

NYSCADV

NEW YORK STATE COALITION AGAINST DOMESTIC VIOLENCE

MEMORANDUM OF SUPPORT

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ENDING CHILD MARRIAGE

NYSCADV supports this legislation which would end child marriage by removing the exceptions that allow a marriage in New York State to occur under the age of 17 years of age.

CONSENT OR COERCION?

Current New York state law allows child marriage - minors between the ages of 16 and 17 can marry with the consent of their parents, and state law allows minors ages 14 and 15 to marry with both parental and judicial consent. According to data released by the New York State Department of Health, between 2000 and 2010, 3,853 minors were married in New York State. **An overwhelming majority – more than 84% - were minor girls married to adult men.**

A study conducted by the Tahiri Justice Center, a non-profit that provides legal services to women and girls, found that child marriage affects people from a wide variety of faiths and ethnicities. They also found child marriage disproportionately affects girls, undermining their health, education, and economic opportunities, and increasing their likelihood of experiencing violence.

Worldwide, women who are married before the age of 18 are 3 times more likely to have been physically assaulted by their spouses than women who marry at 21 or older. Child marriage is also associated with higher rates of sexually transmitted infections, including HIV, and early pregnancies because child brides are often unable to negotiate access to safe sex and medical care.¹ Married minors also have an increased likelihood of dropping out of high school than unmarried minors.²

Currently, offenders can circumvent statutory rape charges by marrying the child they are abusing. In New York State, the age of consent for sexual activity is 17, with exceptions including the marital exemption. The marital exemption allows sex between a married minor and the minor's adult spouse, whose ages would prohibit sexual activity if they were not married. Our statutory rape laws are meant to protect children from child abuse - permitting child marriage provides a loophole to adults to exploit their victims.

OBSTACLES TO GETTING HELP

New York state law discourages individuals and entities from signing contracts with individuals under the age of 18 by making contracts with children voidable, even if the child is emancipated. Because of this, many banks do not permit minors to open accounts without an adult's name, most landlords will not lease to minors, and car rental agencies do not allow drivers under age 18 to rent cars. At the same time, New York State allows

¹ WORLD Policy Analysis Center, *Fact Sheet: Assessing National Action on Protection from Child Marriage*, University of California, Los Angeles (2015), available at http://worldpolicycenter.org/sites/default/files/WORLD_Fact_Sheet_Legal_Protection_Against_Child_Marriage_2015.pdf.

² Vivian E. Hamilton, *The Age of Marital Capacity: Reconsidering Civil Recognition of Adolescent Marriage*, 92 Boston University Law Review 1817 (2012), at p. 1846, available at <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2467&context=>

marriage contracts with those under 18. This creates a dangerous set-up where children are forbidden from maintaining bank accounts, leasing housing, and renting vehicles, but can be forced into marriage to adults they will then be completely dependent upon because of their limited access to these rights and resources.

Additionally, those younger than the age of 18 may be allowed to get married, but they are not allowed to initiate legal proceedings to file for a divorce or to take other legal action. Emancipation does not impact a minor's inability to bring legal actions on their own behalf.³ And while those under 18 years of age are able to file for an annulment; they would be left ineligible for alimony, child support, or property distribution.

Though this bill will allow those who are 17 to get married, there will be a set of requirements in place that must be checked off before marriage is granted. These requirements include parental written consent as well as written approval and consent of a justice of the Supreme Court or of a judge of the family court. However, before issuing approval and consent, the justice of the supreme court or the judge of the family court will provide notification to each minor party of his or her rights, ensure that neither party has a history of domestic violence, court orders of protection against them, or is a registered sex offender, and conduct in-person interviews with the minor parties to ensure that they are entering marriage of their own free will.

New York State must keep marriage between consenting adults and end child marriage. In Virginia, a bill passed both chambers of the legislature in March of 2016 that ended child marriage for those under 18 years of age with exceptions for emancipated 16 and 17 year olds. Both houses in New Jersey have passed legislation limiting the age of marriage to those 18 and older. Others states, including California, Connecticut, Maryland, Massachusetts, Missouri, and Texas have introduced similar bills that would end child marriage. It is time to join their efforts and end child marriage in New York State.

NYSCADV urges you to support this important measure to end child marriage.

³ 19 45 N.Y. Jur. Domestic Relations § 603.