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Ban Child Marriages: Florida is Not Acting in the Best Interest of the Child

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BAN CHILD MARRIAGES: FLORIDA IS NOT ACTING IN THE BEST INTEREST OF THE CHILD

*Elisa K. Schneider**

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INTRODUCTION

The Supreme Court of the United States has long held that marriage is a fundamental right.¹ In *Loving v. Virginia*, the Court held that states could not infringe on a person’s choice and constitutional right to marry.² The Court reasoned that under the Constitution, the freedom to marry, or not to marry, is the sole choice of the individual.³ Since *Loving*, the Court faced several issues related to the scope of this fundamental right.⁴ In *Obergefell v. Hodges*, the petitioners argued that their states’ definition of marriage as between one man and one woman was a violation of the Equal Protection Clause of the Four-

* Elisa Schneider is an attorney in Orlando, Florida where she primarily practices civil litigation defense. Elisa obtained a Bachelor of Arts degree, cum laude, in English from the State University of New York at Plattsburgh. Elisa attended Florida A & M University College of Law in Orlando, where she graduated first in her December graduating class and earned her Juris Doctor, magna cum laude. While at Florida A & M, Elisa served as Assistant Articles Editor for the FAMU Law Review, Chair of the Bar Passage Committee, and Treasurer of the Marshall-Bell Law Society. Elisa was awarded Dean’s List for each semester at FAMU, received academic scholarships, and earned book awards for obtaining the highest grade in seven different classes.

1. See 388 U.S. 1, 12 (1967).

2. *Id.*

3. *Id.*

4. See *Zablocki v. Redhail*, 434 U.S. 378, 375, 388-89 (1978) (holding unconstitutional a Wisconsin law that gave courts discretion to prevent noncustodial parents of children from marrying upon proof that the person seeking marriage was up to date on all child support payments; although the state had an interest in obtaining child support for minor children, the Court held that the statute unnecessarily infringed on the fundamental right to marry).

teenth Amendment.⁵ In a five-to-four decision, the Court declared that same-sex couples are entitled to the same fundamental right to marry as heterosexual couples.⁶ Further, the Court set forth that the right to marry is a right that all states must recognize, and infringement by the state of this fundamental right violates the Equal Protection clause.⁷ The holding of *Obergefell* was a milestone for the gay community as it legalized same-sex marriage across the country.⁸ Since marriage is a fundamental right, it is subject to the strictest of scrutiny.⁹ Although states cannot enact legislation preventing the marriage of certain persons on the basis race/sexuality/gender, there are still aspects of marriage that are reserved to the states to decide.¹⁰ Importantly, there is no federal law regulating the age to marry. Thus, states have the power to set the minimum age requirement for a person to obtain a marriage license.¹¹

Florida, like various other states, do not issue marriage licenses to any person under the age of eighteen years old.¹² Although this language, on its face, indicates that the marriage of minors is prohibited, section 741.04 contains exceptions for when a person under the age of eighteen can legally marry.¹³ Similarly, many states have exceptions for minor marriages, and in some states, such exceptions have *no* limitation on the minimum age in which a minor can marry.¹⁴ Conversely, in 2018, Delaware and New Jersey banned all marriages to any person under the age of eighteen – without exceptions.¹⁵ Currently, Delaware and New Jersey are the only two states in the United States that have

5. 576 U.S. 644, 652 (2015).

6. *Id.* at 680-81.

7. *Id.*

8. *Id.* at 674, 679-680.

9. See generally *Boddie v. Connecticut*, 401 U.S. 371 (1971) (holding that a state law requiring the payment of filing fees to receive a divorce violated due process rights because precluding an individual from the ability to obtain a divorce in turn precludes that individual from the right to marry someone else).

10. See Lyle Denniston, *Constitution Check: Did the Supreme Court Take Away States' Power Over Marriage?* (Sept. 8, 2015), <https://constitutioncenter.org/blog/constitution-check-did-the-supreme-court-take-away-states-power-over-marria>.

