

HOUSE BILL 484

D4
HB 911/16 – JUD

7lr1742
CF 7lr1743

By: **Delegates Atterbeary, Anderson, Angel, Cluster, Conaway, Dumais, Frick, Glass, Hettleman, Hill, Kaiser, Kelly, Kittleman, Lierman, Lisanti, Malone, McComas, McIntosh, McKay, Moon, Morhaim, Pendergrass, Proctor, Rey, Reznik, Sanchez, Sydnor, Turner, Valderrama, B. Wilson, and C. Wilson**
Introduced and read first time: January 27, 2017
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Marriage – Age Requirements**

3 FOR the purpose of prohibiting, subject to a certain exception, an individual under the age
4 of 18 from marrying; authorizing an individual 16 or 17 years old to marry under
5 certain circumstances; making certain conforming changes; and generally relating
6 to marriage.

7 BY repealing and reenacting, with amendments,
8 Article – Family Law
9 Section 2–301, 2–402(e), and 2–405
10 Annotated Code of Maryland
11 (2012 Replacement Volume and 2016 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Family Law**

15 2–301.

16 [(a) An individual 16 or 17 years old may not marry unless:

17 (1) the individual has the consent of a parent or guardian and the parent
18 or guardian swears that the individual is at least 16 years old; or

19 (2) if the individual does not have the consent of a parent or guardian,
20 either party to be married gives the clerk a certificate from a licensed physician, licensed

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



physician assistant, or certified nurse practitioner stating that the physician, physician assistant, or nurse practitioner has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(b) An individual 15 years old may not marry unless:

(1) the individual has the consent of a parent or guardian; and

(2) either party to be married gives the clerk a certificate from a licensed physician, licensed physician assistant, or certified nurse practitioner stating that the physician, physician assistant, or nurse practitioner has examined the woman to be married and has found that she is pregnant or has given birth to a child.]

[(c)] (A) [An] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN individual under the age of [15] 18 may not marry.

(B) (1) AN INDIVIDUAL 16 OR 17 YEARS OLD MAY MARRY IF:

(I) THE INDIVIDUAL HAS THE CONSENT OF A PARENT OR GUARDIAN AND THE PARENT OR GUARDIAN SWEARS THAT THE INDIVIDUAL IS AT LEAST 16 YEARS OLD;

(II) THE OTHER PARTY IS NO MORE THAN 4 YEARS OLDER THAN THE INDIVIDUAL; AND

(III) A JUDGE OF THE CIRCUIT COURT, AFTER AN EVIDENTIARY HEARING, GRANTS A PETITION FOR A MARRIAGE LICENSE FILED BY THE PARENT OR GUARDIAN.

(2) IN MAKING A DETERMINATION ON A PETITION FOR A MARRIAGE LICENSE UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION, THE JUDGE SHALL CONSIDER WHETHER:

(I) 1. IT IS THE MINOR'S OWN WILL TO ENTER INTO THE MARRIAGE; OR

2. THE MINOR IS BEING COMPELLED TO ENTER INTO THE MARRIAGE AGAINST THE MINOR'S WILL BY FORCE, THREATS, PERSUASION, MENACE, OR DURESS;

(II) THE PARTIES TO BE MARRIED ARE MATURE ENOUGH TO MAKE A DECISION TO MARRY; AND

(III) THE MARRIAGE WILL ENDANGER THE SAFETY OF THE MINOR.

(3) IN MAKING A FINDING UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION, THE COURT SHALL CONSIDER:

(I) WHETHER EITHER INDIVIDUAL TO BE MARRIED HAS BEEN CONVICTED OF:

1. A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE;

2. ASSAULT IN THE SECOND DEGREE;

3. BATTERY; OR

4. ANY DOMESTICALLY RELATED CRIME; AND

(II) ANY HISTORY OF VIOLENCE BETWEEN THE PARTIES TO BE MARRIED.

2-402.

(e) Until a license becomes effective, a clerk may not disclose the fact that an application for a license has been made [except to the parent or guardian of a party to be married].

2-405.

(a) The clerk for the county in which a marriage ceremony is to be performed may issue and deliver a license at the time the application is made.

(b) A license may be issued only at the office of the clerk during regular office hours.

(c) (1) If either party to be married is known to be of an age where the parental or guardian's consent and oath [, or the licensed physician's certificate] **AND AN ORDER OF COURT GRANTING A PETITION FOR A MARRIAGE LICENSE**, required by § 2-301 of this title, is required, the clerk shall obtain the consent and oath [or the certificate] **AND A COPY OF THE ORDER OF COURT** before issuing the license.

(2) [(i)] The clerk's record required under this title shall include:

(I) 1. the consent and oath required by § 2-301 of this title, if written; or

2. the fact that consent was given and an oath was made, if given and made in person; AND

(II) A COPY OF THE ORDER OF COURT GRANTING A PETITION FOR A MARRIAGE LICENSE UNDER § 2-301 OF THIS TITLE.

[(ii) The licensed physician's certificate required by § 2-301 of this title may not be made a part of the clerk's record.]

(3) After an individual has been issued a license in accordance with the provisions of this subtitle, the clerk who issued the license shall seal the licensed physician's certificate. Except on order of the court, the licensed physician's certificate shall remain sealed.]

(d) (1) Except as provided in paragraph (2) of this subsection, a license is not effective until 6 a.m. on the second calendar day after the license is issued.

(2) For good cause shown, a judge of the circuit court for the county in which the application is made may sign an authorization for a license to become effective at a time before the waiting period expires, as stated in the authorization, if 1 of the parties to be married is:

(i) a resident of this State; or

(ii) a member of the United States armed forces.

(e) If, during the questioning of an applicant for a license, the clerk finds that there is a legal reason why the applicants should not be married, the clerk shall withhold the license unless ordered by the court to issue the license.

(f) A license may be delivered personally or by mail to:

(1) either of the parties to be married; or

(2) any person authorized in writing by either of the parties to accept delivery.

(g) (1) The Department of Health and Mental Hygiene shall provide to each clerk:

(i) birth control information; and

(ii) a list of the family planning clinics located in the county where the license is issued.

(2) When the clerk issues a license, the clerk shall make the information and list available to each applicant for a license.

1 (h) (1) A clerk may not predate an application for a license.

2 (2) A clerk who violates any provision of this subsection is guilty of a
3 misdemeanor and on conviction is subject:

4 (i) for a first offense, to a fine not exceeding \$100; and

5 (ii) for each subsequent offense, to a fine not exceeding \$500 or
6 imprisonment not exceeding 90 days or both.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2017.