



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

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Sub. H.B. 511

132nd General Assembly
(As Passed by the General Assembly)

- Reps.** Lanese and Rogers, Rezabek, Antonio, Fedor, LaTourette, Anielski, Arndt, Ashford, Blessing, Boggs, Brown, Celebrezze, Craig, DeVitis, Galonski, Gavarone, Ginter, Henne, Holmes, Howse, Hughes, T. Johnson, Kent, Kick, Koehler, Lang, Lepore-Hagan, Manning, O'Brien, Patton, Pelanda, Perales, Riedel, Sheehy, Sykes, West, Young
- Sens.** Bacon, Beagle, Brown, Dolan, Hackett, Hoagland, Kunze, Lehner, Manning, Peterson, Sykes, Tavares, Terhar, Thomas, Yuko

Effective date: April 8, 2019

ACT SUMMARY

- Modifies the statutory specification of the age at which persons may marry, to generally provide that only persons of the age of 18 years, not nearer of kin than second cousins, and not having a husband or wife living, may marry.
 - Provides an exception for a 17-year-old to marry if he or she obtains consent from the juvenile court and the other person is not more than four years older.
 - Institutes a 14-day waiting period for a marriage involving a 17-year-old.
 - Requires documentary proof of age for *any* person seeking a marriage license.
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CONTENT AND OPERATION

Marriage age generally changed to 18 years

The act modifies the statutory specification of the age at which a person may marry. Subject to the exception described below in "**Exception for 17-year-olds under the act**," the act restricts marriage to persons of the age of 18 years, not nearer of kin than second cousins, and not having a husband or wife living.¹ Under prior statutory

¹ R.C. 3101.01(A).

law and case law, a female who was 16 or 17 could marry only with the consent of her parents or other specified guardian or custodian. Males who were under 18 and females who were under 16 could not marry unless a child was involved and there was parental consent and consent from the juvenile court.² The Ohio Rules of Juvenile Procedure continue to provide for judicial consent for minors to marry when the female is pregnant or has delivered a child out of wedlock.³

Exception for 17-year-olds under the act

Consent of juvenile court required; resultant emancipation

The act provides an exception for 17-year-olds to its general "18 years of age" requirement for marriage. The act requires consent of the juvenile court for any marriage involving a 17-year-old.⁴ Under the act, a grant of consent by the juvenile court results in the emancipation of the 17-year-old (or 17-year-olds if both persons are 17). The act defines emancipation for this purpose as having the capacity of an 18-year-old under law, with the exception of not being able to vote.⁵ The act requires the court to issue an order of emancipation to the 17-year-old or 17-year-olds when it files its consent to the marriage.⁶ The act does not condition emancipation on the 17-year-old actually getting married.

Requirements for the juvenile court

Before granting consent to a marriage of one or two 17-year-olds, the act requires the juvenile court to determine all of the following for each 17-year-old:

- The 17-year-old has entered the U.S. armed services, has become employed and self-subsisting, or has otherwise become independent from the care and control of the 17-year-old's parent, guardian, or custodian;
- The decision to marry is free from force or coercion;
- The intended marriage and emancipation is in the best interests of the 17-year-old.

² R.C. 3101.01(A); *State v. Gans*, 168 Ohio St. 174, 178-179 (1958); O.A.G. 89-046 (footnote 1).

³ Ohio Juv. R. 42(C), (D), and (G).

⁴ R.C. 3101.02(A) and (B)(1).

⁵ R.C. 3109.011.

⁶ R.C. 3101.041(C)(3) and 3101.042.



Before granting consent, the juvenile court must also both:

- Appoint an attorney as a guardian ad litem for the 17-year-old (or 17-year-olds if both persons are 17);
- Consult with any of the following individuals for each 17-year-old:
 - A parent, surviving parent, court-designated residential parent and legal custodian, or guardian;
 - An adult person who has been awarded permanent custody of the 17-year-old;
 - The Department of Job and Family Services, if the Department has been awarded permanent custody of the 17-year-old;
 - A Department-certified child welfare organization, if the organization has been awarded permanent custody of the 17-year-old.⁷

Two-week waiting period

The act institutes a waiting period of 14 calendar days for a marriage involving a 17-year-old. The waiting period begins when the juvenile court files its consent to the marriage.⁸

Age-difference limitation

The act prohibits a marriage involving a 17-year-old to another person who is more than four years older.⁹

Probate court issuance of a marriage license for 17-year-olds

The act generally maintains continuing law regarding issuance of the marriage license for minors. It specifies that when a juvenile court files a consent to marriage pursuant to the Juvenile Rules (see "**Rule governing consent of the juvenile court,**" below), the probate court may issue a marriage license following the two-week waiting period, notwithstanding either or both the contracting parties for the marriage are 17. The probate court may not issue the license until the parties have applied for the license, appeared before a specified probate court, made specified statements upon

⁷ R.C. 3101.041.

⁸ R.C. 3101.04 and 3101.042.

⁹ R.C. 3101.02(B)(2).



oath, provided other specified information, and if either applicant is 17, stated that they have received marriage counseling satisfactory to the court.

Prior law referred to the contracting parties to the marriage being "under the minimum age prescribed" for marriage and included references to the female's pregnancy.¹⁰

Documentary proof of age

The act adds a requirement that any person seeking a marriage license must present documentary proof of age in the form of any of the following:

- A copy of a birth record;
- A birth certificate issued by the Department of Health, a local registrar of vital statistics, or other public office charged with similar duties by the laws of another state, territory, or country;
- A baptismal record showing the person's date of birth;
- A passport;
- A license or permit to operate a motor vehicle;
- Any government- or school-issued identification card showing the person's date of birth;
- An immigration record showing the person's date of birth;
- A naturalization record showing the person's date of birth;
- A court record or any other document or record issued by a governmental entity showing the person's date of birth.¹¹

Rule governing consent of the juvenile court

Juvenile Rule 42, adopted by the Ohio Supreme Court under the mandate of the Ohio Constitution, Article IV, Section 5(B) and governing all Ohio courts, pertains to court consent for an underage marriage. At the time this analysis was published, the rule referred to proof of pregnancy and legal requirements for parental consent when a

¹⁰ R.C. 3101.04 and 3101.05.

¹¹ R.C. 3101.05(A).



minor seeks to marry. As explained above, the act's exception for 17-year-olds does not require parental consent and is not dependent on pregnancy.

HISTORY

ACTION	DATE
Introduced	02-14-18
Reported, H. Community and Family Advancement	05-22-18
Passed House (90-2)	06-27-18
Reported S. Judiciary	12-04-18
Passed Senate (32-0)	12-27-18

