child marriage for children under the age of seventeen and only allows seventeen-year-olds to marry with parental consent, provided the age difference between parties is less than four years.¹²⁵ Of note, the law also requires proof of high school completion or the equivalent, among other restrictions, before a marriage license may be issued.¹²⁶

Louisiana

Prior to 2019, children could marry in Louisiana at sixteen with parental consent and children younger than sixteen were able to marry with both parental and judicial consent.¹²⁷ Louisiana state Senator Karen Carter Peterson introduced SB463 in March 2018 to ban child marriage in Louisiana; however, this bill was effectively killed after being indefinitely postponed.¹²⁸ In June 2019, both the State House and Senate voted to pass a bill that would eliminate exceptions for marriage under age sixteen.¹²⁹ Signed by the Governor in June and effective in August, the new law allows sixteen and seventeen-year-olds to marry individuals no more than three years their senior when they have both judicial *and* parental consent.¹³⁰

Maine

Maine’s Domestic Relations statutes provide that parties must be eighteen to marry but allows children as young as sixteen to marry if they provide parental consent.¹³¹ Children under sixteen may also marry, provided they obtain both parental *and* judicial consent. The probate judge must take into consideration the “best interests” of the child, the age difference between parties, and the criminal record of any adult party before providing consent.¹³² Maine’s law on child marriage is very similar to Connecticut: like Connecticut, Maine is one of several states that has un-waivable residency requirements for minors petitioning for marriage.¹³³ Even with their loopholes, fewer than 4 out of every 1,000 children are married in the state of Maine, one of the lowest rates of child marriage in the nation.¹³⁴ In January 2019, State Legislatures proposed “An Act to End Child Marriage,” which would remove the ability for children to marry under sixteen under any circumstances.¹³⁵ In June 2019, both the State House and Senate voted to enact the bill into law.¹³⁶

Because the Governor did not sign or veto the bill, it went into effect without her signature on January 12, 2020.¹³⁷

Maryland

Since 2016, Delegate Vanessa Atterbeary has annually proposed a bill banning child marriage in Maryland, with her fourth failed attempt in April 2019.¹³⁸ In Maryland, fifteen-year-olds can marry with parental consent if pregnant or if they have already given birth to a child, and children sixteen and older can marry with parental consent or without parental consent if pregnant.¹³⁹

Massachusetts

The law in Massachusetts currently allows children to marry under eighteen with parental consent from each parent living in Massachusetts, or consent of a legal guardian.¹⁴⁰ Unlike other states, Massachusetts has no minimum age requirement for this exception, effectively setting the minimum age at zero.¹⁴¹ Between 2010 and 2014, nearly 200 children were married in Massachusetts. 85% of these were girls, and they mostly married older men.¹⁴² Between 2010 and 2014, seventeen-year-old girls were permitted to marry men as old as thirty-nine, and fifteen-year-olds were permitted to marry men in their mid-twenties.¹⁴³ Nearly one third of these child marriages between 2010 and 2014 occurred in Springfield and Worcester.¹⁴⁴ The latest records from the Department of Public Health found that nearly 1,200 children were married between 2000 and 2016, indicating child marriage is still a common practice in the state.¹⁴⁵ In response to this crisis, State Senator Harriette Chandler (D-Worcester) proposed a bill in the 2017-2018 legislative session to ban child marriage in Massachusetts, without exception.¹⁴⁶ This bill was placed under review in March 2018, effectively tabling the bill indefinitely.¹⁴⁷ Chandler, along with State Rep. Kay Khan, reintroduced S.24 in January 2019. A second draft of the bill, S.2294, passed unanimously in the State Senate and, upon sending to the State House, was referred to the committee on House Ways and Means, where it currently sits awaiting further action.¹⁴⁸

Michigan

Tied for the third highest child marriage rate in the Midwest, Michigan would greatly benefit from a bill banning child marriage outright.¹⁴⁹ The current law, last amended in 2007, only requires consent from one parent to legitimize the marriage of a child under eighteen.¹⁵⁰ Children under the age of sixteen may marry with judicial consent from the probate judge.¹⁵¹ State Senators Rick Jones and Margaret O'Brien introduced SB1255 and SB1256 in November 2018, which both aimed to end child marriage. Both bills passed the Senate Judiciary committee but died at the end of session in December.¹⁵² Rep. Sarah Anthony, Rep. Graham Filler, and Rep. Kara Hope proposed three new bills in January of 2019—HB4003, HB4004, and HB4005—which attempt to end child marriage entirely. All three were referred to the Committee on Judiciary in January 2019 and have not seen further progress.¹⁵³

