

**Testimony in Support of HB4293-4302: Ending Child Marriage
Presented to the Michigan House Judiciary Committee | May 10, 2023**

Chair Breen, Vice Chair Edwards, Vice Chair Fink and Distinguished Committee Members:

Unchained At Last is a survivor-led nonprofit working to end forced and child marriage in Michigan and across the United States through direct services and advocacy. **We at Unchained urge the state legislature to eliminate the archaic, harmful practice of child marriage.**

The marriage age is 18.¹ However, a parent may enter a 16- or 17-year-old into marriage with nothing more than a signature,² and parents may enter a child 15 or younger into marriage – with no age floor specified in the law – if a court approves.³

These loopholes disempower and seriously endanger minors:

- The law provides no recourse for 16- and 17-year-olds whose parents are forcing them into an unwanted marriage with just a signature. We have found – as we provide crucial services to forced and child marriage survivors across the U.S. – that parents almost always play an important role in facilitating a forced marriage. And we have seen repeatedly that **even when a teen sobs openly and begs for help, the clerk is powerless to intervene and the teen is powerless to prevent the marriage license from being issued.**
- The judicial review process for minors age 15 and younger does not help, as it does not require judges to interview the minor; indeed it does not include any criteria courts are required to consider before approving the marriage of a minor at the written request of the parents or guardians. This gives courts wide enough discretion to approve, for example, a marriage between a child and a registered sex offender.
- Even a more robust judicial-review process would put the onus on a teen whose parents are forcing them to marry to figure out how to explain their predicament to the court without facing repercussions at home. Due to this pressure, **every teen we have worked with has stayed silent or lied to the court.**
- The parental consent and judicial review processes effectively disempower children, allowing them to be entered into a marriage by adults with little or no recourse for children who do not want to marry.
- Minors of any age are automatically emancipated upon marriage,⁴ likely ending their parents' financial obligation to them,⁵ regardless of the minors' level of financial independence. In other circumstances, a minor cannot be emancipated unless they are at least age 16 and first prove to a court that they can manage their own financial, personal and social affairs.⁶ **This automatic emancipation through marriage without regard to financial status can force the minor to become financially dependent on their**

¹ Michigan Compiled Laws (MCL) § 551.103(1).

² *Id.* Note that only one parent's "consent" is required.

³ MCL §§ 551.201(2), 551.51. Note that the written request for a child marriage must come from all living parents or guardians, but if a noncustodial parent is given notice at their last known address and fails to object within five days, consent is required only from the custodial parent.

⁴ MCL § 722.4(2)(a).

⁵ MCL § 722.3(1).

⁶ MCL § 722.4c.

spouse, and it can lead to teen homelessness, especially since 70-80% of marriages before age 18 end in divorce.⁷

- **Automatic emancipation based on marriage also creates a powerful incentive for a parent to force their child into marriage**, so the parent can evade a child support obligation or child custody battle. We have seen this happen across the U.S., including a case that recently ended up before the Idaho Supreme Court.⁸ (Remember, only one parent's "consent" is required for the marriage of a 16- or 17-year-old,⁹ and "consent" for the marriage of a child under age 16 is required from only the custodial parent if the noncustodial parent fails to object within five days of receiving notice.¹⁰)
- Sex with a child under age 16 is a sex crime¹¹ – unless the perpetrator marries the child.¹² **A marriage license involving a child 15 or younger is a "get out of jail free" card for a would-be child rapist.**
- By not specifying a minimum age for marriage, Michigan's laws are in line with laws in Iran¹³ and Yemen.¹⁴

The legal loopholes are not the only problem. Child marriage is inherently dangerous:

- **Marriage before age 18 creates a "Kafkaesque" legal trap.¹⁵ Even highly mature teens can easily be forced into marriage or forced to stay in a marriage before they turn 18 and attain the rights of adulthood:¹⁶**
 - Minors cannot easily escape if their parents are planning an unwanted wedding for them, because a minor who "has deserted" home or is "repeatedly disobedient" is subject to formal court jurisdiction¹⁷ and can be placed in a juvenile home¹⁸ or a county jail.¹⁹ Further, advocates like us at Unchained who help a child under age 17 to run away from home can be charged with a misdemeanor and fined up to \$500 or imprisoned for up to a year.²⁰
 - Where would minors go even if they could escape from parents planning an unwanted wedding – or from an abusive spouse? Domestic violence shelters likely would turn away a minor, since shelter staffers could be criminally

⁷ Vivian Hamilton, *The Age of Marital Capacity: Reconsidering Recognition of Adolescent Marriage*, William & Mary Law School Scholarship Repository (2012), <https://scholarship.law.wm.edu/facpubs/1430>.

