

State of Arkansas
86th General Assembly
Regular Session, 2007

A Bill

HOUSE BILL 1373

By: Representative Bond
By: Senator Luker

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
TO RECONCILE INCONSISTENCIES REGARDING THE
MINIMUM AGE TO MARRY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND PROVISIONS OF THE ARKANSAS CODE
TO RECONCILE INCONSISTENCIES REGARDING
THE MINIMUM AGE TO MARRY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 9-11-102 is amended to read as follows:
9-11-102. Minimum age - Parental consent.

~~(a)(1) Every male who has arrived at the full age of seventeen (17) years and every female who has arrived at the full age of sixteen (16) years shall be capable in law of contracting marriage~~ As used in this subchapter, "parental consent" means the consent of both parents of a person under eighteen (18) years of age who wishes to enter into a contract for marriage.

(2)(A) However, except as provided in subdivision (a)(2)(B) of this section, the consent of one (1) parent who has custody of the person under eighteen (18) years of age will constitute parental consent if:

(i) The parents of the person have been divorced and custody of the person has been awarded to one (1) of the parents exclusive of the other;

(ii) The custody of the person has been surrendered by one (1) of the parents through abandonment or desertion; or



1 (iii) Paternity has been determined by a court of
 2 competent jurisdiction and the court has awarded custody to the man adjudged
 3 to be the father of the child.

4 (B) If a court of competent jurisdiction has appointed a
 5 guardian of the person under eighteen (18) years of age, the consent of the
 6 guardian will constitute parental consent.

7 ~~(b)(1) However, males and females under the age of eighteen (18) years~~
 8 ~~shall furnish the clerk, before the marriage license can be issued,~~
 9 ~~satisfactory evidence of the consent of the parent or parents or guardian to~~
 10 ~~the marriage~~ Any person who is eighteen (18) years of age or older is
 11 competent to enter into a contract for marriage and to obtain a marriage
 12 license.

13 ~~(2) The consent of both parents of each contracting party shall~~
 14 ~~be necessary before the marriage license can be issued by the clerk unless~~
 15 ~~the parents have been divorced and custody of the child has been awarded to~~
 16 ~~one (1) of the parents exclusive of the other, or unless the custody of the~~
 17 ~~child has been surrendered by one (1) of the parents through abandonment or~~
 18 ~~desertion, in which cases the consent of the parent who has custody of the~~
 19 ~~child shall be sufficient.~~

20 (c)(1) In order for a person who is younger than eighteen (18) years
 21 of age and who is not pregnant to obtain a marriage license, the person must
 22 provide the county clerk with evidence of parental consent to the marriage.

23 (2) The county clerk may issue a marriage license to a person
 24 who is younger than eighteen (18) years of age and who is not pregnant after
 25 the county clerk receives satisfactory evidence of parental consent to the
 26 marriage under subsection (a) of this section.

27
 28 SECTION 2. Arkansas Code § 9-11-103 is amended to read as follows:

29 9-11-103. Minimum age - Exception.

30 ~~(a)(1) If an application for a marriage license is made where one (1)~~
 31 ~~or both~~ of the parties to a contract for marriage or application for a
 32 marriage license are under the minimum age prescribed in § 9-11-102 ~~eighteen~~
 33 ~~(18) years of age~~ and the female is pregnant, both parties a party who has
 34 not obtained parental consent under § 9-11-102 may appear before a judge of
 35 ~~the circuit court of~~ circuit court judge in the district where the
 36 application for a marriage license is being made.

(2) ~~Evidence shall be submitted as to~~ A party appearing before a circuit court judge under subdivision (a)(1) of this section must present:

(A) ~~The Evidence of the~~ pregnancy of the female in the form of a certificate from a licensed and regularly practicing physician of the State of Arkansas;

(B) ~~The birth certificates of both parties~~ certificate of the party; and

(C) ~~Parental Evidence showing parental consent of each either party who may be under the minimum age~~ under eighteen (18) years of age as required by § 9-11-102 if parental consent has been given.

(3) ~~Thereupon The circuit court judge, after consideration of considering the evidence and other facts and circumstances, if the judge finds that it is to the best interest of the parties, the judge may enter an order authorizing and directing the county clerk to issue a marriage license to the parties if the circuit court judge finds that issuance of a marriage license is in the best interests of the parties.~~

(4) The county clerk shall retain a copy of the circuit court judge's order on file in the county clerk's office with the other papers.

~~(b)(1) However, if If one (1) or both of the parties to a contract for marriage or application for a marriage license is under eighteen (18) years of age and the female has given birth to the a child of the parties, the court before whom the parties are to appear, if satisfied that it would be to the best interests of all the interested parties and if all the requirements of subsection (a) of this section are complied with, with the exception of the physician's certificate as to the pregnancy, may enter an order authorizing and directing the county clerk to issue a marriage license as provided in subsection (a) of this section both parties may appear before a circuit court judge in the district where the application for a marriage license is being made.~~

(2) The parties appearing before a circuit court judge under subdivision (b)(1) of this section must present:

(A) The birth certificates of both parties;

(B) The birth certificate of the child of the parties; and

(C) Evidence showing parental consent of either party under eighteen (18) years of age as required by § 9-11-102 if parental consent has been given.

1 (3) The circuit court judge, after considering the evidence and
2 other facts and circumstances, may enter an order authorizing and directing
3 the county clerk to issue a marriage license to the parties if the circuit
4 court judge finds that issuance of a marriage license is in the best
5 interests of the parties.

6 (4) The county clerk shall retain a copy of the circuit court
7 judge's order on file in the county clerk's office with the other papers.