

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 35
Judiciary Committee Substitute Adopted 4/28/21

Short Title: Max 4-Yr Age Diff to Marry Under 18 Yrs.

(Public)

Sponsors:

Referred to:

February 2, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A MAXIMUM FOUR-YEAR AGE DIFFERENCE FOR A PERSON
3 UNDER EIGHTEEN YEARS OF AGE TO MARRY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 51-2 reads as rewritten:

6 "**§ 51-2. Capacity to marry.**

7 (a) All unmarried persons of 18 years, or older, may lawfully marry, except as hereinafter
8 forbidden.

9 (a1) Persons over 16 years of age and under 18 years of age may ~~marry,~~ marry a person
10 no more than four years older, and the register of deeds may issue a license for the marriage, only
11 after there shall have been filed with the register of deeds a written consent to the marriage, said
12 consent having been signed by the appropriate person as follows:

13 (1) By a parent having full or joint legal custody of the underage party; or

14 (2) By a person, agency, or institution having legal custody or serving as a
15 guardian of the underage party.

16 Such written consent shall not be required for an emancipated minor if a certificate of
17 emancipation issued pursuant to Article 35 of Chapter 7B of the General Statutes or a certified
18 copy of a final decree or certificate of emancipation from this or any other jurisdiction is filed
19 with the register of deeds.

20 (b) Persons over 14 years of age and under 16 years of age may marry a person no more
21 than four years older, as provided in G.S. 51-2.1.

22 (b1) It shall be unlawful for any person under 14 years of age to marry.

23 (c) When a license to marry is procured by any person under 18 years of age by fraud or
24 misrepresentation, a parent of the underage party, a person, agency, or institution having legal
25 custody or serving as a guardian of the underage party, or a guardian ad litem appointed to
26 represent the underage party pursuant to G.S. 51-2.1(b) is a proper party to bring an action to
27 annul the marriage."

28 **SECTION 2.** G.S. 51-2.1(a) reads as rewritten:

29 "(a) If an unmarried female who is more than 14 years of age, but less than 16 years of
30 age, is pregnant or has given birth to a child and the unmarried female and the putative father of
31 the child, either born or unborn, agree to ~~marry,~~ marry and there is no more than a four-year age
32 difference between them, or if an unmarried male who is more than 14 years of age, but less than
33 16 years of age, is the putative father of a child, either born or unborn, ~~and~~ the unmarried male
34 and the mother of the child agree to ~~marry,~~ marry and there is no more than a four-year age
35 difference between them, the register of deeds is authorized to issue to the parties a license to
36 marry; and it shall be lawful for them to marry in accordance with the provisions of this Chapter,



1 only after a certified copy of an order issued by a district court authorizing the marriage is filed
2 with the register of deeds. A district court judge may issue an order authorizing a marriage under
3 this section only upon finding as fact and concluding as a matter of law that the underage party
4 is capable of assuming the responsibilities of marriage and the marriage will serve the best
5 interest of the underage party. In determining whether the marriage will serve the best interest of
6 an underage party, the district court shall consider the following:

- 7 (1) The opinion of the parents of the underage party as to whether the marriage
8 serves the best interest of the underage party.
- 9 (2) The opinion of any person, agency, or institution having legal custody or
10 serving as a guardian of the underage party as to whether the marriage serves
11 the best interest of the underage party.
- 12 (3) The opinion of the guardian ad litem appointed to represent the best interest
13 of the underage party pursuant to G.S. 51-2.1(b) as to whether the marriage
14 serves the best interest of the underage party.
- 15 (4) The relationship between the underage party and the parents of the underage
16 party, as well as the relationship between the underage party and any person
17 having legal custody or serving as a guardian of the underage party.
- 18 (5) Any evidence that it would find useful in making its determination.

19 There shall be a rebuttable presumption that the marriage will not serve the best interest of
20 the underage party when all living parents of the underage party oppose the marriage. The fact
21 that the female is pregnant, or has given birth to a child, alone does not establish that the best
22 interest of the underage party will be served by the marriage."

23 **SECTION 3.** This act is effective when it becomes law and applies to marriage
24 licenses pending or issued on or after that date.