

STUDY NOTE
MARITAL RIGHTS FOR TEENS: JUDICIAL INTERVENTION
THAT PROPERLY BALANCES PRIVACY AND PROTECTION

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I. INTRODUCTION

Teenage marriage and teenage pregnancy are deeply intertwined through legal and social policy in the United States. When the rights of minors, parents, and the state conflict, it causes tension that judges or legislators must resolve by balancing the associated interests and potential harms. The accompanying monologue, *Uncle George's Story*,¹ deals with each of these issues and demonstrates why society should create laws that maximize privacy rights of teens while still providing them protection against duress, deception, and abuse.

Prominent themes that arise in the context of teen marriage and/or pregnancy include whether a minor has the capacity to consent to marriage, alternative forms of consent by parents or judges, the effect of teenage pregnancy on teen parents and their offspring, the power that states have to regulate marriage, and the problems associated with single-parenthood or abortion. Topics come to the foreground or recede to the background depending on numerous variables. These include whether the topic is viewed historically or in a modern context, who is seeking the marriage, which state the minors reside in, why they want to get married, and the process through which a marriage license is granted.

My discussion will address the interplay between the common law origins of a minor's capacity to marry and statutory consent requirements, regardless of whether the female teen is pregnant. Specifically, in Part I, I will briefly describe the status of teen marriage in the United States. Then, in part II, I will summarize the common law origins of marital consent for minors and compare this to various state statutory schemes that have developed over time in America. I will look at the Utah policy on teenage marriage in Part III by examining the state's marriage statute and relevant case law. This will be done by addressing two features of

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¹ Karen Williams, Monologue, *Uncle George's Story*, 11 J.L. & FAM. STUD. 573 (2009); 2009 UTAH L. REV. 621. This monologue tells the story of George, a boy who grew up in Montana as an "illegitimate child" during the depression. After enduring ridicule for most of his young life, George fell in love with a girl who became pregnant with another young man. Rather than allow her and her expected child to be stigmatized by society, George offered to marry her even though they were both minors. The teens' parents agreed, and the teens were married in Utah because the marriage was not permitted under Montana law.

Utah's marriage statutes:² (1) the requirement that minors under the age of sixteen complete premarital counseling, unless it is not reasonably available; and (2) the encouragement given to persons under nineteen-years-of-age to obtain premarital counseling. Utah has taken this minority position because "it is the policy of the state of Utah to enhance the possibility of couples to achieve more stable, satisfying and enduring marital and family relationships."³ The premarital counseling requirement for young teens exists even when the teens have consent of a parent, a legal guardian, or a judge. This law does not preclude marriage for minors when counseling is unavailable or otherwise waived by the court. Thus, this law fulfills the important public policy of providing strong protection for minors, and it does not infringe on their fundamental right to marry. I will not examine annulments, including the distinctions between void and voidable teenage marriages, as it is beyond the purpose of this paper.

II. STATUS OF TEEN MARRIAGE IN THE U.S.

Teenage marriage rates have dramatically fallen since the late 1950s when the median marrying age for women was nineteen.⁴ In part, pregnant teens likely participated in many of these teen marriages because the disgrace of bearing a child out-of-wedlock was so great, and there was no legal way to terminate the pregnancy.⁵ Additional societal pressures to enter into an early marriage came from the cultural or religious backgrounds of many families.⁶ This continues today, as girls who are Hispanic, very conservative, or from the South are more likely to get married as a teen due to their cultural upbringing.⁷ Thus, the current social climate still requires a legal balancing of the rights and interests of teens, their parents, and the state.

² UTAH CODE ANN. § 30-1-9(3)(b) (2008) (requiring minors under the age of sixteen to obtain premarital counseling); UTAH CODE ANN. § 30-1-30 (2008) (announcing the Utah policy of encouraging marriage applicants under the age of nineteen and previously divorced applicants to receive premarital counseling).

³ UTAH CODE ANN. § 30-1-30 (2008).

