

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-1083.01 Brita Darling x2241

HOUSE BILL 19-1316

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A BILL FOR AN ACT

101 **CONCERNING MODERNIZING MARRIAGE LAWS RELATED TO MINORS,**
102 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits persons under 16 years of age from obtaining a marriage license.

A person who is 16 or 17 years of age may only obtain a marriage license if a juvenile court determines that the underage party is capable of assuming the responsibilities of marriage and that the marriage would serve the underage party's best interests. Prior to making this

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

determination, the court shall appoint a guardian ad litem for the underage party to investigate the underage party's circumstances and best interests and to file a report with the court detailing the findings and making recommendations to the court regarding the issuance of a marriage license.

The bill clarifies that both parties to a proxy marriage must be 18 years of age.

The bill prohibits complete social security numbers from appearing on marriage forms and certificates issued by county clerks and recorders.

The bill authorizes the juvenile court to appoint a guardian ad litem for purposes of judicial consent for underage marriage.

The bill clarifies that an underage married person has certain rights under law, including the right to establish a separate domicile from the married person's parents; the right to file motions and petitions in the married person's own name; the right to enter into enforceable contracts, including leases for housing; and the right to consent to their own medical care.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 14-2-106 as
3 follows:

4 **14-2-106. License to marry.** (1) (a) When a marriage LICENSE
5 application has been completed and signed by both parties to a
6 prospective marriage and at least one party has appeared before the
7 county clerk and recorder and has paid the marriage license fee of seven
8 dollars, a fee of twenty dollars to be transmitted by the county clerk and
9 recorder to the state treasurer and credited by the treasurer to the
10 Colorado domestic abuse program fund created in section 39-22-802 (1),
11 ~~C.R.S.~~, and an additional amount established pursuant to section
12 25-2-121, ~~C.R.S.~~, such amount to be credited to the vital statistics records
13 cash fund pursuant to section 25-2-121, ~~C.R.S.~~, the county clerk shall
14 issue a license to marry and a marriage certificate form upon being
15 furnished:

16 (I) Satisfactory proof that each party to the marriage will have

1 attained the age of eighteen years at the time the marriage license
2 becomes effective; or, if over the age of sixteen years but has not attained
3 the age of eighteen years, has ~~the consent of both parents or guardian or,~~
4 ~~if the parents are not living together, the parent who has legal custody or~~
5 ~~decision-making responsibility concerning such matters or with whom the~~
6 ~~child is living or~~ judicial approval, as provided in section 14-2-108; ~~or, if~~
7 ~~under the age of sixteen years, has both the consent to the marriage of~~
8 ~~both parents or guardian or, if the parents are not living together, the~~
9 ~~parent who has legal custody or decision-making responsibility~~
10 ~~concerning such matters or with whom the child is living and judicial~~
11 ~~approval, as provided in section 14-2-108; and~~

12 (II) Satisfactory proof that the marriage is not prohibited, as
13 provided in section 14-2-110.

14 ~~(III) Repealed.~~

15 (b) Violation of ~~paragraph (a)(I) of this subsection (1) shall make~~
16 SUBSECTION (1)(a)(I) OF THIS SECTION MAKES the marriage voidable.

17 ~~(c) (Deleted by amendment, L. 2000, p. 1571, § 8, effective July~~
18 ~~1, 2000.)~~

19 (2) Repealed.

20 **SECTION 2.** In Colorado Revised Statutes, 14-2-108, **amend** (1)
21 and (2) as follows:

22 **14-2-108. Judicial approval.** (1) The juvenile court, as defined
23 in section 19-1-103 (17), ~~C.R.S.~~, after a reasonable effort has been made
24 to notify the parents or ~~guardian~~ LEGAL GUARDIANS of each underage
25 party, may order the county clerk and recorder PURSUANT TO SUBSECTION
26 (2) OF THIS SECTION to issue a marriage license and a marriage certificate
27 form

1 (a) to a party aged sixteen or seventeen years ~~who has no parent~~
2 ~~or guardian, or who has no parent capable of consenting to his marriage,~~
3 ~~or whose parent or guardian has not consented to his marriage; or OF AGE.~~

4 (b) ~~To a party under the age of sixteen years who has the consent~~
5 ~~to his or her marriage of both parents, if capable of giving consent, or his~~
6 ~~or her guardian or, if the parents are not living together, the parent who~~
7 ~~has legal custody or decision-making responsibility concerning such~~
8 ~~matters or with whom the child is living.~~

9 (2) (a) ~~A license shall be ordered to be issued~~ THE COURT MAY
10 ORDER THE COUNTY CLERK AND RECORDER TO ISSUE A MARRIAGE LICENSE
11 under subsection (1) of this section only if the court finds, AFTER
12 REVIEWING THE REPORT OF THE GUARDIAN AD LITEM APPOINTED
13 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, that the underage party
14 is capable of assuming the responsibilities of marriage and the marriage
15 would serve ~~his~~ THE UNDERAGE PARTY'S best interests. Pregnancy alone
16 does not establish that the best interests of the party would be served.