Minnesota

Before 2020, Minnesota law allowed sixteen-year-olds to may marry with parental consent.¹⁵⁴ In February 2019, Rep. Kaohly Her introduced a bill in the State House to ban marriage in Minnesota for children under the age of eighteen.¹⁵⁵ HF 745 passed the House and the Senate before being signed into law by the Govenor.¹⁵⁶

Mississippi

Mississippi's marriage laws are unique in that parental consent is required for children under the age of twenty-one for both males and females; however, with parental consent, girls can marry as young as fifteen and boys can marry as young as seventeen.¹⁵⁷ Judges have the discretion to approve marriages for children even younger than these age requirements, which effectively lowers the minimum age for marriage to zero, so long as there is parental consent.¹⁵⁸

Missouri

Missouri has passed legislation that limits its previous child marriage laws; still though, loopholes persist. In 2018, Missouri revised their law to raise the minimum age to marry to sixteen.¹⁵⁹ Child marriage is still allowed with parental consent for sixteen and seventeen-year-olds seeking to marry, provided there is an age-gap of no more than four years.¹⁶⁰ Prior to the passage of this new law, Missouri was a destination wedding spot for girls under sixteen.¹⁶¹ In just one example, in August 2015 a father from Idaho drove his then fifteen-year-old daughter over one thousand miles to Kansas City, MO to marry her twenty-four-year-old rapist. When the girl was just fourteen, the man, ten years her senior, got her drunk and raped her, resulting in pregnancy. After the wedding, both the husband and father were arrested in Idaho. The man was convicted of rape and the father convicted of felony injury of a child.¹⁶² This is just one story; between 2000 and 2014, over 7,000 minors were married in the state, 85% of which were young girls.¹⁶³

Montana

Montana allows sixteen and seventeen-year-olds to marry with parental (or judicial, if no parents are able) consent, but marriage under age sixteen is banned entirely.¹⁶⁴ In February 2019, state Rep. Jessica Karjala introduced HB533 that would end child marriage under eighteen but the bill was tabled in committee less than a month later, rendering it effectively dead for the session.¹⁶⁵

Nebraska

Nebraska is one of the three states with the lowest rates of child marriage in the Midwest, alongside North and South Dakota.¹⁶⁶ Nebraska requires children to be at least seventeen to marry, and even then, children may only marry with parental consent.¹⁶⁷ Nebraska's age of majority for marriage is nineteen, which requires consent at eighteen as well.¹⁶⁸ There is currently no pending legislation to further limit child marriage.

Nevada

Nevada has laws similar to Colorado, New Mexico and Wyoming that allow sixteen and seventeen-year-olds to marry with parental consent and allow children under sixteen to marry with judicial consent.¹⁶⁹ In June 2019, the Governor of Nevada signed into law AB139. As enacted, the bill permits seventeen-year-olds to marry with both parental and judicial approval, and it only allows marriage under seventeen in extraordinary circumstances, if, after an evidentiary hearing where both parties provide sworn testimony, the judge finds that the marriage is in the minor's best interest.¹⁷⁰

Nevada is home to many different religions and religious sects, and it is believed that this is part of the reason why the rate of child marriage in Nevada is the highest in this region. Approximately six out of every 1,000 children will be married in Nevada.¹⁷¹

New Hampshire

In 2019, New Hampshire signed into law a bill that banned marriage for those under sixteen and rendered any marriage contracted into by a child under sixteen null and void.¹⁷² Until January 2019, New Hampshire law allowed girls as young as thirteen and males as young as fourteen to marry.¹⁷³ Governor Chris Sununu signed the bill changing the minimum age.¹⁷⁴ The law still permits marriage for minors between sixteen and eighteen with parental consent.¹⁷⁵ State Rep. Cassandra Levesque, who at seventeen successfully pushed as a private citizen to change the minimum age to sixteen and was elected to office at nineteen, introduced HB 378, which would ban child marriage for anyone under the age of eighteen, without exception. However, the bill was tabled in March 2019 and effectively died at the end of the legislative session.¹⁷⁶ Rep. Levesque reintroduced the bill in 2020 as HB1516; the bill was referred to the Children and Family Law committee, where it currently sits awaiting further action.¹⁷⁷

