

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Committee Code Not Found

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BILL: CS/SB 140

INTRODUCER: Judiciary Committee and Senator Benacquisto and others

SUBJECT: Marriage Licenses

DATE: November 3, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Pre-Meeting</u>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 140 prohibits a county court judge or clerk of the circuit court from issuing a marriage license to any person under the age of 18. Accordingly, a minor is not permitted to marry in the state. The current exceptions that permit a minor to marry, such as parental consent, the fact that a couple already has a child, or a physician's written verification of a pregnancy, are repealed. Under this bill, only a person 18 years of age or older is permitted to marry.

**II. Present Situation:**

According to the Bureau of Vital Statistics,<sup>1</sup> 1,828 marriage licenses were issued in the last 5 years to a couple in which at least one party was a minor. Of this total, 132 licenses were issued to a couple in which both parties were minors. In that same time period, 1 license was issued in which one party was 13 years old, 7 licenses were issued in which one party was 14 years old, 29 licenses were issued in which one party was 15 years old, and 1,807 licenses were issued in which one party was 16 or 17 years old.<sup>2</sup> A complete chart of data from the Bureau of Vital Statistics is provided below.

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<sup>1</sup> *Marriages Under 18, Years 2012-2016*, Email attachment supplied by Gary Sammet, Bureau of Vital Statistics, Department of Health (Oct. 25, 2017) (on file with the Senate Committee on Judiciary). The Bureau of Vital Statistics is the state repository for all marriage records filed in the state. The licenses are filed with the clerks of courts who are legally bound to report them to the Bureau.

<sup>2</sup> The sum of these four categories, 1,844, exceeds the total number of licenses issued, 1,828, because 16 minors are represented in more than one category.

**Marriage Licenses Issued to a Minor, Years 2012-2016<sup>3</sup>**

<b>Number of Marriages by Year by Spouse Age.</b>		<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>Party 1</b>	<b>Party 2</b>					
13 years	16-17 Years		1			
14 years	15 Years		1			
	18-19 years			1		
	20-24 years	3				
15 Years	16-17 years	4	2	2		1
	18-19 years					3
	20-24 years	2	1		1	
	25-29 years			1		
16-17 Years	35-39 years				1	
	15 Years	3	2			
	16-17 Years	30	21	21	19	25
	18-19 years	195	145	136	128	113
	20-24 years	163	135	118	124	85
	25-29 years	28	25	26	38	18
	30-34 years	7	2	2	3	4
	35-39 years	2	1	2	1	1
18-19 years	40-44 years					1
	90-94 years			1		
20-24 years	15 Years	1	1			
	16-17 Years	19	16	18	21	35
25-29 years	14 years		1			
	15 Years		1			
	16-17 Years	5	7	5	8	21
30-34 years	15 Years	1				
	16-17 Years	2	1	2	2	4
35-39 years	14 years	1				
	15 Years				1	
	16-17 Years	1	1		1	
40-44 years	16-17 Years			1	1	
40-44 years	16-17 Years				1	
<b>Totals</b>		<b>467</b>	<b>364</b>	<b>336</b>	<b>350</b>	<b>311</b>

<sup>3</sup> Bureau of Vital Statistics, Florida Department of Health.

## **Marriage Licenses**

The authority to issue a marriage license in this state is vested solely in a county court judge or clerk of the circuit court.<sup>4</sup> No one may marry without a valid license.<sup>5</sup> In order to obtain a license, the single individuals must appear together in person, bring their valid government issued identification and social security numbers, and complete a marriage license application.

Applicants must generally be at least 18 years of age to obtain a marriage license. However, there are exceptions under which a minor may be issued a license to marry.

### ***Applicants Who are 16 or 17 May Marry With Parental Consent***

If an applicant for a marriage license is 16 or 17 years of age, he or she is entitled to a marriage license if both of his or her parents or a guardian provide consent to the marriage. However, the minor does not need parental consent if his or her parents are deceased or if the minor was married previously. The written consent must be acknowledged before a person authorized to take acknowledgments and administer oaths.<sup>6</sup>

### ***Judicial Bypass in Cases of Pregnancy or Parentage***

A minor applicant may receive a marriage license without parental consent in limited circumstances that depend upon the discretion of a county court judge. A county court judge may, in his or her discretion, issue a marriage license to a minor if both parties swear under oath that they are the parents of a child.<sup>7</sup> Additionally, if a pregnancy is verified in writing by a licensed physician, a county court judge may issue a marriage license to:

- Any male or female younger than 18 years of age and the parties swear under oath that they are expecting a child; or
- Any female younger than 18 years of age and a male older than 18 years of age if the female provides a sworn application that she is expecting a child.<sup>8</sup>

The statutes do not set a minimum age requirement for a marriage license when the applicants for a license have a child together or are expecting a child.<sup>9</sup> In these circumstances, the statutes permit a county court judge, in the exercise of his or her discretion, to issue a marriage license when one or both applicants for a license are younger than 16.

## **Disability of Nonage of Minors**

Disabilities of nonage are basically activities or actions that an individual cannot legally do or engage in as a minor. Current law removes the disability of nonage of a minor who is married or has been married or subsequently becomes married, including one whose marriage is dissolved,

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<sup>4</sup> Section 741.01, F.S.

<sup>5</sup> Section 741.08, F.S.

<sup>6</sup> Section 741.0405(1), F.S.

<sup>7</sup> Section 741.0405(2), F.S.

<sup>8</sup> Section 741.0405(3), F.S.

<sup>9</sup> See s. 741.0405(4), F.S.

or who is widowed. The minor may assume the management of his or her estate, contract and be contracted with, sue and be sued, and perform all acts that he or she could do if not a minor.<sup>10</sup>

### III. Effect of Proposed Changes:

Under this bill, a person, without exception, must be at least 18 years of age to marry or receive a marriage license in this state. The current exceptions that allow a minor to marry with parental consent or without parental consent when the couple has a child or is expecting a child are repealed.

The bill takes effect July 1, 2018.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

None.

#### C. Government Sector Impact:

If marriage licenses are not issued to minors, the clerks of court might receive less revenue than in the years in which licenses were issued to minors.

### VI. Technical Deficiencies:

- Line 100 of the bill reads 741.03 and 741.04(2) commits ... It should read 741.03 or ~~and~~ 741.04(2) commits ...

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<sup>10</sup> Section 743.01, F.S.

- If CS/SB 140 is enacted, s.743.01 would need to be repealed at a future date. Sections 48.031, 450.012, 450.061, 731.201, and 744.102, F.S. would need to be amended to conform to the repeal of s. 743.01, F.S.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 741.02 of the Florida Statutes and repeals section 741.0405 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on October 25, 2017:**

The committee substitute reorganizes the current bill structure but does not make substantive changes to the bill. The committee substitute removes from s. 741.0405(4), F.S., the new language in the underlying bill which prohibits anyone younger than 18 years of age from marrying, and places it as new subsection (1) in s. 741.04, F.S. Current s. 741.0405, F.S. is then repealed. Section 741.04, F.S., is substantially reworded to modernize the language and break the existing language into shorter paragraphs.

- B. **Amendments:**

None.