⁴ Sarah Kershaw, *Now, the Bad News on Teenage Marriage*, N.Y. TIMES, Sept. 3, 2008, at B1.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* The relevancy of this issue was clearly demonstrated by an upheaval during the 2008 political campaign of Vice-Presidential candidate Sara Palin regarding her unmarried, pregnant teenage daughter. Peter S. Canellos, *Convention Perspective: Palin Provides Real-life Drama*, BOSTON GLOBE, Sept. 3, 2008, at A1. Conservatives stressed that while the girl made a mistake, she was correcting it by keeping the baby and making plans to marry the baby's father. *Id.* Others questioned if it was in the teens' best interests to get married, but felt it was a good opportunity to address teenage pregnancy. Julian Guthrie, *Palin Pregnancy Highlights Need for "the Talk,"* S.F. CHRON., Sept. 8, 2008, at A1.

Studies show that early marriages tend to be less stable.⁸ Yet, proponents of young marriage argue, “the debate over whether teenagers are prepared for marriage [is] being framed through the lens of a middle-class, well-educated demographic, for whom marrying before being able to drink legally now may look alien, or hillbillyish.”⁹ These proponents explain that this attitude does not recognize the reality that, although we now treat teens more like children, they were treated more like almost-adults historically.¹⁰ Further, this may be doing a disservice to today’s teens by sheltering them from the complexities of modern life.¹¹ *Uncle George’s Story* highlights many of these themes and demonstrates that some teenagers are mature enough to contemplate adult responsibilities and enter into an adult relationship through marriage.

III. BACKGROUND: CONSENT UNDER COMMON LAW AND STATE STATUTORY SCHEMES

A. *Marriage and the Child: Common Law Consent for Minors*

Current statutory schemes supersede common law, yet the underlying influence of common law principles continue to reverberate through the justifications and policies still used by courts. Under pure common law, children reached the “age of consent for marriage” at the tender age of seven.¹² During these early times, the law considered children the property of their fathers, which led to betrothals at early ages.¹³ These early promises to marry served as a way to transfer property rights, make political alliances, and maintain proper lineage within families.¹⁴ Seven years-of-age was an important legal dividing line between when children had capacity to understand right and wrong, and when courts could

⁸ See generally Matthew D. Bramlett et al., *First Marriage Dissolution, Divorce & Remarriage: United States*, Advance Data, May 31, 2001, available at <http://www.cdc.gov/nchs/data/ad/ad323.pdf> (reporting that teenage marriages end in divorce at a rate two to three times higher than when the marriage participants are at least twenty-five years old).

⁹ Kershaw, *supra* note 4, at B1 (citing comments made by Dr. Bradford Wilcox, an associate professor of sociology at the University of Virginia, and Dr. Karen Sternheimer, a University of Southern California sociology lecturer).

¹⁰ *Id.*

¹¹ *See id.*

¹² SUSAN FRELICH APPLETON & D. KELLY WEISBERG, *MODERN FAMILY LAW* 203 (3d ed. 2006); see, e.g., *Jewett v. Jewett*, 175 A.2d 141, 142 (Pa. Super. Ct., 1961); *In re Anonymous*, 108 A.2d 882, 885 (N.J. Super. Ct. Ch. Div. 1954).

¹³ See CHRIS GIVEN-WILSON & ALICE CURTEIS, *THE ROYAL BASTARDS OF MEDIEVAL ENGLAND* 21–23 (1984).

¹⁴ *Id.*

hold them accountable for their actions.¹⁵ Children between seven and fourteen years of age “[were] presumed not to have the capacity to consent” but they could be found to have capacity or intent under certain circumstances.¹⁶ Those who were at least fourteen “[were] presumed to have capacity to consent.”¹⁷

B. Alternative Forms of Consent: “Consent-Plus” for Young Teens

All states have established a statutory minimum age under which minors may not consent to a marriage without first obtaining permission from a parent or legal guardian.¹⁸ Most jurisdictions use the age of eighteen as the minimum for capacity

¹⁵ See JOHN J. CONRAD ET AL., *JUVENILE JUSTICE: A GUIDE TO THEORY, POLICY, AND PRACTICE* 5 (6th ed. 2007) (explaining that in criminal law, children under the age of seven were unable to form intent and the penalties for children between seven and fourteen were limited).