New Jersey

New Jersey also recently acted against child marriage in the form of Senate Bill S427, which substituted Bill A865.¹⁷⁸ In June 2018, New Jersey became the second state in the nation, after Delaware, to ban marriage for children under the age of eighteen without exception.¹⁷⁹ Before 2018, a minor could be married as long as their parents gave consent in front of two witnesses. They could also be married under the age of 16 if a judge provided judicial consent.¹⁸⁰

New Mexico

The law in New Mexico allows sixteen and seventeen-year-olds to marry with parental consent.¹⁸¹ Those under sixteen can marry with judicial consent after parental request, or if they are pregnant.¹⁸² There is no legislation pending to limit or ban child marriage in New Mexico.

New York

Following the national trend against child marriage, New York enacted legislation in 2017 that banned marriage for children under the age of seventeen.¹⁸³ Now, seventeen-year-olds may marry *only* with judicial consent.¹⁸⁴ Previously, children had been permitted to marry as young as fourteen with both parental and judicial consent.¹⁸⁵ According to state census data reported in the *New York Times*, in 2011 a fourteen-year-old girl married a twenty-six-year-old man, a fifteen-year-old married a twenty-eight-year-old, and two other fifteen-year-olds married individuals ten to twenty years their senior. The judicial exception allowed each of these marriages.¹⁸⁶ Fortunately, this new law prevents judges from permitting such marriages of children in the future. In 2019, New York introduced a bill, A8447, that aims to increase the age of marriage to eighteen years.¹⁸⁷ On January 8, 2020, the bill was referred to the judiciary committee.

North Carolina

In North Carolina, children as young as sixteen can marry with parental consent.¹⁸⁸ Like Arkansas, the state maintains a pregnancy exception that allows children to marry as young as fourteen with judicial consent. In these cases, the judge is instructed to consider whether parents consented to the marriage in deciding whether the marriage is in the child's best interest.¹⁸⁹ There is currently no legislation being proposed to address child marriage.

North Dakota

North Dakota has the second lowest rate of child marriage in the Midwest at 2.9%, but it permits children aged sixteen and seventeen to marry with parental consent.¹⁹⁰ The law does not permit marriages involving children under the age of sixteen, under any circumstance.¹⁹¹ There is no current pending legislation.

Ohio

In Ohio, two bills concerning child marriage have been introduced since 2017: the first sought to ban all marriage for children under eighteen; the second sought to ban all child marriage but maintained an exception for seventeen-year-olds to marry with judicial approval, provided the age difference is no more than four years. The latter, the least restrictive of the two, was signed into law by Governor Kasich in 2019.¹⁹² However, it contains a pregnancy exception under a separate section of the law, the Rules of Juvenile Procedures.¹⁹³ Ohio domestic relations law now resembles New York's 2017 amendments, but with the Juvenile Procedure Rules pregnancy loophole there are still significant differences.¹⁹⁴ Prior to this overhaul, a minor of any age needed only the consent of a parent or custodian to be married.¹⁹⁵ Between 2000 and 2015, over 4,400 girls were married in the state, often with substantial age differences between the spouses.¹⁹⁶ In 2002, a fourteen year-old girl was married to a forty-eight year-old man with court approval following a pregnancy. Even though the couple remained married, a judge hearing the case remarked that a criminal investigation should have been conducted against the man with regard to the girl's pregnancy.¹⁹⁷ Ohio's new law should prevent marriages like this one, although the state has yet to ban child marriage completely.

Oklahoma

Oklahoma law allows children sixteen and older to marry with parental consent, and it provides for a pregnancy exception that permits pregnant children to marry under sixteen with the consent of just one parent.¹⁹⁸ The law also provides an exception for those under sixteen when the marriage is in settlement of a suit for seduction or paternity.¹⁹⁹ There has not been legislative action to prohibit child marriage.

