



SENATE BILL 35: Max 4-Yr Age Diff to Marry Under 18 Yrs.

2021-2022 General Assembly

Committee:	House Judiciary 1. If favorable, re-refer to Families, Children, and Aging Policy. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 22, 2021
Introduced by:	Sens. Sawyer, Britt, Foushee	Prepared by:	Brad Krehely
Analysis of:	Third Edition		Committee Co-Counsel

OVERVIEW: *Senate Bill 35 would amend the lawful age of marriage to 16 years of age or older and would provide a maximum four-year age difference for a 16- or 17- year-old to marry.*

[As introduced, this bill was identical to H41, as introduced by Reps. Saine, K. Baker, Clemmons, Turner, which is currently in House Families, Children, and Aging Policy.]

CURRENT LAW:

G.S. 51-2 Generally:

A person 18 years or older may marry.

A 16 or 17 year-old may marry with a filed written consent by a parent or guardian.

A 14 or 15 year-old may marry under special circumstances.

No one under 14 years old can marry.

G.S. 51-2.1 A 14 or 15 year-old who is expecting a child or already has a child may marry the other parent of the child if both parties agree and the marriage is authorized by a district court judge.

G.S. 14-27.25 First degree statutory rape (vaginal intercourse with a person 15 years of age or younger, by someone over 12 years old and at least six years older), is a Class B1 felony unless the two people are lawfully married. Second degree statutory rape (vaginal intercourse with a person 15 years of age or younger, by someone over 12 years old and at least four years older), is a Class C felony unless the two people are lawfully married.

BILL ANALYSIS:

Section 1 would raise the legal age to marry from age 14 to age 16. It would also provide a maximum four-year age difference for persons over 16 and under 18 to marry and would require them to file a certified copy of an order issued by a district court judge allowing the marriage under G.S. 51-2.1.

Section 2 would make conforming changes in G.S. 51-2.1 to allow a district court judge to issue an order authorizing a marriage between a person over 16 and under 18 to a person no more than 4 years older. It would delete language allowing a 14 or 15-year-old to marry in certain circumstances.

Section 3 would make conforming changes to G.S. 51-3 dealing with lack of capacity to marry, void marriages, and voidable marriages.

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EFFECTIVE DATE: This act would be effective when it becomes law and apply to marriage licenses pending or issued on or after that date.

*Jennifer Bedford, Staff Attorney for the Legislative Analysis Division, contributed to the drafting of this summary.