

1 State of Arkansas  
2 86th General Assembly  
3 First Extraordinary Session, 2008  
4

Call Item 5

# A Bill

HOUSE BILL 1005

5 By: Representatives Bond, J. Roebuck, Adcock, R. Green, Cornwell, Wagner, D. Johnson, Burris  
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## For An Act To Be Entitled

9 AN ACT TO REPEAL CHANGES MADE BY ACT 441 OF 2007  
10 TO THE MARRIAGE LAWS; AND FOR OTHER PURPOSES.  
11

## Subtitle

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13 TO REPEAL CHANGES MADE BY ACT 441 OF  
14 2007 TO THE MARRIAGE LAWS.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 9-11-102, as it would have appeared before  
20 the Arkansas Code Revision Commission deleted the word "not" from  
21 subdivisions (b)(1) and (b)(2), is amended to read as follows:

22 9-11-102. Minimum age – Parental consent.

23 ~~(a) Unless otherwise provided by law, a person must be eighteen (18)~~  
24 ~~years of age to obtain a marriage license. Any person who is eighteen (18)~~  
25 ~~years of age or older is competent to enter into a contract for marriage and~~  
26 ~~to obtain a marriage license.~~

27 ~~(b)(1) In order for a person who is younger than eighteen (18) years~~  
28 ~~of age and who is not pregnant to obtain a marriage license, the person must~~  
29 ~~provide the county clerk with evidence of parental consent to the marriage.~~

30 ~~(2) The county clerk may issue a marriage license to a person~~  
31 ~~who is younger than eighteen (18) years of age and who is not pregnant after~~  
32 ~~the county clerk receives satisfactory evidence of parental consent to the~~  
33 ~~marriage under subsection (c) of this section.~~

34 ~~(c)(1) As used in this section, "parental consent" means the consent~~  
35 ~~of both parents of a person under eighteen (18) years of age who wishes to~~  
36 ~~enter into a contract for marriage.~~



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

4                   ~~(i) The parents of the person have been divorced and~~  
5 ~~eustody of the person has been awarded to one (1) of the parents exclusive of~~  
6 ~~the other;~~

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

9                   ~~(iii) Paternity has been determined by a court of~~  
10 ~~competent jurisdiction and the court has awarded custody to the man adjudged~~  
11 ~~to be the father of the child.~~

12                   ~~(B) If a court of competent jurisdiction has appointed a~~  
13 ~~guardian of the person under eighteen (18) years of age, the consent of the~~  
14 ~~guardian will constitute parental consent.~~

15           (a) Every male who has arrived at the full age of seventeen (17) years  
16 and every female who has arrived at the full age of sixteen (16) years shall  
17 be capable in law of contracting marriage.

18           (b)(1) However, males and females under the age of eighteen (18) years  
19 shall furnish the clerk, before the marriage license can be issued,  
20 satisfactory evidence of the consent of the parent or parents or guardian to  
21 the marriage.

22           (2) The consent of both parents of each contracting party shall  
23 be necessary before the marriage license can be issued by the clerk unless  
24 the parents have been divorced and custody of the child has been awarded to  
25 one (1) of the parents exclusive of the other, or unless the custody of the  
26 child has been surrendered by one (1) of the parents through abandonment or  
27 desertion, in which cases the consent of the parent who has custody of the  
28 child shall be sufficient.

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30           SECTION 2. Arkansas Code § 9-11-103 is amended to read as follows:  
31           9-11-103. Minimum age - Exception.

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

1                   ~~(2) A party appearing before a circuit court judge under~~  
2 ~~subdivision (a)(1) of this section must present:~~

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

6                   ~~(B) The birth certificate of the party; and~~

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

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

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

17                  ~~(b)(1) If one (1) or both of the parties to a contract for marriage or~~  
18 ~~application for a marriage license are under eighteen (18) years of age and~~  
19 ~~the female has given birth to a child of the parties, both parties may appear~~  
20 ~~before a circuit court judge in the district where the application for a~~  
21 ~~marriage license is being made.~~

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

24                  ~~(A) The birth certificates of both parties;~~

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

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

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

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

36                  (a)(1) If an application for a marriage license is made where one (1)

1 or both parties are under the minimum age prescribed in § 9-11-102 and the  
2 female is pregnant, both parties may appear before a judge of the circuit  
3 court of the district where the application for a marriage license is being  
4 made.

5 (2) Evidence shall be submitted as to:

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

9 (B) The birth certificates of both parties; and

10 (C) Parental consent of each party who may be under the  
11 minimum age.

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

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

18 (b) However, if the female has given birth to the child, the court  
19 before whom the parties are to appear, if satisfied that it would be to the  
20 best interests of all the interested parties and if all the requirements of  
21 subsection (a) of this section are complied with, with the exception of the  
22 physician's certificate as to the pregnancy, may enter an order authorizing  
23 and directing the county clerk to issue a marriage license as provided in  
24 subsection (a) of this section.

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26 SECTION 3. Arkansas Code § 9-11-208 is amended to add an additional  
27 subsection to read as follows:

28 (d) No license shall be issued to persons to marry unless and until the  
29 female shall attain the age of sixteen (16) years and the male the age of  
30 seventeen (17) years and then only by written consent by a parent or guardian  
31 until the male shall have attained the age of eighteen (18) years and the  
32 female the age of eighteen (18) years.

33  
34 Section 4. Arkansas Code § 9-11-105 is amended to add an additional  
35 subsection as follows:

36 (c) All marriages contracted between July 30, 2007, and the effective

1 date of this act in which one (1) or both parties to the contract were under  
2 the minimum age prescribed by law for contracting marriage are voidable only  
3 and are valid for all intents and purposes unless voided by a court of  
4 competent jurisdiction.

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6 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
7 General Assembly that questions concerning the application of Act 441 of 2007  
8 as enacted have arisen, and differing interpretations by the courts and  
9 county clerks require the immediate correction and clarification of the law  
10 to ensure uniform application of the minimum age requirement for marriage.  
11 Therefore, an emergency is declared to exist and this act being necessary for  
12 the preservation of the public peace, health, and safety shall become  
13 effective on:

14 1. The date of its approval by the Governor;

15 2. If the bill is neither approved nor vetoed by the Governor,  
16 the expiration of the period of time during which the Governor may veto the  
17 bill; or

18 2. If the bill is vetoed by the Governor and the veto is  
19 overridden, the date the last house overrides the veto.

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