



Testimony in **SUPPORT**, with Amendments, of House Bill 511

(to change laws governing age at which persons may marry)

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Chair Ginter, Vice Chair LaTourette, Ranking Member Boyd, and Members of the Committee on Community and Family Advancement:

The Tahirih Justice Center (Tahirih) is a national non-profit legal advocacy organization that, since 1997, has been serving survivors of domestic violence, sexual assault, human trafficking, and other violence and abuse, like being forced or coerced to marry.

Children under age 18 are especially vulnerable, and they have limited options to escape a violent home or to protect themselves, among other reasons, because they lack the legal rights of an adult.ⁱ

Forced marriages in particular can involve insidious forms of coercion, not only physical violence but also extreme psychological abuse and threats. When that comes from a parent or another loved one, it can work just like a gun to the head for a teen girl who is still very dependent, emotionally and practically as well as legally.

Tahirih has unique legal and policy expertise in forced and child marriage as U.S. problems. Through Tahirih's Forced Marriage Initiative, launched in 2011, we have worked on hundreds of cases involving women and girls nationwide, including in Ohio. Tahirih has also compiled extensive research, including a 50-state report released in August 2017. This report analyzes states' minimum marriage age laws and exceptions and identifies how they can either help protect children from harm, or instead expose them to greater risk.ⁱⁱ

Tahirih believes strongly that setting the minimum marriage age at 18, without exception, is the strongest measure to combat not only forced marriages, but also the many other harmful consequences of marrying underage. For example, women who marry as girls face:

- high divorce rates – up to 80%;
- high drop-out rates – they are 50% more likely to drop out of high school and four times less likely to graduate from college;
- increased poverty – 31% greater likelihood – and teen mothers who marry and later divorce can face *more than double* the likelihood of future poverty;
- more medical and mental health problems – including some psychiatric disorders at rates 3 times higher than among those who marry as adults; and
- greater vulnerability to domestic violence – girls age 16-19 experience intimate partner violence victimization rates that are higher than the national average, and an early marriage can isolate a girl and subject her to that risk round-the-clock.ⁱⁱⁱ

Tahirih supports HB 511, together with amendments to strengthen it, because it will take important steps to reform Ohio's minimum marriage laws. Those laws do not currently take into account any of these steep risks of devastating, lifelong harm. We thank Representatives Lanese and Rogers and their co-sponsors for their bipartisan leadership on this critical issue.

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Problems with Ohio's Current Laws on Marriage Age

It is clear that Ohio's current laws have failed to protect children. Recent media investigations have revealed that 4,443 girls (and 301 boys) age 17 or younger were married in Ohio between 2000 and 2015, including 59 who were age 15 or younger. Some young girls were judge-approved to marry much-older men – including a pregnant 14-year-old girl who was married to a 48-year-old man.^{iv}

Ohio's current parental "consent" exception that applies to girls age 16-17 can actually conceal parental "coercion." Among Tahirih's forced marriage cases, in fact, most often the perpetrator is a parent. There are many reasons forced child marriages happen, including to cover up rape or child sexual abuse, or to pre-empt sex or pregnancy outside of marriage. Sometimes, it can be because a parent is unfit or neglectful, and just wants to offload responsibility for a girl on whoever will take her.

Ohio's current pregnancy exception that applies to girls under age 16 ignores evidence of statutory rape. There is no age "floor" for marriage so long as a judge approves, which means that a child can be married younger than she can legally consent to sex. Given that there is an affirmative defense against prosecution for age-based sex offenses if the parties are married^v, current law essentially road-maps a workaround for predators, giving them 24-7 sexual access through marriage to young girls who would be off-limits otherwise.

Finally, too, very few Ohio minors ever go before a judge, and the current judicial process and criteria are vague. Judicial approval is only required in cases of pregnancy and for boys age 17 or younger and girls under age 16. Most minors who marry are girls and most are 16 or older. A lack of judicial involvement can let abuse and exploitation in the guise of marriage slip by undetected, and leave vulnerable minors unprotected.

