

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 35

Short Title: Amend Lawful Age to Marry/18 Years of Age. (Public)

Sponsors: Senators Sawyer, Britt, and Foushee (Primary Sponsors).

Referred to: Rules and Operations of the Senate

February 2, 2021

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWFUL AGE TO ENTER INTO MARRIAGE IN THIS STATE
TO 18 YEARS OF AGE OR OLDER.

The General Assembly of North Carolina enacts:

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

"§ 51-2. **Capacity Lawful age to marry.**

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

(a1) ~~Persons over 16 years of age and under 18 years of age may marry, and the register of deeds may issue a license for the marriage, only after there shall have been filed with the register of deeds a written consent to the marriage, said consent having been signed by the appropriate person as follows:~~

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

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

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

(b) ~~Persons over 14 years of age and under 16 years of age may marry as provided in G.S. 51-2.1.~~

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

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

SECTION 2. G.S. 51-2.1 and G.S. 51-2.2 are repealed.

SECTION 3. G.S. 51-3 reads as rewritten:

"§ 51-3. **Want of capacity; void and voidable marriages.**

All marriages between any two persons nearer of kin than first cousins, ~~or~~ between double first cousins, ~~or between a male person under 16 years of age and any female, or between a female person under 16 years of age and any male, or between persons either of whom has a husband or wife living at the time of such marriage, or~~ between persons either of whom is at the time physically impotent, or between persons either of whom is at the time incapable of contracting from want of will or understanding, shall be void. No marriage followed by cohabitation and the



1 birth of issue shall be declared void after the death of either of the parties for any of the causes
 2 stated in this section except for bigamy. ~~No marriage by persons either of whom may be under~~
 3 ~~16 years of age, and otherwise competent to marry, shall be declared void when the girl shall be~~
 4 ~~pregnant, or when a child shall have been born to the parties unless such child at the time of the~~
 5 ~~action to annul shall be dead.~~ A marriage contracted under a representation and belief that the
 6 female partner to the marriage is pregnant, followed by the separation of the parties within 45
 7 days of the marriage which separation has been continuous for a period of one year, shall be
 8 voidable unless a child shall have been born to the parties within 10 lunar months of the date of
 9 separation."

10 **SECTION 4.** G.S. 51-16 reads as rewritten:

11 **"§ 51-16. Form of license.**

12 License shall be in the following or some equivalent form:

13 To any ordained minister of any religious denomination, minister authorized by a church, any
 14 magistrate, or any other person authorized to solemnize a marriage under the laws of this State:
 15 A.B. having applied to me for a license for the marriage of C.D. (the name of the man to be
 16 written in full) of (here state his residence), aged ____ years (race, as the case may be), the son
 17 of (here state the father and mother, if known; state whether they are living or dead, and their
 18 residence, if known; if any of these facts are not known, so state), and E.F. (write the name of
 19 the woman in full) of (here state her residence), aged ____ years (race, as the case may be), the
 20 daughter of (here state names and residences of the parents, if known, as is required above with
 21 respect to the man). ~~(If either of the parties is under 18 years of age, the license shall here contain~~
 22 ~~the following:)~~ And the written consent of G.H., father (or mother, etc., as the case may be) to
 23 ~~the proposed marriage having been filed with me,~~ and there being no legal impediment to such
 24 marriage known to me, you are hereby authorized, at any time within 60 days from the date
 25 hereof, to celebrate the proposed marriage at any place within the State. You are required within
 26 10 days after you shall have celebrated such marriage, to return this license to me at my office
 27 with your signature subscribed to the certificate under this license, and with the blanks therein
 28 filled according to the facts, under penalty of forfeiting two hundred dollars (\$200.00) to the use
 29 of any person who shall sue for the same.

30 Issued this ____ day of ____, ____

31 _____ L.M.

32 Register of Deeds of ____ County

33 Every register of deeds shall, at the request of an applicant, designate in a marriage license
 34 issued the race of the persons proposing to marry by inserting in the blank after the word "race"
 35 the words "white," "black," "African-American," "American Indian," "Alaska Native," "Asian
 36 Indian," "Chinese," "Filipino," "Japanese," "Korean," "Vietnamese," "Other Asian," "Native
 37 Hawaiian," "Guamarian," "Chamorro," "Samoan," "Other Pacific Islander," "Mexican,"
 38 "Mexican-American," "Chicano," "Puerto Rican," "Cuban," "Other Spanish/Hispanic/Latino," or
 39 "other," as the case may be. The certificate shall be filled out and signed by the minister, officer,
 40 or other authorized individual celebrating the marriage, and also be signed by two witnesses
 41 present at the marriage, who shall add to their names their place of residence, as follows:

42 I, N.O., an ordained or authorized minister or other authorized individual of (here state to
 43 what religious denomination, or magistrate, as the case may be), united in matrimony (here name
 44 the parties), the parties licensed above, on the ____ day of _____, ____, at the house of P.R., in
 45 (here name the town, if any, the township and county), according to law.

46 _____ N.O.

47 Witness present at the marriage:

48 S.T., of (here give residence)."

49 **SECTION 5.** G.S. 51-17 reads as rewritten:

50 **"§ 51-17. Penalty for issuing license unlawfully.**

1 Every register of deeds who knowingly or without reasonable inquiry, personally or by
2 deputy, issues a license for the marriage of any two persons to which there is any lawful
3 impediment, or where either of the persons is under the age of 18 years, ~~without the consent~~
4 ~~required by law~~, shall forfeit and pay two hundred dollars (\$200.00) to any parent, guardian, or
5 other person standing in loco parentis, who sues for the same: Provided, that requiring a party to
6 a proposed marriage to present a certified copy of his or her birth certificate, or a certified copy
7 of his or her birth record in the form of a birth registration card as provided in G.S. 130-102, in
8 accordance with the provisions of G.S. 51-8, shall be considered a reasonable inquiry into the
9 matter of the age of such party."

10 **SECTION 6.** This act is effective when it becomes law and applies to marriage
11 licenses pending or issued on or after that date.