

# Legislative Analysis



## PROHIBIT MARRIAGE OF MINORS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**Senate Bill 209 as enacted**  
**Public Act 71 of 2023**  
**Sponsor: Sen. Sarah Anthony**

Analysis available at  
<http://www.legislature.mi.gov>

**Senate Bill 212 as enacted**  
**Public Act 72 of 2023**  
**Sponsor: Sen. Veronica Klinefelt**

**Senate Bill 213 as enacted**  
**Public Act 73 of 2023**  
**Sponsor: Sen. Rosemary Bayer**

**House Bill 4296 as enacted**  
**Public Act 123 of 2023**  
**Sponsor: Rep. Betsy Coffia**

**Senate Bill 216 as enacted**  
**Public Act 74 of 2023**  
**Sponsor: Sen. Erika Geiss**

**House Bill 4299 as enacted**  
**Public Act 75 of 2023**  
**Sponsor: Rep. Kristian C. Grant**

**House Bill 4294 as enacted**  
**Public Act 121 of 2023**  
**Sponsor: Rep. Kara Hope**

**House Bill 4300 as enacted**  
**Public Act 76 of 2023**  
**Sponsor: Rep. Jenn Hill**

**House Bill 4295 as enacted**  
**Public Act 122 of 2023**  
**Sponsor: Rep. Alabas A. Farhat**

**House Bill 4302 as enacted**  
**Public Act 126 of 2023**  
**Sponsor: Rep. Joey Andrews**

**Senate Committee [Senate bills]: Civil Rights, Judiciary, and Public Safety**  
**Senate Committee [House bills]: Committee of the Whole**  
**House Committee: Criminal Justice [Senate bills discharged]**  
**Complete to 1-18-24**

## SUMMARY:

Among other things, the bills make 18 the legal age to marry and prohibit marriage by people younger than 18; remove references to marriage involving a minor; eliminate marriage as an automatic factor for emancipation; and remove marriage-related exceptions from certain criminal sexual conduct prohibitions.

**Senate Bill 209** amends 1921 PA 352 to prohibit the marriage in Michigan of an individual under 18 years of age and to declare such a marriage void. The act previously prohibited (and voided) the marriage in Michigan of a person under 16 years of age. The bill also deletes a provision stating that the act does not prohibit probate judges from exercising their powers to perform marriages as provided by 1897 PA 180 (see HB 4295, below). The bill applies to a marriage entered into on or after September 19, 2023 (the bill's effective date).

MCL 551.51

**Senate Bill 212** amends the Estates and Protected Individuals Code to eliminate the authority of a guardian or limited guardian to consent to a minor ward's marriage. The bill retains the authority of a personal representative to distribute estate assets otherwise distributable in amounts of up to \$5,000 per year to a minor if married, but it limits this authority to apply only to minors married before July 12, 2023 (the bill's effective date).

MCL 700.2519 et seq.

**Senate Bill 213** amends 1968 PA 293, which among other things establishes the conditions for emancipation of minors. Previously, an emancipation occurred by operation of law when a minor was validly *married*. The bill instead provides that an emancipation occurs when a minor is validly *emancipated under the laws of another state*. In addition, the act confers on a minor who is emancipated certain rights and responsibilities of an adult. The bill amends the listed rights to remove the right to marry.

MCL 722.4 and 722.4e

**Senate Bill 216** amends the Safe Families for Children Act, which previously prohibited a parent or guardian from delegating the parent's or guardian's own power to consent to marriage of a minor child. The bill deletes the reference to marriage of a minor child from that provision and explicitly provides that a parent is not authorized to consent to the marriage of a child who is under the legal age of marriage.

MCL 722.1555

**House Bill 4294** amends 1887 PA 128, which establishes the minimum age for contracting marriage, to eliminate a provision that previously allowed a person who is 16 or 17 years of age to marry with the written consent of one of their parents or their legal guardian. The bill also deletes related provisions that required the written consent to be presented to the county clerk with the marriage application and be preserved on file in the office of the county clerk.

In addition, the bill changes the population threshold in a provision allowing certain charter counties to impose by ordinance a marriage license fee in a different amount than prescribed in the act. Previously, this provision applied to charter counties with a population of over 2.0 million. Under the bill, it applies to charter counties with a population of over 1.5 million.

