

## Let's End Child Marriage in California

California's marriage age is 18,<sup>1</sup> but the law includes alarming loopholes: A parent may "consent" to marry off a child of *any* age with judicial approval,<sup>2</sup> and the court may enter a child of *any* age into marriage if the child does not have a parent capable of "consenting" to the marriage.<sup>3</sup> These loopholes disempower and seriously endanger minors, even with supposed safeguards the legislature added in 2018.<sup>4</sup>

### Continued Dangers in the Current Law

- Parental "consent" is often parental *coercion*. Parents typically play an important role in facilitating a forced marriage.
- The judicial review process, with required court interviews,<sup>5</sup> puts the onus on a terrified minor whose parents are forcing them to marry to figure out how to signal their predicament to the court without facing repercussions at home.
- The 30-day waiting period<sup>6</sup> does not help minors escape an impending forced marriage, because minors' limited legal rights<sup>7</sup> make it difficult if not impossible for them to leave home, find shelter, seek an advocate or attorney's help or bring a legal action during those 30 days.<sup>8</sup>
- Minors of any age are automatically emancipated upon marriage<sup>9</sup> and lose their parents' financial support.<sup>10</sup> This typically forces minors to become financially dependent on their spouse, which is a risk factor for domestic violence<sup>11</sup> and can lead to teen homelessness if the marriage ends. It also incentivizes forced child marriage, so a parent can get out of a child support obligation or child custody battle.
- A child-marriage license is a "get out of jail free" card for a would-be child rapist. Sex with a child under age 18 is a sex crime<sup>12</sup> unless the perpetrator first marries the child.<sup>13</sup>

### Devastating Consequences of Child Marriage

- Minors can easily be forced to marry or to stay in a marriage before they turn 18 and get the rights of adulthood. Even the most mature 17-year-old cannot easily leave home,<sup>14</sup> <sup>15</sup> enter a domestic violence shelter,<sup>16</sup> get help from an advocate,<sup>17</sup> retain an attorney<sup>18</sup> or bring a legal action independently.<sup>19</sup> (The rights that come from automatic emancipation upon marriage arrive too late to *prevent* a forced marriage – and they are limited.)
- Child marriage destroys American girls' health, education and economic opportunities, and increases their risk of experiencing violence.<sup>20</sup> The U.S. State Department calls marriage before 18 a "human rights abuse."<sup>21</sup>
- Those who marry before 18 have a 70-80% chance of divorcing – and teen moms who marry and then divorce are more likely to suffer economic deprivation and instability than teen moms who stay single.<sup>22</sup>

### Alarming Statistics

- More than 8,000 California children are entered into marriage every year, and the annual number has been increasing in recent years. As of 2021, more than 14,000 minors living in California already had been married.<sup>23</sup>
- 100% of these marriages would have been considered a sex crime outside of marriage.<sup>24</sup>

### Simple Legislative Solution

- The simple, commonsense solution is to eliminate the dangerous loopholes that allow children to be entered into marriage before age 18 – and keep the marriage age at 18, no exceptions.
- States across the U.S. and around the world are passing such legislation, which costs nothing, harms no one and eliminates a human rights abuse. **More information is at [www.unchainedatlast.org](http://www.unchainedatlast.org).**

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<sup>1</sup> California Family Code (Cal. Fam. Code) § 301.

<sup>2</sup> Cal. Fam. Code § 302. Note that only one parent's signature is required per Cal. Fam. Code § 302(b).

<sup>3</sup> Cal. Fam. Code § 303.

<sup>4</sup> SB273 was approved by the governor on September 21, 2018. See: [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB273](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB273).

<sup>5</sup> Cal. Fam. Code § 304(a).

<sup>6</sup> Cal. Fam. Code § 304(b).

<sup>7</sup> Cal. Fam. Code § 6500: The age of adulthood is 18.

<sup>8</sup> California Health & Safety Code (Cal. Health & Saf. Code) § 1502.35: running away from home as a minor is a status offense; California Welfare and Institutions Code (Cal. Welf. & Inst. Code) §§ 601(a); 625(a): law enforcement can take runaway minors into temporary custody; California Penal Code (Cal. Pen. Code) § 278: advocates who help a minor leave home could face criminal charges; domestic violence shelters routinely turn away unaccompanied minors, in Unchained's experience; Cal. Fam. Code § 6710: most contracts with minors, including retainer agreements, are voidable; Cal. Fam. Code § 6601: A minor may bring a legal action only through a guardian.

<sup>9</sup> Cal. Fam. Code § 7002(a).

<sup>10</sup> Cal. Fam. Code § 7050(a).

<sup>11</sup> Robert Bornstein, *The Complex Relationship Between Dependency and Domestic Violence: Converging Psychological Factors and Social Forces*, *The American Psychologist* (September 2006), <https://www.ncbi.nlm.nih.gov/pubmed/16953747>.

<sup>12</sup> California Penal Code (Cal. Pen. Code) § 261.5(a).

<sup>13</sup> *Ibid.*

<sup>14</sup> California Health & Safety Code (Cal. Health & Saf. Code) § 1502.35: A minor who runs away from home has committed a status offense.

<sup>15</sup> California Welfare and Institutions Code (Cal. Welf. & Inst. Code) §§ 601(a); 625(a): Law enforcement can take a runaway minor into temporary custody.

<sup>16</sup> In our experience, domestic violence shelters routinely turn away unaccompanied minors.

<sup>17</sup> Cal. Pen. Code § 278: Advocates who help a minor run away from home could face criminal charges.

<sup>18</sup> Cal. Fam. Code § 6710: Most contracts with minors, including retainer agreements, are voidable.

<sup>19</sup> Cal. Fam. Code § 6601: A minor may bring a legal action only through a guardian.

<sup>20</sup> Fraidy Reiss, *Why Can 12-Year-Olds Still Get Married in the United States*, *Washington Post* (10 February 2017), <https://www.washingtonpost.com/posteverything/wp/2017/02/10/why-does-the-united-states-still-let-12-year-old-girls-get-married>.

<sup>21</sup> 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>.

<sup>22</sup> Vivian Hamilton, *The Age of Marital Capacity: Reconsidering Civil Recognition of Adolescent Marriage*, *William & Mary Law School Scholarship Repository* (2012), <https://scholarship.law.wm.edu/facpubs/1430>.

<sup>23</sup> Based on the U.S. Census Bureau's American Community Survey data for the years 2017 through 2021, as retrieved for Unchained by Quantitative Analysis, LLC. Breakdown available upon request. Note that the numbers are almost certainly an undercount, because the census does not count children younger than 15 who have been married. Note, too, that the census counts children living in California who have been married, regardless of where they were married, so the numbers could include children who married in other jurisdictions.

<sup>24</sup> Cal. Pen. Code § 261.5(a): Sex with a child under age 18 is a crime unless the perpetrator first marries the child.