



**TO:** Hawaii Committee on Health, Chair Jarrett Keohokalole, Vice Chair Rosalyn H. Baker, and Distinguished Committee Members

**FROM:** Marci Hamilton, Esq. & Kathryn Robb, Esq.

**RE:** Testimony in Support of SB279: Relating to Marriage of Minors

**DATE:** February 11, 2021

Dear Chairman Keohokalole, Vice Chairman Baker, and members of the Senate Committee on Health,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USA Advocacy, to submit testimony regarding SB 279, which will raise the minimum age to enter into marriage from 16 to 18 years of age and remove exceptions to the minimum age requirement. This legislation, if passed, would place Hawaii in the top three states for protecting children from the trauma of underage marriage.

By way of introduction, I am Professor Marci Hamilton, the Founder, CEO, and Academic Director of CHILD USA, a national, interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where I am the Robert A. Fox Professor of Practice. I am the author of *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), which makes the case for statute of limitations (SOL) reform in the child sex abuse arena, and the leading expert on the history and constitutionality of SOL reform. CHILD USA provides an analytical overview of SOL reform for child sex abuse, as well as other cutting-edge issues related to child protection, like child marriage, at [www.childusa.org/law](http://www.childusa.org/law).

Kathryn Robb is the Executive Director of CHILD USA Advocacy, a 501(c)(4) advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. CHILD USA Advocacy draws on the combined expertise of the nation's leading experts and child advocates, specifically its sister organization, CHILD USA.

Child marriage is a global problem. It is defined as marriage of a child under age 18, and is a far more common practice than many believe. Worldwide estimates suggest that at least 650,000,000 million girls and women alive today had been married as children.<sup>1</sup> This equates to roughly 15 million girls being married each year— before they are 18.

Child marriage is a gendered practice, negatively affecting women far more than men. It is most common in religious, impoverished, or otherwise marginalized communities. The practice is often

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<sup>1</sup> Sarah Ferguson, *What You Need to Know About Child Marriage in the U.S.*, available at <https://www.unicefusa.org/stories/what-you-need-know-about-child-marriage-us/35059> (2018); <https://assets.prb.org/pdf06/WorldsYouth2006DataSheet.pdf>



used to aid in the cover up statutory rape or assault. **At least half of the states have laws permitting marriage as a defense to statutory rape. In Hawaii, statutory rape laws do not apply to married couples, allowing marriage to act as an affirmative defense to rape of a child.** In order to protect children and secure their futures, the practice of child marriage must be outlawed.

There is a common misconception that child marriage is not a problem in developed countries like the United States, but at least 200,000 children were married here between 2000-15.<sup>2</sup> The practice is gendered; 87% of the 200,000 were female. Nearly every state permits child marriage in some form.<sup>3</sup> In fact, only two states have banned child marriage outright. They are New Jersey (June 2018), and Delaware (May 2018), the first state to ban the practice. More than half of the states permit child marriage with either parental or judicial consent. Other states have religious or pregnancy exceptions, permitting the practice to continue.

Women and girls who are married before reaching adulthood are far more likely to experience physical or sexual violence than those who marry as adults and are far more likely to believe that domestic violence is justified.<sup>4</sup> and are at a higher risk for sexually transmitted diseases and infections, more general health issues, and nutritional deficiencies.<sup>5</sup> The negative consequences extend beyond simply the children forced into marriage—the “infant mortality rate is 60% higher” for mothers under 18.<sup>6</sup> When young girls are married, they tend to have children earlier, leading to increase of complications during pregnancy and childbirth for the mother, as well as increased risks for the child.<sup>7</sup>

Child marriage leads to unhealthy isolation for children as well as both educational disadvantage and higher rates of poverty. While child marriage is most common in conservative religious communities and poor rural areas, men and women married as children remain a hidden population. As such, there is insufficient data available to show the true breadth and scope of the problem. More research must be done to better protect children.

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<sup>2</sup> This is according to a Forbes study of 41 states; the remaining 9 states did not provide data; the number is likely higher.

