

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H2/22/07

# A Bill

HOUSE BILL 1373

5 By: Representative Bond  
6 By: Senator Luker  
7  
8

## For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE  
10 TO RECONCILE INCONSISTENCIES REGARDING THE  
11 MINIMUM AGE TO MARRY; AND FOR OTHER PURPOSES.  
12  
13

### Subtitle

14 TO AMEND PROVISIONS OF THE ARKANSAS CODE  
15 TO RECONCILE INCONSISTENCIES REGARDING  
16 THE MINIMUM AGE TO MARRY.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 9-11-102 is amended to read as follows:

23 9-11-102. Minimum age - Parental consent.

24 ~~(a) Every male who has arrived at the full age of seventeen (17) years~~  
25 ~~and every female who has arrived at the full age of sixteen (16) years shall~~  
26 ~~be capable in law of contracting marriage~~ Unless otherwise provided by law, a  
27 person must be eighteen (18) years of age to obtain a marriage license. Any  
28 person who is eighteen (18) years of age or older is competent to enter into  
29 a contract for marriage and to obtain a marriage license.

30 ~~(b)(1) However, males and females under the age of~~  
31 ~~eighteen (18) years shall furnish the clerk, before the marriage license can~~  
32 ~~be issued, satisfactory evidence of the consent of the parent or parents or~~  
33 ~~guardian to the marriage~~ In order for a person who is younger than eighteen  
34 (18) years of age and who is not pregnant to obtain a marriage license, the  
35 person must provide the county clerk with evidence of parental consent to the  
36 marriage.



1           ~~(2) The consent of both parents of each contracting party shall~~  
 2 ~~be necessary before the marriage license can be issued by the clerk unless~~  
 3 ~~the parents have been divorced and custody of the child has been awarded to~~  
 4 ~~one (1) of the parents exclusive of the other, or unless the custody of the~~  
 5 ~~child has been surrendered by one (1) of the parents through abandonment or~~  
 6 ~~desertion, in which cases the consent of the parent who has custody of the~~  
 7 ~~child shall be sufficient~~ The county clerk may issue a marriage license to a  
 8 person who is younger than eighteen (18) years of age and who is not pregnant  
 9 after the county clerk receives satisfactory evidence of parental consent to  
 10 the marriage under subsection (c) of this section.

11           (c)(1) As used in this subchapter, "parental consent" means the  
 12 consent of both parents of a person under eighteen (18) years of age who  
 13 wishes to enter into a contract for marriage.

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

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

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

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

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

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

30           9-11-103. Minimum age - Exception.

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

1 application for a marriage license is being made.

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

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

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

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

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

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

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

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

33 (A) The birth certificates of both parties;

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

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

1 consent has been given.

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

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

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10 *SECTION 3. Arkansas Code § 9-11-208(a), concerning the prohibition of*  
11 *the issuance of a marriage license to persons under age, is repealed.*

12 ~~*(a) No license shall be issued to persons to marry unless and until*~~  
13 ~~*the female shall attain the age of sixteen (16) years and the male the age of*~~  
14 ~~*seventeen (17) years and then only by written consent by a parent or guardian*~~  
15 ~~*until the male shall have attained the age of eighteen (18) years and the*~~  
16 ~~*female the age of eighteen (18) years.*~~

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18 /s/ Bond  
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