

CONFERENCE COMMITTEE REPORT

SB 172

2019 Regular Session

Colomb

June 5, 2019

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 172 by Senator Colomb, recommend the following concerning the Reengrossed bill:

1. That all House Committee Amendments proposed by House Committee on Civil Law and Procedure and adopted by the House of Representatives on May 30, 2019, be rejected.
2. That Legislative Bureau Amendment No.1 proposed by the Legislative Bureau and adopted by the House of Representatives on May 30, 2019, be rejected.
3. That all House Floor Amendments proposed by Representative Hilferty and adopted by the House of Representatives on June 2, 2019, be rejected.
4. That all House Floor Amendments proposed by Representative Amedee and adopted by the House of Representatives on June 2, 2019, be rejected.
5. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "R.S. 9:221," insert " 253, and 255,"

AMENDMENT NO. 2

On page 1, line 3, delete "Arts. 1545 and 1547," and insert "Arts. 1545, 1547, and 1548,"

AMENDMENT NO. 3

On page 1, line 4, after "provide" and before "a" insert " for parental consent for" and after "marriage;" insert "to provide for judicial limitations and authorization;"

AMENDMENT NO. 4

On page 1, line 5, after "prohibitions;" insert the following:

" to provide for evidence of human trafficking, sexual assault, domestic violence, coercion, duress or undue influence;"

AMENDMENT NO. 5

On page 1, line 13, delete "**four**" and insert "**three**"

AMENDMENT NO. 6

On page 2, line 20, after "without" insert "**judicial authorization and** "

AMENDMENT NO. 7

On page 2, line 23, delete "R.S. 9:221 is" and insert "R.S. 9:221, 253, and 255 are"

AMENDMENT NO. 8

On page 3, line 4, delete "**four**" and insert "**three**"

AMENDMENT NO. 9

On page 3, between lines 5 and 6 insert the following:

" * * *

§253. Disposition and recordation of marriage certificates

A. The officiant shall give one copy of the marriage certificate to the married parties. Within ten days after the ceremony, he shall file the other two copies of the certificate of marriage with the ~~officer~~ **clerk of court** who issued the marriage license.

B. Upon receipt of these copies, this officer shall sign them and note thereon the date the certificate was recorded by him.

C. ~~He~~ **The clerk of court** shall forward to the state registrar of vital records, on or before the fifteenth day of each calendar month, **all of the following:**

(1) ~~one~~ **One** copy of each certificate of marriage filed with him during the preceding calendar month.

(2) A copy of the application of marriage which indicates the dates of birth of the husband and wife if either the husband or the wife is a minor.

* * *

§255. Tabulation of marriage statistics; annual report

A. The state registrar of vital records shall annually prepare, from the information filed with him under the provisions of R.S. 9:224 ~~and 9:252~~, **252, and 253**, abstracts and tabular statements of the facts relating to marriages in each parish, and embody them, with the necessary analysis, in his annual report to the state. His annual report to the state shall include a state of marriage report.

B. The annual state of marriage report shall include the number of minors married in each parish, the number of marriages approved by parental consent, and the number of marriages approved by judicial authorization.

C. The annual state of marriage report shall be submitted to the speaker of the House of Representatives and the president of the Senate.

AMENDMENT NO. 10

On page 3, delete lines 6 through 25, and insert the following:

" Section 3. Children's Code Arts. 1545, 1547, and 1548 are hereby amended and reenacted to read as follows:

Art. 1545. Necessary consent; parents; judicial authorization

A. An officiant may not perform a marriage ceremony in which a minor **sixteen or seventeen** is a party unless the minor has **judicial authorization** and the written consent to marry of either:

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

B. ~~A minor under the age of sixteen must 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.~~ **No marriage ceremony shall be performed for a minor under the age of sixteen.**

* * *

Art. 1547. Judicial authorization; compelling reasons

Upon application by ~~the minor~~, **a minor of the age of sixteen or seventeen**, the judge may authorize the marriage when there is a compelling reason why the

marriage should take place. **The court shall consider the best interest of the minor prospective spouse.**

Art. 1548. Hearing; confidentiality; **best interest of the minor; evidence of human trafficking, sexual assault, domestic violence, coercion, duress, or undue influence**

A. The court shall hear a request for authorization for a minor to marry in chambers.

B. **The judge shall require that both the prospective husband and prospective wife be present for the hearing and there shall be a separate in camera interview of the prospective spouses.**

C. **In determining the best interest of the minor prospective spouse, the court shall consider all of the following:**

(1) Pregnancy of the prospective wife.

(2) If the prospective spouses are already living together.

