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Minimum Age of Applicants

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Reference Number: CTAS-426

It is unlawful for any county clerk or deputy county clerk in this state to issue a marriage license when either of the contracting parties is under the age of seventeen (17) years, or where one of the parties is at least seventeen (17) years of age but less than eighteen (18) years of age and the other party is four (4) or more years older than the minor party. Any marriage contracted in violation of this provision may be annulled upon proper proceedings. T.C.A. § 36-3-105. However, a marriage entered into in violation of this section is valid until set aside by a court. The court has discretion whether to set aside the marriage, and the court is not required to declare the marriage void. Further, cohabitation after attaining marriageable age may validate the marriage. See *Keith v. Pack*, 182 Tenn. 420, 187 S.W.2d 618 (1945).

When either applicant is under the age of eighteen (18), the parents, next of kin, guardian or party having custody of the applicant shall join in the application, under oath, stating that the applicant is seventeen (17) years of age or over and that the applicant has their consent to marry. The term "parent" or "parents" is defined in T.C.A. § 36-3-106 to mean a person or persons listed as a parent on the child's birth certificate or who have been adjudicated to be the legal parent of the child by a court of competent jurisdiction. If the applicant is in the legal custody of any public or private agency or is in the legal custody of any person other than a parent, next of kin, or guardian, then such person or the duly authorized representative of such agency shall join in the application with the parent, next of kin, or guardian stating, under oath, that the applicant has their consent to marry. The parents, guardian, next of kin, other person having custody of the applicant, or duly authorized representative of a public or private agency having legal custody of the applicant may join in the application either by personal appearance before the county clerk or deputy county clerk, or by submitting a **sworn and notarized affidavit**. This provision does not apply to applicants who are in the legal custody of the department of mental health and mental retardation. Consent also is not required if the minor applicant has been emancipated, by court order or by previous marriage. T.C.A. § 36-3-106.

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