How HB 511 Would Change the Laws on Marriage Age, and Improve Protections

This bill is meant to address the acute concern that Ohio's current laws can unwittingly facilitate forced marriages, and/or trap vulnerable girls in abusive marriages without the rights or resources to escape.

HB 511 would bring about the following important changes to current law – the bill would:

- condition eligibility for judicial approval on whether the applicant meets the definition of an "emancipated" minor – this helps ensure a threshold of self-sufficiency and independence that can mitigate the risk that a girl is being forced or coerced to marry, and also increase the chance that she could support herself if she needed to leave an abusive marriage;
- institute an age floor of 17 where now there is none;
- institute an age difference limitation of no more than 4 years between the parties to be married, where now there is none – and while certainly abusers can be close-in-age to their victims, such provisions at least prevent large age differences and stark power imbalances that can be exploited by abusers;
- eliminate pregnancy as an express reason for an exception, and remove inconsistencies with statutory rape laws, recognizing that criminal charges rather than marriage licenses should have been issued in many past Ohio cases, and that research shows teen mothers can be made worse off, long-term, if they marry young;
- equalize the treatment of girls and boys, thus ensuring that both benefit from the same safeguards; and
- involve a judge in all cases, and base the decision on objective criteria, rather than leaving marriage license applications concerning a child to be rubber-stamped so long as parents consent.

Additional Amendments to HB 511 to Strengthen Protections

There are a number of simple but powerful ways in which amendments to HB 511 could greatly strengthen safeguards against forced marriages of children, and the other abuse and exploitation that can lurk behind underage marriages.

We respectfully urge this Committee to amend and strengthen the bill in the following ways:

- **Ensure that all minors are appointed an attorney to represent them in the judicial hearing.** While child marriage is a serious problem in Ohio, the total number of minors marrying each year is declining.^{vi} After the reforms implemented by HB 511, that annual total number will likely significantly decline. Thus, perhaps only a relative handful of minors each year, going forward, would bring these petitions in juvenile court, making the cost of court-appointed counsel minimal.

Yet for those minors, having access to counsel could be critical. Otherwise, they have to face a daunting process without a trained advocate to advise them about their rights and options. If they do not know where they could go or who would help them if they revealed their true circumstances, and if they fear retribution at home if they disclose threats or abuse, minors are likely to give only coached answers to the judge's questions. In such cases, HB 511's protective intent will not be realized.

- **Ensure that any minor who is granted permission to marry is legally emancipated by the court, before marriage.** Without emancipation, a minor approved to marry is still a "child" under the law. Even after marriage, it is unclear under Ohio law whether married minors are emancipated, or to what extent. And even if minors are emancipated by marriage, that empowerment will come too late for a girl who, prior to the marriage, lacked the full rights she needed to prevent it from happening in the first place. *(Please see footnote 1 below for examples of these crucial rights.)*

As introduced, HB 511 is helpful in conditioning eligibility for judicial approval on whether a minor has the characteristics of an emancipated minor – independence and self-sufficiency – but it does not actually require the court, based on that finding, to order the minor emancipated (declared to be a legal adult). Without that clarity in the form of a court order of emancipation alongside approval to marry, the minor's rights remain murky and her options remain limited.

- **Require the judge to determine that the marriage is in the minor's best interest, and that the minor is not facing force or coercion to marry.** Current law already requires that juvenile courts must consider the minor's best interest with respect to petitions to marry, but the way HB 511 proposes to amend current law, the section in which that provision currently appears would be struck and replaced. We urge that a "best interests" inquiry be reinstated for judicial approvals.

Requiring judges to be on guard against coercive dynamics is also important. Judges could further be required to conduct an in-camera (private, in chambers) interview of the minor, outside of the hearing of parents or a "partner" who might be threatening or coercing her, to provide her another opportunity to safely disclose her true wishes.