(3) Housing and living conditions prior to the prospective marriage and where the prospective spouses intend to live after the marriage.

(4) The ages of the prospective spouses.

(5) The age differential between the prospective spouses.

(6) How the prospective spouses came to know each other.

(7) The stated reasons why each of the prospective spouses desires to marry one another.

(8) Consent of mother, father, or person having legal custody of the minor.

D. **The judge may require evidence of proof of residency, educational attainment, juvenile offense history, or criminal history to be produced.**

E. **The judge shall conduct an inquiry to determine if there exists any evidence that the minor is a victim of human trafficking, sexual assault, domestic violence, coercion, duress, or undue influence. In conducting the inquiry, the judge shall ask all of the following questions:**

(1) Whether one prospective spouse is in a position of authority over the other prospective spouse.

(2) Previous marriage or marriages of either of the prospective spouses.

(3) Residency and length of residency of the prospective spouses.

(4) How long the prospective spouses have known each other.

(5) Length of relationship between the prospective spouses.

(6) Any evidence of kidnaping, sexual assault, or domestic violence between the prospective spouses.

(7) Whether one of the prospective spouses was the victim of a sexual offense committed by the other prospective spouse.

(8) Evidence of domestic violence, spousal abuse, or sexual offenses committed by either of the prospective spouses upon anyone.

(9) Criminal history of the prospective spouses.

(10) Whether either prospective husband or wife provided or promised a third party anything of value in exchange for the marriage.

(11) Evidence of maturity and self-sufficiency of the prospective spouses through educational attainment or employment.

(12) Evidence of at least eight hours of premarital counseling from the prospective spouses.

(13) Any history of any medical condition or chemical dependency of either of the prospective spouses.

F. **If the judge finds any evidence of human trafficking, sexual assault, domestic violence, coercion, or undue influence, he shall immediately report it to local law enforcement or child protective services, and shall not authorize the marriage."**

Respectfully submitted,

Senators:

Senator Yvonne Colomb

Senator Rick Ward, III

Senator Jay Luneau

Representatives:

Representative Ray Garofalo

Representative Patricia Haynes Smith

Representative Nancy Landry

The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier Alexander.

CONFERENCE COMMITTEE REPORT DIGEST

SB 172

2019 Regular Session

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Keyword and summary of the bill as proposed by the Conference Committee

KEYWORD. Mandates the minimum age for marriage shall be 16 years of age.

Report rejects House amendments which would have:

1. Authorized that a minor sixteen or seventeen years of age may not enter into 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.
2. Required a minor under the age of sixteen shall have judicial authorization, based on the best interest of the child and twelve factors to be considered by the court. At the hearing the court in considering the best interest of the child shall determine evidence of human trafficking, sexual assault, domestic violence, coercion, duress, or undue influence.
3. Required the clerk of court to maintain documents indicating the age and number of minors married in each parish, the number of marriages approved by parental consent, and the number of marriage approved by judicial authorization.

Report amends the bill to:

1. Authorizes that a minor sixteen or seventeen years of age may not enter into 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 and judicial authorization.
2. Requires that a minor of the age of sixteen or seventeen shall have judicial authorization, based on the best interest of the child and twelve factors to be considered by the court. At the hearing the court in considering the best interest of the child shall determine evidence of human trafficking, sexual assault, domestic violence, coercion, duress, or undue influence.
3. Requires the clerk of court to maintain documents indicating the age and number of minors married in each parish, the number of marriages approved by parental consent, and the number of marriage approved by judicial authorization.
4. Requires that the prospective spouses shall not have an age difference greater than three years to get married.
5. Requires that all in camera interviews of the prospective spouses shall be conducted separate.
6. Provides that the prospective spouses shall receive eight hours of premarital counseling and should be considered as a factor by the court.

Digest of the bill as proposed by the Conference Committee

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 three 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 judicial authorization and 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 three 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.

Proposed law provides that the clerk of court shall maintain a copy of application of marriage of a minor. Further provides that the annual state of marriage report shall include the number of minors married in each parish, the number of marriages approved by parental consent and judicial authorization.

Proposed law provides that the court shall consider the best interest of prospective spouses for judicial authorization to marry a minor. Further provides that the court shall inquire and

report any evidence of human trafficking, sexual assault, domestic violence, coercion, duress, or undue influence.

Proposed law provides that the prospective husband and wife shall be present at a hearing and shall have separate in camera interviews of the prospective spouses.

Effective August 1, 2019.

(Amends C.C. Arts. 96, 367, and 2333, R.S. 9:221, 253, 255, Ch. C. Arts. 1545, 1547, and 1548; adds C.C. Art. 90.1)