Oregon

Oregon permits child marriage for seventeen-year-olds with parental consent.²⁰⁰ In January 2019, HB2767 was introduced to the Oregon legislature intending to ban child marriage outright; the bill currently sits in committee.²⁰¹

Pennsylvania

Historically, Pennsylvania allowed marriage for children sixteen and older with parental consent. Children fifteen and younger could marry with judicial consent if the court determined the marriage to be in the “best interests” of the child.²⁰² However, in 2020, local lawmakers followed the example set by neighboring states, New Jersey and Delaware, and enacted legislation that closed these loopholes. A bill introduced to ban the practice of child marriage died following the 2018 legislative session.²⁰³ In June 2019, a new bill banning child marriage passed the State House unanimously and currently sits in the State Senate Judiciary committee.²⁰⁴ In October 2019, the State Senate unanimously passed a similar bill banning marriage under eighteen with no exceptions and sent the bill to the House.²⁰⁵ HB360 was referred to the Senate Judiciary Committee on February 4, 2020²⁰⁶ and SB81 has not seen any further action since January 23, 2019.²⁰⁷ HB 360 successfully passed in the Senate and was signed by Governor Tom Wolf on May 8, 2020.

Rhode Island

In Rhode Island, for children who are sixteen or seventeen, the child must provide parental consent in order to marry.²⁰⁸ Rhode Island, however, imposed additional requirements: proof of age and residency.²⁰⁹ Children under sixteen may marry if they have parental consent, proof of age and residency, and obtain approval from the court after a hearing.²¹⁰ As of publication, Rhode Island has not taken any action to further restrict or eliminate child marriage in the state.

South Carolina

South Carolina has one of the lowest rates of child marriage in the South and has multiple bills pending.²¹¹ In 2019, South Carolina repealed the pregnancy exception and banned all marriages under the age of sixteen.²¹² Children ages sixteen and seventeen can marry with the consent of a parent or guardian if they are still living with them.²¹³ Another bill, which currently sits in committee, aims to ban child marriage without exception.²¹⁴ Over 7,000 underage girls were

married in South Carolina over the past two decades, with some as young as twelve.²¹⁵ Since the late 1990's, dozens of men in their forties, fifties, and sixties have married girls under the age of eighteen in the state.²¹⁶

South Dakota

South Dakota has the lowest rate of child marriage in the Midwest at 2.8%, and it has a law almost identical to North Dakota except that consent is only required from one parent.²¹⁷ North and South Dakota have not only the lowest rates of child marriage in the Midwest, but also among the lowest rates in the nation.²¹⁸ There is no further legislation.

Tennessee

In May 2018, Tennessee passed HB2134 which banned child marriage for children under the age of seventeen.²¹⁹ Seventeen-year-olds can marry only with parental consent, provided the age difference between the two parties is no more than four years.²²⁰ The story of Donna Pollard exemplifies the need for such improvement to legislation. At fourteen-years-old, she was checked into a mental health facility in Indiana.²²¹ Just two years later, she dropped out of school to marry one of her counselors at the facility, a then thirty-one-year-old man, in Tennessee.²²² Later, seeking to escape his abuse with her young daughter, now sixteen-year-old Donna was too young to sign an apartment lease.²²³ Marriage renders a child ineligible for protective services, and many shelters were only open to women over eighteen. With no education, no job, and no family to support her, Donna had no option but to live with her abuser until her eighteenth birthday.²²⁴ In Tennessee, Donna was old enough to sign a marriage license, theoretically binding herself for life to a man, but was not old enough to sign an apartment lease for six months. There is no further legislative action to prohibit marriage under eighteen entirely.

Texas

Texas passed a law in 2017 banning child marriage for children under eighteen.²²⁵ However, the law still provides an exception that allows emancipated minors to marry.²²⁶ Prior to 2017, sixteen and seventeen-years-old's could marry with parental consent; a minor also had permission to petition the court for the right to get married.²²⁷ There has been no further legislative action in Texas.

