

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 35

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S35-ATT-54 [v.8]

Page 1 of 3

Amends Title [YES]
Second Edition

Date _____, 2021

Senator Britt

1 moves to amend the bill on page 1, line 1, through page 2, line 24, by rewriting the lines to read:

2
3 "A BILL TO BE ENTITLED

4 AN ACT TO AMEND THE LAWFUL AGE OF MARRIAGE TO SIXTEEN YEARS OF AGE
5 OR OLDER, AND TO PROVIDE A MAXIMUM FOUR-YEAR AGE DIFFERENCE FOR
6 A SIXTEEN OR SEVENTEEN YEAR-OLD TO MARRY.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 51-2 reads as rewritten:

9 "**§ 51-2. ~~Capacity~~ Lawful age to marry.**

10 (a) All unmarried persons of 18 years, or older, may lawfully ~~marry, except as hereinafter~~
11 ~~forbidden.~~ marry.

12 (a1) Persons over 16 years of age and under 18 years of age may ~~marry, marry a person no~~
13 ~~more than four years older,~~ and the register of deeds may issue a license for the marriage, only
14 after there ~~shall have~~ has been filed with the register of deeds a certified copy of an order issued
15 by a district court authorizing the marriage as provided in G.S. 51-2.1, or a written consent to the
16 marriage, said consent having been signed by the appropriate person as follows:

- 17 (1) By a parent having full or joint legal custody of the underage party; or
18 (2) By a person, agency, or institution having legal custody or serving as a
19 guardian of the underage party.

20 Such written consent shall not be required for an emancipated minor if a certificate of
21 emancipation issued pursuant to Article 35 of Chapter 7B of the General Statutes or a certified
22 copy of a final decree or certificate of emancipation from this or any other jurisdiction is filed
23 with the register of deeds.

24 (b) ~~Persons over 14 years of age and under 16 years of age may marry as provided in G.S.~~
25 ~~51-2.1.~~

26 (b1) It shall be unlawful for any person under ~~14~~ 16 years of age to marry.

27 (c) When a license to marry is procured by any person under 18 years of age by fraud or
28 misrepresentation, a parent of the underage party, a person, agency, or institution having legal
29 custody or serving as a guardian of the underage party, or a guardian ad litem appointed to
30 represent the underage party pursuant to G.S. 51-2.1(b) is a proper party to bring an action to
31 annul the marriage."

32 **SECTION 2.** G.S. 51-2.1 reads as rewritten:



* S 3 5 - A T T - 5 4 - V - 8 *

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Page 2 of 3

1 **"§ 51-2.1. Marriage of certain underage parties.**

2 (a) ~~If an unmarried female who is more than 14 years of age, but less than 16 years of~~
3 ~~age, is pregnant or has given birth to a child and the unmarried female and the putative father of~~
4 ~~the child, either born or unborn, agree to marry, or if an unmarried male who is more than 14~~
5 ~~years of age, but less than 16 years of age, is the putative father of a child, either born or unborn,~~
6 ~~and the unmarried male and the mother of the child agree to marry, the register of deeds is~~
7 ~~authorized to issue to the parties a license to marry; and it shall be lawful for them to marry in~~
8 ~~accordance with the provisions of this Chapter, only after a certified copy of an order issued by~~
9 ~~a district court authorizing the marriage is filed with the register of deeds. A district court judge~~
10 ~~may issue an order authorizing a marriage between a person over 16 years of age and under 18~~
11 ~~years of age, to a person no more than four years older under this section only upon finding as~~
12 ~~fact and concluding as a matter of law that the underage party is capable of assuming the~~
13 ~~responsibilities of marriage and the marriage will serve the best interest of the underage party. In~~
14 ~~determining whether the marriage will serve the best interest of an underage party, the district~~
15 ~~court shall consider the following:~~

- 16 (1) The opinion of the parents of the underage party as to whether the marriage
17 serves the best interest of the underage party.
- 18 (2) The opinion of any person, agency, or institution having legal custody or
19 serving as a guardian of the underage party as to whether the marriage serves
20 the best interest of the underage party.
- 21 (3) The opinion of the guardian ad litem appointed to represent the best interest
22 of the underage party pursuant to G.S. 51-2.1(b) as to whether the marriage
23 serves the best interest of the underage party.
- 24 (4) The relationship between the underage party and the parents of the underage
25 party, as well as the relationship between the underage party and any person
26 having legal custody or serving as a guardian of the underage party.
- 27 (5) Any evidence that it would find useful in making its determination.

28 There shall be a rebuttable presumption that the marriage will not serve the best interest of
29 the underage party when all living parents of the underage party oppose the marriage. The fact
30 that the female is pregnant, or has given birth to a child, alone does not establish that the best
31 interest of the underage party will be served by the marriage.

32"

33 **SECTION 3.** G.S. 51-3 reads as rewritten:

34 **"§ 51-3. Want of capacity; void and voidable marriages.**

35 All marriages between any two persons nearer of kin than first cousins, ~~or~~ between double
36 first cousins, ~~or between a male person under 16 years of age and any female, or between a female~~
37 ~~person under 16 years of age and any male, or between persons either of whom has a husband or~~
38 ~~wife living at the time of such marriage, or~~ between persons either of whom is at the time
39 physically impotent, or between persons either of whom is at the time incapable of contracting
40 from want of will or understanding, shall be void. No marriage followed by cohabitation and the
41 birth of issue shall be declared void after the death of either of the parties for any of the causes
42 stated in this section except for bigamy. ~~No marriage by persons either of whom may be under~~
43 ~~16 years of age, and otherwise competent to marry, shall be declared void when the girl shall be~~

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Page 3 of 3

1 ~~pregnant, or when a child shall have been born to the parties unless such child at the time of the~~
2 ~~action to annul shall be dead.~~ A marriage contracted under a representation and belief that the
3 female partner to the marriage is pregnant, followed by the separation of the parties within 45
4 days of the marriage which separation has been continuous for a period of one year, shall be
5 voidable unless a child shall have been born to the parties within 10 lunar months of the date of
6 separation."

7 **SECTION 4.** This act is effective when it becomes law and applies to marriage
8 licenses pending or issued on or after that date."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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and vote information, is available in the
Senate Principal Clerk's Office**