¹⁶ Kathryn Toner & Robert Schwartz, *Why a Teenager over Age 14 Should Be Able to Consent, Rather than Merely Assent, to Participation as a Human Subject of Research*, 3 AM. J. BIOETHICS 38, 39 (2003) (providing summary of old English law).

¹⁷ *Id.*

¹⁸ The laws regulating marriage all require capacity and consent, but there are differences regarding the treatment of minors and marriage: ALA. CODE §§ 30-1-4, -5 (1998); ALASKA STAT. § 25.05.171 (2006); ARIZ. REV. STAT. ANN. § 25-102 (2003); ARK. CODE ANN. §§ 9-11-102 to -105 (2007); CAL. FAM. CODE §§ 300-303 (2008); COLO. REV. STAT. §§ 14-2-106, -108 (2008); CONN. GEN. STAT. § 46b-30 (2004 & Supp. 2008); DEL. CODE ANN. tit. 13 § 123 (1999 & Supp. 2006); D.C. CODE ANN. §§ 46-403, -411 (LexisNexis2006); FLA. STAT. ANN. § 741.0405 (LexisNexis 2008); GA. CODE ANN. §§ 19-3-2, -37 (2008); HAW. REV. STAT. §§ 572-1, -2 (2005); IDAHO CODE ANN. § 32-202 (2008); 750 ILL. COMP. STAT. 5/203, 5/208 (West 1999); IND. CODE ANN. §§ 31-11-1-4 to -6 (LexisNexis 2007); IOWA CODE § 595.2 (West 2008); KAN. STAT. ANN. § 23-106 (2005); KY. REV. STAT. ANN. § 402.020 (LexisNexis 2005); LA. CHILD. CODE ANN. art. 1543-50 (2004 & Supp. 2008); ME. REV. STAT. ANN. tit.19-A § 652 (2008); MD. CODE ANN., FAM. LAW § 2-301 (2006); MASS. GEN. LAWS ANN. ch.207 §§ 7, 24–25 (2008); MICH. COMP. LAWS §§ 551.51, 551.103, 551.201 (2008); MINN. STAT. ANN. § 517.02 (West 2004 & Supp. 2008); MISS. CODE ANN. § 93-1-5 (2007); MO. REV. STAT. § 451.090 (2004); MONT. CODE ANN. §§ 40-1-213, -202 (2004); NEB. REV. STAT. §§ 42-102, -105 (2005); NEV. REV. STAT. §§ 122.020, 122.025 (2006); N.H. REV. STAT. ANN. §§ 457:4-457:6 (LexisNexis 2007); N.J. STAT. ANN. § 37:1–37:6 (West 2008); N.M. STAT. ANN. § 28-6-1 (LexisNexis 2008); N.Y. DOM. REL. ch.14, art.2 § 7, ch.14, art.3 § 15-A (McKinney 2004); N.C. GEN. STAT. §§ 51-2, -2.1 (2005); N.D. CENT. CODE § 14-03-02 (2004); OHIO REV. CODE ANN. §§ 3101.01-3101.05 (LexisNexis 2008); OKLA. STAT. ANN. tit.43 § 3 (West 2006); OR. REV. STAT. §§ 106.010, 106.060 (2007); 23 PA. CONS. STAT. §§ 1304(1)–(2) (2006); R.I. GEN. LAWS § 15-2-11 (2003); S.C. CODE ANN. §§ 21-1-250, 20-1-300 (2006); S.D. CODIFIED LAWS § 25-1-9 (2002); TENN. CODE ANN. §§ 36-3-104 to 36-3-107 (2006); TEX. FAM. CODE ANN. §§ 2.101-2.103 (Vernon 1997); UTAH CODE ANN. §§ 30-1-2, -9, -30, -31 (2008); VT. STAT. ANN. tit. 18 § 5142 (2008); VA. CODE ANN. § 20-49 (2008); WASH. REV.

