

House Bill 228 (AS PASSED HOUSE AND SENATE)

By: Representatives Welch of the 110<sup>th</sup>, Ballinger of the 23<sup>rd</sup>, Jones of the 47<sup>th</sup>, Oliver of the 82<sup>nd</sup>, Holcomb of the 81<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 19 of the Official Code of Georgia Annotated, relating to  
2 marriage generally, so as to change the minimum age of marriage of a child from 16 to 17  
3 years of age and to require any person who is 17 years of age to have been emancipated; to  
4 prevent forced or coerced marriages involving children; to require documentary proof of  
5 emancipation, completion of premarital education and a certificate of completion, and certain  
6 other conditions for the issuance of a marriage license for any person who is 17 years of age;  
7 to require proof of age for the issuance of a marriage license; to require the Department of  
8 Public Health to prepare and distribute a fact sheet concerning certain information about  
9 marriage and available resources for persons who are victims of certain crimes; to require  
10 that premarital education providers distribute such fact sheet; to provide for rules and  
11 regulations; to revise provisions regarding marriages solemnized in another state; to amend  
12 Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody  
13 proceedings, so as to correct a cross-reference; to amend Article 10 of Chapter 11 of Title 15  
14 of the Official Code of Georgia Annotated, relating to emancipation, so as to provide for  
15 requirements and restrictions for filing a petition for emancipation for petitioners who desire  
16 to enter into a marriage; to require the appointment of an attorney for the petitioner in any  
17 case in which a petition for emancipation is filed; to provide for conditions whereby the court  
18 shall not issue an emancipation order; to revise a definition; to provide for related matters;  
19 to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 style="text-align:center">**PART I**  
22 style="text-align:center">**SECTION 1-1.**

23 Chapter 3 of Title 19 of the Official Code of Georgia Annotated, relating to marriage  
24 generally, is amended by revising Code Section 19-3-2, relating to who may contract  
25 marriage and parental consent, as follows:

26 "19-3-2.

27 (a) To be able to contract marriage, a person must:

28 (1) Be of sound mind;

29 (2) Except as provided in subsection (b) of this Code section, be at least 18 years of age;

30 (3) Have no living spouse of a previous undissolved marriage. The dissolution of a  
31 previous marriage in divorce proceedings must be affirmatively established and will not  
32 be presumed. Nothing in this paragraph shall be construed to affect the legitimacy of  
33 children; and

34 (4) Not be related to the prospective spouse by blood or marriage within the prohibited  
35 degrees.

36 (b) If either applicant for marriage is ~~16 or~~ 17 years of age, ~~parental consent as provided~~  
37 ~~in Code Section 19-3-37~~ documentary proof that such applicant was emancipated by  
38 operation of law or pursuant to a petition filed with the court as provided in Article 10 of  
39 Chapter 11 of Title 15 shall be required before a license may be issued pursuant to Article 2  
40 of this chapter; provided, in addition, that:

41 (1) If the emancipation was pursuant to a petition filed with the court, a certified copy  
42 of the order providing for the emancipation shall be provided as documentary proof;

43 (2) At least 15 days shall have passed since such emancipation shall have occurred by  
44 operation of law or pursuant to a petition filed with the court;

45 (3) The older party to the marriage contract shall not be more than four years older than  
46 the younger party to the marriage contract; and

47 (4) Each party to the marriage contract who is 17 years of age shall present a certificate  
48 of completion of premarital education as provided under Code Section 19-3-30.1.

49 (c) No license provided for under Article 2 of this chapter shall be issued for the marriage  
50 of any party who is under 17 years of age."

51 **SECTION 1-2.**

52 Said chapter is further amended by revising Code Section 19-3-30.1, relating to premarital  
53 education, as follows:

54 "19-3-30.1.

55 (a) The premarital education provided for under this Code section shall include at least six  
56 hours of instruction involving marital issues, which may include but not be limited to  
57 conflict management, communication skills, financial responsibilities, child and parenting  
58 responsibilities, and extended family roles. The premarital education shall be completed  
59 within 12 months prior to the application for a marriage license and the couple shall  
60 undergo the premarital education together, except as provided for in subsection (d) of this  
61 Code section. The premarital education shall be performed by:

62 (1) A professional counselor, social worker, or marriage and family therapist who is  
 63 licensed pursuant to Chapter 10A of Title 43;

64 (2) A psychiatrist who is licensed as a physician pursuant to Chapter 34 of Title 43;

65 (3) A psychologist who is licensed pursuant to Chapter 39 of Title 43; or

66 (4) An active member of the clergy when in the course of his or her service as clergy or  
 67 his or her designee, including retired clergy, provided that a designee is trained and  
 68 skilled in premarital education; provided, further, that any active or retired member of the  
 69 clergy or his or her designee performing the premarital education for a party who is 17  
 70 years of age shall also be a professional counselor, social worker, or marriage and family  
 71 therapist who is licensed pursuant to Chapter 10A of Title 43.

