



**TO:** Senator James B. Eldridge and Representative Michael S. Day, Chairs, Senator Eric P. Lesser and Representative Chynah Tyler, Vice Chairs, & Honorable Members of the Joint Committee on the Judiciary

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

**RE:** S.937/H.1709 An Act to end child marriage in Massachusetts

**DATE:** November 15, 2021

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Dear Chairs Eldridge and Day, Vice Chairs Lesser and Tyler, and members of the Joint Committee on the Judiciary,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USAAdvocacy, to submit testimony regarding S.937/H.1709, which will prohibit all children under the age of eighteen from marrying in Massachusetts. This legislation, if passed, would place Massachusetts in the top seven states in the nation for protecting children from the trauma of underage marriage.

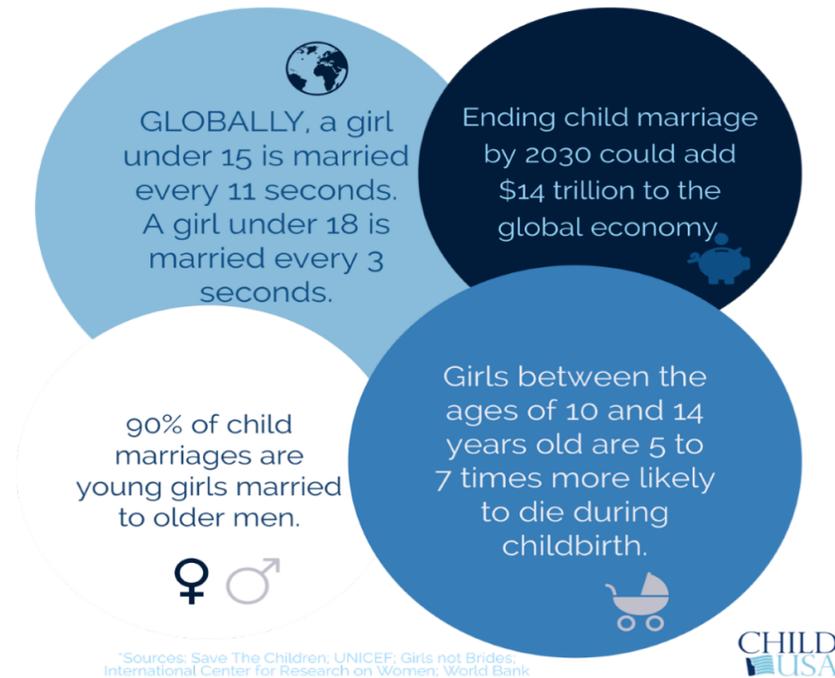
By way of introduction, my name is Marci Hamilton, and I am the Founder & CEO of CHILD USA, an interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where I am a Professor in the Fels Institute of Government and a Senior Resident Fellow in the Program for Research on Religion. I am also 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 I am the leading expert on the history and constitutionality of SOL reform. CHILD USA is the leading national nonprofit think tank dedicated to the prevention of child abuse and neglect. It is also the leader in the field of statute of limitations reform, as well as other cutting-edge issues related to child protection, like child marriage.

Kathryn Robb is the Executive Director of CHILD USAAdvocacy, a 501(c)(4) advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. CHILD USAAdvocacy draws on the combined expertise of the nation's leading experts and child advocates, specifically at its sister organization, CHILD USA, to advocate for more protective laws and policies in the States and at the federal level. Kathryn is also an outspoken survivor of child sex abuse.

Child marriage<sup>i</sup> is a global problem and is far more common than many believe. According to UNICEF, 12 million girls—or one in five—are married before their 18th birthday every year.<sup>ii</sup> Worldwide, approximately 650 million women and girls alive today were married before they turned 18.<sup>iii</sup> Various factors contribute to the high prevalence of child marriage across the globe. The most persistent drivers include gender inequality, poverty, social norms and traditions, and



national insecurity.<sup>iv</sup> More recently, the COVID-19 pandemic has also significantly increased occurrences of child marriage worldwide.<sup>v</sup>



The United States is a contributor to these rates, as child marriage remains a pervasive national issue with devastating domestic consequences. Between 2000 and 2018, almost 300,000 adolescent minors were legally married in the U.S.—this is an average of 45 child marriages per day.<sup>vi</sup> Of those marriages, an estimated 60,000 occurred “**at an age or spousal age difference that should have been considered a sex crime.**”<sup>vii</sup> Indeed, **the majority of U.S. states permit marriage as a defense to statutory rape.**<sup>viii</sup>

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 United States end in divorce, and **child marriage followed by divorce doubles the likelihood that child mothers will descend into poverty.**<sup>ix</sup> Girls in the United States 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.<sup>x</sup>

From a health perspective, studies show that victims of child marriage in the United States are acutely vulnerable to **higher rates of psychiatric disorders<sup>xi</sup> as well as physical, emotional, or verbal abuse.**<sup>xii</sup> These consequences carry with them tremendous intergenerational and societal costs for America.<sup>xiii</sup> In order to protect children and secure their futures, the practice of child marriage must be prohibited under the law.

