

Representative Keven J. Stratton proposes the following substitute bill:

MARRIAGE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill modifies provisions related to marriage.

Highlighted Provisions:

This bill:

- ▶ imposes an age, below which an individual may not marry;
- ▶ allows for court authorization and consent by a parent or guardian of a minor's marriage in certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 30-1-2**, as last amended by Laws of Utah 1999, Chapter 15
- 30-1-4**, as last amended by Laws of Utah 1996, Chapter 83
- 30-1-8**, as last amended by Laws of Utah 2004, Chapter 261
- 30-1-9**, as last amended by Laws of Utah 2018, Chapter 415



- 26 [30-1-13](#), as last amended by Laws of Utah 2001, Chapter 129
- 27 [30-1-14](#), as last amended by Laws of Utah 2001, Chapter 129
- 28 [30-1-17](#), as last amended by Laws of Utah 1971, Chapter 65
- 29 [30-1-17.3](#), as enacted by Laws of Utah 1971, Chapter 65
- 30 [78A-6-103](#), as last amended by Laws of Utah 2018, Chapter 415



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **30-1-2** is amended to read:

33 **30-1-2. Marriages prohibited and void.**

34 (1) The following marriages are prohibited and declared void:

35 ~~[(1)]~~ (a) when there is a ~~[husband or wife]~~ spouse living, from whom the ~~[person]~~
36 individual marrying has not been divorced;

37 ~~[(2)]~~ (b) except as provided in Subsection (2), when the ~~[male or female]~~ applicant is
38 under 18 years ~~[of age unless consent is obtained as provided in Section 30-1-9;]~~ old; and

39 ~~[(3)]~~ when the male or female is under 14 years of age or, beginning May 3, 1999, when
40 the male or female is under 16 years of age at the time the parties attempt to enter into the
41 marriage; however, exceptions may be made for a person 15 years of age, under conditions set
42 in accordance with Section ~~30-1-9;~~

43 ~~[(4)]~~ (c) between a divorced ~~[person]~~ individual and any ~~[person]~~ individual other than
44 the one from whom the divorce was secured until the divorce decree becomes absolute, and, if
45 an appeal is taken, until after the affirmance of the decree~~[-and].~~

46 ~~[(5)]~~ between persons of the same sex.]

47 (2) A marriage of an individual under 18 years old is not void if the individual:

48 (a) is 16 or 17 years old and obtains consent from a parent or guardian and juvenile
49 court authorization in accordance with Section 30-1-9; or

50 (b) lawfully marries before May 14, 2019.

51 Section 2. Section **30-1-4** is amended to read:

52 **30-1-4. Validity of foreign marriages -- Exceptions.**

53 A marriage solemnized in any other country, state, or territory, if valid where
54 solemnized, is valid ~~[here]~~ in this state, unless it is a marriage:

55 (1) that would be prohibited and declared void in this state, under Subsection

57 30-1-2(1)[, (3), or (5)] (a); or

58 (2) between parties who are related to each other within and including three degrees of
59 consanguinity, except as provided in Subsection 30-1-1(2).

60 Section 3. Section 30-1-8 is amended to read:

61 **30-1-8. Application for license -- Contents.**

62 (1) A marriage license may be issued [~~by the county clerk to a man and a woman~~] only
63 after an application [~~has been filed in his~~] is filed with the county clerk's office, requiring the
64 following information:

65 (a) the full names of the [~~man and the woman~~] applicants, including the maiden or
66 bachelor name of [~~the woman~~] each applicant;

67 (b) the [~~Social Security~~] social security numbers of the [~~parties~~] applicants, unless the
68 [~~party~~] applicant has not been assigned a number;

69 (c) the current address of each [~~party~~] applicant;

70 (d) the date and place of birth [~~(f), including the~~ town or city, county, state or country, if
71 possible[~~)]~~];

72 (e) the names of [~~their~~] the applicants' respective parents, including the maiden name
73 of [~~the~~] a mother;

74 (f) the birthplaces of [~~fathers and mothers-(~~ the respective parents, including the town
75 or city, county, state or country, if possible[~~)]~~]; and

76 (g) the distinctive race or nationality of each of the respective parents.

77 (2) If [~~the~~] a woman is a widow, her maiden name shall be shown in brackets.

78 (3) If one or both of the parties is [~~under 16~~] 16 or 17 years of age, the clerk shall
79 provide [~~them~~] the parties with a standard petition on a form approved by the Judicial Council
80 to be presented to the juvenile court to obtain the authorization required by Section 30-1-9.

81 (4) (a) The [~~Social Security~~] social security numbers obtained under the authority of
82 this section may not be recorded on the marriage license, and are not open to inspection as a
83 part of the vital statistics files.

