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Child Marriage in North Carolina: New Evidence and Policy Recommendations



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North Carolina is one of two states tied for setting, by statute, the lowest legal age of marriage in the country.

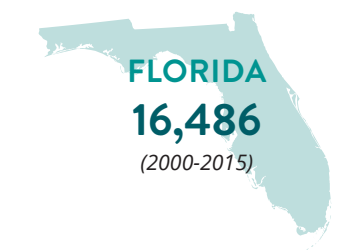
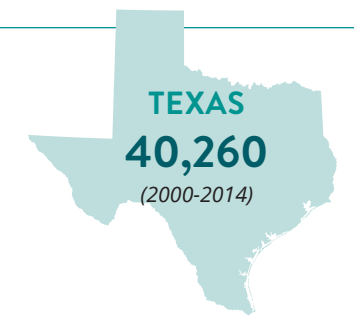
I. SUMMARY

Prior to this research, there was no publicly available information on the rates at which children in the state were marrying or to whom they were being wed. The International Center for Research on Women (ICRW), in partnership with 50 of the state's 100 counties that voluntarily provided records dating back to the year 2000,¹⁰ undertook to address this knowledge gap. Projecting out to assume similar rates of marriage license applications in the other counties and comparing the state to others with already-known datasets, our analysis finds that **North Carolina may rank among the country's top five states** with the highest rates of child marriage.

The overwhelming majority of those marriage license applications occur between a minor and an adult, and an alarming number of the marriage license applications have legally sanctioned with a marriage license what would have otherwise been a Class-B Felony under the state's statutory rape laws.

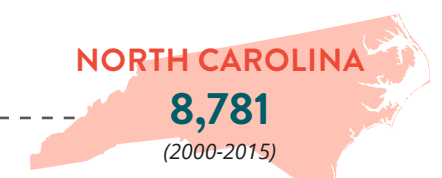
Due to data limitations, it was not possible for this study to determine how many of these marriage license applications were the result of forcible rape, child abuse, incest and other factors that are consistently found to be risk factors in the context of other states and countries where ICRW and partner research is readily available and further disaggregated. In North Carolina, there is also an antiquated "pregnancy exception," which applies only to 14- and 15-year-olds, wherein marriage is permitted in cases of pregnancy, a paternal posture of the law that assumes, incorrectly, that marriage is a protective arrangement for a pregnant girl rather than one that will subject an already-vulnerable young girl to further harm. **Based on our evidence and analysis, we recommend a change in statute to set the minimum age of marriage at 18 with no exceptions.**

Top five states with the highest numbers of child marriages:



Source: Data collected by PBS Frontline as of July 2017. Available at: <http://apps.frontline.org/child-marriage-by-the-numbers/>

Total minors listed on marriage license applications:



AUTHORS:

This brief was written by Lyric Thompson and Mara Steinhaus of the International Center for Research on Women (ICRW), with deep appreciation for the considerable contributions by Rachel Clement, formerly of ICRW, Drew Reisinger, Buncombe County Register of Deeds, Jeanne Smoot, Senior Counsel for Policy and Strategy at the Tahirih Justice Center (www.tahirih.org/childmarriage), Hogan Lovells' pro bono assistance to this research effort, including on the legislative history of marriage-age laws in North Carolina and Easter Maynard for her generous support.

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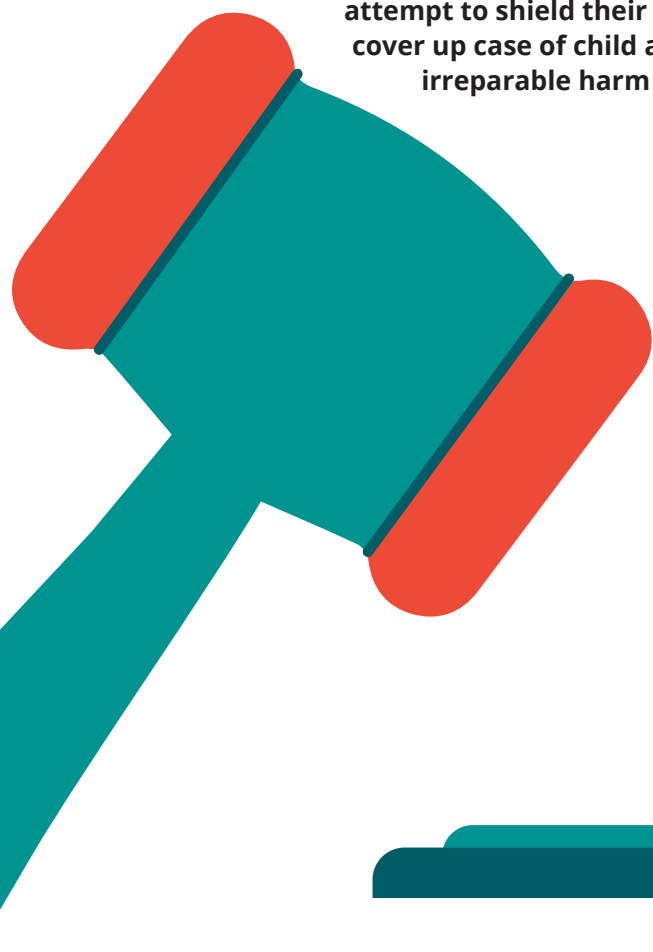
II. BACKGROUND

