

1 AN ACT relating to child marriage.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 402.020 is amended to read as follows:

4 (1) Marriage is prohibited and void:

5 (a) With a person who has been adjudged mentally disabled by a court of  
6 competent jurisdiction;

7 (b) Where there is a husband or wife living, from whom the person marrying has  
8 not been divorced;

9 (c) When not solemnized or contracted in the presence of an authorized person or  
10 society;

11 (d) Between members of the same sex;

12 (e) Between more than two (2) persons; and

13 (f) ~~[1.]~~ Except as provided in ***Section 3 of this Act***~~[subparagraph 3. of this~~  
14 ~~paragraph]~~, when at the time of the marriage, the person is under  
15 ***eighteen (18)***~~[sixteen (16)]~~ years of age~~;~~

16 ~~2. Except as provided in subparagraph 3. of this paragraph, when at the~~  
17 ~~time of marriage, the person is under eighteen (18) but over sixteen (16)~~  
18 ~~years of age, if the marriage is without the consent of:~~

19 ~~a. The father or the mother of the person under eighteen (18) but over~~  
20 ~~sixteen (16), if the parents are married, the parents are not legally~~  
21 ~~separated, no legal guardian has been appointed for the person under~~  
22 ~~eighteen (18) but over sixteen (16), and no court order has been issued~~  
23 ~~granting custody of the person under eighteen (18) but over sixteen (16)~~  
24 ~~to a party other than the father or mother;~~

25 ~~b. Both the father and the mother, if both be living and the parents are~~  
26 ~~divorced or legally separated, and a court order of joint custody to the~~  
27 ~~parents of the person under eighteen (18) but over sixteen (16) has been~~

1 issued and is in effect;

2 e.—The surviving parent, if the parents were divorced or legally separated,  
3 and a court order of joint custody to the parents of the person under  
4 eighteen (18) but over sixteen (16) was issued prior to the death of either  
5 the father or mother, which order remains in effect;

6 d.—The custodial parent, as established by a court order which has not been  
7 superseded, where the parents are divorced or legally separated and joint  
8 custody of the person under eighteen (18) but over sixteen (16) has not  
9 been ordered; or

10 e.—Another person having lawful custodial charge of the person under  
11 eighteen (18) but over sixteen (16), but

12 3.—In case of pregnancy the male and female, or either of them, specified in  
13 subparagraph 1. or 2. of this paragraph, may apply to a District Judge for  
14 permission to marry, which application may be granted, in the form of a  
15 written court order, in the discretion of the judge. There shall be a fee of  
16 five dollars (\$5) for hearing each such application].

17 (2) **This section and Sections 2 and 3 of this Act shall not apply to a lawful marriage**  
18 **in Kentucky prior to the effective date of this Act or to a lawful marriage in**  
19 **another state or country prior to the parties' residence in Kentucky**[For purposes  
20 of this section "parent," "father," or "mother" means the natural parent, father, or  
21 mother of a child under eighteen (18) unless an adoption takes place pursuant to  
22 legal process, in which case the adoptive parent, father, or mother shall be  
23 considered the parent, father, or mother to the exclusion of the natural parent,  
24 father, or mother, as applicable].

25 ➔Section 2. KRS 402.030 is amended to read as follows:

26 (1) Courts having general jurisdiction may declare void any marriage obtained by force  
27 or fraud.

1 (2) ~~[At the instance of any next friend, courts having general jurisdiction may declare~~  
 2 ~~any marriage void where the person was under eighteen (18) but over sixteen (16)~~  
 3 ~~years of age at the time of the marriage, and the marriage was without the consent~~  
 4 ~~required by KRS 402.020(1)(f) and has not been ratified by cohabitation after that~~  
 5 ~~age.~~

6 (3) ~~At the instance of any next friend]~~ **Upon petition of a party who was seventeen (17)**  
 7 **years of age or younger,** courts having general jurisdiction may declare void any  
 8 marriage where:

9 (a) The person was under **seventeen (17)**~~[sixteen (16)]~~ years of age at the time of  
 10 the marriage;

11 (b) The marriage was not conducted **in accordance with Section 3 of this**  
 12 **Act**~~[with the permission of a District Judge, as required by KRS~~  
 13 ~~402.020(1)(f)3., in the form of a written court order]; and~~

14 (c) The marriage has not been ratified by cohabitation after the person reached  
 15 eighteen (18) years of age.

16 ➔Section 3. KRS 402.210 is amended to read as follows:

17 (1) **If either party is under seventeen (17) years of age, a marriage license shall not**  
 18 **be issued**~~[If either of the parties is under eighteen (18) but over sixteen (16) years of~~  
 19 ~~age and not before married, no license shall issue without the consent required by~~  
 20 ~~KRS 402.020(1)(f), personally given or certified in writing to the clerk over the~~  
 21 ~~signature of the person consenting in accordance with KRS 402.020(1)(f), attested~~  
 22 ~~by two (2) subscribing witnesses and proved by the oath of one (1) of the witnesses,~~  
 23 ~~administered by the clerk. If the parties are personally unknown to the clerk, a~~  
 24 ~~license shall not issue until bond, with good surety, in the penalty of one hundred~~  
 25 ~~dollars (\$100) is given to the Commonwealth, with condition that there is no lawful~~  
 26 ~~cause to obstruct the marriage].~~

27 (2) **If either party is seventeen (17) years of age a marriage license shall not be**

1 issued unless:

2 (a) The party who is seventeen (17) years of age presents to the clerk a certified  
3 copy of a court order by a District Judge that grants the party permission to  
4 marry and removes the party's disability of minority, as provided in  
5 subsections (3) to (10) of this section;

6 (b) At least fifteen (15) days have elapsed since the court order was granted;  
7 and (c) The age difference between the parties if fewer than four (4) years  
8 ~~[If either of the parties is under sixteen (16) years of age, no license shall issue~~  
9 ~~without the permission of a District Judge, as required by KRS~~  
10 ~~402.020(1)(f)3., in the form of a certified copy of a written court order].~~

11 (3) A minor who is seventeen (17) years of age may petition the District Court in the  
12 county in which the minor resides for an order granting permission to marry.