11. Sarah Ferguson, *What You Need to Know About Child Marriage in the U.S.*, UNICEF USA (Oct. 29, 2018), <https://www.unicefusa.org/stories/what-you-need-know-about-child-marriage-us/35059>.

12. See FLA. STAT. § 741.04 (2019).

13. *Id.*

14. See, e.g., ME. REV. STAT. tit. 19-A, § 652 (2019) (providing that persons under eighteen may be married if they have consent of a parent, guardian, or probate judge).

15. See DEL. CODE ANN. tit. 13, § 123 (2019); N.J. STAT. ANN. § 37:1-6 (West 2019).

successfully signed proposals into law banning child marriages.¹⁶ Although various states have strict guidelines to permit minor marriages, Delaware and New Jersey are the only two states with an outright ban.¹⁷

This Note argues that Florida must follow Delaware and New Jersey and ban all minor marriages, without exception. Although the right to marry is a fundamental right, the states have the power to set the age requirements to obtain a marriage license.¹⁸ Permitting any minor to marry, even with specific limitations, is harmful to a child. Thus, Florida must ban all marriages of any person under the age of eighteen. Florida's current marriage statute sets the minimum age to marry at seventeen, once specific exceptions are met.¹⁹ The statute is an improvement from Florida's previous marriage statute, which is now repealed, and had little to no restrictions on minor marriages.²⁰ However, even with Florida's recent repeal and replacement of the marriage licensing statute, Florida is still not acting in the best interest of children within the state by permitting seventeen-year-olds to marry. Permitting any minor to marry, even with specific limitations, is harmful to a child.

I. FLORIDA'S MARRIAGE HISTORY AND THE ADVOCACY FOR CHANGE

The Florida Legislature repealed Fla. Stat. §741.0405 on July 1, 2018, and expressly stated the exceptions for when a minor under the age of eighteen could marry.²¹ Section 741.0405 indicated that if either of the parties to the marriage were under the age of eighteen years old, but at least sixteen years old, then the "county court judge or clerk of the circuit court" could issue a marriage license so long as the minor had written parental or guardian consent.²² In addition, the parent or guardians had to acknowledge their consent before "some officer authorized by law to take acknowledgments and administer oaths."²³ However, this statute also set forth situations where a minor could ob-

16. Curan Mehra, *NJ and DE: Pioneering States that are the First to Ban Child Marriage*, UNICEF USA (July 6, 2018), <https://www.unicefusa.org/stories/nj-and-de-pioneering-states-are-first-ban-child-marriage/34529>.

17. *Id.*

18. Ferguson, *supra* note 11.

19. FLA. STAT. § 741.04(1)(a)-(b) (2019).

20. *See* FLA. STAT. § 741.0405 (repealed 2018).

21. *Id.*

22. *Id.*

23. FLA. STAT. § 741.0405(1) (repealed 2018).

tain a marriage license without parental or guardian consent.²⁴ First, a marriage license could be issued if a minor's parents were deceased.²⁵ Second, if the minor was previously married, the minor could obtain a marriage license without parental consent.²⁶ Third, if the minor swore under oath to be a parent of a child born, the court could also issue a marriage license to the minor.²⁷ Finally, if there was a pregnancy verified to the court by a written statement of a licensed physician, the judge could marry the minor if the parties swore under oath that they were expectant parents, or if the female under the age of eighteen swore to be expecting.²⁸

The most controversial element of section 741.0405 was subsection (4), which stated that "no license to marry shall be granted to any persons under the age of 16 years, with or without the consent of the parents, except as provided in subsections (2) and (3)."²⁹ Subsections (2) and (3) indicated that it was within the discretion of the judge to determine when to issue a marriage license to minors in situations in which the minor was a parent of a child already in existence or an expectant parent.³⁰ In other words, even if a minor was under the age of sixteen, the minor could be married under this statute without parental consent, subject to the judge's discretion. Although section 741.0405 limited the age of marriage depending upon circumstances as laid out in the statute, it stands that a minor that was pregnant or had a child, regardless of age, could be married at the Judge's discretion.³¹ This essentially made the age requirement of marriage meaningless, as it remained in the discretion of the judge to grant minor marriages.³²