84 (b) The Department of Health, Bureau of Vital Records and Health Statistics shall,
85 upon request, supply [~~those Social Security~~] the social security numbers to the Office of
86 Recovery Services within the Department of Human Services.

87 (c) The Office of Recovery Services may not use [~~any Social Security numbers~~] a

88 social security number obtained under the authority of this section for any reason other than the
89 administration of child support services.

90 Section 4. Section 30-1-9 is amended to read:

91 **30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court**
92 **authorization.**

93 (1) For purposes of this section, "minor" means [~~a male or female under 18 years of~~
94 ~~age~~] an individual that is 16 or 17 years old.

95 (2) (a) If at the time of applying for a license the applicant is a minor, and not before
96 married, a license may not be issued without the signed consent of the minor's father, mother,
97 or guardian given in person to the clerk; however:

98 (i) if the parents of the minor are divorced, consent shall be given by the parent having
99 legal custody of the minor as evidenced by an oath of affirmation to the clerk;

100 (ii) if the parents of the minor are divorced and have been awarded joint custody of the
101 minor, consent shall be given by the parent having physical custody of the minor the majority
102 of the time as evidenced by an oath of affirmation to the clerk; or

103 (iii) if the minor is not in the custody of a parent, the legal guardian shall provide the
104 consent and provide proof of guardianship by court order as well as an oath of affirmation.

105 (b) [~~If the male or female is 15 years of age, the~~] The minor and the parent or guardian
106 of the minor shall obtain a written authorization to marry from:

107 (i) a judge of the court exercising juvenile jurisdiction in the county where either party
108 to the marriage resides; or

109 (ii) a court commissioner as permitted by rule of the Judicial Council.

110 (3) (a) Before issuing written authorization for a minor to marry, the judge or court
111 commissioner shall determine:

112 (i) that the minor is entering into the marriage voluntarily; and

113 (ii) the marriage is in the best interests of the minor under the circumstances.

114 (b) The judge or court commissioner shall require that both parties to the marriage
115 complete premarital counseling[~~- This~~], except the requirement for premarital counseling may
116 be waived if premarital counseling is not reasonably available.

117 (c) The judge or court commissioner may require:

118 (i) that the [~~person~~] minor continue to attend school, unless excused under Section

119 53G-6-204; and

120 (ii) any other conditions that the court deems reasonable under the circumstances.

120a ~~It~~→ **(d) The judge or court commissioner may not issue a written authorization to the minor if**
 120b **the age difference between both parties to the marriage is more than seven years.** ←~~It~~

121 (4) (a) The determination required in Subsection (3) shall be made on the record.

122 (b) Any inquiry conducted by the judge or commissioner may be conducted in
 123 chambers.

124 Section 5. Section 30-1-13 is amended to read:

125 **30-1-13. Solemnization without license -- Penalty.**

126 If [~~any person~~] an individual knowingly solemnizes a marriage without a license, and if
 127 either party is [~~under 16 years of age~~] 16 or 17 years old, without a written authorization from a
 128 juvenile court, [~~he~~] the individual is guilty of a third degree felony.

129 Section 6. Section 30-1-14 is amended to read:

130 **30-1-14. Acting without authority -- Penalty.**

131 [~~A person~~] An individual is guilty of a third degree felony if [~~he~~] the individual:

132 (1) knowingly solemnizes a marriage in violation of [~~either~~] Section 30-1-6, 30-1-7, or
 133 30-1-9.1;

134 (2) impersonates a parent or guardian of a minor to obtain a license for the minor to
 135 marry; or

136 (3) forges the name of a parent or guardian of a minor on any writing purporting to
 137 give consent to a marriage of a minor.

138 Section 7. Section 30-1-17 is amended to read:

139 **30-1-17. Action to determine validity of marriage -- Judgment of validity or**
 140 **annulment.**

141 When there is doubt as to the validity of a marriage, either party may, in a court of
 142 equity in a county where either party is domiciled, demand [~~its~~] avoidance or affirmance of the
 143 marriage, but when one of the parties was under [~~the age of consent~~] 18 years old at the time of
 144 the marriage, the other party, being of proper age, [~~shall have no such~~] does not have a
 145 proceeding for that cause against the party under [~~age~~] 18 years old. The judgment in the action
 146 shall either declare the marriage valid or annulled and shall be conclusive upon all persons
 147 concerned with the marriage.