13 The petition shall contain the following:

14 (a) The minor's name, gender, age, date of birth, address, and how long the  
15 minor has resided at that address, as well as prior addresses and dates of  
16 residence for the six (6) months preceding the petition;

17 (b) The intended spouse's name, gender, age, date of birth, address, and how  
18 long the intended spouse has resided at that address, as well as prior  
19 addresses and dates of residence for the six (6) months preceding the  
20 petition;

21 (c) A statement of the reasons why the minor desires to marry, how the parties  
22 came to know each other, and how long they have known each other;

23 (d) Evidence of the minor's maturity and capacity for self-sufficiency  
24 independent of the minors parents and intended spouse, including but not  
25 limited to:

26 1. Proof that the minor has maintained stable housing or employment  
27 for at least three (3) consecutive months prior to the petition; and

1           2. Proof that the minor has completed high school, obtained a High  
2           School Equivalency Diploma, or completed a vocational training or  
3           certificate program;

4           (e) Copies of any criminal records of either party to be married; and

5           (f) Copies of any domestic violence order or interpersonal protective order  
6           involving either party to be married.

7           (4) Upon the filing of the petition for permission to marry, the court shall:

8           (a) Appoint both an attorney for the minor and a trained guardian ad litem  
9           who shall request any records relating to the minor from the Cabinet for  
10           Health and Family Services, and retrieve from the National Sex Offender  
11           Public Website any records relating to the intended spouse of the minor;  
12           and

13           (b) Set a date for an evidentiary hearing on the petition that is no sooner than  
14           thirty (30) days but no later than sixty (60) days from the date of filing.

15           (5) Following an evidentiary hearing, the court may grant the minor's petition for  
16           permission to marry if the court finds issues written findings based on clear and  
17           convincing evidence that:

18           (a) It is the minor's own desire that he or she be permitted to enter into  
19           marriage, and that the minor is not being compelled by force, fraud,  
20           coercion, threats, persuasions, menace, or duress;

21           (b) The minor is mature enough to make the decision to marry and  
22           understands the legal consequences of the decision to marry and be  
23           emancipated;

24           (c) The marriage will not disadvantage or endanger the minor, considering any  
25           history of violence between the parties intended to be married or between  
26           the intended spouse and any other party or parties; and

27           (d) It is in the best interests of the minor that he or she be permitted to marry.

- 1 (6) The court shall deny the petition to marry if:
- 2 (a) The age difference between the parties is more than four (4) years;
- 3 (b) The intended spouse was or is a person in a position of authority or a
- 4 position of special trust as defined in KRS 532.045 in relation to the minor;
- 5 (c) The intended spouse has previously been enjoined by a domestic violence
- 6 order or interpersonal protective order, regardless of whether or not the
- 7 person to be protected by the order was the minor petitioner;
- 8 (d) The intended spouse has been convicted of or entered into a diversion
- 9 program for a criminal offense against a victim who is a minor as defined
- 10 in KRS 17.500 or for a violent or sexual criminal offense under KRS
- 11 Chapter 506, 507, 507A, 508, 509, 510, 529, 530, or 531; or
- 12 (e) There is a pregnancy or child in common between the minor and intended
- 13 spouse that establishes that the minor was a victim and that the intended
- 14 spouse was the perpetrator of a sexual offense against the minor under KRS
- 15 510.040, 510.050, 510.060, 510.110, 510.120, or 510.130.
- 16 (7) The following shall not be sufficient evidence to establish that the best interests
- 17 of the minor would be served by granting the petition for marriage:
- 18 (a) A past or current pregnancy of the minor or the intended spouse; or
- 19 (b) The wishes of the parents or legal guardians of the minor.
- 20 (8) The granting of a petition for permission to marry filed under subsection (3) of
- 21 this section shall have the effect of granting a petition to remove the disabilities
- 22 of minority. A minor emancipated by the petition shall be considered to have all
- 23 the rights and responsibilities of an adult, except for specific constitutional or
- 24 statutory age requirements, including but not limited to voting, the use of
- 25 alcoholic beverages, and other health and safety regulations relevant to him or
- 26 her because of his or her age.
- 27 (9) The minor shall be advised by the court of the rights and responsibilities of

1 parties to a marriage and of emancipated minors. The minor shall be provided  
2 with a factsheet on these rights and responsibilities to be developed by the Office  
3 of the Attorney General and the Cabinet for Health and Family Services. The  
4 factsheet shall include referral information for legal aid agencies in the  
5 Commonwealth and national hotlines for domestic violence and sexual assault.

6 (10) The court may make any other orders that the court deems appropriate for the  
7 minor's protection and may impose any other condition on the grant of the  
8 petition that the court determines is reasonable under the circumstances for the  
9 minor's protection.

10 (11) The court may set a fee not to exceed twenty dollars (\$20) to file a petition for  
11 permission to marry under this section.

12 ➔Section 4. The following KRS section is repealed:

13 402.260 Receivership for person under eighteen who marries without judicial consent.