However, **nearly every state in the United States currently permits child marriage in some form.**<sup>xiv</sup> In fact, only six states have banned child marriage outright: Delaware (May 2018), New Jersey (June 2018), Pennsylvania (July 2020), Minnesota (August 2020), Rhode Island (June 2021), and New York (August 2021). The remaining states maintain child marriage laws that are

fraught with legal loopholes. While many of these laws set the age floor for marriage at 18, they include an array of exceptions that “can in effect drop the true minimum marriage age much lower.”<sup>xv</sup> Loopholes that commonly lower the minimum marriage age below 18 include parental consent, judicial approval, the lack of official proof of age requirements, and pregnancy exceptions.<sup>xvi</sup>

While these loopholes may seem trivial on paper, they result in tragic, life-altering consequences for children in the United States. In Massachusetts, Tammy Monteiro was a 16 year-old child in foster care when she was legally married to a 25 year-old man.<sup>xvii</sup> All her husband needed to do to make the marriage official in Massachusetts was gain approval from Monteiro’s mother and a judge.<sup>xviii</sup> Monteiro spent the next 20 years of her life enduring spiritual, emotional, and financial abuse by her husband.<sup>xix</sup>

In the absence of a federal prohibition against child marriage, it falls to each state to establish marriage laws that close these loopholes and effectively ban the harmful practice. We commend you for recognizing this and taking up this charge on behalf of Massachusetts’s children.

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

Sincerely,



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<sup>i</sup> Child marriage is defined as a marriage where one or both parties is under the age of 18. At CHILD USA, we use this term synonymously with “forced marriage” because minors are legally incapable of consent. *See also* U.S. DEP’T OF STATE ET AL., UNITED STATES GLOBAL STRATEGY TO EMPOWER ADOLESCENT GIRLS 5 (2016) (defining “child, early and forced marriage (CEFM)” as “a formal marriage or informal union where one or both parties is under the age of 18”).

<sup>ii</sup> *Child marriage*, UNICEF (Oct. 2021), <https://data.unicef.org/topic/child-protection/child-marriage/>.

<sup>iii</sup> Helen Wylie, *Fast Facts: 10 facts illustrating why we must #EndChildMarriage*, UNICEF (February 11, 2019), <https://www.unicef.org/eca/press-releases/fast-facts-10-facts-illustrating-why-we-must-endchildmarriage>.

<sup>iv</sup> *Why it happens*, GIRLS NOT BRIDES, <https://www.girlsnotbrides.org/why-does-it-happen/> (last visited Oct. 12, 2021).

<sup>v</sup> *Child marriage has more than doubled during the COVID-19 pandemic with numbers set to increase*, *World Vision warns*, WORLD VISION (May 20, 2021), <https://www.wvi.org/newsroom/it-takes-world/child-marriage-has-more-doubled-during-covid-19-pandemic-numbers-set>; Nelsy Affoum & Isabel Santagostina Recavarren, *Child*

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- marriage: the unspoken consequences of COVID-19*, WORLD BANK (Oct. 9, 2020), <https://blogs.worldbank.org/developmenttalk/child-marriage-unspoken-consequence-covid-19>.
- <sup>vi</sup> *United States' Child Marriage Problem*, UNCHAINED AT LAST (Apr. 2021), <https://www.unchainedatlast.org/united-states-child-marriage-problem-study-findings-april-2021/>.
- <sup>vii</sup> *Id.*
- <sup>viii</sup> *5 Things You Should Know about Child Marriage and The Law In the United States*, EQUALITY NOW (May 24, 2019), [https://www.equalitynow.org/5\\_things\\_you\\_should\\_know\\_about\\_child\\_marriage\\_the\\_us](https://www.equalitynow.org/5_things_you_should_know_about_child_marriage_the_us).
- <sup>ix</sup> *Falling Through the Cracks: How Laws Allow Child Marriage to Happen in Today's America*, TAHIRIH JUSTICE CENTER 1, 3 (Aug. 2017), <https://www.tahirih.org/wp-content/uploads/2017/08/TahirihChildMarriageReport-1.pdf>.
- <sup>x</sup> *Id.*
- <sup>xi</sup> *Id.*
- <sup>xii</sup> *Id.* at 4.
- <sup>xiii</sup> *Id.*
- <sup>xiv</sup> Marci A. Hamilton, *2020 Report on Child Marriage in the United States: A National Overview of Child Marriage Data and Law*, CHILD USA (May 8, 2020), <https://childusa.org/wp-content/uploads/2020/04/2020-Report-on-Child-Marriage-in-the-US.pdf>.
- <sup>xv</sup> *Understanding State Statutes on Minimum Marriage Age and Exceptions*, TAHIRIH JUST. CTR. 1, 1 (Aug. 26, 2021), <https://www.tahirih.org/wp-content/uploads/2021/09/August-2021-State-Statutory-Compilation-1.pdf>.
- <sup>xvi</sup> *See Appendix A: All States and D.C., Analysis of State Laws on Minimum Marriage Age and Exceptions Permitting Marriage Under Age 18*, TAHIRIH JUST. CTR. (Aug. 26, 2021), <https://www.tahirih.org/wp-content/uploads/2021/09/August-2021-50-State-Appendices-with-Detailed-Scorecards-on-Features-of-States-Minimum-Marriage-Age-Laws-1.pdf>.
- <sup>xvii</sup> Daniele Selby, *'I Was Not His Equal Partner': What It's Like to Be a Child Bride in Massachusetts*, GLOBAL CITIZEN (Sept. 6, 2019), <https://www.globalcitizen.org/en/content/child-marriage-survivor-tammy-massachusetts/>.
- <sup>xviii</sup> *Id.*
- <sup>xix</sup> *Id.*