Legal Age of Marriage in North Carolina and Associated Challenges for Children

State law currently permits minors as young as 14 to marry legally in North Carolina,¹ which ties the state with Alaska for the **lowest legal age of marriage in the United States**. There has been a recent flurry of activity in other states to address legal loopholes permitting child marriage, as well as an increase in documenting marriage license records within state borders. Some marriages have involved girls as young as age 12. **Anecdotal evidence suggests that North Carolina is now becoming a destination to take children who would be protected from child marriages in other states.**^{2,3}

North Carolina law contains certain measures that are intended to protect minors who marry, but which are insufficient.⁴ In North Carolina, **children who are 14 and 15 have to go through a judicial process to obtain permission to marry, to access what is commonly referred to as a “pregnancy exception,”** where one of the parties to the marriage is pregnant or has already become a parent. In this case, a guardian ad litem is appointed to evaluate the petition and assess whether the marriage is in the best interests of the child.⁵ North Carolina assumes that marriage is not in the best interests of a 14 or 15 year old child if “all living parents of the underage party oppose the marriage.”

Children who are 16 or 17 can be married simply by proving parental consent.⁶ **There are no protection measures in place for 16- or 17-year-old children** like those for 14- and 15-year-olds to determine whether the parents are coercing the child to marry or whether child marriage is in the child’s best interest. Moreover, research by ICRW and others in a range of contexts has demonstrated that marriage is rarely in the interest of the child, correlating as it does with decreased health and education outcomes and increased rates of poverty, domestic violence, sexually transmitted infections and early pregnancy. In fact, **survivors of child marriage are now coming forward around the country. Many have reported that they were forced to marry their rapists in an attempt to shield their rapists from prosecution for forcible or statutory rape; to cover up case of child abuse, neglect or exploitation; or left to suffer other lifelong, irreparable harm from being married so young** (Tahirih, 2017).



Many survivors of child marriage have reported that they were forced to marry their rapists in an attempt to shield their rapists from prosecution for forcible or statutory rape.

Under North Carolina law, there are also no restrictions in civil law on the age gap between spouses at marriage when the marriage involves a minor. And yet the criminal law, outside of the marriage context, declares that some age gaps, particularly the younger the minor is, are so great that sexual intercourse between the parties must be non-consensual. The legal definition of statutory rape in NC incorporates this understanding by criminalizing intercourse with a party age 15 or younger if the age gap between the parties is 4 years or more.⁷ In essence, this lack of coherence between the civil and criminal legal systems means that any marriage licenses issued under these circumstances essentially asks registrars to turn a blind eye. Put more starkly, **marriage between a minor and an adult in such circumstances legally sanctions statutory rape.**⁸

While under NC General Statutes § 7B-3509, minors are legally emancipated after marriage,⁹ and thus should have all the rights and responsibilities of adults. This is not well understood by the general public or by child brides who have no idea that statute exists, let alone how to assert their rights. The common understanding is that even married minors are not able to exercise the same rights as an adult until they turn age 18. This can cause considerable challenges to their access to vital human rights, such as healthcare and education, and critical services such as domestic violence shelters. These inequities in rights and services can exacerbate an already profound power imbalance between child brides and their typically adult partners.

