

## HB19-1316: Modernizing Marriage Laws For Minors

### Reps. Hansen & Landgraf; Sens. Winter & Cooke

#### PROBLEM

Colorado has no minimum legal marriage age.

- Between 2007-2017 there were 2,240 marriage licenses issued in which at least one party was under the age of 18
  - at least 30 involved one person under the age of 15 years old
  - at least 24 involved someone under the age of 18 marrying someone aged 30-34

Because emancipation occurs automatically upon the valid marriage of the minor child and there is not a statute in Colorado that defines emancipation or the rights it confers, it is not clear whether the minor would have other rights, such as seeking a divorce, obtaining proper health care, accessing homeless shelters, being protected by Child Protective Services, or having the ability to sign contracts, among other age-restricted endeavors.

#### Current Marriage Law vs. Intended Marriage Law:

<u>Age Group</u>	<u>Current Law</u>	<u>HB19-1316</u>
>18 years old	No requirements	No requirements
16-17 years old	Requires <u>either</u> parental or judicial consent	May only obtain a marriage license if a juvenile court determines that: <ul style="list-style-type: none"> <li>a) the minor is capable of assuming the responsibilities of marriage, and</li> <li>b) that the marriage would serve the minor's best interests</li> </ul>
<16 years old	Requires <u>both</u> parental and judicial consent	Prohibited from obtaining a marriage license

#### SOLUTION

##### Establish a guardian ad litem (GAL) process for 16-17 year olds

Prior to ordering the issuance of a marriage license to an underage party, the court must appoint a guardian ad litem for the underage party who responsible for:

- investigating the best interests of the minor
  - *pregnancy alone does not establish that the best interests of the party would be served*
- filing a report with the court detailing the investigation
- making recommendations relating to the issuance of a marriage license to the minor

### **Account for the best interests of the minor**

In making recommendations to the court, the guardian ad litem must consider all information relating to the best interests of the underage party, including but not limited to:

- the wishes of the minor
- the view of the parents or legal guardians of the minor
- the ability of the minor to assume the responsibilities of marriage
- the circumstances surrounding the marriage
- the ability of the minor to manage their financial, personal, social, educational, and nonfinancial affairs independent of their intended spouse both during the marriage and in the circumstance of a potential divorce

### **Establish rights of married minors**

A married person under the age of 18 will have the right to:

- live separately from their parents
- file motions and petitions in court on their own behalf
- enter into enforceable contracts (including leases for housing)
- consent and make decisions concerning their own healthcare