Utah

In Utah, children could previously marry as young as sixteen with parental consent and as young as fifteen with both parental and judicial consent.²²⁸ While the law in Utah provided that children could not marry younger than fifteen, informal marriages within some religious cults frequently wed children much younger. For example, two Utah men married each other's seven and eight-year-old daughters.²²⁹ The men were leaders of the Knights of Crystal Blade, a doomsday cult offshoot of Mormonism, and hid the two girls from law enforcement in water barrels after one of their ex-wives alerted authorities of a kidnapping.²³⁰ One of the men, Samuel Shaffer, stated he

“sincerely believed that child marriage was a correct principle from God,” illustrating how perpetrators frequently attempt to use religion as a shield from criticism.²³¹ An all-out child marriage ban, better enforcement, and cultural shifts will help prevent harmful child unions like these. In March 2019, the Governor signed into law HB234, which amended the child marriage laws to allow sixteen and seventeen-year-olds to marry only if they have both parental and judicial consent.²³²

Vermont

Vermont now prohibits marriage of any child under the age of sixteen, for any reason, regardless of parental consent.²³³ However, like many other states, children between sixteen and seventeen can marry with parental consent.²³⁴ Vermont’s child marriage rate of 3.7% is higher than the rates of several of its neighboring states.²³⁵ 221 residents of Vermont between the ages of fifteen and seventeen were married between 2000 and 2016, and 84% of the minor parties were girls.²³⁶ While legislators in Vermont are considering revisions to the child marriage laws, no changes have been made.²³⁷ State Rep. Carol Ode introduced a bill aimed at ending all marriage for individuals under eighteen in January 2018. The bill was referred to their judiciary committee, but no further action has been taken since then.²³⁸

Virginia

Prior to 2016, a child in Virginia could get married at age sixteen with the consent of a parent. A pregnancy exception also existed for parties under age sixteen.²³⁹ In March 2016, Virginia passed HB703/SB415, a law like Georgia’s, which allows emancipated minors to marry at sixteen or older.²⁴⁰ There has been no further legislative action.

Washington

Washington permits children to marry under seventeen with judicial consent, provided that they demonstrate necessity to a judge in the county of the minor’s residence, or at seventeen with parental consent.²⁴¹ In 2019, HB 1883 was introduced with the goal to eliminate all child marriage under the age of eighteen.²⁴² On January 13, 2020, the bill was reintroduced and retained in its present status; it remains in committee.²⁴³

West Virginia

In West Virginia, children may marry as young as sixteen with parental consent and even younger with parental *and* judicial consent, provided the court determines the marriage to be in the “best interests” of the child.²⁴⁴ If a child is married in West Virginia without the necessary parental consent or court approval, the marriage is not automatically void. Instead, it must be annulled to be deemed invalid.²⁴⁵ If a minor who did not receive the necessary parental consent or court approval is married and reaches his or her eighteenth birthday, then the marriage may be automatically ratified by a “voluntary” act, such as cohabitation.²⁴⁶ Between 2000 and 2014, 3,270

children were married in West Virginia; approximately 63 of every 10,000 people were married as children.²⁴⁷ Until the West Virginia legislature takes action, child marriage will persist.

Wyoming

Wyoming's marriage laws allow sixteen and seventeen-year-olds to marry with parental consent, and they allow children under sixteen to marry if both judicial approval and parental consent are provided.²⁴⁸ In January 2019, HB60 was introduced to prohibit marriage under eighteen entirely, but it subsequently failed.²⁴⁹ No further legislation is under consideration.

Washington D.C.

In the District of Columbia, children sixteen and older can marry provided their parent provides consent.²⁵⁰ Marriages under the age of consent, sixteen, are illegal.²⁵¹ There is no pending legislation to address the issue further.

C. Child Marriage Laws in U.S. Territories

American Samoa

In 2018, Governor of American Samoa Lolo Matalasi Moliga signed into law a bill that raised the marital age for girls to eighteen.²⁵² Previously, girls were permitted to marry as young as fourteen under a law from the early 1960s.²⁵³ At the same time, the marital age for boys was eighteen.²⁵⁴ In September 2018, the age became eighteen for both, and American Samoa became the third U.S. state or territory to ban child marriage, after Delaware and New Jersey banned the practice in June 2018. Data on child marriage prior to the ban is unavailable.