III. RESEARCH METHODS

In 2019, ICRW compiled marriage license application data that was voluntarily shared by Registers of Deeds or their data vendors in North Carolina. Data was requested back to the year 2000 to align with similar analyses completed elsewhere in the US.¹⁰ Individual registers opted in to share their county’s data, while county data vendors were given multiple opportunities to opt out before the data was sent to ICRW. No personally identifying information, such as names or addresses of applicants, was shared with ICRW. **In total, ICRW received data from 50 counties representing 43 percent of the population of North Carolina in 2018.**¹¹

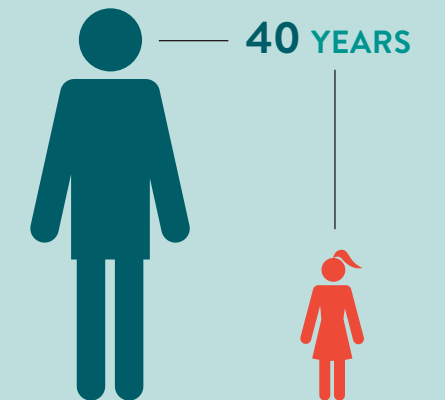
Varying levels of data validation were possible, depending on the format and content of each county’s data set. At a minimum, all records were checked to ensure the ages of both applicants were recorded, that they appeared to have been entered correctly (outliers below the legal age of marriage, which was age 12 through October 2001 and 14 after that, were presumed to be typos and excluded), and



4,218

The number of marriage license applications since 2000 that included minors.

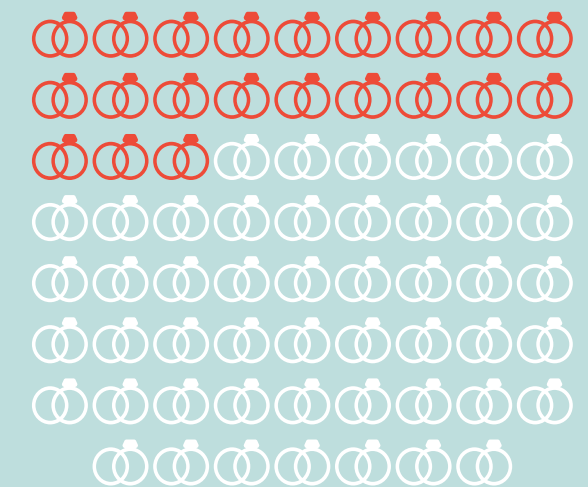
The largest age difference in this analysis was



when a 57-year-old applied to marry a 17-year-old.

Of the 70 marriages involving a minor age 15 or below,

30% INVOLVED AN AGE DIFFERENCE OF 4 OR 5 YEARS,



meaning that sex between those parties outside of marriage would be a Class C felony.

that at least one applicant was a minor (under age 18) at the time the application was submitted.¹² If the data set included exact birthdates and application dates, ages were re-calculated using those dates and compared to the recorded ages. Where any age data was missing or inconsistent, these records were excluded from the analysis in order to provide the most conservative estimate of the number of marriage license applications involving a minor in North Carolina. Three applications involving a minor where the license was not returned (meaning the marriage was not completed) were included in the count of applications submitted.

Extrapolation to estimate the number of marriage license applications involving a minor statewide was performed by first calculating the rate at which these applications were submitted proportional to the population of the 50 participating study counties. It was then assumed that the rate of marriage license applications involving a minor per capita was consistent in the remaining 50 counties. This allowed the total number of marriage license applications involving a minor in the counties that were not included in the study to be calculated by multiplying the rate per capita in study counties to the population of the counties that were not included in the study. The total number of marriage license applications in study counties and the estimated number in non-study counties were then added to obtain the final, statewide estimate.

IV. FINDINGS

Between 2000 and 2019, at least 3,949 marriage license applications involving 4,218 minors were submitted in the 50 counties that participated in the analysis. **Presuming marriages involving minors occurred at the same rates in the remaining 50 counties, this means that approximately 9,127 marriage license applications involving 9,749 minors were submitted statewide during this time.**

The vast majority of applications involve one minor and one adult, not two minors. **Approximately 93 percent of applications included in this analysis were for a marriage between a minor and an adult.**

Marriage license applications involving 16- and 17-year-olds are much more common than those involving younger ages. Of the 4,218 minors on marriage license applications in the state, 0.3 percent were age 14, 1.2 percent were 15, 31.5 percent were 16 and 67.0 percent were 17. Additionally, two minors below the age of 14 were submitted before the law changed in October 2001; a 22-year-old applied to marry a 12-year-old, and a 19-year-old applied to

marry a 13-year-old.

