

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 335	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Marriage of Minors	109	Y's 1	N's
SPONSOR(S):	Judiciary Committee; Nuñez; White and others	GOVERNOR'S ACTION:	Approved	
COMPANION BILLS:	CS/CS/SB 140			

SUMMARY ANALYSIS

CS/HB 335 passed the House on February 14, 2018, as CS/CS/SB 140 as amended. The Senate concurred in the House amendments as amended by the Senate on March 5, 2018 and returned to the House. The House concurred with the Senate amendment and passed the bill as amended on March 9, 2018.

To obtain a marriage license, single individuals must appear before a county court judge or clerk of the circuit court and submit an application for a marriage license. Generally, applicants must be at least 18 years of age to obtain a marriage license. However, there are exceptions:

- A county court judge or clerk *must* issue a marriage license to a minor 16 or 17 years of age with consent of the minor's parents; where both parents are deceased; or the minor has been married previously;
- A county court judge *may*, at his or her discretion, issue a marriage license to a minor of *any age* if both parties swear under oath that they are the parents of a child; or
- If a pregnancy is verified by a written statement of a licensed physician, a county court judge *may*, at his or her discretion, issue a marriage license to:
 - A minor of *any age* upon application of both parties sworn under oath that they are the expectant parents; or
 - Any female under 18 years of age and any male over 18 years of age upon the female's application sworn under oath that she is an expectant parent.

CS/CS/SB 140 creates a minimum age requirement for the issuance of a marriage license, prohibiting issuance by a county court judge or clerk of the circuit court to a person under 18 years of age. However, a person 17 years of age may marry with parental consent, provided the other party is no more than two years older.

The bill will have an insignificant negative fiscal impact on state and local government.

The bill was approved by the Governor on March 23, 2018, ch. 2018-81 L.O.F., and will become effective on July 1, 2018.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Marriage Licenses

The authority to issue a marriage license is vested solely in a county court judge or clerk of the circuit court.¹ No one may marry without a validly issued marriage license.² To obtain a marriage license, the single individuals must appear before the judge or clerk together and in person, bring valid government issued identification and social security numbers, and complete a marriage license application.

Generally, applicants must be at least 18 years of age to obtain a marriage license. However, there are exceptions under which a minor may be issued a license to marry.

Parental Consent for Applicants Who are 16 or 17 Years of Age

If an applicant for a marriage license is 16 or 17 years of age, he or she may obtain a marriage license if both of his or her parents (or a guardian) provide consent to the marriage. However, parental consent is not required if the minor's parents are deceased or if the minor was married previously. The written consent must be acknowledged before a person authorized by law to take acknowledgments and administer oaths.³

Judicial Discretion in Cases of Pregnancy or Parentage

A minor applicant may receive a marriage license without parental consent in limited circumstances that depend upon the discretion of a county court judge. A county court judge may, in his or her discretion, issue a marriage license to a minor if both parties swear under oath that they are the parents of a child.⁴ Additionally, if a pregnancy is verified in writing by a licensed physician, a county court judge may issue a marriage license to:

- Any male or female younger than 18 years of age where the parties swear under oath that they are expecting a child; or
- Any female younger than 18 years of age and a male older than 18 years of age if the female provides a sworn application that she is expecting a child.⁵

The statutes do not set a minimum age requirement for a marriage license when the applicants for a license have a child together or are expecting a child.⁶ *Marriages Involving Minors*

According to the Bureau of Vital Statistics, 1,828 marriage licenses were issued in the last 5 years to a couple in which at least one party was a minor.⁷

¹ S. 741.01, F.S.

² S. 741.08, F.S.

³ S. 741.0405(1), F.S.

⁴ S. 741.0405(2), F.S.

⁵ S. 741.0405(3), F.S.

⁶ S. 741.0405(4), F.S.

⁷ Id.