Section 741.04 was enacted on July 1, 2018.³³ Section 741.04 limits the exceptions for when a minor can marry by indicating that a county judge or clerk cannot issue a marriage license to any person under the age of eighteen.³⁴ However, like section 741.0405, section 741.04 also has exceptions.³⁵ A marriage to a minor can be granted under section 741.04 if: (1) "[t]he person is at least 17 years of age and

24. FLA. STAT. § 741.0405(1)-(3) (repealed 2018).

25. FLA. STAT. § 741.0405(1) (repealed 2018).

26. *Id.*

27. FLA. STAT. § 741.0405(2) (repealed 2018).

28. FLA. STAT. § 741.0405(3) (repealed 2018).

29. FLA. STAT. § 741.0405(4) (repealed 2018).

30. FLA. STAT. § 741.0405(2)-(3) (repealed 2018).

31. *Id.*

32. *See id.*

33. *See* FLA. STAT. § 741.04 (2019).

34. FLA. STAT. § 741.04(1) (2019).

35. FLA. STAT. § 741.04(1)(a)-(b) (2019).

provides the written consent of his or her parents or legal guardian, which is acknowledged by an officer authorized by law to take acknowledgments and administer oaths;” and (2) “[t]he older party to the marriage is not more than 2 years older than the younger party to the marriage.”³⁶ This change in age limitation was triggered by reports of minors marrying significantly older spouses under section 741.0405.³⁷ This 2017 report indicated that “at least one child was married in every one of Florida’s sixty-seven counties and in some cases the spouse was at least twice the minor’s age.”³⁸ Out of married minors surveyed in this report, , seventy-two were under the age of sixteen and married in Florida.³⁹ Thus, Florida’s enactment of a spousal-age limitation of two years does provide some protection to vulnerable children from marrying a significantly older spouse.

Sherry Johnson was a leading advocate for the repeal of section 741.0405.⁴⁰ Ms. Johnson was raped at the age of nine, gave birth at the age of ten, and was forced to marry her rapist at the age of eleven.⁴¹ Ms. Johnson’s rapist was a church deacon, and Ms. Johnson’s mother was persuaded by the church to consent to the marriage.⁴² Even though a Tampa clerk refused to issue the marriage license to Ms. Johnson and her rapist, another county in Florida issued the marriage license.⁴³ Ms. Johnson reported that from this marriage, she had five more children before she “broke free from the marriage several years later.”⁴⁴ As a result of her forced minor marriage, Ms. Johnson was unable to attend school, and many of her relationships resulted in abuse following her escape from her forced marriage.⁴⁵ Due to her experiences as a child bride, Ms. Johnson advocated for others and urged legislatures to ban child marriage so others would not suffer from a childhood of abuse and rape like she did.⁴⁶ Her advocacy in Florida did

36. *Id.*

37. Brendan Farrington, *Woman Who Married at 11 Seeks to Change Florida Marriage Law*, BROWARD DAILY BUS. REV. (Oct. 26, 2017), <https://www.law.com/dailybusinessreview/sites/dailybusinessreview/2017/10/25/woman-who-married-at-11-seeks-to-change-florida-marriage-law/?slreturn=20180931150547>.

