**Letter of SUPPORT for House Bill 511**

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

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In advance of Senate Judiciary Committee hearing November 29, 2018

Dear Chair Bacon, Vice Chair Dolan, Ranking Member Thomas, and Honorable Committee Members:

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. 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.[[1]](#endnote-1)

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.[[2]](#endnote-2)

Tahirih believes strongly that setting the minimum marriage age at 18, without exception, is the strongest measure not only to combat forced marriages, but also to prevent the many other harmful consequences of marrying underage.

Women who marry as girls face:

* **high divorce rates** – up to 80%;
* **high drop-out rates** – 50% more likely to drop out of high school, and four times less likely to graduate from college;
* **increased poverty** – 31 percentage points greater likelihood – and, teen mothers who marry and later divorce can face *more than double* the likelihood of poverty;
* **more medical and mental health problems** – including some psychiatric disorders at rates 3 times higher than among women who get married 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.[[3]](#endnote-3)

Tahirih supports HB 511 because it takes into account these risks and overhauls Ohio’s current minimum marriage age laws to put in place meaningful safeguards. We thank Representatives Lanese and Rogers and their co-sponsors for their bipartisan leadership on this critical issue.

**Concerns Raised by Ohio’s Current Laws on Marriage Age**

Ohio’s current laws have proven inadequate 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.[[4]](#endnote-4)

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 can happen – for example, to cover up rape or child sexual abuse; to pre-empt sex or pregnancy outside of marriage; or 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[[5]](#endnote-5), 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 age 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 aims 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:

* **reinforce the general rule that you must be age 18 or older to marry; and**
* **narrow the exception to this rule to better guard against the abuse and coercion, and to mitigate the risks of marrying before age 18. Going forward, Ohio law would:**
  + **require documentary proof of age, and institute an age “floor” of 17, below which no child could be married** – current law permits parties to self-attest as to age, and sets absolutely no lower limit;
  + **limit the age difference between a 17-year-old and the intended spouse to no more than 4 years,** to try to prevent stark power imbalances that can be exploited by abusers;
  + **equalize the treatment of girls and boys,** thus ensuring that both benefit from the same safeguards;
  + **eliminate pregnancy as an express reason for an exception to the general rule that you must be 18 to marry, and remove inconsistencies with statutory rape laws** – this recognizes that criminal charges rather than marriage licenses should have been issued in many past Ohio cases that involved rapes resulting in pregnancy, and also acknowledges that a pregnant teen can actually be made worse off, long-term, if she marries young;
  + **involve a judge in all cases, and base the decision on objective criteria like whether the marriage is in the minor’s best interests and whether the minor is being coerced to marry,** rather than leaving marriage license applications concerning a child to be rubber-stamped so long as the child’s parents consent;
  + **require the judge also to determine that the 17-year-old meets the definition of an “emancipated” minor** – this helps ensure a threshold of self-sufficiency and independence that can mitigate the risk that a child is being forced or coerced to marry, and can also increase the chances that she could support herself if she needed to leave an abusive marriage;
  + **ensure that all minors seeking judicial approval are appointed an attorney to serve as a guardian *ad litem[[6]](#endnote-6)*** – this affords the minor sound, objective advice about her rights and options and provides her a private opportunity to safely disclose if she is facing threats or abuse and needs help;
  + **ensure that any minor who is granted judicial approval to marry is simultaneously granted a judicial order of emancipation[[7]](#endnote-7),** to clarify her rights and ensure that she would enter the marriage on equal legal footing; and
  + **institute a waiting period between the judicial approval to marry/order of emancipation by the juvenile court, and the issuance of the marriage license by the probate court.**

This two-week buffer, together with granting emancipation before marriage, will serve as a final “fail-safe.” It is intended to 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.

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

Many states have recently taken steps to overhaul antiquated minimum marriage age laws like Ohio’s that can put children at acute risk. Reform bills have been introduced in 20 states just since 2016.

Among other states that have recently enacted reforms to end or limit child marriage:

* Delaware and New Jersey this summer became the first states to completely ban marriage under age 18, and a similar bill with dozens of bipartisan co-sponsors is pending in Ohio’s neighbor Pennsylvania;
* Virginia, Texas, New York, and Kentucky now limit marriage to legal adults (age 18 or older, or court-emancipated minors); and
* Several states limit exceptions to 17 year olds (e.g., Florida, Kentucky, New York and Tennessee) and impose age-difference limits when a minor marries (e.g., Florida (2 years); Kentucky, Tennessee (4 years)).

Ohio has an historic opportunity to assert its place among national leaders of this fast-growing movement by swiftly advancing HB 511 for a full Senate vote.

**The Tahirih Justice Center respectfully urges this Committee to favorably report HB 511,**

**to better protect Ohio children from being forced or coerced to marry, and**

**to mitigate the many other serious risks of marrying before age 18. Thank you.**

1. 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 §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. Finally, while Ohio Rev. Code §3119.88 terminates a parent’s obligations to support a child once she marries, it does not empower that married minor with any specific rights of her own.

   [↑](#endnote-ref-1)
2. A full copy of Tahirih’s 50-state report is available at [www.tahirih.org/childmarriagepolicy](http://www.tahirih.org/childmarriagepolicy). [↑](#endnote-ref-2)
3. *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](http://www.tahirih.org/childmarriagepolicy). [↑](#endnote-ref-3)
4. 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. [↑](#endnote-ref-4)
5. *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. [↑](#endnote-ref-5)
6. While child marriage is a serious problem in Ohio, the total number of minors marrying each year is naturally declining. *See* <https://www.bgsu.edu/ncfmr/resources/data/family-profiles/lamidi-25yr-change-marriage-US-1989-2014-fp-15-17.html> and other factsheets on marriage trends prepared by The National Center of Family and Marriage Research at Bowling Green State University. After the reforms implemented by HB 511, that annual total number will likely significantly decline. Thus, perhaps only a handful of minors each year 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. 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*.*

   [↑](#endnote-ref-6)
7. Without a clear grant of 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 (*see* footnote i, above). And even assuming minors are emancipated upon 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. [↑](#endnote-ref-7)