⁸ *Carver v. Hornish*, No. 49320 (Idaho 2022). See: <https://isc.idaho.gov/appeals/49320.pdf>.

⁹ MCL § 551.103(1).

¹⁰ MCL §§ 551.201(2), 551.51.

¹¹ MCL §§ 750.13, 750.520b-520e.

¹² MCL § 750.520: "A person may not be charged or convicted solely because his or her legal spouse is under the age of 16."

¹³ Justice for Iran, *Veiled and Wed: Enforced Hijab Laws, Early Marriages, and Girl Children in the Islamic Republic of Iran*, Submission to the UN Committee on the Rights of the Child (February 2015), https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19746_E.pdf: "According to the Islamic Republic civil code, the legal age of marriage in Iran is set at age 13 for girls and age 15 for boys. However, the same Act allows girls below the age of 13 and boys below the age of 15 to be wed, conditioned on the consent of their father and the permission of a judge."

¹⁴ Kara Hunerson, et. al., *Child Marriage in Yemen: A Mixed Methods Study in Ongoing Conflict and Displacement*, Journal of Refugee Studies (2 February 2021), <https://academic.oup.com/jrs/advance-article/doi/10.1093/jrs/feaa144/6126388>: "Though Yemen has endorsed efforts to end child marriage and proposed a law in 2014 setting the minimum age of marriage at 18, that law was never officially ratified, leaving the legal age of marriage unclear."

¹⁵ Nicholas Kristof, *A 14-Year-Old Bride, Wed to Her Rapist, Playing on a Jungle Gym*, New York Times (19 June 2021), <https://www.nytimes.com/2021/06/19/opinion/sunday/child-marriage-rape.html>.

¹⁶ "Minor" means a person under the age of 18 years. MCL § 722.1(a).

¹⁷ MCL §§ 712A.2(a)(2) &(3), 722.151. See also: *Reardon v. Midland Community Schools* (E.D. Mich. Sept. 2, 2011).

¹⁸ MCL § 712A.2(f).

¹⁹ MCL § 712A.2(g).

²⁰ MCL §§ 722.151, 722.152.

prosecuted for knowingly and willfully concealing or harboring a juvenile runaway.²¹ Indeed, we have found that domestic violence shelters across the U.S. routinely turn away unaccompanied minors, due to funding guidelines and/or liability concerns. (Youth shelters are not a solution: Typically they are not confidential – they need to notify the youth’s parents of the youth’s whereabouts – and they typically house youths for approximately 21 days while they work to reunite youths with their parents.)

- Minors cannot easily retain an attorney to help them with their complex legal needs, because most contracts with children, including retainer agreements, are voidable.²² In our experience, lawyers are reluctant to take on minors as clients based on a voidable retainer agreement.
- Minors are not allowed to bring a legal action in their own name.²³ **A minor cannot seek a protective order against parents who are forcing them to marry²⁴ and cannot even independently initiate an action to annul their own marriage.²⁵**
- Once a minor is married, they are emancipated and do get some rights of adulthood.²⁶ This does not solve the problem, though:
 - An emancipated minor’s rights are limited; they do not extend, for example, to certain constitutional and statutory age requirements and other health and safety regulations.²⁷ It is unclear whether an emancipated minor would be allowed to stay in a domestic violence shelter to escape an abusive spouse. In our experience, domestic violence shelters typically are hesitant to accept even emancipated minors.
 - Emancipated minors may face difficulties accessing the limited rights they do have. Imagine, for example, how a landlord would feel about renting an apartment to a 16- or 17-year-old, even if the teen is emancipated.
 - Crucially, in the case of an unwanted marriage, the limited rights of emancipation arrive too late, only after a minor has endured the trauma of the forced marriage.
 - As explained above, automatic emancipation upon marriage is extremely dangerous, both because it forces teens to become financially dependent on their spouse and leads to teen homelessness and because it incentivizes parents to force their minor children into marriage to avoid a child support obligation or child custody battle.
- **Marriage before age 18 is recognized as a “human rights abuse.”²⁸ It destroys nearly every aspect of American girls’ lives, including their health, education and economic opportunities²⁹ and even their physical safety.³⁰**

²¹ *Ibid.*

²² *Reynolds v. Garber-Buick Co.*, 183 Mich. 157, 162 (1914). See also: *Armitage v. Widee*, 36 Mich. 124 (1877): A minor cannot empower an agent or attorney to act on their behalf.