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.*

43. Farrington, *supra* note 37.

44. *Id.*

45. *Id.*

46. *See id.*

not go unrewarded — it ultimately led to the repeal of section 741.0405 and enactment of section 741.04.⁴⁷

House members listening to Ms. Johnson's story were "horri-fied" and the House voted 108-2 to enact the statute.⁴⁸ House members weighed the best interests of minors with the potential inter-ests' minors would have in marriage.⁴⁹ However, House members found it difficult to balance the prevention of exploitation of young fe-males, while also taking into consideration situations in which teenagers become pregnant and seek to be married.⁵⁰ In situations like teen pregnancy, House members supported minor marriages.⁵¹ The House's version of section 741.04, as indicated by bill co-sponsor Jeanette Nunez of Miami, is a "narrowly crafted compromise."⁵² Ms. Johnson believes that section 741.04 is a step in the right direction as it does prevent minors from marrying a spouse drastically older, like Ms. Johnson was forced to endure.⁵³ Nevertheless, Ms. Johnson's wish for an absolute prohibition on all minor marriages has not been accom-plished by the enactment of section 741.04.⁵⁴ The absolute prohibition on all minor marriages has not been accomplished by the enactment of section 741.04.

Some legislators disagreed with the change in minor marriage legislation. For example, House Representative Julio Gonzalez ("Gon-zalez") argued against the repeal of section 741.0405 and indicated that even minors who are not pregnant may have valid reasons to get married.⁵⁵ Gonzalez believed that "this conversation belongs in the family."⁵⁶ Further, Representative Lori Berman ("Berman") stated that "the bill was originally aimed at protecting girls who g[ot] raped and impregnated, and the House version [did not] adequately address that."⁵⁷ Further, Berman argued that an outright ban on minor mar-riages would not prevent teenagers from getting married; she believed it would just delay the time in which teenagers could obtain a marriage

47. See Jim Saunders, *State House Backs Compromise to Curb Child Marriage*, MIAMI DAILY BUS. REV. (Feb. 16, 2018, 12:00 PM), <https://www.law.com/dailybusinessreview/2018/02/15/house-backs-compromise-to-curb-child-marriage/>.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. See Saunders, *supra* note 47.

53. Farrington, *supra* note 37.

54. *Id.*

55. Saunders, *supra* note 47.

56. *Id.*

57. *Id.*

license.⁵⁸ Although Gonzalez and Berman's arguments are valid in terms of looking at the marriage statute as a whole, minors are often treated differently under the law.⁵⁹ Although Gonzalez believes that determining whether a minor will marry is a family matter, the harsh reality is that families do not often act in the best interest of their children.⁶⁰ Thus, the State needs to act in the best interest of the child and not assume every matter is reserved to the privacy of a family home.⁶¹

The crutch of Berman's position was that an outright ban on minor marriages would not prevent teenagers from getting married; she believed it would just delay the time in which teenagers could obtain a marriage license.⁶² Although her argument is technically correct, this should not mean that the statute should be changed. Delaying minors from marrying, even by a year, is important from a biological perspective as one year is a significant amount of time for growth and development of a child.⁶³ Berman's argument also loses muster when applied to various state laws that require age limits for certain privileges. Even though a teenager may be prevented until a certain age from doing specific things due to an age requirement by law, this does not mean that the state should avoid setting restrictions for the purpose of protecting minors.

Furthermore, the state has the ability to protect minors regardless of parental control. Under the *parens patriae* doctrine, states can protect those "lacking mental capacity," like minors.⁶⁴ Through the doctrine, the state has the ability to step in and act as a guardian for children.⁶⁵ The state can do so over the interests of a minor's parents if the "state itself [has] an interest in the claim, and the state can establish that it is acting on behalf of its residents as opposed to 'particular

58. *Id.*

59. See generally Thomas Edwards, LaDoris Cordell, & Bridgett Jones, *The Reasons for Treating Juveniles Differently*, FRONTLINE, <https://www.pbs.org/wgbh/pages/frontline/shows/juvenile/bench/different.html> (last visited Mar. 23, 2020) (discussing the maturity of minors and the reason why such maturity results in treating children differently under the law).

60. See generally *Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 286 (1990) (holding that under Missouri law, a parent or guardian cannot make a decision to remove life support for an incompetent person absent clear and convincing evidence of the incompetent person's life wishes; in so holding, the Supreme Court rejected the petitioner's argument that the state had no legal authority to interfere with the parents' wishes and instead held that the state had a valid interest to protect the incompetent person over parental wishes).