Guam & Northern Mariana Islands

The law in Guam permits children over sixteen to marry, provided a parent or guardian submits written consent.²⁵⁵ In the Northern Mariana Islands, boys may not marry under age eighteen, but girls may marry at sixteen if at least one parent or guardian provides notarized consent.²⁵⁶ No further legislative action has been taken in either locality. Data regarding child marriage in Guam and the Northern Mariana Islands is needed.

Puerto Rico

Under Puerto Rico law, those under age twenty-one require consent of their parent or guardian to marry.²⁵⁷ However, eighteen-year-olds do not need parental or judicial authorization in cases where "it is proven that the betrothed woman has been raped, seduced or is pregnant."²⁵⁸ Males under eighteen and females under sixteen cannot provide their consent for marriage, but, in the event that a marriage is entered into, that marriage will be deemed valid if "one day after having arrived at the legal age of puberty" the parties lived together without anyone having brought suit

against the validity of the marriage or if the female conceived prior to the age of puberty or before a validity challenge has been filed.²⁵⁹ Girls between fourteen and sixteen and boys between sixteen and eighteen can be married, provided their parent or guardian, or the court, provide their consent to the marriage.²⁶⁰ If passed, HR4867, the ‘Child Marriage Prevention Act’ introduced in January 2018, will apply to Puerto Rico. The bill indicated that “No State shall be required to give effect to any public act, record, or judicial proceeding of any other State respecting a relationship where one or both persons are below the marriage age,” but the bill was referred to the Constitution and Civil Justice subcommittee and has seen no further action.²⁶¹

U.S. Virgin Islands

In December 2019, the legislature in the Virgin Islands voted unanimously on bill #33-0109 to end child marriage entirely in the territory.²⁶² Governor Bryan signed the bill into law on January 18, 2020, making the Virgin Islands the fourth state or territory of the United States to entirely ban child marriage.²⁶³ Previously, the law in the Virgin Islands did not permit marriage for girls under age fourteen and boys under age sixteen.²⁶⁴ However, girls over fourteen and boys over sixteen were still permitted to be married, provided their father consented (or their mother consented, if the father was absent; or a guardian consented, if both mother and father are absent).²⁶⁵ The bill closed this loophole, which also permitted perpetrators of sexual abuse to avoid statutory rape charges by marrying their victims.²⁶⁶

III. Conclusion

While many people cling to the flawed assumption that child marriage is not an American issue, the marriage of children occurs every day throughout the United States. A collection of states and territories have passed new laws to limit the prevalence of the issue, but these laws need to be more comprehensive and all jurisdictions need to adopt them. Mandatory age floors at eighteen (with no difference in rules based on gender), proof of age requirements, residency requirements, and the elimination of parental and judicial consent exceptions are all crucial to ensure child protection. Ultimately, a federal law banning marriage under the age of eighteen without exception will be the most effective way to thwart child marriage nationally and truly protect children.

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³ *Ibid.*

⁴ *Id.*

⁵ *Id.* at 1827.

⁶ *Id.*

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⁸ Hamilton at 1828.

⁹ *Id.* at 1829.

¹⁰ *Id.* at 1832.

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²⁰ *Id.*

²¹ *Id.*

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²³ *Id.*

²⁴ *Id.*, at 11; *see also*, United Nations Population Fund, *Motherhood in Childhood: Facing the Challenge of Adolescent Pregnancy* (Richard Kollodge et al., 2013), <https://www.unfpa.org/sites/default/files/pub-pdf/EN-SWOP2013-final.pdf> (hereinafter “United Nations Population Fund”).

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²⁶² Alexandra Boyer Coffey, *12/19/2019 The U.S. Virgin Islands are THIS close to ending child marriage*, UNCHAINED AT LAST (Dec. 20, 2019), <https://www.unchainedatlast.org/12-19-2019-the-u-s-virgin-islands-are-ending-child-marriage/>

²⁶³ See, <http://legvi.org:82/Detail.aspx?docentry=27003>

²⁶⁴ 16 V.I.C. §2(4) (2019).

²⁶⁵ 16 V.I.C. §36 (2019).

²⁶⁶ Bethany Lee, *Senate Panel Oks Bill to Shut Teen Marriage Loophole*, THE ST. CROIX SOURCE (Oct. 30, 2019), <https://stcroixsource.com/2019/10/30/senate-panel-oks-bill-to-shut-teen-marriage-loophole/>