²³ MCL §§ 722.53, 722.4e(1)(a); Michigan Court Rule 3.703(F)(2): Minors may not file suit on their own.

²⁴ Michigan Court Rules (MCR) 3.703(F).

²⁵ MCL §§ 552.34, 552.35.

²⁶ MCL §§ 722.4a-4e. Note that a minor can commence a divorce action independently. MCL § 551.251.

²⁷ MCL § 722.4e(1).

²⁸ U.S. Department of State, et al., *United States Global Strategy to Empower Adolescent Girls* (March 2016), <https://2009-2017.state.gov/documents/organization/254904.pdf>.

²⁹ Fraidy Reiss, *Child Marriage in the United States: Prevalence and Implications*, *Journal of Adolescent Health* (December 2021), [https://www.jahonline.org/article/S1054-139X\(21\)00341-4/fulltext](https://www.jahonline.org/article/S1054-139X(21)00341-4/fulltext).

³⁰ Individuals in the U.S. who were married before age 18 report high rates of physical, sexual, financial or emotional abuse during their marriage as well as unwanted or unplanned pregnancies. See: Aditi Wahi et al., *The Lived Experience of Child Marriage in the United States*, *Social Work Public Health* (12 February 2019), <https://pubmed.ncbi.nlm.nih.gov/30747055>.

- Teen mothers who marry and then divorce are more likely to suffer economic deprivation and instability than teen mothers who stay single – and, as noted above, teen marriage has a 70-80% divorce rate.³¹
- **Child marriage undermines reproductive and sexual rights.** Globally, child marriage is associated with higher rates of sexually transmitted infections including HIV, as well as early and unwanted pregnancies, because child brides often are unable to negotiate safe sex and access to medical care.³² Indeed, individuals in the U.S. who married before age 18 report high rates of unwanted or unplanned pregnancies.³³ Child marriage can easily be forced marriage, and in our experience, a forced marriage at any age typically means the loss of reproductive rights, with survivors forced to have unprotected sex and to endure pregnancy and childbirth without their consent.

Child marriage is happening at an alarming rate:

- 5,426 minors were married in Michigan between 2000 and 2021, one as young as 14.³⁴
 - In 2021 alone, when legislators failed to move pending legislation to end child marriage, 39 minors were married in Michigan.
- At least **95% of the minors who married were girls wed to adult men** an average of 4.3 years older.³⁵
- **12 marriages occurred at an age that would have been considered a sex crime outside of marriage.**³⁶

Waiting until 18 to marry brings obvious benefit, and it does not cause harm, beyond an inconvenience, for teens who are eager to marry but must hold off for a matter of months:

- **A girl is pregnant and wants to co-parent? She and the father can easily co-parent outside of marriage** by merely completing an acknowledgment of parentage.³⁷ A mother and a father can also establish paternity under the laws of another state: if they do this, Michigan will recognize the father as the child's parent.³⁸ Establishing paternity means the child will have the same rights and benefits as a child born or conceived during a marriage.³⁹ (Again, note that a pregnant teenage girl in the U.S. who marries is

Note that this is consistent with global trends. See, for example: Rachel Kidman, *Child Marriage and Intimate Partner Violence: A Comparative Study of 34 Countries*, International Journal of Epidemiology (April 2017), <https://academic.oup.com/ije/article/46/2/662/2417355>.

³¹ Vivian Hamilton, *The Age of Marital Capacity: Reconsidering Recognition of Adolescent Marriage*, William & Mary Law School Scholarship Repository (2012), <https://scholarship.law.wm.edu/facpubs/1430>.

³² United Nations Children's Fund (UNICEF), *Ending Child Marriage: Progress and Prospects* (July 2014), <https://data.unicef.org/resources/ending-child-marriage-progress-and-prospects>.

³³ Aditi Wahi et al., *The Lived Experience of Child Marriage in the United States*, Social Work Public Health (12 February 2019), <https://pubmed.ncbi.nlm.nih.gov/30747055>.