61. *Id.*

62. Saunders, *supra* note 47.

63. Ferguson, *supra* note 11.

64. See Margaret S. Thomas, *Parens Patriae and The States' Historic Police Power*, 69 SMU L. REV. 759, 769 (2016) (discussing the history of the *parens patriae* doctrine).

65. *Id.*

citizens.”⁶⁶ Therefore, states like Florida, should be encouraged to set forth restrictions due to the age and vulnerabilities of minors. Not only do states have the power to set forth restrictions to marriage, but states also have the power to act to protect those lacking mental capacity from becoming child brides. Only when Florida prohibits the issuance of a marriage license to any person under the age of eighteen will Florida really be acting in the best interest of the minors within the state.

II. THE HARMFUL IMPACT OF CHILD MARRIAGES: A LOOK TO OTHER JURISDICTIONS

Statistics show that minors that get married, especially females, experience consequences from the marriage for the remainder of their lives.⁶⁷ Minor marriages result in separation from family members and friends, and those that get married as minors are “50% more likely to drop out of school.”⁶⁸ Between 70% and 80% of child marriages result in divorce, and married minors have double the chance of living in poverty and triple the chance of spousal abuse when compared to married adults.⁶⁹ If a minor gets pregnant during the marriage, or if the marriage is deemed legal due to the fact that the minor is pregnant, the risk of complications during childbirth poses dangerous threats to the minor.⁷⁰ Females that are between the ages of fifteen and nineteen “are twice as likely to die in childbirth as women in their 20s, and newborn children of younger mothers face greater risks of dying as well.”⁷¹ Childbirth for minors poses substantial health risks since the pelvis of a minor is not fully developed hence, childbirth can become more complicated.⁷² Although a minor may become pregnant and experience these complications of childbirth regardless of marriage, permitting minors to get married contributes to the increase of the number of minors getting pregnant and giving birth, while they are still legally children themselves.

State statutes that ban child marriages help protect those under the age of eighteen who may find themselves persuaded to get

66. Gabrielle J. Hanna, Comment, *The Helicopter State: Misuse of Parens Patriae Unconstitutionally Precludes Individuals and Claims*, 92 WASH. L. REV. 1955, 1962 (2017).

67. Ferguson, *supra* note 11.

68. *Id.*

69. *Id.*

70. *Id.*

71. *Id.*

72. Ladan Askari, Note, *The Convention on the Rights of the Child: The Necessity of Adding A Provision to Ban Child Marriages*, 5 ILSA J. INT'L & COMP. L. 123, 129-30 (1998).

married due to rape, pregnancy, or family pressure. Although Florida has enacted section 741.04, this statute is not enough, as it does not provide an outright ban for any or all minor marriages.⁷³ Banning child marriages in Florida by state statute would serve as a milestone for minors who have experienced abuse, and can help prevent future minor marriages and dangers that are associated with such marriages.⁷⁴ Although section 741.04 limits minor marriages, statutes like Florida's are not substantial enough to protect children from the harms of marriage.⁷⁵

Permitting children at the minimum age of seventeen to marry with "consent of his or her parents or legal guardian" with the limitation that the "older party to the marriage" cannot be more than two years older than the "younger party to the marriage," greatly narrows the permissible marriage of minors from Florida's previous statute, section 741.0405.⁷⁶ Although this is a significant difference, the age of majority will not be met until eighteen, except in situations of emancipation as deemed by the court.⁷⁷ This one-year between seventeen and eighteen, although some may argue is insignificant, is significant in the life of a child. As it stands, the only way to truly protect children while they are still minors is to ban any and all marriages to any person under the eighteen, with no exceptions. Although culture, belief, and tradition are valued in society, child marriages have devastating impacts, and the state of Florida must set forth legislation to ensure that minors are protected by prohibiting child marriages altogether.