Age gaps between applicants are large. Of the 3,949 marriage license applications included in this analysis, there were 241 applications where the age difference between the applicants was 10 years or more and 26 applications where the age difference was 20 years or more. The largest age difference between applicants in this analysis was 40 years and occurred in 2002, when a 57-year-old applied to marry a 17-year-old.

The majority of marriage license applications involving a minor age 15 or below consisted of parties at ages and age differences where sex between the parties, outside of marriage, would be classified as Class C or B1 felonies under existing statutory rape laws. Of the 70 marriages involving a minor age 15 or below, 21 (30 percent) involved an age difference of 4 or 5 years, meaning that sex between those parties outside of marriage would be a Class C felony, and 19 (27 percent) involved an age difference of 6 years or more, meaning that sex between those parties outside of marriage would be a Class B1 felony. In the most extreme case, the age difference between the parties was 14 years (age 15 and age 29). Marriage in such cases provides unlimited, lifetime access to youth for sex who would otherwise be protected from even a one-time sexual act.

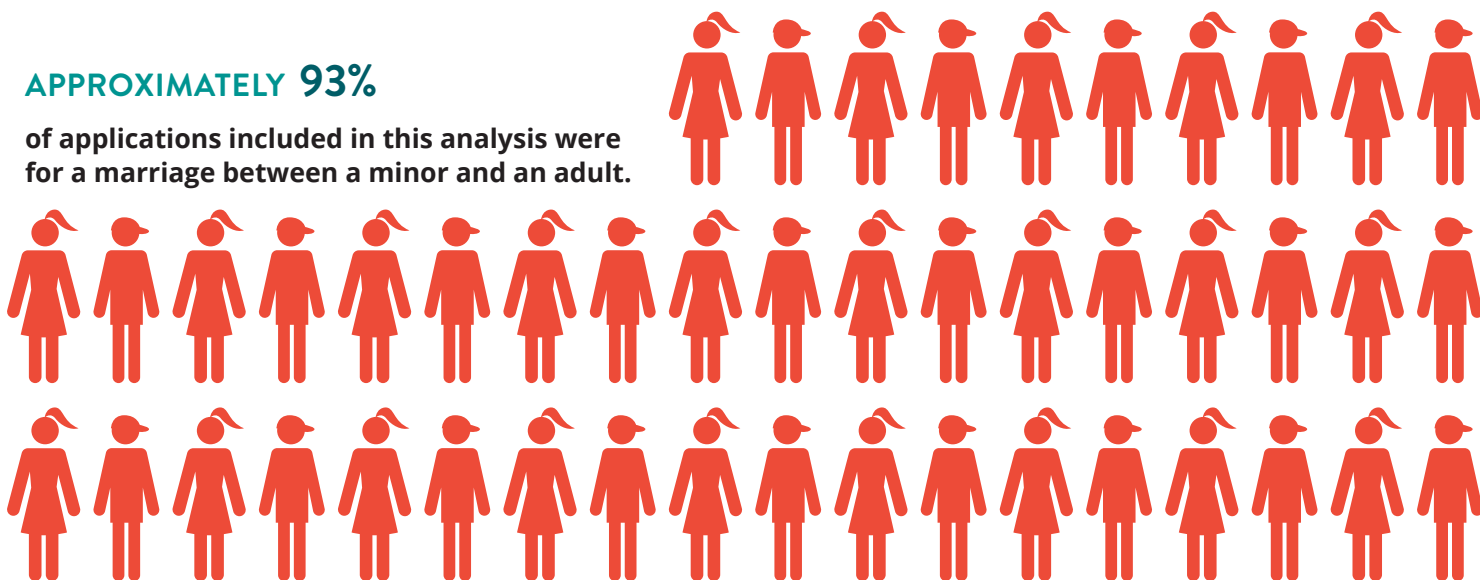
Although it is not possible to directly compare the number of marriage license applications involving a minor in North Carolina to those in other states, the closest comparison would be found using the data compiled by PBS Frontline, which counted the number of children married by state during the time period of 2000 up to 2015.¹³

Adjusting for the shorter time period and estimating the number of minors listed on marriage license applications statewide, North Carolina would rank in the top five highest nationwide with an estimated 8,781 minors listed on marriage license applications between 2000 and 2015.

While gender data was not provided to ICRW, by analogy to datasets in states across the country that do have such data available and based on the Frontline data, it is reasonable to expect that the vast majority of the time (upwards of 85 percent), the minor in these minor-adult marriages is a girl marrying an adult man.

