

2019 Regular Session

SENATE BILL NO. 172

BY SENATOR COLOMB

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MARRIAGE. Mandates the minimum age for marriage shall be 16 years of age. (8/1/19)

1 AN ACT

2 To amend and reenact Civil Code Arts. 96, 367, and 2333, R.S. 9:221, and Children's Code
3 Arts. 1545 and 1547, and to enact Civil Code Art. 90.1, relative to marriage; to
4 provide a minimum age for marriage; to provide certain terms, conditions,
5 procedures, requirements, effects, and prohibitions; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Civil Code Arts. 96, 367 and 2333 are hereby amended and reenacted and
9 Civil Code Art. 90.1 is hereby enacted to read as follows:

10 **Art. 90.1 Impediment of age**

11 **A minor under the age of sixteen may not contract marriage. A minor**
12 **sixteen or seventeen years of age may not contract marriage with a person of the**
13 **age of majority where there is an age difference of four years or greater**
14 **between them.**

15 * * *

16 Art. 96. Civil effects of absolutely null marriage; putative marriage

17 An absolutely null marriage nevertheless produces civil effects in favor of a

1 party who contracted it in good faith for as long as that party remains in good faith.
 2 When the cause of the nullity is one party's prior undissolved marriage, the civil
 3 effects continue in favor of the other party, regardless of whether the latter remains
 4 in good faith, until the marriage is pronounced null or the latter party contracts a
 5 valid marriage.

6 ~~A~~ **When the cause of the nullity is an impediment of age, the marriage**
 7 **produces civil effects in favor of a child of the parties. When the cause of the**
 8 **nullity is another reason, a** marriage contracted by a party in good faith produces
 9 civil effects in favor of a child of the parties. A purported marriage between parties
 10 of the same sex does not produce any civil effects.

11 * * *

12 Art. 367. Emancipation by marriage

13 A minor **sixteen or seventeen years of age** is fully emancipated by marriage.
 14 Termination of the marriage does not affect emancipation by marriage. Emancipation
 15 by marriage may not be modified or terminated.

16 * * *

17 Art. 2333. Minors.

18 ~~Unless fully emancipated, a minor~~ **A minor under the age of sixteen may**
 19 **not enter into a matrimonial agreement. A minor sixteen or seventeen years of**
 20 **age** may not enter into a matrimonial agreement without the written concurrence of
 21 his father and mother, or of the parent having his legal custody, or of the tutor of his
 22 person.

23 Section 2. R.S. 9:221 is hereby amended and reenacted to read as follows:

24 §221. Authority to issue marriage license

25 **A.** A license authorizing an officiant to perform a marriage ceremony must
 26 be issued by:

- 27 (1) The state registrar of vital records, or a judge of the city court, in the
- 28 Parish of Orleans;
- 29 (2) The clerk of court, in any other parish; or

1 (3) A district judge, if the clerk of court is a party to the marriage.

2 **B. No marriage license for a minor under the age of sixteen shall be**

3 **issued. No marriage license for a minor of the age of sixteen or seventeen shall**

4 **be issued where there is an age difference of four years or greater between the**

5 **persons seeking the marriage license.**

6 Section 3. Children's Code Article 1545 and 1547 are hereby amended and reenacted

7 to read as follows:

8 Art. 1545. Necessary consent; parents; judicial authorization

9 A. An officiant may not perform a marriage ceremony in which a minor

10 **sixteen or older** is a party unless the minor has the written consent to marry of

11 either:

- 12 (1) Both of his parents.
- 13 (2) The tutor of his person.
- 14 (3) A person who has been awarded custody of the minor.
- 15 (4) The juvenile court as provided in Article 1547.

16 B. ~~A minor under the age of sixteen must also obtain written authorization~~

17 ~~to marry from the judge of the court exercising juvenile jurisdiction in the parish in~~

18 ~~which the minor resides or the marriage ceremony is to be performed.~~ **No marriage**

19 **ceremony shall be performed for a minor under the age of sixteen.**

20 * * *

21 Art. 1547. Judicial authorization; compelling reasons

22 Upon application by ~~the minor~~ **a minor of the age of sixteen or seventeen,**

23 the judge may authorize the marriage when there is a compelling reason why the

24 marriage should take place. **No marriage ceremony shall be authorized for a**

25 **minor under the age of sixteen.**

The original instrument was prepared by Xavier Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michael Bell.