To date, only two states have complete bans on minor marriages. On May 9, 2018, Delaware became the first state to ban minor marriages by enacting Section 123.⁷⁸ Section 123 sets forth that "no individual under the age of 18 shall be granted a marriage license."⁷⁹ Section 123 repealed subsection (b) through (f), which permitted the court to grant a marriage license to any applicant under the age of eighteen.⁸⁰ Meaning, any age if the court made its decision based on:

the best interests of the minor seeking to be married; the wishes of the minor and such minor's parents or legal guardians; the mental

73. See FLA. STAT. § 741.04 (2019).

74. See Ferguson, *supra* note 11.

75. See *id.*

76. FLA. STAT. § 741.04 (2019).

77. See *Emancipation*, BLACK'S LAW DICTIONARY 613 (rev. 4th ed. 1968) (defining the legal process of emancipation in which a child is released from their parents' control and custody).

78. DEL. CODE ANN. tit. 13, § 123 (2018).

79. *Id.*

80. *Id.*

and physical health of the individuals to be married; the criminal history of the individuals seeking to be married; whether the proposed marriage would violate any Delaware laws; and such other information which the [c]ourt deems appropriate.⁸¹

In *In re M.C. ex rel. E.R.*, decided before the repeal of section 123 (b) through (f), a Delaware court granted an order to allow a minor to be married after her mother petitioned to allow the marriage of her pregnant daughter.⁸² The court weighed the evidence of the mother's wishes, the mental and physical health of the daughter and Mr. Z (the daughter's significant other), and the lack of juvenile criminal history for both the daughter and Mr. Z.⁸³ The court found that the marriage proposed by the mother did not violate any Delaware laws.⁸⁴ Therefore, the court granted the order for the minor to be married due to the evidence of the daughter's intent to finish high school, the young couple's living arrangements, and the support of the mother for the marriage.⁸⁵

In Delaware, between 2000 and 2011, many minors were married, and the majority, 90% of those minors, were females.⁸⁶ The founder of Unchained at Last, Fraidy Reiss ("Reiss"), an advocate for the ban of minor marriages, argued, and continues to argue, that the age to get a marriage license in all states should be the age of majority, eighteen.⁸⁷ Reiss rejoiced in Delaware's ban on child marriages and the repeal, which was led by Ken Boulden ("Boulden"), "a clerk of the peace in Delaware, [who] fought to change the law more than a decade ago."⁸⁸ Boulden fought for the repeal and replacement of this marriage statute because he was once asked to grant a marriage license to a pregnant fourteen-year-old girl and a twenty-seven-year old man.⁸⁹ Even though the mother gave permission for Boulden to approve the marriage of this pregnant minor, Boulden was disturbed by this situation and the fact that there was no statutory regulation to prevent the marriage.⁹⁰ Now that section (b) through (f) has been repealed, the fu-

81. *Id.*

82. *In re M.C. ex rel. E.R.*, No. CN07-04389, 2007 Del. Fam. Ct. LEXIS 191, at *2-6 (Oct. 9, 2007).

83. *Id.* at *2-4.

84. *Id.* at *1.

85. *Id.* at *4.

86. Anjali Tsui, *Delaware Becomes First State to Ban Child Marriage*, FRONTLINE (May 9, 2018), <https://www.pbs.org/wgbh/frontline/article/delaware-becomes-first-state-to-ban-child-marriage/>.

87. *See id.*

88. *Id.*

89. *Id.*

90. *See id.*

ture marriages of minors in the state of Delaware-and situations such as what Boulden experienced-would be void.”⁹¹ Now, minors in Delaware cannot be granted a marriage license if the minor is under the age of eighteen.⁹² There are no exceptions to this law.⁹³