148 Section 8. Section 30-1-17.3 is amended to read:

149 **30-1-17.3. Age as basis of action to determine validity of marriage -- Refusal to**

150 **grant annulment.**

151 If an action to determine the validity of a marriage is commenced upon the ground that
152 one or both of the parties were prohibited from marriage because of their age, in addition to [all
153 of the foregoing provisions, the following shall apply: The] the application of Sections 30-1-17
154 through 30-1-17.4, the provisions of this code regarding marriage by a person or persons under
155 [the age of consent] 18 years old to the contrary notwithstanding, the court may[, in its
156 discretion,] refuse to grant an annulment if [it] the court finds that it is in the best interest of the
157 parties or their children, to refuse the annulment. The refusal [~~shall make~~] to annul under this
158 section makes the marriage valid and subsisting for all purposes.

159 Section 9. Section **78A-6-103** is amended to read:

160 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

161 (1) Except as otherwise provided by law, the juvenile court has exclusive original
162 jurisdiction in proceedings concerning:

163 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
164 person younger than 21 years of age who has violated any law or ordinance before becoming
165 18 years of age, regardless of where the violation occurred, excluding offenses:

166 (i) in Section **53G-8-211** until such time that the child is referred to the courts under
167 Section **53G-8-211**; and

168 (ii) in Subsection **78A-7-106(2)**;

169 (b) a child who is an abused child, neglected child, or dependent child, as those terms
170 are defined in Section **78A-6-105**;

171 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child
172 Protective Orders, which the juvenile court may transfer to the district court if the juvenile
173 court has entered an ex parte protective order and finds that:

174 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
175 parent of the child who is the object of the petition;

176 (ii) the district court has a petition pending or an order related to custody or parent-time
177 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
178 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
179 respondent are parties; and

180 (iii) the best interests of the child will be better served in the district court;

- 181 (d) appointment of a guardian of the person or other guardian of a minor who comes
182 within the court's jurisdiction under other provisions of this section;
- 183 (e) the emancipation of a minor in accordance with Part 8, Emancipation;
- 184 (f) the termination of the legal parent-child relationship in accordance with Part 5,
185 Termination of Parental Rights Act, including termination of residual parental rights and
186 duties;
- 187 (g) the treatment or commitment of a minor who has an intellectual disability;
- 188 (h) the judicial consent to the marriage of a ~~[child under age 16]~~ minor 16 or 17 years
189 old upon a determination of voluntariness or where otherwise required by law~~[-, employment, or~~
190 ~~enlistment of a child when consent is required by law]~~;
- 191 (i) any parent or parents of a child committed to a secure youth facility, to order, at the
192 discretion of the court and on the recommendation of a secure facility, the parent or parents of a
193 child committed to a secure facility for a custodial term, to undergo group rehabilitation
194 therapy under the direction of a secure facility therapist, who has supervision of that parent's or
195 parents' child, or any other therapist the court may direct, for a period directed by the court as
196 recommended by a secure facility;
- 197 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
- 198 (k) subject to Subsection (8), the treatment or commitment of a child with a mental
199 illness;
- 200 (l) the commitment of a child to a secure drug or alcohol facility in accordance with
201 Section [62A-15-301](#);
- 202 (m) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);
- 203 (n) de novo review of final agency actions resulting from an informal adjudicative
204 proceeding as provided in Section [63G-4-402](#); and
- 205 (o) adoptions conducted in accordance with the procedures described in Title 78B,
206 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
207 terminating the rights of a parent and finds that adoption is in the best interest of the child.
- 208 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102](#)(9), the juvenile
209 court has exclusive jurisdiction over the following offenses committed by a child:
- 210 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
- 211 (ii) Section [73-18-12](#), reckless operation; and

212 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part
213 of a single criminal episode filed in a petition that contains an offense over which the court has
214 jurisdiction.

215 (b) A juvenile court may only order substance use disorder treatment or an educational
216 series if the minor has an assessed need for the intervention on the basis of the results of a
217 validated assessment.

218 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is
219 referred to it by the Division of Child and Family Services or by public or private agencies that
220 contract with the division to provide services to that child when, despite earnest and persistent
221 efforts by the division or agency, the child has demonstrated that the child:

222 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the
223 extent that the child's behavior or condition endangers the child's own welfare or the welfare of
224 others; or

225 (b) has run away from home.

226 (4) This section does not restrict the right of access to the juvenile court by private
227 agencies or other persons.

228 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
229 arising under Section [78A-6-702](#).

230 (6) The juvenile court has jurisdiction to make a finding of substantiated,
231 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

232 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
233 pursuant to Subsection [78A-7-106\(5\)](#) and subject to Section [53G-8-211](#).

234 (8) The court may commit a child to the physical custody of a local mental health
235 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age
236 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
237 Hospital.