

**402.205 Petition to court by seventeen year old for permission to marry -- Evidentiary hearing -- Reasons for denying petition -- Effect of pregnancy -- Emancipation of minor -- Other court-imposed condition -- Fee.**

- (1) A minor who is seventeen (17) years of age may petition the family court in the county in which the minor resides, or the District Court in that county if a family court division has not been established in that county, for an order granting permission to marry. The petition shall contain the following:
  - (a) The petitioner's name, gender, age, date of birth, address, and how long the petitioner has resided at that address, as well as prior addresses and dates of residence for the six (6) months preceding the petition;
  - (b) The intended spouse's name, gender, age, date of birth, address, and how long the intended spouse has resided at that address, as well as prior addresses and dates of residence for the six (6) months preceding the petition;
  - (c) An affidavit attesting to the consent to marry signed by:
    1. The father or the mother of the petitioner, if the parents are married, the parents are not legally separated, no legal guardian has been appointed for petitioner, and no court order has been issued granting custody of petitioner to a party other than the father or mother;
    2. Both the father and the mother, if both are living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the petitioner has been issued and is in effect;
    3. The surviving parent, if the parents were divorced or legally separated, and a court order of joint custody to the parents of the petitioner was issued prior to the death of either the father or mother, which order remains in effect;
    4. The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the petitioner has not been ordered; or
    5. Another person having lawful custodial charge of the petitioner;
  - (d) A statement of the reasons why the petitioner desires to marry, how the parties came to know each other, and how long they have known each other;
  - (e) Evidence of the petitioner's maturity and capacity for self-sufficiency independent of the petitioner's parents and the intended spouse, including but not limited to:
    1. Proof that the petitioner has maintained stable housing or employment for at least three (3) consecutive months prior to the petition; and
    2. Proof that the petitioner has completed high school, obtained a High School Equivalency Diploma, or completed a vocational training or certificate program;
  - (f) Copies of any criminal records of either party to be married; and
  - (g) Copies of any domestic violence order or interpersonal protective order involving either party to be married.

- (2) Upon the filing of the petition for permission to marry, the court shall set a date for an evidentiary hearing on the petition that is no sooner than thirty (30) days but not later than sixty (60) days from the date of the filing.
- (3) The petitioner may be represented by counsel in court proceeding pertaining to the petition to marry.
- (4) The court shall take reasonable measures to ensure that any representations made by a minor party are free of coercion, undue influence, or duress. Reasonable measures shall include but are not limited to in camera interviews.
- (5) Following an evidentiary hearing, the court shall grant the minor's petition for permission to marry unless:
  - (a) The age difference between the parties is more than four (4) years;
  - (b) The intended spouse was or is a person in a position of authority or a position of special trust as defined in KRS 532.045 in relation to the minor;
  - (c) The intended spouse has previously been enjoined by a domestic violence order or interpersonal protective order, regardless of whether or not the person to be protected by the order was the minor petitioner;
  - (d) The intended spouse has been convicted of or entered into a diversion program for a criminal offense against a victim who is a minor as defined in KRS 17.500 or for a violent or sexual criminal offense under KRS Chapter 506, 507, 507A, 508, 509, 510, 529, 530, or 531;
  - (e) The court finds by a preponderance of the evidence that the minor was a victim and that the intended spouse was the perpetrator of a sexual offense against the minor under KRS 510.040, 510.050, 510.060, 510.110, 510.120, or 510.130;
  - (f) The court finds by a preponderance of the evidence that abuse, coercion, undue influence, or duress is present; or
  - (g) The court finds that it would otherwise not be in the minor party's best interest to grant the petition to marry.
- (6) A past or current pregnancy of the minor or the intended spouse shall not be sufficient evidence to establish that the best interests of the minor would be served by granting the petition for marriage.
- (7) The granting of a petition for permission to marry filed under subsection (1) of this section shall remove the disabilities of minority. A minor emancipated by the petition shall be considered to have all the rights and responsibilities of an adult, except for specific constitutional or statutory age requirements, including but not limited to voting, the use of alcoholic beverages, and other health and safety regulations relevant to him or her because of his or her age.
- (8) The minor shall be advised by the court 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 Office of the Attorney General and the Cabinet for Health and Family Services. The fact sheet shall include referral information for legal aid agencies in the Commonwealth and national hotlines for domestic violence and sexual assault.

- (9) The court may make any other orders that the court deems appropriate for the minor's protection and may impose any other condition on the grant of the petition that the court determines is reasonable under the circumstances for the minor's protection.
- (10) The court may set a fee not to exceed twenty dollars (\$20) to file a petition for permission to marry under this section.

**Effective:** July 14, 2018

**History:** Created 2018 Ky. Acts ch. 36, sec. 7, effective July 14, 2018.