

**MARRIAGE AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Angela Romero**

Senate Sponsor: Luz Escamilla

|                         |                   |             |
|-------------------------|-------------------|-------------|
| Cosponsors:             | Stephanie Pitcher | Mike Winder |
| Jennifer Dailey-Provost | Lawanna Shurtliff |             |
| Karen Kwan              | Andrew Stoddard   |             |
| Carol Spackman Moss     |                   |             |

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**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

- 28            **30-1-9**, as last amended by Laws of Utah 2018, Chapter 415
- 29            **30-1-13**, as last amended by Laws of Utah 2001, Chapter 129
- 30            **30-1-14**, as last amended by Laws of Utah 2001, Chapter 129
- 31            **30-1-17**, as last amended by Laws of Utah 1971, Chapter 65
- 32            **30-1-17.3**, as enacted by Laws of Utah 1971, Chapter 65
- 33            **78A-6-103**, as last amended by Laws of Utah 2018, Chapter 415

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

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

37            **30-1-2. Marriages prohibited and void.**

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

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

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

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

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

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

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

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

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

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

56           **30-1-4. Validity of foreign marriages -- Exceptions.**

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

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

60 ~~30-1-2(1)[, (3), or (5)]~~ (a); or

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

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

64           **30-1-8. Application for license -- Contents.**

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

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

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

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

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

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

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

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

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

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

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

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

90 (c) The Office of Recovery Services may not use [~~any Social Security numbers~~] a  
91 social security number obtained under the authority of this section for any reason other than the  
92 administration of child support services.

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

94 **30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court**  
95 **authorization.**

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

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

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

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

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

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

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

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

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

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

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

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

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

121 (i) that the [~~person~~] minor continue to attend school, unless excused under Section  
122 [53G-6-204](#); and

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

124 (d) The judge or court commissioner may not issue a written authorization to the minor  
125 if the age difference between both parties to the marriage is more than seven years.

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

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

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

130 **30-1-13. Solemnization without license -- Penalty.**

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

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

135 **30-1-14. Acting without authority -- Penalty.**

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

137 (1) knowingly solemnizes a marriage in violation of [~~either~~] Section [30-1-6](#), [30-1-7](#), or  
138 [30-1-9.1](#);

139 (2) impersonates a parent or guardian of a minor to obtain a license for the minor to

140 marry; or

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

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

144 **30-1-17. Action to determine validity of marriage -- Judgment of validity or**  
145 **annulment.**

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

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

154 **30-1-17.3. Age as basis of action to determine validity of marriage -- Refusal to**  
155 **grant annulment.**

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

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

165 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

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

168 (a) a child who has violated any federal, state, or local law or municipal ordinance or a  
169 person younger than 21 years of age who has violated any law or ordinance before becoming  
170 18 years of age, regardless of where the violation occurred, excluding offenses:

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

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

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

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

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

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

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

186 (d) appointment of a guardian of the person or other guardian of a minor who comes  
187 within the court's jurisdiction under other provisions of this section;

188 (e) the emancipation of a minor in accordance with Part 8, Emancipation;

189 (f) the termination of the legal parent-child relationship in accordance with Part 5,  
190 Termination of Parental Rights Act, including termination of residual parental rights and  
191 duties;

192 (g) the treatment or commitment of a minor who has an intellectual disability;

193 (h) the judicial consent to the marriage of a [~~child under age 16~~] minor 16 or 17 years  
194 old upon a determination of voluntariness or where otherwise required by law[~~, employment, or~~  
195 ~~enlistment of a child when consent is required by law~~];

196 (i) any parent or parents of a child committed to a secure youth facility, to order, at the  
197 discretion of the court and on the recommendation of a secure facility, the parent or parents of a  
198 child committed to a secure facility for a custodial term, to undergo group rehabilitation  
199 therapy under the direction of a secure facility therapist, who has supervision of that parent's or  
200 parents' child, or any other therapist the court may direct, for a period directed by the court as  
201 recommended by a secure facility;

202 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

203 (k) subject to Subsection (8), the treatment or commitment of a child with a mental  
204 illness;

205 (l) the commitment of a child to a secure drug or alcohol facility in accordance with  
206 Section [62A-15-301](#);

207 (m) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);

208 (n) de novo review of final agency actions resulting from an informal adjudicative  
209 proceeding as provided in Section [63G-4-402](#); and

210 (o) adoptions conducted in accordance with the procedures described in Title 78B,  
211 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order  
212 terminating the rights of a parent and finds that adoption is in the best interest of the child.

213 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile  
214 court has exclusive jurisdiction over the following offenses committed by a child:

215 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

216 (ii) Section [73-18-12](#), reckless operation; and

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

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

223 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is

224 referred to it by the Division of Child and Family Services or by public or private agencies that  
225 contract with the division to provide services to that child when, despite earnest and persistent  
226 efforts by the division or agency, the child has demonstrated that the child:

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

230       (b) has run away from home.

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

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

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

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

239       (8) The court may commit a child to the physical custody of a local mental health  
240 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age  
241 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State  
242 Hospital.