~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 5, 2021

**S. 591**

Introduced by Senators Hutto and Shealy

S. Printed 5/5/21--S.

Read the first time February 23, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 591) to amend Section 20‑1‑100, Code of Laws of South Carolina, 1976, relating to the minimum age a person may enter into marriage, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill changes the minimum age that a person may enter into a valid marriage from sixteen years of age to eighteen years of age and provides that marriages—including common law marriages—entered into by persons under the allowable age are void ab initio. The bill also repeals Section 20-1-250, which allows an applicant between the ages of sixteen and eighteen whose parent, other relative, or guardian agrees to provide a sworn affidavit consenting to the marriage to be granted a marriage license. Additionally, the bill repeals Section 20-1-260, which requires an applicant under the age of eighteen years to provide evidence of a birth, hospital, or baptismal certificate or an affidavit from his parents, legal guardian, or person with whom he resides in order to be granted a marriage license.

**Judicial Department.**

This bill, which increases the minimum age at which a person can obtain a valid marriage license, would impact the probate courts. As these courts are funded by the counties, there will be no expenditure impact for the department.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 20‑1‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MINIMUM AGE A PERSON MAY ENTER INTO MARRIAGE, SO AS TO PROVIDE THAT A MARRIAGE ENTERED INTO BY AN INDIVIDUAL YOUNGER THAN EIGHTEEN YEARS OF AGE IS VOID AB INITIO; TO AMEND SECTION 20‑1‑290, RELATING TO THE WILFUL FAILURE OF THE LICENSE‑ISSUING OFFICER TO COMPLY WITH LAWS RELATED TO THE ISSUANCE OF MARRIAGE LICENSES, SO AS TO REMOVE REFERENCES TO CODE SECTIONS REPEALED BY THIS BILL; TO REPEAL SECTION 20‑1‑250 RELATING TO THE ISSUANCE OF A MARRIAGE LICENSE TO APPLICANTS BETWEEN THE AGES OF SIXTEEN AND EIGHTEEN WITH PARENTAL OR GUARDIAN CONSENT, AND SECTION 20‑1‑260 RELATING TO THE PROOF OF AGE REQUIRED FOR A MINOR APPLICANT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 20‑1‑100 of the 1976 Code is amended to read:

“Section 20‑1‑100. Any person under the age of ~~sixteen~~ eighteen is not capable of entering into a valid marriage, and all marriages hereinafter entered into by such persons are void ab initio. A common‑law marriage hereinafter entered into by a person under the age of ~~sixteen~~ eighteen is void ab initio.”

SECTION 2. Section 20‑1‑290 of the 1976 Code is amended to read:

“Section 20‑1‑290. The wilful failure of any officer responsible for the issuance of marriage licenses to comply with the terms of ~~Sections 20‑1‑250, 20‑1‑260 and~~ Section 20‑1‑270 shall be grounds or cause for removal from office.”

SECTION 3. Sections 20‑1‑250 and 20‑1‑260 of the 1976 Code are repealed.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this chapter, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other section, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. This act takes effect upon approval by the Governor.

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