Shortly thereafter, on June 22, 2018, New Jersey became the second state to ban minor marriages when it followed Delaware and enacted an absolute prohibition of the issuance of marriage or civil union licenses to a minor under the age of eighteen years old.⁹⁴ Prior to this enactment, New Jersey permitted children at the age of sixteen who had obtained parental and judicial consent to be married.⁹⁵ The amendment deleted the exception to the age requirement of eighteen, which previously stated that a child could be granted a marriage license “[if] the parents or guardian of the minor, if any, first certify, in the presence of two reputable witnesses, consent thereto, which shall be delivered to the licensing officer issuing the license.”⁹⁶ The amendment to strike this language and ban all minor marriages was initially proposed to Former Governor of New Jersey, Chris Christie (“Christie”).⁹⁷ However, Christie did not sign the proposal, as he believed that a complete ban on child marriages would violate religious and cultural traditions.⁹⁸ Although this is a reoccurring argument from those opposed to child marriage bans, Phil Murphy, Governor of New Jersey, signed this proposal into law.⁹⁹ Activist Reiss was especially enthusiastic about this enacted law, as New Jersey is her home state, and where she first started advocating for the ban of all minor marriages.¹⁰⁰

III. BAN ALL CHILD MARRIAGES

As argued throughout this Note, states are not acting in the best interest of children when the states permit exceptions for minors under the age of eighteen to lawfully obtain marriage licenses. Although Delaware and New Jersey have made history as the first states

91. See DEL. CODE ANN. tit. 13, § 123 (2019).

92. Tsui, *supra* note 86.

93. See generally *id.*

94. N.J. STAT. ANN. § 37:1-6 (West 2019).

95. See generally *id.*

96. N.J. STAT. ANN. § 37:1-6 (West 2019).

97. Tsui, *supra* note 86.

98. *Id.*

99. *Id.*

100. Daniele Selby, *In Her Own Words: Child Marriage Survivor Shelly Johnson*, GLOBAL CITIZEN (Jan. 30, 2018), <https://www.globalcitizen.org/en/content/child-marriage-bride-survivor-florida-law-sherry/>.

to ban child marriages, there are still forty-eight states that permit minors to be married due to various exceptions. Florida, with its enactment of section 741.04 and repeal of Section 741.0405, has successfully limited the possibilities of minors getting married. However, even though Florida has replaced its marriage statute in favor of a statute with stricter guidelines, Florida still permits minors at the age of seventeen to obtain a marriage license, subject to limitations.¹⁰¹ This restriction is not enough; Florida needs to follow Delaware and New Jersey and outright ban all child marriages with no exceptions.

Early marriages are criticized for ensuring that “a girl is young enough to be molded and trained by her husband and in-laws before she can develop a personality or identity of her own.”¹⁰² Although this is not the case for all marriages, when a marriage license is issued to a minor the state risks the chance that the marriage may be a forced marriage. Even with Florida’s limitation on marriage, with the older party being no more than two years older than the younger party to the marriage, a seventeen-year-old is still considered a minor, and thus, needs the protection of the state as there is still the possibility that the marriage is forced. Although statistically, there is a history of female minors marrying significantly older men in forced marriages, like Ms. Johnson, and minors can still be pressured into marrying a man even two years older than the minor due to family or societal pressures. Since parents and legal guardians generally exercise control over children until they reach the age of majority, Florida’s restrictions of issuing a marriage license must be repealed and replaced with a statute that bans all minor marriages. Florida must act in the best interest of the children within the state, and it is impossible to do that when Florida issues a marriage license to any seventeen-year-old, regardless of the circumstances.

CONCLUSION

Minor marriages in the state of Florida must be banned. Florida is not acting in the best interest of children by permitting minors at the age of seventeen to be married once the minor has proven that the older party to the marriage is no more than two years older than the younger party and that the minor has consent from their parents or legal guardians. Such restrictions are not enough to protect minors from the dangers of marriage, such as dropping out of school, poverty, and spousal abuse. Minor marriages are proven to have a lasting im-

101. FLA. STAT. § 741.04(1)(a)-(b) (2019).

102. Askari, *supra* note 72, at 126.

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pact on those that get married, and Florida must follow Delaware and New Jersey and repeal and replace its current statute with a ban on all minor marriages. “It takes a village to raise a child and we are part of that village that raises the children, and we all have a part to play to protect children and prevent them from being forced into child marriages.”¹⁰³

103. Selby, *supra* note 100.