APPROXIMATELY 93%

of applications included in this analysis were for a marriage between a minor and an adult.



V. POLICY RECOMMENDATIONS

The evidence reveals that North Carolina's marriage law has allowed thousands of children to marry adults, many with an age gap of ten years or more, providing a legal loophole in which the state sanctions what could otherwise be a Class B1 or C Felony.

Laws and policies that set a firm marriage age of 18, no exceptions, are the strongest way to limit child marriage and prevent its harms. **North Carolina statutes on marriage should be amended to ensure that children cannot be married in the state, and that exceptions for pregnancy and parental consent are eliminated.**

Specifically, legislators should remove the pregnancy exception at NC Stat 51-2.1 and amend the statute that immediately precedes it as follows:

§ 51-2. Capacity to marry.

- (a) All unmarried persons of 18 years, or older, may lawfully marry, except as hereinafter forbidden.
- ~~(a1) Persons over 16 years of age and under 18 years of age may marry, and the register of deeds may issue a license for the marriage, only after there shall have been filed with the register of deeds a written consent to the marriage, said consent having been signed by the appropriate person as follows:~~
- ~~(1) By a parent having full or joint legal custody of the underage party; or~~
- ~~(2) By a person, agency, or institution having legal custody or serving as a guardian of the underage party.~~
- ~~Such written consent shall not be required for an emancipated minor if a certificate of emancipation issued pursuant to Article 35 of Chapter 7B of the General Statutes or a certified copy of a final decree or certificate of emancipation from this or any other jurisdiction is filed with the register of deeds.~~
- (b) ~~Persons over 14 years of age and under 16 years of age may marry as provided in G.S. 51-2.1.~~
- ~~(b1) It shall be unlawful for any person under 14 years of age to marry.~~
- (c) When a license to marry is procured by any person under 18 years of age by fraud or misrepresentation, a parent of the underage party, a person, agency, or institution having legal custody or serving as a guardian of the underage party, or a guardian ad litem appointed to represent the underage party pursuant to G.S. 51-2.1(b) is a proper party to bring an action to annul the marriage.

The current exceptions to a minimum marriage age of 18—pregnancy and parental consent—should be viewed as inadequate measures to protect children, and do not at all “measure” an individual’s capacity to consent to marriage from a legal perspective. Moreover, they reflect a retrogressive and paternalistic approach to gender norms and the institution of marriage in the year 2020.

ANNEX: DATA LIMITATIONS AND COUNTY REPRESENTATION

Because the data obtained by ICRW is incomplete, the true number of marriage license applications involving a minor is likely higher than the estimates presented here. In some cases, this is because counties were not able to share data from the complete time period from 2000 to 2019. In other cases, records with missing information were dropped in order to provide the most conservative count. Regardless, the data show that these applications are submitted at a rate deserving of attention and prevention.

Counties included in this analysis:

Alexander	Gates	Person
Buncombe	Guilford	Pitt
Burke	Halifax	Polk
Caldwell	Haywood	Randolph
Camden	Henderson	Richmond
Caswell	Jackson	Rockingham
Chowan	Jones	Rowan
Clay	Lenoir	Rutherford
Cleveland	Lincoln	Stanly
Columbus	Macon	Surry
Craven	Madison	Transylvania
Currituck	Montgomery	Watauga
Dare	New Hanover	Wayne
Duplin	Onslow	Wilson
Forsyth	Orange	Yadkin
Franklin	Pamlico	Yancey
Gaston	Pasquotank	

SOURCES

Article 7B, N.C. Gen. Stat. § 14-27.25. (1995).

Article 7B, N.C. Gen. Stat. § 14-27.30. (1995).

Chapter 51, N.C. Gen. Stat. § 51-2.

National Network to End Domestic Violence (NNEDV). (2019). Statutes: North Carolina. Retrieved from www.womenslaw.org/laws/nc/statutes/all#node-67177.

North Carolina Courts. (2019). *Marriage How to Obtain a Marriage License and Getting Married by Magistrate*. Retrieved from www.nccourts.gov/help-topics/family-and-children/marriage.

