

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 1498

INTRODUCER: Senator Joyner

SUBJECT: Marriage of Minors

DATE: April 7, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	Pre-meeting
2.			CF	
3.			RC	

I. Summary:

SB 1498 requires a minor seeking a marriage license without the consent of his or her parents to be at least 16 years of age.

Current law allows a county court judge to grant a marriage license to a minor without the consent of his or her parents under three circumstances:

- At least one of the applicants for a marriage license is under 18 and the applicants swear under oath that they are parents of a child.
- At least one of the applicants for a marriage license is under 18 and a doctor verifies in writing that the female is pregnant and the parties swear under oath that they are expectant parents of a child.
- The female is under 18 and the male is older than 18 and the female swears under oath that she is an expectant parent.

Current law does not specify an age at which a minor under the circumstances above is too young to receive a marriage license.

II. Present Situation:

Age Limits for Marriage Licenses

A marriage may not be solemnized¹ without the parties having obtained a marriage license in advance.² These licenses are issued by county court judges and circuit court clerks.³ “The county

¹ Persons approved in law to solemnize marriages are ordained clergy and elders in communion, judicial officers, clerks of the circuit court, and notaries public. Section 741.07(1), F.S.

² Section 741.08, F.S.

³ Section 741.01(1), F.S.

court judge or clerk of the circuit court shall issue such license, upon application for the license, if there appears to be no impediment to the marriage.”⁴

A county court judge or clerk of the circuit court may not issue a marriage license unless the parties present a signed and sworn affidavit which provides social security numbers of the parties and the true and correct ages of the parties who generally must be at least 18 year of age.⁵ To obtain a marriage license, the parties must additionally provide a signed statement that specifies whether the parties, separately or together, have completed a premarital preparation course⁶ and a statement that verifies that both parties have obtained and read or accessed contained in the family law handbook.⁷

If either of the marriage license applicants is more than 16 years old but under the age of 18 years old, the minor must present written, sworn consent of the parents or guardian.⁸ Parental consent is waived if the parents are deceased at the time the parties apply for a marriage license or if the minor has previously been married.⁹

If, however, the parties swear under oath that they are parents to a child, a county court judge is authorized, in his or her discretion, to issue a marriage license to minors without parental consent.¹⁰

If the female is pregnant, and a licensed physician verifies the pregnancy in writing, the county court judge may, in his or her discretion, issue a marriage license:

- To a male or female under the age of 18 if the parties swear under oath that they are expecting a child; or
- To a female under the age of 18 years old and a male over the age of 18 years old if the female swears under oath that she is pregnant.¹¹

Other than the situation in which the parties are expecting a child or the female is pregnant, a judge may not issue a marriage license to a person under the age of 16 years old without parental consent.¹²

Sexual Offenses Involving Children

Chapter 794, F.S., governs the crime of sexual battery. One of the sexual battery crimes is statutory rape, a strict liability crime in that the state is not required to prove that the defendant has mens rea, or intent to commit a crime. In s. 794.021, F.S., if criminality of conduct for any

⁴ *Id.*

⁵ Section 741.04(1), F.S.

⁶ Although completion of a premarital preparation course is voluntary, couples who present valid certificates of completion shall receive a discount on their marriage license in the amount of \$32.50.

⁷ Section 741.04(1) and (2), F.S. The family law handbook, drafted by the Family Law Section of the Florida Bar, is made available to marriage license applicants. The handbook describes sections of Florida law on the rights and responsibilities of marital partners to each other and their children, both during marriage and dissolution. Section 741.0306(1), F.S.

⁸ Section 741.0405(1), F.S.

⁹ *Id.*

¹⁰ Section 741.0405(2), F.S.

¹¹ Section 741.0405(3), F.S.

¹² Section 741.0405(4), F.S.

sexual battery crime depends upon the victim's age, ignorance of the victim's age is not a defense.

Section 794.05(1), F.S., defines statutory rape as sexual activity between a person who is 24 years old or older and a person who is 16 or 17 years old. Statutory rape is a second-degree felony, punishable by up to 15 years imprisonment.

Section 800.00(4), F.S., describes lewd or lascivious battery as sexual activity with a victim who is at least 12 but younger than 16. The offender's age, which could also be less than 16, is immaterial. This lewd and lascivious battery, like statutory rape, is a second degree felony.

III. Effect of Proposed Changes:

Current law allows a county court judge to issue a marriage license to a minor without the consent of his or her parents if the applicants are parents or the parties are expectant parents. This bill requires that the applicants be at least 16.

Senate Bill 1498 prohibits the court from issuing a marriage license to minors under the age of 16 in any circumstance. If the parties are parents or the female is pregnant, current law does not provide a minimum age required for marriage.

The interaction between the criminal statutes relating to sexual offenses with minors and marriage where one of the parties is a minor (s. 741.0405, F.S.) is unclear.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 741.0405, F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.