to consent.¹⁹ Requiring parental consent is important because it “lessens the likelihood of subsequent parental efforts to invalidate” underage marriages.²⁰

Further, if a teenager under eighteen years-of-age desires to get married, most jurisdictions require a consent-plus standard²¹ whereby the teen must obtain state consent through a judicial order even when a parent or legal guardian has already given consent.²² A majority of states created statutory provisions for teenage marriage as a result of America’s traditional bias that pregnant minors should get married, which is why many states include special provisions for pregnant teens.²³ Also, some statutory schemes require physical evidence of pregnancy. For instance, the Ohio statute explicitly allows a court to delay issuing a license until it is convinced the teen is pregnant and will carry the child to term.²⁴ A minority of states give greater consent power to the state at the expense of teens and their parents to ensure the pending marriage is in the best interests of the minor.²⁵

IV. UTAH’S LEGAL RESPONSE TO MARRIAGE FOR MINORS

Each state has a compelling interest in protecting the public health, safety, and welfare of its citizens.²⁶ When minors are involved, the state has an even greater obligation under the *parens patriae* doctrine to protect children.²⁷ *Parens patriae* establishes the state’s right to provide a safety net for children when their parents fail to properly protect them from harm.²⁸ However, the United States Supreme Court has also held that parents have an inherent right to the “custody, care, and

CODE ANN. § 26.04.010 (2005); W. VA. CODE § 48-2-301 (2001); WIS. STAT. § 765.02 (2006); WYO. STAT. ANN. § 21-1-102 (2000).

¹⁹ WEISBERG & APPLETON, *supra* note 12, at 203 (noting that Mississippi uses age twenty-one).

²⁰ *Id.* at 205. “Nonage” is a family law term that refers to marriages where at least one of the parties is a minor.

²¹ “Consent plus” is a term I created to describe the fact that parental consent is not enough for most teens between the ages of fourteen and eighteen.

²² *See, e.g.*, ARIZ. REV. STAT. § 25-102 (2003); UTAH CODE ANN. § 30-1-9 (2008).

²³ *See, e.g.*, DEL. CODE ANN. tit. 13 § 123 (1999 & Supp. 2006); FLA. STAT. ANN. § 741.0405 (LexisNexis 2008).

²⁴ OHIO REV. CODE ANN. §§ 3101.04 (LexisNexis 2008).

²⁵ *See* WEISBERG & APPLETON, *supra* note 12, at 205 (discussing Utah and California’s premarital counseling requirement for teenage marriage license applicants).

²⁶ *See, e.g.*, Bastian v. King, 661 P.2d 953, 956 (Utah 1983).

²⁷ Prince v. Massachusetts, 321 U.S. 158, 166 (1944); Charles P. Archer, Note, Troxel v. Granville: *The End of Grandparent Visitation*, 3 J.L. & FAM. STUD. 179, 181–82 (2001). Here, Archer explains, “[u]nder the *parens patriae* principle, the state has an obligation to intervene to protect children under certain circumstances: 1) when their parents have not met their parental duties; 2) when the family is breaking up or has broken up; and 3) when there is a compelling public policy.” *Id.*

²⁸ *See, e.g.*, Prince, 321 U.S. at 166.

nurture” of their children.²⁹ Consequently, the Utah statute seeks to properly use its *parens patriae* authority without infringing on the rights of the minor or their parents.