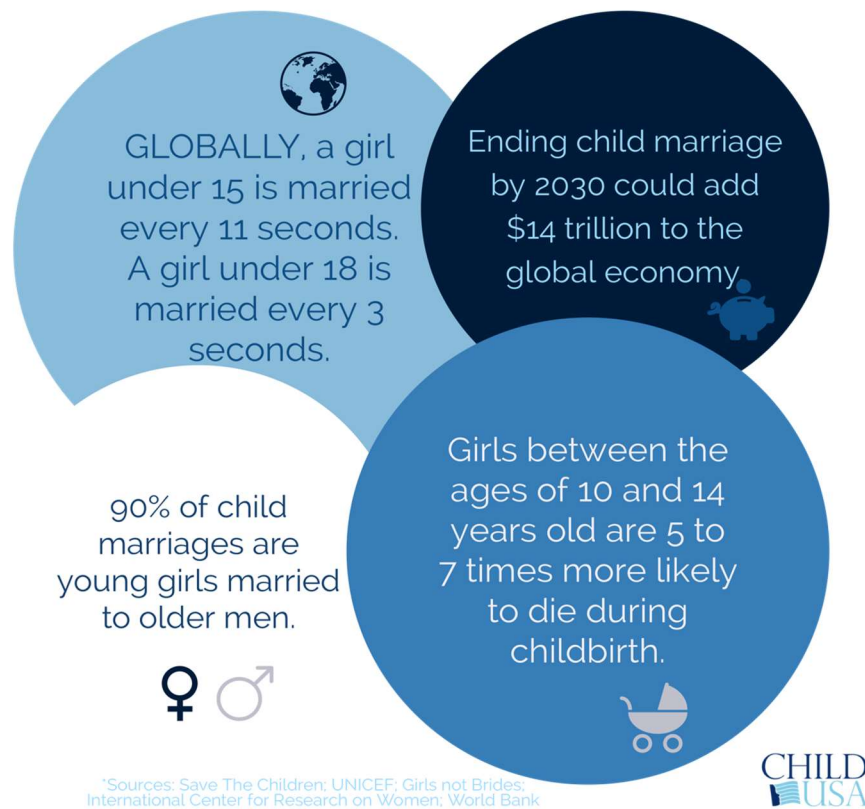
<sup>3</sup> Marci A. Hamilton, “2020 Report on Child Marriage in the United States: A National Overview of Child Marriage Data and Law,” available at <https://childusa.org/wp-content/uploads/2020/04/2020-Report-on-Child-Marriage-in-the-US.pdf>.

<sup>4</sup> Negar Omidakhsh & Jody Heymann, “Improved Child Marriage laws and its Association with Changing Attitudes and Experiences of Intimate Partner Violence: A Comparative Multi-National Study,” 10 J GLOB. HEALTH (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7101085/>.

<sup>5</sup> Nour NM, Child marriage: a silent health and human rights issue, 2(1) REV. OBSTET. GYNECOL. 51–56 (2009).

<sup>6</sup> *Id.*

<sup>7</sup> Jensen & Thornton. “Early Female Marriage in the Developing World.” GENDER & DEV. 11 (2):9–19 (2003); Ending Child Marriage: Progress and Prospects, UNICEF DIV. OF POL’Y & RES. (Nov. 21, 2014), available at [http://www.unicef.org/media/files/Child\\_Marriage\\_Report\\_7\\_17\\_LR.pdf](http://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR.pdf).



Early marriage increases an adolescent’s likelihood of descending into poverty when compared to an individual married in adulthood, as well as the likelihood of separation or divorce.<sup>8</sup> Recognizing these dangers, which are just as real in the U.S. as they are internationally, there is a growing national and international trend to limit or completely ban the practice of child marriage.<sup>9</sup>

For those who believe that child marriage is not a problem in the United States, countless and horrifying tales regarding the practice prove otherwise. In Utah, two men in their mid-thirties married one another’s seven- and eight-year-old daughters. The marriages were only discovered when an ex-wife of one of the men contacted law enforcement with allegations of kidnapping. The young girls were discovered freezing and stuffed into water barrels, where they had been placed to avoid law enforcement.<sup>10</sup> According to Frontline data, in Alabama, a 14-year-old girl was married to a 74-year-old man, a sixty-year age gap.<sup>11</sup> Young children are frequently brought across state lines to help facilitate child marriage. A well-known example is that of an Idahoan father