17 (b) (I) PRIOR TO ORDERING THE ISSUANCE OF A MARRIAGE LICENSE
18 TO AN UNDERAGE PARTY, THE COURT SHALL APPOINT A GUARDIAN AD
19 LITEM FOR THE UNDERAGE PARTY AND DIRECT THE GUARDIAN AD LITEM
20 TO INVESTIGATE THE BEST INTERESTS OF THE UNDERAGE PARTY AND TO
21 FILE A REPORT WITH THE COURT ADDRESSING THE FACTORS SET FORTH IN
22 SUBSECTION (2)(b)(II) OF THIS SECTION AND STATING A POSITION AS TO
23 WHETHER THE ISSUANCE OF A MARRIAGE LICENSE TO THE UNDERAGE
24 PARTY IS IN THE UNDERAGE PARTY'S BEST INTERESTS.

25 (II) THE COURT SHALL CONSIDER ALL RELEVANT FACTORS,
26 INCLUDING:

27 (A) THE WISHES OF THE UNDERAGE PARTY;

1 (B) THE VIEW OF THE PARENTS OR LEGAL GUARDIANS OF THE
2 UNDERAGE PARTY, IF KNOWN;

3 (C) THE ABILITY OF THE UNDERAGE PARTY TO ASSUME THE
4 RESPONSIBILITIES OF MARRIAGE;

5 (D) THE CIRCUMSTANCES SURROUNDING THE MARRIAGE; AND

6 (E) THE ABILITY OF THE UNDERAGE PARTY TO MANAGE THE
7 UNDERAGE PARTY'S FINANCIAL, PERSONAL, SOCIAL, EDUCATIONAL, AND
8 NONFINANCIAL AFFAIRS INDEPENDENT OF THE UNDERAGE PARTY'S
9 INTENDED SPOUSE BOTH DURING THE MARRIAGE OR UPON DISSOLUTION OF
10 THE MARRIAGE.

11 **SECTION 3.** In Colorado Revised Statutes, 14-2-109, **amend**
12 (2)(a)(IV) as follows:

13 **14-2-109. Solemnization and registration of marriages - proxy**
14 **marriage.** (2) (a) The requirements for applying for a marriage license
15 for a proxy marriage are the following:

16 (IV) ~~Notwithstanding the requirements of section 14-2-106~~
17 ~~(1)(a)(I),~~ Both parties to the proxy marriage are eighteen years of age or
18 older.

19 **SECTION 4.** In Colorado Revised Statutes, **add** 14-2-109.3 as
20 follows:

21 **14-2-109.3. Rights of underage married persons.** (1) IN
22 ADDITION TO ANY RIGHTS ESTABLISHED IN LAW, A MARRIED PERSON WHO
23 HAS NOT ATTAINED EIGHTEEN YEARS OF AGE HAS THE FOLLOWING RIGHTS:

24 (a) THE RIGHT TO ESTABLISH A DOMICILE SEPARATE FROM THE
25 MARRIED PERSON'S PARENTS;

26 (b) THE RIGHT TO FILE MOTIONS AND PETITIONS WITH A COURT IN
27 THE MARRIED PERSON'S NAME AND ON THE MARRIED PERSON'S OWN

1 BEHALF;

2 (c) THE RIGHT TO ENTER INTO ENFORCEABLE CONTRACTS,
3 INCLUDING BUT NOT LIMITED TO LEASES FOR HOUSING; AND

4 (d) THE RIGHT TO CONSENT TO AND MAKE DECISIONS CONCERNING
5 THE MARRIED PERSON'S OWN MEDICAL CARE.

6 **SECTION 5.** In Colorado Revised Statutes, 14-2-105, **amend**
7 (1)(a) [REDACTED] as follows:

8 **14-2-105. Marriage license and marriage certificate.** (1) The
9 executive director of the department of public health and environment
10 shall prescribe the form for an application for a marriage license, which
11 must include the following information:

12 (a) Name, sex, address, LAST FOUR DIGITS OF THE social security
13 number, AND date and place of birth of each party to the proposed
14 marriage, ~~and for such purpose~~ WHICH proof of IDENTITY AND date of
15 birth may be by a birth certificate, a driver's license, A PASSPORT, or other
16 comparable evidence;

17 [REDACTED]

18 **SECTION 6.** In Colorado Revised Statutes, 19-1-111, **add** (2)(d)
19 as follows:

20 **19-1-111. Appointment of guardian ad litem.** (2) The court
21 may appoint a guardian ad litem in the following cases:

22 (d) FOR AN UNDERAGE PARTY SEEKING A MARRIAGE LICENSE, AS
23 PROVIDED IN SECTION 14-2-108 (2).

24 **SECTION 7. Appropriation.** For the 2019-20 state fiscal year,
25 \$59,850 is appropriated to the judicial department for use by the office of
26 the child's representative. This appropriation is from the general fund. To
27 implement this act, the office may use this appropriation as follows:

- 1 (a) \$2,250 for operating expenses; and
- 2 (b) \$57,600 for court-appointed counsel.

3 **SECTION 8. Act subject to petition - effective date -**
4 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
5 the expiration of the ninety-day period after final adjournment of the
6 general assembly (August 2, 2019, if adjournment sine die is on May 3,
7 2019); except that, if a referendum petition is filed pursuant to section 1
8 (3) of article V of the state constitution against this act or an item, section,
9 or part of this act within such period, then the act, item, section, or part
10 will not take effect unless approved by the people at the general election
11 to be held in November 2020 and, in such case, will take effect on the
12 date of the official declaration of the vote thereon by the governor.

13 (2) Sections 1, 2, and 6 of this act apply to applications for
14 marriage licenses submitted on or after the applicable effective date of
15 this act.