

SENATE BILL NO. 172

BY SENATOR COLOMB

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact Civil Code Arts. 96, 367, and 2333, R.S. 9:221, 253, and 255, and Children's Code Arts. 1545, 1547, and 1548, and to enact Civil Code Art. 90.1, relative to marriage; to provide for parental consent for a minimum age for marriage; to provide for judicial limitations and authorization; to provide certain terms, conditions, procedures, requirements, effects, and prohibitions; to provide for evidence of human trafficking, sexual assault, domestic violence, coercion, duress or undue influence; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Arts. 96, 367 and 2333 are hereby amended and reenacted and Civil Code Art. 90.1 is hereby enacted to read as follows:

Art. 90.1. Impediment of age

A minor under the age of sixteen may not contract marriage. A minor sixteen or seventeen years of age may not contract marriage with a person of the age of majority where there is an age difference of three years or greater between them.

* * *

Art. 96. Civil effects of absolutely null marriage; putative marriage

An absolutely null marriage nevertheless produces civil effects in favor of a party who contracted it in good faith for as long as that party remains in good faith. When the cause of the nullity is one party's prior undissolved marriage, the civil effects continue in favor of the other party, regardless of whether the latter remains in good faith, until the marriage is pronounced null or the latter party contracts a valid marriage. **When the cause of the nullity is an impediment of age, the marriage produces civil effects in favor of a child of the parties. When the cause**

1 of the nullity is another reason, a marriage contracted by a party in good faith
 2 produces civil effects in favor of a child of the parties. A purported marriage between
 3 parties of the same sex does not produce any civil effects.

4 * * *

5 Art. 367. Emancipation by marriage

6 A minor sixteen or seventeen years of age is fully emancipated by marriage.
 7 Termination of the marriage does not affect emancipation by marriage. Emancipation
 8 by marriage may not be modified or terminated.

9 * * *

10 Art. 2333. Minors.

11 ~~Unless fully emancipated, a minor~~ A minor under the age of sixteen may
 12 not enter into a matrimonial agreement. A minor sixteen or seventeen years of
 13 age may not enter into a matrimonial agreement without judicial authorization and
 14 the written concurrence of his father and mother, or of the parent having his legal
 15 custody, or of the tutor of his person.

16 Section 2. R.S. 9:221, 253, and 255 are hereby amended and reenacted to read as
 17 follows:

18 §221. Authority to issue marriage license

19 A. A license authorizing an officiant to perform a marriage ceremony must
 20 be issued by:

- 21 (1) The state registrar of vital records, or a judge of the city court, in the
- 22 Parish of Orleans;
- 23 (2) The clerk of court, in any other parish; or
- 24 (3) A district judge, if the clerk of court is a party to the marriage.

25 B. No marriage license for a minor under the age of sixteen shall be
 26 issued. No marriage license for a minor of the age of sixteen or seventeen shall
 27 be issued where there is an age difference of three years or greater between the
 28 persons seeking the marriage license.

29 * * *

30 §253. Disposition and recordation of marriage certificates

- 1 (1) Both of his parents.
- 2 (2) The tutor of his person.
- 3 (3) A person who has been awarded custody of the minor.
- 4 ~~(4) The juvenile court as provided in Article 1547.~~

5 B. ~~A minor under the age of sixteen must also obtain written authorization~~
 6 ~~to marry from the judge of the court exercising juvenile jurisdiction in the parish in~~
 7 ~~which the minor resides or the marriage ceremony is to be performed.~~ **No marriage**
 8 **ceremony shall be performed for a minor under the age of sixteen.**

9 * * *

10 Art. 1547. Judicial authorization; compelling reasons

11 Upon application by ~~the minor~~, **a minor of the age of sixteen or seventeen**,
 12 the judge may authorize the marriage when there is a compelling reason why the
 13 marriage should take place. **The court shall consider the best interest of the minor**
 14 **prospective spouse.**

15 Art. 1548. Hearing; confidentiality; **best interest of the minor; evidence of human**
 16 **trafficking, sexual assault, domestic violence, coercion, duress, or**
 17 **undue influence**

18 **A.** The court shall hear a request for authorization for a minor to marry in
 19 chambers.

20 **B. The judge shall require that both the prospective husband and**
 21 **prospective wife be present for the hearing and there shall be a separate in**
 22 **camera interview of the prospective spouses.**

23 **C. In determining the best interest of the minor prospective spouse, the**
 24 **court shall consider all of the following:**

- 25 **(1) Pregnancy of the prospective wife.**
- 26 **(2) If the prospective spouses are already living together.**
- 27 **(3) Housing and living conditions prior to the prospective marriage and**
 28 **where the prospective spouses intend to live after the marriage.**
- 29 **(4) The ages of the prospective spouses.**
- 30 **(5) The age differential between the prospective spouses.**

1 **(6) How the prospective spouses came to know each other.**

2 **(7) The stated reasons why each of the prospective spouses desires to**
3 **marry one another.**

4 **(8) Consent of mother, father, or person having legal custody of the**
5 **minor.**

6 **D. The judge may require evidence of proof of residency, educational**
7 **attainment, juvenile offense history, or criminal history to be produced.**

8 **E. The judge shall conduct an inquiry to determine if there exists any**
9 **evidence that the minor is a victim of human trafficking, sexual assault,**
10 **domestic violence, coercion, duress, or undue influence. In conducting the**
11 **inquiry, the judge shall ask all of the following questions:**

12 **(1) Whether one prospective spouse is in a position of authority over the**
13 **other prospective spouse.**

14 **(2) Previous marriage or marriages of either of the prospective spouses.**

15 **(3) Residency and length of residency of the prospective spouses.**

16 **(4) How long the prospective spouses have known each other.**

17 **(5) Length of relationship between the prospective spouses.**

18 **(6) Any evidence of kidnaping, sexual assault, or domestic violence**
19 **between the prospective spouses.**

20 **(7) Whether one of the prospective spouses was the victim of a sexual**
21 **offense committed by the other prospective spouse.**

22 **(8) Evidence of domestic violence, spousal abuse, or sexual offenses**
23 **committed by either of the prospective spouses upon anyone.**

24 **(9) Criminal history of the prospective spouses.**

25 **(10) Whether either prospective husband or wife provided or promised**
26 **a third party anything of value in exchange for the marriage.**

27 **(11) Evidence of maturity and self-sufficiency of the prospective spouses**
28 **through educational attainment or employment.**

29 **(12) Evidence of at least eight hours of premarital counseling from the**
30 **prospective spouses.**

1 (13) Any history of any medical condition or chemical dependency of
2 either of the prospective spouses.

3 F. If the judge finds any evidence of human trafficking, sexual assault,
4 domestic violence, coercion, or undue influence, he shall immediately report it
5 to local law enforcement or child protective services, and shall not authorize the
 marriage.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____