72 (b) Each premarital education provider provided for in paragraphs (1) through (4) of  
 73 subsection (a) of this Code section shall furnish each participant who completes the  
 74 premarital education under his or her performance a certificate of completion.

75 (c) If both persons ~~In applying for a marriage license, a man and woman who are 18 years~~  
 76 of age or older and ~~certify on the application for a marriage license that they have~~  
 77 ~~successfully completed a qualifying premarital education program, then such persons shall~~  
 78 ~~not be charged a fee for a marriage license. The premarital education shall include at least~~  
 79 ~~six hours of instruction involving marital issues, which may include but not be limited to~~  
 80 ~~conflict management, communication skills, financial responsibilities, child and parenting~~  
 81 ~~responsibilities, and extended family roles. The premarital education shall be completed~~  
 82 ~~within 12 months prior to the application for a marriage license and the couple shall~~  
 83 ~~undergo the premarital education together. The premarital education shall be performed~~  
 84 ~~by:~~

85 ~~(1) A professional counselor, social worker, or marriage and family therapist who is~~  
 86 ~~licensed pursuant to Chapter 10A of Title 43;~~

87 ~~(2) A psychiatrist who is licensed as a physician pursuant to Chapter 34 of Title 43;~~

88 ~~(3) A psychologist who is licensed pursuant to Chapter 39 of Title 43; or~~

89 ~~(4) An active member of the clergy when in the course of his or her service as clergy or~~  
 90 ~~his or her designee, including retired clergy, provided that a designee is trained and~~  
 91 ~~skilled in premarital education.~~

92 ~~(b) Each premarital education provider shall furnish each participant who completes the~~  
 93 ~~premarital education required by this Code section a certificate of completion.~~

94 (d) If either person applying for a marriage license is 17 years of age:

95 (1) No fee shall be charged for the issuance of a marriage license;

96 (2) A certificate of completion of premarital education by any such person as provided  
 97 in subsection (b) of this Code section shall be provided to the judge of the probate court.

98 The requirement of this paragraph shall not be waived regardless of whether the persons  
 99 applying for a marriage license are willing to be charged a fee for the marriage license;  
 100 (3) Each person shall undergo the premarital education separately from the other person;  
 101 and  
 102 (4) In addition to the topics provided for under subsection (a) of this Code section, the  
 103 premarital education shall include instruction on the potential risks of marrying young,  
 104 including, but not limited to, high divorce rates, increased rates of noncompletion of  
 105 education, greater likelihood of poverty, medical and mental health problems, and  
 106 information contained within the fact sheet provided for under Code Section 19-3-41.1,  
 107 including, but not limited to, information on domestic violence and website and telephone  
 108 resources for victims of domestic violence, dating violence, sexual assault, stalking, and  
 109 human trafficking."

110 **SECTION 1-3.**

111 Said chapter is further amended by revising Code Section 19-3-36, relating to proof of age  
 112 of applicants, as follows:

113 "19-3-36.

114 The judge of the probate court to whom the application for a marriage license is made shall  
 115 satisfy himself or herself that the provisions set forth in Code Section 19-3-2 regarding age  
 116 limitations are met. ~~If the judge does not know of his or her own knowledge the age of a~~  
 117 ~~party for whom a marriage license is sought, the~~ The judge shall require the applicant all  
 118 applicants to furnish the court with documentary evidence of proof of age in the form of  
 119 a birth certificate, driver's license, baptismal certificate, certificate of birth registration,  
 120 selective service card, court record, passport, immigration papers, alien papers, citizenship  
 121 papers, armed forces discharge papers, armed forces identification card, or hospital  
 122 admission card containing the full name and date of birth. ~~In the event an applicant does~~  
 123 ~~not possess any of the above but appears to the judge to be at least 25 years of age, the~~  
 124 ~~applicant, in lieu of furnishing the judge with one of the above, may give an affidavit to the~~  
 125 ~~judge stating the applicant's age.~~ Applicants who have satisfactorily proved that they have  
 126 reached the age of majority may be issued a marriage license immediately."