A. Statutory Marital Consent for Minors under Utah Law

The Utah statute controlling the rights of minors to consent to marriage defines a “minor” as “a male or female under 18 years of age.”³⁰ The statute requires “the signed consent of the minor’s father, mother, or guardian” before issuing a marriage license.³¹ If the parents are divorced, then only the parent with legal custody (if sole legal custody was awarded) or joint physical custody (if joint custody was awarded) may provide legal signed consent.³² Alternatively, if neither parent has custody, the minor’s legal guardian must provide “proof of guardianship” and signed consent.³³ Utah is a consent-plus state when the marriage license applicant is fifteen; and the statute requires written authorization from either “a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides” or “a court commissioner as permitted by rule of the Judicial Council.”³⁴

B. The Dearth of Consent Precedent: Utah Case Law

Utah courts have rarely found opportunities to rule on cases involving controversies regarding a minor’s capacity to provide consent for a marriage, or as a result of being married. *State v. Huntsman*³⁵ and *State v. Holm*³⁶ are the two primary cases interpreting Utah law governing a minor’s ability to consent in marriages. *Huntsman* involved the conviction of an adult man for rape because he had an “illicit act of sexual intercourse” with a married seventeen-year-old who was not his wife.³⁷ Huntsman argued that a legally-married minor is emancipated and, if he or she gets a divorce, then that teen is no longer required to obtain consent to remarry from a parent, guardian, or the court.³⁸ Therefore, he reasoned that the married teenager could legally consent to illicit sex (in an adulterous relationship), so the state could not charge him with rape.³⁹ The court disagreed,

²⁹ *Id.*

³⁰ UTAH CODE ANN. § 30-1-9(1) (2008).

³¹ UTAH CODE ANN. § 30-1-9(2)(a) (2008).

³² UTAH CODE ANN. §§ 30-1-9(2)(a)(i)–(ii) (2008).

³³ UTAH CODE ANN. § 30-1-9(2)(a)(iii) (2008).

³⁴ UTAH CODE ANN. § 30-1-9(2)(b) (2008).

³⁵ 204 P.2d 448 (Utah 1949).

³⁶ 137 P.3d 726 (Utah 2006).

³⁷ *Huntsman*, 204 P.2d at 449.

³⁸ *Id.*

³⁹ *Id.*

finding that the legislative purpose for requiring consent from a parent, guardian, or the court “is to protect young girls from the illicit acts of the opposite sex.”⁴⁰ Although the law presumes that marital sex will occur after a minor gets legally married, the court recognized that “such a married woman still is immature and still needs the protection” of consent laws.⁴¹ This case is also recognized for having set eighteen as the legal “age of consent” for marriage in Utah.⁴²

Holm is less on point because it primarily deals with bigamy under UTAH CODE ANN. § 76-7-101.⁴³ The thirty-two-year-old man in this case was “a member of the Fundamentalist Church of Jesus Christ of Latter-day Saints (the “FLDS Church”).”⁴⁴ He was convicted for “bigamy” and “unlawful sexual conduct with a minor” after he entered a second marriage with his first-wife’s sixteen-year-old sister.⁴⁵ The court found that an “inquiry into the possible existence of injury and the validity of consent” was necessary in this case.⁴⁶ *Holm* argued that as long as a parent provided consent, there was “no rational justification” for treating an adult who was legally married to a minor differently from one who was not legally married when consensual sex occurred.⁴⁷ The court held that the “state-determined framework within which the legal status of marriage exists” ensured that the law adequately protected legally married minors from abuse or harm.⁴⁸ The court reasoned that the legislature has authority to control a minor’s ability to consent because the State has a duty “to ensure the smooth operation of laws” by protecting “beneficial” unions while discouraging “harmful” ones.⁴⁹ *Huntsman* and *Holm* provide the policy basis of consent laws, show why the State can set the age of consent, and delineate the statutory levels of capacity for minors.

*C. Premarital Counseling for Marrying Minors: the Minority Approach
that Properly Protects Vulnerable Minors*

Ten years ago, the Utah legislature enacted a bill clarifying that minors under the age of fifteen could not legally receive a marriage license, and mandating that fifteen-year-old applicants participate in premarital counseling prior to obtaining a

⁴⁰ *Id.* at 451.