DIGEST

SB 172 Reengrossed

2019 Regular Session

Colomb

Proposed law prohibits a minor under the age of 16 from entering into a contract of marriage and prohibits a minor 16 or 17 years of age from entering into a contract of marriage with a person of the age of majority where there is an age difference of four years or greater between them.

Present law provides that a marriage contracted by a party in good faith produces civil effects in favor of a child of the parties. Further provides that a purported marriage between the parties of the same sex does not produce any civil effects.

Proposed law retains present law, when the cause of the nullity is another reason, and provides that when the cause of the nullity is an impediment of age, the marriage produces civil effects in favor of a child of the parties.

Present law provides that a minor is fully emancipated by marriage, that termination of the marriage does not affect emancipation by marriage and that emancipation by marriage may not be modified or terminated.

Proposed law retains present law for a minor 16 or 17 years of age.

Present law provides that unless fully emancipated, a minor may not enter into a matrimonial agreement without the written concurrence of his father and mother, or of the parent having his legal custody, or of the tutor of his person.

Proposed law provides that a minor under the age of 16 may not enter into a matrimonial agreement. Further provides that a minor 16 or 17 years of age may not enter into a matrimonial agreement without the written concurrence of his father and mother, or of the parent having his legal custody, or of the tutor of his person.

Present law authorizes the state registrar of vital records, or a judge of the city court, in the Parish of Orleans; the clerk of court, in any other parish; or a district judge, if the clerk of court is a party to the marriage to issue marriage licenses.

Proposed law retains present law and prohibits the issuance of a marriage license for a minor under the age of 16. Further prohibits the issuance of a marriage license for a minor of the age of 16 or 17 where there is an age difference of four years or greater between the persons seeking the marriage license.

Present law prohibits an officiant from performing a marriage ceremony in which a minor is a party unless the minor has the written consent to marry of either both parents, the tutor of his person, a person who has been awarded custody of the minor, or the juvenile court as provided by law.

Present law provides that a minor under the age of 16 shall also obtain written authorization to marry from the judge of the court exercising juvenile jurisdiction in the parish in which the minor resides or the marriage ceremony is to be performed.

Proposed law prohibits an officiant from performing a marriage ceremony in which a minor 16 or older is a party unless the minor has the written consent to marry of either both parents, the tutor of his person, a person who has been awarded custody of the minor, or the juvenile court as provided by law. Proposed law further prohibits the performance of a marriage

ceremony for a minor under the age of 16.

Present law provides for judicial authorization upon application by the minor, for the marriage when there is a compelling reason why the marriage should take place.

Proposed law provides for judicial authorization upon application by a minor of the age of 16 or 17, for the marriage when there is a compelling reason why the marriage should take place. Further provides that no marriage shall be authorized for a minor under the age of 16.

Effective August 1, 2019.

(Amends C.C. Arts. 96, 367, and 2333, R.S. 9:221, Ch. C. Arts. 1545 and 1547; adds C.C. Art. 90.1)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to reengrossed bill

1. Prohibits a minor under the age of sixteen from entering into a contract of marriage and prohibits a minor sixteen or seventeen years of age from entering into a contract of marriage with a person of the age of majority where there is an age difference of four years or greater between them.
2. Provides that when the cause of the nullity is an impediment of age, the marriage produces civil effects in favor of a child of the parties.
3. Mandates that a minor sixteen or seventeen years of age is fully emancipated by marriage.
4. Provides that a minor under the age of sixteen may not enter into a matrimonial agreement. Further provides that a minor sixteen or seventeen years of age may not enter into a matrimonial agreement without the written concurrence of his father and mother, or of the parent having his legal custody, or of the tutor of his person.
5. Prohibits the issuance of a marriage license for a minor under the age of sixteen. Further prohibits the issuance of a marriage license for a minor of the age of sixteen or seventeen where there is an age difference of four years or greater between the persons seeking the marriage license.
6. Prohibits an officiant from performing a marriage ceremony in which a minor sixteen or older is a party unless the minor has the written consent to marry of either both parents, the tutor of his person, a person who has been awarded custody of the minor, and the juvenile court as provided by law.
7. Provides for judicial authorization upon application by a minor of the age of sixteen or seventeen, for the marriage when there is a compelling reason why the marriage should take place, however no marriage shall be authorized for a minor under the age of sixteen.