127 **SECTION 1-4.**

128 Said chapter is further amended by repealing Code Section 19-3-37, relating to parental  
 129 consent to marriage of underage applicants, when necessary, and how obtained, in its entirety  
 130 and designating such Code section as reserved.

**SECTION 1-5.**

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132 Said chapter is further amended by adding a new Code section to read as follows:

133 "19-3-41.1.

134 (a) The Department of Public Health shall prepare a fact sheet for public availability and  
135 for distribution by premarital education providers. The Department of Public Health shall  
136 make such fact sheet available in electronic form, including, but not limited to, a version  
137 that can be legibly printed in a poster size of up to 24 by 36 inches.

138 (b) The fact sheet provided for in subsection (a) of this Code section shall:

139 (1) Include basic information about the legal rights and responsibilities of parties to a  
140 marriage as well as information about dating violence, sexual assault, stalking, domestic  
141 violence, and human trafficking, including, but not limited to, the warning signs and  
142 behaviors of an abusive partner and the dynamics of domestic violence and other forms  
143 of coercive control. Such fact sheet shall also include basic information about the rights  
144 of victims of such violence and the resources available to them, including, but not limited  
145 to, website and telephone resources, legal assistance, confidential shelters, and civil  
146 protective orders; and

147 (2) Be developed in partnership with the Georgia Commission on Family Violence and  
148 any other agencies in the discretion of the Department of Public Health that serve  
149 survivors of dating violence, sexual assault, and human trafficking.

150 (c) The Department of Public Health shall promulgate rules and regulations to implement  
151 this Code section."

**SECTION 1-6.**

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153 Said chapter is further amended by revising Code Section 19-3-43, relating to marriage in  
154 another state and effect in this state, as follows:

155 "19-3-43.

156 (a) All marriages solemnized in another state by parties intending at the time to reside in  
157 this state shall have the same legal consequences and effect as if solemnized in this state.  
158 Parties residing in this state may not evade any of the laws of this state as to marriage,  
159 including, but not limited to, the age limitations provided for in Code Section 19-3-2, by  
160 going into another state for the solemnization of the marriage ceremony.

161 (b) Notwithstanding subsection (a) of this Code section, the age limitations provided for  
162 in Code Section 19-3-2 shall not apply to a lawful marriage solemnized in another state or  
163 country prior to either party residing in this state."

**PART II**  
**SECTION 2-1.**

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Article 10 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to emancipation, is amended by revising Code Section 15-11-721, relating to petition requirements, as follows:

"15-11-721.

(a) A child seeking emancipation shall file a petition for emancipation in the juvenile court in the county where such child resides. The petition shall be signed and verified by the petitioner; and shall include:

- (1) The petitioner's full name and birth date and the county and state where the petitioner was born;
- (2) A certified copy of the petitioner's birth certificate;
- (3) The name and last known address of the petitioner's parent, guardian, or legal custodian and, if no parent, guardian, or legal custodian can be found, the name and address of the petitioner's nearest living relative residing within this state;
- (4) The petitioner's present address and length of residency at that address;
- (5) A declaration by the petitioner demonstrating the ability to manage his or her financial affairs together with any information necessary to support the declaration;
- (6) A declaration by the petitioner demonstrating the ability to manage his or her personal and social affairs together with any information necessary to support the declaration; and
- (7) The names of individuals who have personal knowledge of the petitioner's circumstances and believe that under those circumstances emancipation is in the best interests of the petitioner. Such individuals may include any of the following:
  - (A) A licensed physician, physician assistant, or osteopath;
  - (B) A registered professional nurse or licensed practical nurse;
  - (C) A licensed psychologist;
  - (D) A licensed professional counselor, social worker, or marriage and family therapist;
  - (E) A school guidance counselor, school social worker, or school psychologist;
  - (F) A school administrator, school principal, or school teacher;
  - (G) A member of the clergy;
  - (H) A law enforcement officer; or
  - (I) An attorney.

(b) If the petition provided for under subsection (a) of this Code section is based on the petitioner's desire to enter into a valid marriage, the petitioner shall:

- (1) Be at least 17 years of age;

200 (2) In addition to the requirements provided for under subsection (a) of this Code section,  
 201 include in such petition the name, age, date of birth, and address of residence of the  
 202 intended spouse;  
 203 (3) Include a statement of the reasons why the petitioner desires to marry, how the  
 204 parties came to know each other, and how long they have known each other; and  
 205 (4) Attach copies of any criminal records of either party to be married and of any family  
 206 violence or stalking protective order issued to protect or restrain either party to be  
 207 married."

