



2026 South Dakota Legislature

Senate Bill 159

SENATE JUDICIARY ENGROSSED

Introduced by: **Senator Pischke**

1 **An Act to revise requirements pertaining to the minimum age for marriage.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 25-1-9 be AMENDED:**

4 **25-1-9.** Any unmarried applicant for a marriage license who is eighteen years old
 5 or older, and who is not otherwise disqualified, is capable of consenting to and
 6 consummating a marriage. If either applicant for a marriage license is between the age of
 7 sixteen and eighteen, that applicant shall submit to the register of deeds a notarized
 8 statement of consent to marry from one parent or legal guardian of the applicant. Except
 9 as provided in § 25-1-13, no marriage may be contracted in this state unless both
 10 individuals applying for the marriage license have attained the age of eighteen at the time
 11 the marriage license is issued.

12 **Section 2. That § 25-1-13 be AMENDED:**

13 **25-1-13.** If either party is a minor, no marriage license shall be granted unless
 14 the written consent of the parent or guardian, duly acknowledged by the parent or
 15 guardian, or proved to be genuine, is filed in the office of the county register of deeds
 16 prior to issuing the license, and a memorandum of the facts shall be entered in the
 17 marriage record book with the other records of the marriage license. Except as provided in
 18 this section, a marriage license may be issued to two individuals, one of whom is a minor
 19 or both of whom are minors, provided that the individuals applying for the marriage
 20 license:

21 (1) Are at least sixteen years old; and

22 (2) Have obtained either:

23 (a) A circuit court order following a determination by the court that the
 24 marriage is voluntary and in the best interest of the minor applicant, or
 25 minor applicants, as applicable, pursuant to section 3 of this Act; or

1 **(b)** Written consent from two parents of the minor applicant, or two parents of
 2 each minor applicant, as applicable, which must be notarized and filed in
 3 the office of the county register of deeds.

4 A marriage license may not be issued under this section if the age difference
 5 between the applicants is greater than four years.

6 **Section 3. That a NEW SECTION be added to chapter 25-1:**

7 If a court order is sought for the marriage of a minor pursuant to § 25-1-13, the
 8 court must conduct an in-person hearing with both applicants for the marriage license
 9 present and meet privately with each applicant.

10 The court shall consider and make written findings regarding:

11 (1) The safety, maturity, and long-term welfare of the minor applicant, or minor
 12 applicants, as applicable; and

13 (2) Whether the marriage is entered into freely, without coercion, fraud, or undue
 14 influence.

15 A marriage license may not be issued until thirty days after judicial approval is granted.

16 **Section 4. That § 25-1-33 be AMENDED:**

17 **25-1-33.** ~~A person who is guilty of a Class 1 misdemeanor if the person solemnizes~~
 18 ~~any marriage where either of the parties is known to him to be under the age of legal~~
 19 ~~consent and without the consent of his or her parents or guardian or persons having~~
 20 ~~charge of him or her, or where either of the parties is known to him to be knowing that:~~

21 (1) Either party who is under the age of eighteen has not met the requirements
 22 provided under § 25-1-13;

23 (2) Either party is of unsound mind, or any marriage to which, within his knowledge,
 24 any; or

25 (3) Any other legal impediment exists, is guilty of a Class 1 misdemeanor.