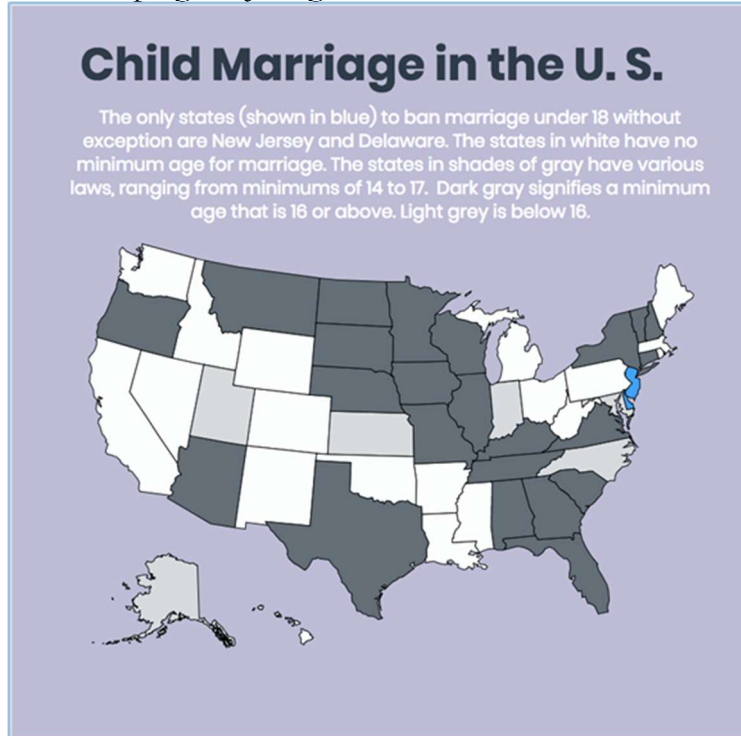
<sup>8</sup> Aditi Wahi et al, The Lived Experience of Child Marriage in the United States, SOC. WORK IN PUB. HEALTH (2019).

<sup>9</sup> Hamilton *supra* note 3.

<sup>10</sup> Bryn Lovitt, “Third Man Accused of Child Marriage in Utah Sex Cult,” ROLLING STONE, <https://www.rollingstone.com/culture/culture-news/third-man-accused-of-child-marriage-in-utah-sex-cult-630073/> (June 11, 2018).

<sup>11</sup> Anjali Tsui, et al., “Child Marriage in America by the Numbers,” FRONTLINE.ORG, <http://apps.frontline.org/child-marriage-by-the-numbers/> (July 6, 2017).

who brought his 14-year-old daughter to Missouri to be married to a man 10 years her senior; the man was later convicted of raping his young wife.



The UN Convention on the Rights of the Child (“CRC”) is an international human rights treaty covering child-specific rights. Specifically, the CRC requires that adults act in the best interests of children when making decisions that may affect children. The CRC recommends setting a mandatory minimum age for marriage at 18, applicable to both genders.

Notably, the United States is the **only country** that has not ratified the UN Convention on the Rights of the Child. This means that countries like Bangladesh (child marriage rate of at least 52%); Argentina (nearly 350,000 children currently married or participating in conjugal cohabitation); and Zimbabwe (child marriage rate of roughly 33% for girls, with nearly 20% of the whole married before age 15), must work to limit the practice of child marriage. Because the U.S. is not a signatory to the CRC, it is up to individual states to ensure the safety of their children, following the example set by Delaware and New Jersey and banning child marriage. We commend you for recognizing this and taking up this charge on behalf of Hawaii’s children.

Please do not hesitate to contact us if we can be of assistance on this or any other child protection issues.

Sincerely,

A handwritten signature in black ink that reads "Marci A. Hamilton". The signature is written in a cursive style with a long horizontal line extending to the right.

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A handwritten signature in black ink that reads "Kathryn Robb". The signature is written in a cursive style with a long horizontal line extending to the right.

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