#### 208 SECTION 2-2.

209 Said article is further amended by revising Code Section 15-11-723, relating to appointment  
 210 of attorney and guardian ad litem and affidavits of adults supporting emancipation, as  
 211 follows:

212 "15-11-723.

213 (a) After a petition for emancipation is filed, the court shall appoint an attorney for the  
 214 petitioner and may:

215 (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file  
 216 a report with the court, including a recommendation as to whether it is in the best  
 217 interests of the petitioner that the petition for emancipation be granted; and

218 ~~(2) Appoint an attorney for the petitioner; and~~

219 ~~(3) Appoint an attorney for the petitioner's parent, guardian, or legal custodian if he or~~  
 220 ~~she is an indigent person and if he or she opposes the petition.~~

221 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each  
 222 person identified in the petition pursuant to paragraph (7) of subsection (a) of Code Section  
 223 15-11-721 that describes why that person believes the petitioner should be emancipated."

#### 224 SECTION 2-3.

225 Said article is further amended by revising Code Section 15-11-725, relating to emancipation  
 226 hearing and findings, as follows:

227 "15-11-725.

228 ~~(a)(1) Except as provided for in paragraph (2) of this subsection, the~~ The court shall issue  
 229 an emancipation order if, after a hearing, it determines that emancipation is in the best  
 230 interests of the child and such child has established:

231 ~~(1)(A)~~ (A) That his or her parent, guardian, or legal custodian does not object to the  
 232 petition; or, if a parent, guardian, or legal custodian objects to the petition, that the best  
 233 interests of the child are served by allowing the emancipation to occur by court order;

234 ~~(2)(B)~~ (B) That he or she is a resident of this state;

235 ~~(3)~~(C) That he or she has demonstrated the ability to manage his or her financial  
 236 affairs, including proof of employment or other means of support. 'Other means of  
 237 support' shall not include general assistance or aid received from means-tested public  
 238 assistance programs such as Temporary Assistance for Needy Families as provided in  
 239 Article 9 of Chapter 4 of Title 49 or similar programs under Title IV-A of the federal  
 240 Social Security Act;

241 ~~(4)~~(D) That he or she has the ability to manage his or her personal and social affairs,  
 242 including, but not limited to, proof of housing; and

243 ~~(5)~~(E) That he or she understands his or her rights and responsibilities under this article  
 244 as an emancipated child.

245 (2) If the court finds that the petition for emancipation is based upon the petitioner's  
 246 desire to enter into a valid marriage, the court shall not issue an emancipation order if the  
 247 court further finds that:

248 (A) The petitioner is being compelled to marry against the petitioner's will by force,  
 249 fraud, or coercion;

250 (B) The petitioner is younger than 17 years of age, or the age difference between the  
 251 parties is more than four years;

252 (C) The intended spouse was or is in a position of authority or special trust as defined  
 253 in Code Section 16-6-5.1 in relation to the petitioner;

254 (D) The intended spouse has been convicted of or entered into a diversion program for  
 255 a crime against a person under Chapter 5 of Title 16 that involves an act of violence or  
 256 includes a child victim or is for a crime defined as a sexual offense under Chapter 6 of  
 257 Title 16;

258 (E) There is a preponderance of evidence that the petitioner was the victim and the  
 259 intended spouse was the perpetrator of statutory rape as defined in Code Section 16-6-3;

260 (F) The intended spouse has previously been enjoined by a family violence or stalking  
 261 protective order, regardless of whether or not the person to be protected by the order  
 262 was the petitioner; or

263 (G) The intended marriage is not in the best interests of the petitioner. A past or  
 264 current pregnancy of the petitioner or the intended spouse or the wishes of the parents  
 265 or legal guardians of the petitioner may be considered by the court, but shall not alone  
 266 or together be sufficient evidence to determine the best interests of the minor.

267 (b) If the court issues an emancipation order, the court shall retain a copy of the order until  
 268 the emancipated child becomes 25 years of age.

269 (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall  
 270 not affect an obligation, responsibility, right, or interest that arose during the period of time  
 271 the order was in effect.



272 (d) A child or his or her parent, guardian, or legal custodian may appeal the court's grant  
273 or denial of an emancipation petition."

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**PART III**

275

**SECTION 3-1.**

276 All laws and parts of laws in conflict with this Act are repealed.