- **Institute a waiting period between the judicial approval to marry/order of emancipation and the issuance of the marriage license.** This "buffer" will provide a newly emancipated minor sufficient time and opportunity to take steps to avoid the marriage and get to safety, if in fact the marriage is being forced on her and she was too afraid or uncertain of the consequences to reveal that in court.

Other amendments that would also strengthen the bill’s safeguards include: clarifying for judges that pregnancy alone cannot establish that marriage is in a minor’s best interest (as 7 other states already do); requiring documentary proof of age rather than relying on parties’ self-attestations by oath; and providing minors with an information pamphlet about the rights of married parties and of emancipated minors, and about resources (like hotlines for domestic violence or sexual assault, or legal aid referral lines) available to help them.

How Ohio Reforms Fit in the National Movement to End Child Marriage

Finally, we note that there is a fast-growing national movement to overhaul antiquated minimum marriage age laws that put children at risk. Reform bills have been introduced in nearly 20 states just since 2016.

Virginia, Texas, and New York enacted laws over 2016-2017 that limit marriage to legal adults (age 18 or older, or court-emancipated minors). Fourteen states and Washington, DC now set an age floor of either 16 or 17, and bills just awaiting the governor’s signature in Florida and Kentucky would also ban marriage under age 17 and impose age-difference limits (2 years in Florida, 4 years in Kentucky). Other bills to ban or limit child marriage are pending in Arizona, Alaska, California, Delaware, Maryland, New Hampshire, New Jersey, Pennsylvania, Missouri, Tennessee and Vermont. Ohio has an historic opportunity to assert its place as a national leader by taking swift action now to strengthen and then advance this bill.

The Tahirih Justice Center respectfully asks this Committee to favorably report HB 511, with strengthening amendments, to better protect Ohio children from forced marriages and the harms of child marriage. Thank you.

ⁱ Ohio defines a child as “any unmarried person under the age of 18” and sets the age of “majority,” when an individual reaches legal adulthood and has the capacity to enter binding legal contracts, at age 18. See Ohio Rev. Code Ohio Rev. Code §984.03 and §3109.01. Among other limitations this entails, a minor girl cannot take simple steps an adult woman could to protect herself, such as to leave home, stay with a friend, or take refuge in a shelter. She would be considered a runaway and friends or shelters that offer to take her in could be exposed to criminal charges under Ohio Rev. Code §2919.23 for “interference with parental custody.” Likewise, a minor cannot freely take legal action on her own behalf, like filing a petition for a domestic violence protective order under Ohio Rev. Code §3113.31 without relying on a parent or other adult to file on her behalf. Rule 17(B) of Ohio Rules of Civ. P requires that a minor use a representative, such as a guardian or “next friend” or court-appointed guardian ad litem to file legal actions. It is unclear whether a married minor, under current Ohio law, can even file for a divorce on her own. Ohio Rev. Code §3119.88 clearly terminates a parent’s obligations to support a child upon her marriage, but does not empower that child with any specific rights of her own.

ⁱⁱ A full copy of Tahirih’s 50-state report is available at www.tahirih.org/childmarriagepolicy.

ⁱⁱⁱ See specific statistics and sources cited in Tahirih Justice Center, “Child Marriage in the United States: A Serious Problem with a Simple First-Step Solution” (October 23, 2017), available at www.tahirih.org/childmarriagepolicy.

^{iv} See Laura Bischoff, “At 14, Ohio woman married 48-year-old man, says she would do it again,” Sept. 6, 2017 and other articles in this Dayton Daily News series.

^v See Ohio Rev. Code §§2907.02, 2907.04, 2907.05, 2907.06. This disconnect between civil and criminal law is especially stunning in light of the fact that the felony level of these crimes is punishable by life in prison, and even the misdemeanor level requires a perpetrator to register as a sex offender.

^{vi} See <https://www.bgsu.edu/ncfmr/resources/data/family-profiles/lamidi-25yr-change-marriage-US-1989-2014-fp-15-17.html> and other factsheets and resources on national and state-specific marriage trends prepared by The National Center of Family and Marriage Research at Bowling Green State University.