

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 3018

BY DELEGATES YOUNG, GARCIA, CROUSE, CHIARELLI,

HORNBY, FAST, WORRELL, HOLSTEIN AND HANSEN

[Passed March 11, 2023; in effect ninety days from passage.]

1 AN ACT to repeal §48-2-103 of the Code of West Virginia, 1931, as amended; and to amend and
2 reenact §48-2-106 and §48-2-301 of the same, all related to the age of consent for
3 marriage; setting the age of consent to marriage at 18; providing an exception allowing
4 individuals younger than 18 but who have reached the age of 16 to marry with both their
5 consent and the written, affirmative consent of their parents or legal guardian; establishing
6 the manner by which a parent or guardian provides affirmative consent; further providing
7 that an individual under the age of 18 cannot consent to a marriage with a person who is
8 more than four years older than that individual; providing that a marriage involving an
9 individual under the age of 18 can be annulled by petition of that individual until he or she
10 reaches age 18; and clarifying that a marriage that was entered into legally prior to the re-
11 enactment of this section, or in another jurisdiction outside of the State of West Virginia,
12 although one or both of the parties was under the age of consent, is not nullified or voided.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. MARRIAGES.

**§48-2-103. Waiting period before issuance of marriage license; issuance of license in case
of emergency or extraordinary circumstances.**

1 [Repealed.]

§48-2-106. Proof of age.

1 At the time of the execution of the application, the clerk or other person administering the
2 oath to the applicants shall require evidence of the age of each of the applicants and shall not
3 issue a license until it has been confirmed that each applicant satisfies the age requirements for
4 marriage set forth by §48-2-301 of this code. Evidence of age may be as follows:

- 5 (1) A certified copy of a birth certificate or a duplicate certificate produced by any means
6 that accurately reproduces the original;
- 7 (2) A voter's registration certificate;
- 8 (3) An operator's or chauffeur's license;

- 9 (4) The affidavit of both parents or the legal guardian of the applicant; or
- 10 (5) Other good and sufficient evidence.

PART 3. CAPACITY TO MARRY.

§48-2-301. Age of consent for marriage; exception.

- 1 (a) The age of consent for marriage for all persons, both male and female, is 18 years of
- 2 age. A person under the age of 18 lacks the capacity to marry without the consents required by
- 3 this section.
- 4 (b) The clerk of the county commission may issue a marriage license to an applicant who
- 5 is under the age of 18 but at least 16 years of age if the clerk obtains valid written consent from
- 6 the applicant and from the applicant's parent or parents or the applicant's legal guardian or
- 7 guardians as outlined in this section: *Provided*, That a marriage license may not be issued to an
- 8 applicant who is under the age of 18 but who is at least 16 years of age if the person whom the
- 9 applicant seeks to marry is more than four years older than the applicant.
- 10 (c) An applicant who is under the age of 18 but who is at least 16 years of age must give
- 11 his or her signed and acknowledged affirmation that he or she is freely and voluntarily choosing
- 12 to enter into a marriage with the person named in the application as part of the written consent
- 13 required by this section. The applicant must also provide, as part of the same written consent, a
- 14 signed and acknowledged affirmation that his or her decision to enter into the marriage is not the
- 15 product of duress or coercion by any person.
- 16 (d) A consent to marry must be duly acknowledged before an officer authorized to
- 17 acknowledge a deed. If the parents of the applicant are living together at the time the application
- 18 for a marriage license is made and the consent is given, the signatures of both parents or the
- 19 signature of the applicant's legal guardian or guardians is required. If one parent is dead, the
- 20 signature of the surviving parent or the applicant's legal guardian or guardians is required. If both
- 21 parents are dead, the signature of the applicant's legal guardian or guardians is required. If the
- 22 parents of the applicant are living separate and apart, the signature of the parent or parents having

23 decision-making authority for the applicant, or the applicant's legal guardian or guardians is
24 required: *Provided*, That, if the applicant's parents are separate and apart or divorced but have
25 substantially equal parenting rights over the applicant, the signature of both parents is required.

26 (e) A person who is under the age of 18 but at least 16 years of age and who is married
27 in accordance with the provisions of this section may petition, without the consent of his or her
28 parents or legal guardian or guardians, for an annulment of that marriage until he or she reaches
29 18 years of age.

30 (f) Nothing in this section may serve to annul or void a marriage entered into prior to the
31 re-enactment of this statute during the 2023 Regular Session of the Legislature, nor shall it serve
32 to annul or void an otherwise legal marriage entered into in a jurisdiction outside of the State of
33 West Virginia.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor