



# AMERICAN ATHEISTS

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October 17, 2019

The Honorable Sen. Javan E. James, Sr.  
Chair, Committee on Youth, Sports, Parks and Recreation  
Legislature of the Virgin Islands  
Capitol Building, Charlotte Amalie  
P.O. Box 1690  
St. Thomas, Virgin Islands 00804

**Re: Testimony in Support of 33-109: Ending Child Marriage**

Dear Chairperson James and Members of the Committee on Youth, Sports, Parks and Recreation:

American Atheists, on behalf of its constituents in the Virgin Islands, thanks you for holding a hearing on Bill 33-0109, which would protect young people by ending child marriage in the Virgin Islands. Bill 33-0109 would protect the Virgin Islands' children from being coerced into marriage, and shield them from the harms that child marriage causes, including domestic violence and poverty. The bill would enable children to postpone life-defining decisions about marriage until they are independent adults. We urge you to swiftly pass this important legislation.

American Atheists is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the "wall of separation" between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our nation's communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote understanding of atheists through education, outreach, and community-building and work to end the stigma associated with being an atheist in America. American Atheists believes that children should never be coerced into marriage due to the religious beliefs of their parents or guardians.

Currently in the Virgin Islands, girls as young as fourteen, and boys as young as sixteen, can be married with the consent of a parent or guardian.<sup>1</sup> A child's father can also consent to the marriage without the consent of the child's mother.<sup>2</sup> There is no judicial oversight of the process.

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<sup>1</sup> V.I. CODE ANN. tit. 16, § 2(4) (West 2019); V.I. CODE ANN. tit. 16, § 36 (West 2019).

<sup>2</sup> V.I. CODE ANN. tit. 16, § 36 (West 2019).

Child marriage causes life-long harm<sup>3</sup>. Children who marry often drop out of school or are unable to pursue further education. They are commonly isolated from the crucial guidance and companionship of their friends and families. They are more likely than other children to suffer poverty, domestic violence, and life-long mental health difficulties.<sup>4</sup> And children who marry have a 70-80% chance of divorce.<sup>5</sup> Because children as young as fourteen are not equipped to navigate these dangers, their government should protect them from such serious harms. The federal government has paved the way for such protections by recognizing child marriage as “a violation of human rights.”<sup>6</sup>

That children as young as fourteen can marry in the Virgin Islands is especially concerning because, of the estimated 207,549 minors married in the U.S. between 2000 and 2015, 86% married an adult.<sup>7</sup> Some children are forced to marry adults decades older than themselves. Children as young as fourteen should not be coerced to marry adults old enough to be their parents. In marriages between children and adults, child-spouses are vulnerable to manipulation, abuse, and control by their adult partners.

Parental consent is not a sufficient safeguard against forced marriages. Children can easily be coerced to marry before they turn 18 and become legal adults because they face overwhelming legal and practical barriers if they try to leave home, enter a domestic-violence shelter, retain an attorney, or bring a legal action. Unfortunately, when a child is forced to marry, the perpetrators are almost always the parents. There will always be parental consent where there is parental coercion. In the Virgin Islands, the consent of both parents is not required – the child’s father’s consent is sufficient.<sup>8</sup> This increases the risk of parental abuse, manipulation, and deception, and unfairly deprives the child’s mother of a chance to protect her child.

Furthermore, Bill 33-0109 should be enacted because Virgin Islands’ current laws, Title 16, § 2(4) and § 36, violate the Equal Protection Clause of the Fourteenth Amendment.<sup>9</sup> Any statute that differentiates between citizens on the basis of sex is unconstitutional unless the sex-based

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<sup>3</sup> See, e.g., Sarah Ferguson, *What You Need to Know About Child Marriage in the U.S.*, FORBES (Oct. 29, 2018, 04:35 PM), <https://www.forbes.com/sites/unicefusa/2018/10/29/what-you-need-to-know-about-child-marriage-in-the-us-1/#4f1120325689>.

<sup>4</sup> Yann Le Strat, Caroline Dubertret & Bernard Le Foll, *Child Marriage in the United States and Its Association with Mental Health in Women*, 128 PEDIATRICS 524, 524 (2011).

<sup>5</sup> Vivian E. Hamilton, *The Age of Marital Capacity: Reconsidering Civil Recognition of Adolescent Marriage*, 92 WM. & MARY L. SCH. SCHOLARSHIP REPOSITORY 1817, 1818 (2012).

<sup>6</sup> GIRLS NOT BRIDES, *United States*, GIRLS NOT BRIDES, <https://www.girlsnotbrides.org/child-marriage/united-states/> (last visited October 11, 2019).

<sup>7</sup> Anjali Tsui & Dan Nolan, *Child Marriage in America: By the Numbers*, PBS (July 6, 2017), <http://apps.frontline.org/child-marriage-by-the-numbers/>.

<sup>8</sup> V.I. CODE ANN. tit. 16, § 36 (West 2019).

<sup>9</sup> U.S. CONST. amend. XIV, § 1. The Equal Protection Clause is expressly applicable to the Virgin Islands under 48 U.S.C.A. § 1561 (West 2012) (extending the Equal Protection Clause to the Virgin Islands with “the same force and effect there as in the United States”).

discrimination “is substantially related to a sufficiently important governmental interest.”<sup>10</sup> Such laws face heightened scrutiny because “statutes distributing benefits and burdens between the sexes in different ways [often] reflect outmoded notions of the relative capabilities of men and women.” Section 2(4) unconstitutionally differentiates between citizens on the basis of sex by authorizing fourteen-year-old girls to marry, while boys cannot legally marry until they are sixteen. Section 36 unconstitutionally discriminates between the sexes by granting fathers the exclusive authority to authorize child marriages, while excluding mothers from this critical decision-making process. There is no constitutionally sufficient justification for these deeply concerning provisions. Bill 33-0109 should be enacted to cure this constitutional defect.

Child marriage harms children, degrades marriage, and shames the society that permits it. By adopting Bill 33-0109, the Virgin Islands would effectively eliminate existing loopholes and join states such as New Jersey and Delaware, which have taken proactive steps to end child marriage. We urge you to swiftly pass this important legislation to protect young people in the Virgin Islands. If you should have any questions regarding American Atheists’ support for Bill 33-0109, please contact me at 908.276.7300 x309 or by email at [agill@atheists.org](mailto:agill@atheists.org).

Very truly yours,



Alison Gill, Esq.  
Vice President, Legal and Policy  
American Atheists

cc: All Members of the Committee on Youth, Sports, Parks and Recreation

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<sup>10</sup> *City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432, 440-41 (1985) (citations omitted).