

## **2018 Public Chapter 1049, effective May 21, 2018**

### **(1) Marriages involving an applicant that is under the age of 18:**

- No marriage license can be issued to anyone under 17 years old. No exceptions.
- If one applicant is between the ages of 17 and 18, the other applicant cannot be more than four years (48 months) older. No exceptions.
- If an applicant is between the ages of 17 and 18, and the other applicant is not more than four years older, the county clerk may issue the license IF the minor applicant's parents, guardian, next of kin, or other person(s) or entity having legal custody of the minor applicant personally appear and join in on the application OR submit a sworn and notarized affidavit. A sample affidavit is attached. Consent is not required if the minor applicant has been emancipated. A minor may be emancipated by court order, or by previous marriage (see T.C.A. § 36-3-106, as amended).
- The provisions allowing judges to waive the age restrictions have been repealed. Underage marriages can no longer be authorized by court order.

### **(2) Emancipation by marriage:**

The new law amends T.C.A. § 36-3-106 to provide that marriage removes the disabilities of minority and emancipates a minor, except for specific constitutional or statutory age requirements including voting, use of alcoholic beverages, and other health and safety regulations related to age. The new law also contains the following provision:

*A minor shall be advised of the rights and responsibilities of parties to a marriage and of emancipated minors. The minor shall be provided with a fact sheet on these rights and responsibilities to be developed by the administrative office of the courts. The fact sheet shall include referral information for legal aid agencies in this state and national hotlines for domestic violence and sexual assault.*

While the law does not specify who is to provide this fact sheet to the minor applicant, it appears that the county clerk would be an appropriate person to do it at the time of issuance of a marriage license. When the Administrative Office of the Courts has prepared the fact sheet, we will distribute it to you.

### **(3) Issuance of a marriage license in violation of the law:**

- The new age limits went into effect upon the Governor's signature on May 21, 2018.
- If a county clerk issues a marriage license in violation of the law, and the county clerk was not acting in good faith, it is a misdemeanor offense under T.C.A. § 36-3-111. If a county clerk issued a marriage license to a minor applicant before the county clerk had a reasonable opportunity to learn about the change in the law, the good faith exception should apply.
- Under T.C.A. § 36-3-306, failure to comply with the age restrictions does not affect the validity of a marriage that was consummated by ceremony. Under T.C.A. § 36-3-105, a marriage contracted in violation of the age restrictions may be annulled upon proper court proceedings.