

The Issue



Most states have an unrestricted age of marital consent at which age the permission of others is not required to get married. This is age 16, 17, or 18. However, most states permit exceptions to this minimum age, allowing youth who have barely reached puberty (or younger) to marry.

Frequently, the marriage of minors has a motive other than love and being together forever. These include getting around the statutory rape laws, marrying simply due to pregnancy, or being forced into marriage by family or religious customs.

The consequences of these child marriages are more women living in poverty, less educated women, more women with sexually transmitted diseases, and more women with mental disorders.

CEDAW and the Minimum Marriage Age

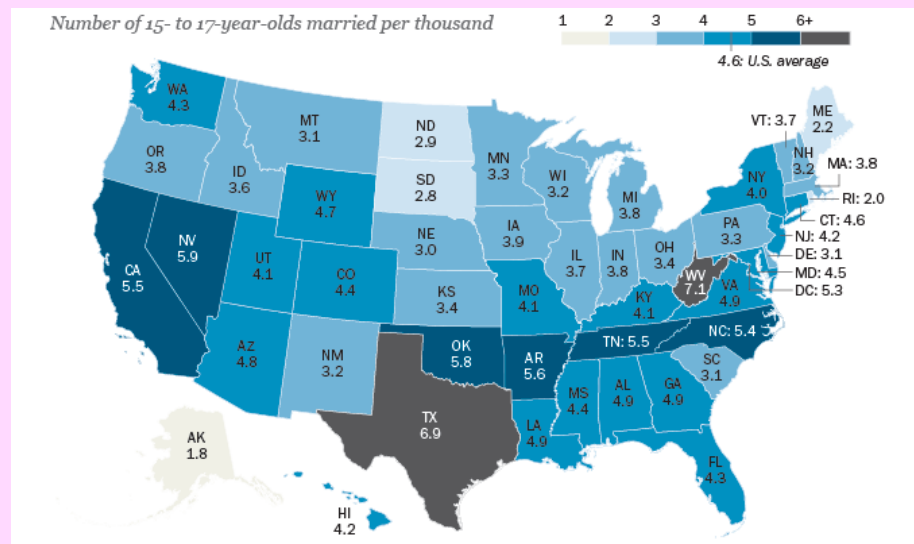
Part IV, Article 16.2 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) states that *“The betrothal and marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to*

Do We Need to Stop Child Brides in America?

Child marriages are atrocities that only occur in faraway countries where poverty and ancient customs rule the day, right? Wrong. On average, in the United States of America, five of each one-thousand youth in the age range of fifteen to seventeen years are married. While one-half of one percent may not sound like much, especially compared to the astronomically high numbers of child brides in developing countries, it still results annually in tens of thousands of our youth who are getting married often before they are permitted to drive without restrictions, before they can vote, and certainly before they can do a champagne toast of their nuptials.

Should the age of marital consent be standardized to an age of 18? Should exceptions be permitted? Should there be a minimal age under which exceptions are not allowed? Should criteria be established for judges to grant exceptions to the minimum age? The summary information in this flyer is intended to assist in starting the discussion on this topic.

Number of married 15- to 17- year olds per 1,000 of 15 to 17 year old population



From Pew Research Center: *Child Marriage is rare in the U.S., though this varies by State*, by David McClendon and Aleksandra Sandstrom, November 1, 2016.

make the registration of marriages in an official registry compulsory.”

Certainly, the states of Colorado, Montana, South Dakota, and Wyoming have each established a minimum age for marriage but there are many exceptions where child marriages may be taking place. The question at hand is

whether the minimum ages should be raised or exceptions eliminated.

Colorado Law

Under Colorado law, the unrestricted age at which a person may marry is eighteen years. However, those who are younger may marry under the following circumstances:

Potential Actions in Response to the Issue



Develop a short 30 second speech (a so-called *elevator speech*) on the issue where you can grab the attention of your audience.

Research the issue specific to your state or locale. Try to get statistics from governmental entities (including local officials) so that you have information on the size and impact of the problem.

Connect the dots between the age of marital consent and other laws. In particular, use personal stories and incidents of individuals to explain how youth marriages were used to avoid charges of statutory rape or sexual assault. Learn the statistics related to poverty, lack of education, and destroyed lives related to early age marriages.

Create allies regarding the issue and raise community awareness by discussing the matter with other groups with similar concerns, community leaders, and others.

Develop a relationship with local media by sending out stories, talking to reporters, and keeping them notified of community discussions. One might also wish to provide newspaper opinion pieces or be a guest on radio programs to begin the community discussion.

Contact legislators to gauge interest in and to develop an awareness about the need for changes to state laws. Assist legislators by providing draft legislation.

- If under age eighteen, with the consent of both parents or guardian;
- If under age eighteen, with the consent of the custodial parent, if the parents are not living together; or
- If under age eighteen, with judicial approval. Judicial approval requires a finding that the person is capable of assuming the responsibilities of marriage and marriage would serve his/her best interests. Pregnancy is not proof, in and of itself, that the best interest would be served.

Montana Law

A person may marry in Montana at age eighteen years or greater without any additional parental, guardian, or judicial consent. If sixteen or seventeen years old, a party may be approved to be married if:

- Both parents consent, or
- The custodial parent or guardian consents.

If there is no parent or guardian capable of giving consent, the court may give consent to a sixteen or seventeen year old if:

- the court finds that the youth is capable of assuming the responsibilities of marriage and the marriage will be in the person's best interest, noting that pregnancy does not alone establish the best interest, and
- two sessions of marriage counseling are undertaken, not less than ten days apart, with a designated counselor.

South Dakota Law

The unrestricted age at which a party may marry in South Dakota is eighteen years of age. If a person is between age sixteen and eighteen years, a notarized statement of consent to marry from one parent or one legal guardian is required for that youth to marry. No one under age sixteen may marry.

Interestingly, the application for a marriage license in South Dakota also requires the following statement: *"The laws of this state affirm your right to enter into this marriage and at the same time to live within the marriage free from violence and abuse. Neither of you is the property of the other. Physical abuse, sexual abuse, battery and assault of a spouse or other family member, as well as other provisions of the criminal laws of this state, are applicable to spouses and other family members and violations thereof are punishable by law."* Both parties must sign and acknowledge having read this statement. [SDC 25-1-10.2]

Wyoming Law

The unrestricted legal age for marriage in Wyoming, without parental consent, is eighteen years. A young person under age eighteen may marry under the following circumstances:

- The verbal consent, if present, or otherwise the written consent of the parent, guardian, or person having the care and control of the minor. Written consent must be proved by the testimony of at least one competent witness, or
- Consent from the court is received.

For those under the age of sixteen who wish to marry, the consent of the court is required.

Suggested Reading



Child Marriage Still Happens in America, by Devin Tomb, in *Good Housekeeping*, September 23, 2016
<http://www.goodhousekeeping.com/life/inspirational-stories/a40323/child-marriage/>

American Child Brides and the Dangers of Underage Sex by Nicholas Syrett, October 25, 2016
<http://notchesblog.com/2016/10/25/american-child-brides/>