
Judiciary Committee

HB 2376

Title: An act relating to the sufficient age for contracting a marriage.

Brief Description: Concerning the sufficient age for contracting a marriage.

Sponsors: Representatives McDonald, Eslick, Stanford and Kraft.

Brief Summary of Bill
<ul style="list-style-type: none">• Removes the "showing of necessity" exception which permits a judge to allow persons under 17 years of age to marry.• Removes lack of legal age as grounds to make a marriage voidable.

Hearing Date: 1/24/18

Staff: Sydney Sullivan (786-7291) and Cece Clynch (786-7195).

Background:

Marriage is a civil contract between two persons who are each age 18 or older and who are otherwise capable. There is no particular form required for the solemnization of a marriage, except that the parties must assent to the marriage in the presence of an authorized person and two witnesses.

Persons wishing to marry must obtain a marriage license from a county auditor. To be issued a marriage license the applicants must each file an affidavit with the county auditor showing, among other things, that the applicant is 18 years or older. A county auditor may issue a marriage license if a 17 year old has submitted a written consent to the marriage from his or her father, mother, or legal guardian.

Marriages where at least one party is younger than 17 years of age are void, meaning the marriage is invalid and incapable of ratification. However, upon a showing of necessity a

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superior court judge may waive the age limitation to enter into a marriage for a person under 17 years of age.

When either party to a marriage is incapable of consenting to a marriage for lack of legal age or a sufficient understanding, or when the consent of either party is obtained by force or fraud, such marriage is voidable. A voidable marriage is considered valid unless the marriage is contested in court by the party that was incapable of consenting at the time of the marriage.

Summary of Bill:

Every marriage entered into in which either party is younger than 17 years of age is void. Previous authority allowing a superior court judge to waive the requirement that both parties be at least 17 years of age is stricken.

A marriage is no longer voidable on grounds that a party to the marriage was not of legal age.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.