Santelli, J. S., Kantor, L. M., Grilo, S. A., Speizer, I. S., Lindberg, L. D., Heitel, J., ... Ott, M. A. (2017). Abstinence-Only-Until-Marriage: An Updated Review of U.S. Policies and Programs and Their Impact. *Journal of Adolescent Health*, 61(3), 273–280. <https://doi.org/10.1016/j.jadohealth.2017.05.031>

REFERENCES

- 1) Previously, North Carolina law permitted marriage as young as age 12, which was amended to 14 in 2001.
- 2) We have evidence of at least one application for a marriage license in North Carolina that was received from a couple who were denied a license in one of those states, Kentucky, as recently as last year. In this case, a 49-year old man sought to marry a 17-year old girl and had been counseled that North Carolina would look more favorably on the union than his home state of Kentucky.
- 3) Data and anecdotes from other states confirms this cross-border, forum-shopping dynamic where out-of-state minors will be brought from a more protective home state to a state with laxer laws.
- 4) (Tahirih Justice Center, 2019).
- 5) The North Carolina Judicial Branch's website states: "guardian ad litem must be appointed to give an opinion on whether the marriage is in the best interest of the 14- or 15-year-old, and the court must also consider the opinions of his or her parents. The judge must decide if the minor is ready for the responsibilities of marriage" (NC Courts, 2019). "For the full text of the relevant statutes setting forth the requirements for the guardian ad litem and the court in such cases, please see: Tahirih Justice Center. (2019). *Understanding State Statutes on Minimum Marriage Age and Exceptions*. Retrieved from <https://www.tahirih.org/pubs/understanding-state-statutes-on-minimum-marriage-age-and-exceptions/>."]
- 6) Per the NC Courts website, 16- and 17-year-olds must "file with the Register of Deeds a written consent to the marriage signed by a parent with sole or joint legal custody, or by a person, agency, or institution that has legal custody of the minor or is serving as the minor's legal guardian" (NC Courts, 2019).
- 7) Under both NC General Statutes § 14-27.30 (1995) and § 14-27.25 (1995), formerly -7A, sexual intercourse with someone age 15 years of age or younger is a felony offense if the other party is at least 4 years older, and the level of felony and severity of penalties increase the larger the age gap. There is a defense against prosecution if the parties are married, but again, this "marriage defense" simply repeats the error of the inconsistency between civil and criminal laws, it does not reconcile them.

Short, N. (2017). NC Laws Lead to Higher-than-Average Child Marriage Rates. *The Daily Tar Heel*. Retrieved from www.dailytarheel.com/article/2017/09/nc-laws-lead-to-higher-than-average-child-marriage-rates.

Tahirih Justice Center. (2017). *Falling Through the Cracks: How Laws Allow Child Marriage to Happen in Today's America*. Retrieved from <https://www.tahirih.org/pubs/falling-through-the-cracks-how-laws-allow-child-marriage-to-happen-in-todays-america/>.

Tahirih Justice Center. (2019). *Understanding State Statutes on Minimum Marriage Age and Exceptions*. Retrieved from <https://www.tahirih.org/pubs/understanding-state-statutes-on-minimum-marriage-age-and-exceptions/>.

Tsui, A., Nolan D., & Amico D. (2017). *Child Marriage in America By the Numbers*. Retrieved from <http://apps.frontline.org/child-marriage-by-the-numbers/>.

- 8) § 14-27.30 (1995). "Statutory sexual offense with a person who is 15 years of age or younger. (a) A defendant is guilty of a Class B1 felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person. (b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person. (1995, c. 281, s. 1; 2015-181, s. 12.)"
- 9) In practice, this also means that unless a minor separately qualified under a different basis to seek and obtain an order of emancipation from a court, a minor perversely does not have the rights she would need to avoid an unwanted or forced marriage until after she has been married. While she would be able to petition for divorce or seek shelter in a domestic violence shelter after marriage, she would not have the same ability before marriage to refuse it, since at that point she would still legally have only the status and more limited rights of a child.
- 10) Most counties submitted data starting January 1, 2000 through their date of submission (between June and December of 2019). Some counties were only able to submit data for later years. For example, Haywood and Jones Counties submitted data from 2001 onward and Guilford County submitted data from July 2006 onward.
- 11) The most recent county population estimates (as of July 1, 2018) were obtained from demography.osbm.nc.gov on December 30, 2019.
- 12) In rare instances, 17-year-olds who applied for marriage licenses turned 18 before completing their marriage. This was the case for 18 (1.4%) records where the parties' ages at application and ages at marriage could be determined.
- 13) Frontline was only able to obtain data through 2013 or 2014 for some states. Retrieved from <http://apps.frontline.org/child-marriage-by-the-numbers/>.



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