MCL 551.103

**House Bill 4295** amends 1897 PA 180, which provides for the issuance of marriage licenses without publicity in certain cases. The act previously allowed a probate judge to marry without publicity persons under the marriageable age upon a written request of either of the following:

- All of the living parents of both parties, and their guardian or guardians if either or both parents are dead.
- If only one party is under marriageable age, that party's parents or guardians.

The bill eliminates the above authority and deletes provisions pertaining to underage marriages.

MCL 551.201

**House Bill 4296** amend 1919 PA 160, which previously generally provided that the legal marriage of a minor releases the minor from parental control and entitles the minor’s spouse to all the same rights, benefits, and privileges—and subjects the minor to the same duties, liabilities, and responsibilities—as if the minor spouse were of legal age at the time of the marriage.

The bill retains the above provision, but limits it so that it applies only to a marriage entered into in Michigan before September 19, 2023 (the bill’s effective date).

MCL 551.251

**House Bill 4299** amends 2001 PA 125, which allows a hotel or bed and breakfast to require an emancipated minor who is renting a room to present documentary evidence of their status as an emancipated minor. The bill removes marriage licenses from a list of examples of acceptable documentation.

MCL 427.304

**House Bill 4300** amends 1846 RS 84 (“Of Divorce”), which allows an action to annul a marriage on the grounds that one of the parties was under the age of legal consent to be brought by the parent or guardian with custody over the minor or by the next friend of the minor. The act does not allow the marriage to be annulled upon the application of a party who was of the age of legal consent at the time of the marriage. The bill deletes a provision that had previously also prevented annulment when it appeared that the parties had freely cohabited as husband and wife after reaching the age of consent.

MCL 552.34

**House Bill 4302** would amend the Michigan Penal Code as described below.

**Criminal sexual conduct in the third degree and fourth degree**

Engaging in sexual penetration with another person under certain circumstances constitutes criminal sexual conduct (CSC) in the third degree, and engaging in sexual contact under certain circumstances constitutes CSC in the fourth degree. One of the circumstances for either offense is that the other person is at least 16 years of age but less than 18 and a student at a public or nonpublic school and the actor is a teacher, substitute teacher, or administrator of that school, school district, or intermediate school district. The bill eliminates language that previously provided that it was not third or fourth degree CSC if both persons were lawfully married to each other at the time of the alleged violation.

It is also CSC in the third or fourth degree if the other person is at least 16 but younger than 26 and is receiving special education services and the actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the school, school district, or intermediate school district. This previously did not apply if both persons were lawfully married to each other at the time of the alleged violation. The bill revises that exception to apply if both persons *are* at least 18 years of age and *were* lawfully married to each at the time of the alleged violation.<sup>1</sup>

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<sup>1</sup> Emphases added; as written (i.e., with different verb tenses), the time frame for the age threshold seems unclear.

CSC in the first through fourth degrees and assault with intent to commit CSC

Currently, a person may be charged and convicted for CSC in the first through fourth degrees and assault with the intent to commit CSC in the first through third degrees even if the victim is the person's spouse. However, a person cannot be charged or convicted solely because their legal spouse is under the age of 16. The bill would delete this exemption.

MCL 750.13 et seq.

**BRIEF DISCUSSION:**

According to Equality Now, child marriage is legal in 42 states,<sup>2</sup> and nearly 300,000 children under 18 were married in the U.S. between 2000 and 2018. Most of these child marriages were girls who were married to adult men. Far from being examples of young love, such marriages are often forced and sometimes used to avoid prosecution for rape of a minor. Child marriages increase the risk for domestic violence in the relationship, as the minor is often subjected to physical and psychological abuse, yet a child under 18 cannot file for divorce or seek a protective order on their own. Known negative impacts on children who marry include health impacts, forced pregnancies, missed educational and economic opportunities, poverty, and a high divorce rate (about 70% to 80% of marriages with at least one partner younger than 18 end in divorce). There is currently a worldwide effort to end child marriages. The United States and 192 other countries have promised to end child marriage by 2030. Supporters argued that enactment of the bill package is in step with the rest of the world in ending what is considered to be an abuse of human rights.

Some raised concerns about whether House Bill 4302 could violate due process or full faith and credit requirements with regard to persons lawfully married in Michigan before the bill took effect or lawfully married under the laws of other states.

**FISCAL IMPACT:**

The bills would not have a significant fiscal impact on state expenditures to the Department of Health and Human Services (DHHS) or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

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<sup>2</sup> As of January 2024, Connecticut, Delaware, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont have all established 18 as the legal age to marry.