⁴¹ *Id.*

⁴² *Id.* at 450.

⁴³ *State v. Holm*, 137 P.3d 726, 730 (Utah 2006).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at 744.

⁴⁷ *Id.* at 751–52.

⁴⁸ *Id.*

⁴⁹ *Id.* at 744.

license.⁵⁰ This followed a developing trend among a minority states that encouraged premarital counseling by requiring counseling for teenage marriage license applicants, providing shorter waiting periods, or reducing licensing fees.⁵¹ Legislators generally promote premarital counseling because marriages are stronger when the couple communicates their “mutual expectations, cultural and religious differences, and feelings about children” prior to marriage.⁵² The goal of premarital counseling is to cultivate successful marriages by teaching both partners life skills so they can manage conflicts respectfully, properly express appreciation, and keep their love strong.⁵³

Utah followed this minority trend to protect minors from rushing into marriage, whether due to duress, abuse, or the simple heedlessness of youth.⁵⁴ To accomplish this, the legislature statutorily declared that minors younger than fifteen-years-of-age could not obtain a valid marriage license in Utah regardless of the circumstances.⁵⁵ Further, the legislature sought to increase protection of minors by encouraging premarital counseling for teenagers under the age of nineteen.⁵⁶

The specific statutes governing premarital counseling include sections 30-1-9(3)(b) and 30-1-30, to 30-1-38 of the Utah Code. Section 30-1-9 requires that “if the male or female is 15 years of age, the minor and the parent or guardian of the minor shall obtain a written authorization to marry” from the court after it finds

⁵⁰ Approval Required for Marriage of a Minor Act, 1999 Utah Laws ch.15 § 2 (1999) (codified as amended at UTAH CODE ANN. § 30-1-9 (2008)). This is similar to a California provision:

[T]he court shall require the parties to the prospective marriage of a minor to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if the court considers the counseling to be necessary . . . the court shall consider, among other factors, the ability of the parties to pay for the counseling.

CAL. FAM. CODE § 304 (2008).

⁵¹ See, e.g., CAL. FAM. CODE § 304 (2008) (encouraging premarital counseling); FLA. STAT. ANN. § 741.01(5) (LexisNexis 2008) (providing discounted fees); UTAH CODE ANN. §§ 30-1-9(3)(b) (2008) (requiring premarital counseling for fifteen-year-olds).

⁵² CALIFORNIA ASS’N OF MARRIAGE AND FAMILY THERAPISTS, ARE YOU READY FOR MARRIAGE: HOW PRE-MARITAL COUNSELING CAN HELP 2, available at http://www.therapistfinder.com/Resource%20materials/rm_are_you_ready_for.pdf.

⁵³ *Id.*

⁵⁴ See 1999 Gen. Sess. H. Floor Debate (Utah, Feb. 9, 1999) (statement of Senator Lyle Hillyard). Senator Hillyard explained this statute is directly aimed at limiting the number of marriages where a young minor is involved because teens still come to Utah from other states. *Id.* This is exactly what happened in the monologue when George and his pregnant bride came from Montana to Utah to take advantage of Utah’s marriage laws. *Supra* note 1.

⁵⁵ *Id.*

⁵⁶ Compare UTAH CODE ANN. § 30-1-9(3)(b) (2008), with UTAH CODE ANN. § 30-1-30 (2008) (showing differing treatment between fifteen-year-olds and minors aged sixteen to eighteen).

that the marriage is voluntary and is in the minor's best interest.⁵⁷ Then, the court must "require that both parties to the marriage complete marital counseling" unless it "is not reasonably available."⁵⁸ Premarital counseling may take many different forms and still be acceptable under the law. Teens may attend "lectures, group counseling, individual counseling and testing."⁵⁹ Minors can avoid this requirement by waiting six months from the date of their application until the issuance of the marriage license.⁶⁰