³⁴ Fraidy Reiss, *Child Marriage in the United States: Prevalence and Implications*, Journal of Adolescent Health (December 2021), [https://www.jahonline.org/article/S1054-139X\(21\)00341-4/fulltext](https://www.jahonline.org/article/S1054-139X(21)00341-4/fulltext). Data for 2019 and later based on Unchained's analysis of marriage certificate data from the Michigan Department of Health and Human Services, Division for Vital Records and Health Statistics.

³⁵ Based on Unchained's analysis of marriage-certificate data from the Michigan Department of Health and Human Services, Division for Vital Records and Health Statistics. Note that spousal age differences are based only on 2000-2018 data.

³⁶ Alissa Koski, et. al., *Child Marriage or Statutory Rape?*, Journal of Adolescent Health (March 2022), [https://www.jahonline.org/article/S1054-139X\(21\)00552-8/fulltext](https://www.jahonline.org/article/S1054-139X(21)00552-8/fulltext). Data for after 2018 are based on Unchained's analysis of marriage-certificate data from the Michigan Department of Health and Human Services, Division for Vital Records and Health Statistics.

³⁷ MCL §§ 722.1003.

³⁸ MCL § 722.714b.

³⁹ MCL § 722.1004.

highly likely to divorce and then much more likely to suffer economic deprivation and instability than a pregnant girl who stays single, as explained above.)

- **A teen needs financial, healthcare, housing or other resources they cannot get from their parents?** We must make options available to teens that do not require them to enter a contractual sexual relationship from which they cannot easily escape. Using a minor's current economic dependence to justify an early marriage is harmful public policy that sets up the minor for a lifetime of dependence. **Not only does economic dependence contribute to the risk of domestic violence,⁴⁰ but many abuse survivors cite economic dependence as the main reason they felt compelled to stay in a violent home.⁴¹**
- **A teen is in an abusive home and needs an escape?** Again, we must make options available to vulnerable teens that do not require them to enter a contractual sexual relationship from which they cannot legally escape. **Marriage before 18 is a known driver of domestic violence,⁴² not a solution to it.**

States across the U.S. are moving to eliminate all marriage before 18, without exceptions. Specifically, they are keeping the marriage age at 18 but eliminating the dangerous loopholes that allow adults to enter minors into marriage with little or no input from the minor, before the minor has the legal rights necessary to navigate a contract as serious as marriage. **Legislation to this effect harms no one, costs nothing and ends a human rights abuse.** Due to this national movement to end child marriage, **Michigan, which does not impose a residency requirement for marriage,⁴³ risks becoming a destination site for child marriage.**

Governments around the world are also moving to eliminate marriage before age 18, since 193 countries – including the U.S. – have promised to end child marriage by year 2030, under United Nations Sustainable Development Goal 5.3.⁴⁴

But Michigan is falling behind. We must not wait until 2029 to keep our promise to the world, while thousands of girls are being subjected to a human rights abuse. We must act now to end the archaic, harmful practice of child marriage. **The legislature must pass HB4293-4302 – and finally end the archaic, harmful practice of child marriage.**

⁴⁰ RF Bornstein, *The Complex Relationship Between Dependency and Domestic Violence: Converging Psychological Factors and Social Forces*, *American Psychologist* (September 2006), <https://www.ncbi.nlm.nih.gov/pubmed/16953747>.

⁴¹ Nancy Salamone, *Domestic Violence and Financial Dependency*, *Forbes* (2 September 2010), <https://www.forbes.com/2010/09/02/women-money-domestic-violence-forbes-woman-net-worth-personal-finance.html>.

⁴² Individuals in the U.S. who were married before age 18 report high rates of physical, sexual, financial or emotional abuse during their marriage as well as unwanted or unplanned pregnancies. See: Aditi Wahi et al., *The Lived Experience of Child Marriage in the United States*, *Social Work Public Health* (12 February 2019), <https://pubmed.ncbi.nlm.nih.gov/30747055>.

Note that this is consistent with global trends. See, for example: Rachel Kidman, *Child Marriage and Intimate Partner Violence: A Comparative Study of 34 Countries*, *International Journal of Epidemiology* (April 2017), <https://academic.oup.com/ije/article/46/2/662/2417355>.

⁴³ MCL § 551.101.

⁴⁴ United Nations Department of Economic and Social Affairs, *Sustainable Development* (2015), <https://sdgs.un.org/goals/goal5>: Goal 5 is "Achieve gender equality and empower all women and girls." Target 5.3 is "Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation." Indicator 5.3.1 is "Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18."