Number of Marriages by Year by Spouse Age⁸

Spouse 1	Spouse 2	2012	2013	2014	2015	2016
13 years	16-17 Years		1			
14 years	15 Years		1			
	18-19 years			1		
	20-24 years	3				
15 Years	16-17 years	4	2	2		1
	18-19 years					3
	20-24 years	2	1		1	
	25-29 years			1		
16-17 Years	35-39 years				1	
	15 Years	3	2			
	16-17 Years	30	21	21	19	25
	18-19 years	195	145	136	128	113
	20-24 years	163	135	118	124	85
	25-29 years	28	25	26	38	18
	30-34 years	7	2	2	3	4
	35-39 years	2	1	2	1	1
18-19 years	40-44 years					1
	90-94 years			1		
20-24 years	15 Years	1	1			
	16-17 Years	19	16	18	21	35
25-29 years	14 years		1			
	15 Years		1			
	16-17 Years	5	7	5	8	21
30-34 years	15 Years	1				
	16-17 Years	2	1	2	2	4
35-39 years	14 years	1				
	15 Years				1	
	16-17 Years	1	1		1	
40-44 years	16-17 Years			1	1	
Totals		467	364	336	350	311

⁸ Email from Bryan P Wendel, Government Analyst II with the Office of Legislative Planning, Florida Department of Health, RE: SB 140 - Statistics (10/23/2017); *Marriages Under 18 (Years 2012-2016)*, Email attachment supplied by Gary Sammet, Bureau of Vital Statistics, Department of Health (Oct. 25, 2017) (on file with the Judiciary Committee).

Removal of Disabilities of Nonage

A circuit court may remove the disabilities of nonage, commonly referred to as "emancipation," of a 16 or 17 year-old when the minor's natural or legal guardian or a guardian ad litem files a petition containing the following:⁹

- Demographic information, like names, addresses, and important dates related to the minor and parents;
- A statement of the minor's character, habits, income, and how the minor plans to meet his or her needs with respect to food, shelter, clothing, and other necessities; and
- A statement of the reason why the court should remove the disabilities of nonage.¹⁰

The court, after considering the petition and satisfied that it is in the best interest of the minor, may grant the petition and allow the minor to exercise all of the rights and responsibilities of an adult.¹¹

Effect of Proposed Changes

CS/CS/SB 140 substantially rewords s. 741.04, F.S., to update the language of the section and create a minimum age requirement for the issuance of a marriage license, prohibiting issuance by a county court judge or clerk of the circuit court to a person under 18 years of age. The bill creates one exception allowing a person 17 years of age to marry with parental consent, provided the other party is no more than two years older.

The bill is effective July 2, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an insignificant negative impact on state revenue due to the reduction of marriage license fees collected for marriages involving minors. The current total fee for a marriage license is \$86, \$54 of which is split between General Revenue and various state entities.¹² Given an approximate average of 167 marriages per year involving 17-year-olds to 17, 18, and 19-year-olds,¹³ this would result in a reduction of approximately \$9,018.

2. Expenditures:

None.

⁹ S 743.015, F.S.; A guardian ad litem may only petition for removal of disabilities of nonage when a natural or legal guardian does not exist.

¹⁰ S. 743.015 (1), F.S.

¹¹ SS. 743.015(7) and (8), F.S.

¹² \$25 - Domestic Violence Trust Fund, \$25 - General Revenue, and \$4 - Department of Health; Florida Court Clerks & Comptrollers, Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording, available at: http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/publicationsanddocuments/2017_Distribution_Schedule_7.pdf (last accessed January 30, 2018).

¹³ 833 marriages over the past 5 years.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an insignificant negative impact on local revenue due to the reduction of marriage license fees collected for marriages involving minors. The current total fee for a marriage license is \$86, \$32 of which is kept by the county clerk.¹⁴ Given an approximate average of 167 marriages per year involving 17-year-olds to 17, 18, and 19-year-olds,¹⁵ this would result in a reduction of approximately \$5,344.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹⁴ \$30 for a certified copy and a \$2 license fee to the clerk or judge; Florida Court Clerks & Comptrollers, Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording, available at:

http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/publicationsanddocuments/2017_Distribution_Schedule_7.pdf (last accessed January 30, 2018).

¹⁵ 833 marriages over the past 5 years.