Sections 30-1-30 to 30-1-38 give more detail regarding the terms, conditions, and procedures that govern premarital counseling. For instance, legislators created a seven-member Premarital Counseling Board,⁶¹ which is authorized to determine counseling procedures and standards for evaluating the program. This Board decides whether approved counseling procedures create awareness of potential problems that may arise in the proposed marriage, teach strategies for dealing with these problems, and "induce reconsideration or postponement where applicants are not sufficiently matured or not financially capable of meeting the responsibilities of marriage."⁶²

Some question whether premarital counseling is really necessary or effective.⁶³ Others believe that requiring counseling creates an improper "roadblock to marriage" because young teens will avoid the burdens of the process by simply living together.⁶⁴ However, numerous studies support that premarital counseling is a "generally effective" tool for "producing significant immediate gains in communication processes, conflict management skills, and overall relationship quality."⁶⁵ Thus, the Utah procedural requirements and safeguards collectively prevent the State from improperly infringing on family privacy or the minors' fundamental right to marry. Premarital counseling effectively promotes

⁵⁷ UTAH CODE ANN. § 30-1-9 (2008).

⁵⁸ UTAH CODE ANN. § 30-1-9(3)(b) (2008).

⁵⁹ UTAH CODE ANN. § 30-1-36 (2008). The statutes explicitly allow premarital counseling by religious leaders as long as they provide certification that the minors have participated. UTAH CODE ANN. § 30-1-33 (2008).

⁶⁰ UTAH CODE ANN. § 30-1-33 (3008).

⁶¹ UTAH CODE ANN. §§ 30-1-31 to -33 (2008). § 30-1-31 explains the board must have four laypersons and three professionals working in psychiatry, psychology, social work, marriage counseling, the clergy, law, or medicine.

⁶² UTAH CODE ANN. § 30-1-32 (2008).

⁶³ WEISBERG & APPLETON, *supra* note 12, at 205 (citing Wesley Adams, *Marriage of Minors: Unsuccessful Attempt to Help Them*, 3 FAM. L.Q. 13 (1996)).

⁶⁴ 1999 Gen. Sess. H. Floor Debate (Utah, Feb. 9, 1999).

⁶⁵ Jason S. Carroll & William Doherty, *Evaluating the Effectiveness of Premarital Prevention Programs: A Meta-Analytic Review of Outcome Research*, 52 FAM. REL. 105, 114 (2003). This meta-analysis reviewed twenty-three studies conducted to evaluate premarital counseling. *Id.* at 107. It concluded that premarital counseling participants' marriages were thirty percent stronger than marriages where the spouses did not participate in premarital counseling. *Id.* at 105.

healthy marriages for minors and strikes an appropriate balance between state *parens patriae* authority, parental authority, and a minor's individual rights.

V. CONCLUSION

Uncle George's Story, pinpoints the many policy tensions at play when minors desire to marry, especially when the minor female is pregnant. Clearly, George was a young man deeply affected by his experiences growing up as an illegitimate child. He made the voluntary choice to marry his childhood sweetheart, who was pregnant with another man's child. With the support of her father, George and his bride were legally married in Utah and had a strong, loving marriage. Yet, this story is not the typical story when teens marry.

Consequently, under pure common law and subsequent statutory provisions, all states have carved out strict rules governing the process teenagers must use to obtain permission to marry. Utah has gone even farther to encourage the formation of strong marriages through its premarital counseling statutes. These statutes encourage older teens (and require fifteen-year-olds) to participate in premarital counseling. Premarital counseling has proven effective in helping participants create a solid foundation for their subsequent marriage. At the same time, it is not an undue burden to obtaining a marriage license, and there is discretion to waive the requirement by choice (through a six-month waiting period) or necessity (when it is not reasonably available). Utah's approach properly protects vulnerable minors from their own immaturity and limits the potential for duress by parents or other adults. Although the Utah statutes represent a minority position, they are a reasonable response to the tensions caused by teenage marriage and teenage pregnancy and similar legislation should be adopted by other states.