

U.S. Policy Proposal: Raising the Age of Consent to 18

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please include comments

Introduction

The average age for Americans to lose their virginity for men is 16.9 and for women is 17.2. Applying this study to real life almost every college student has had sexual intercourse, as well as most of my friends outside of university. When talking to my friends about their sex life it is a reoccurring trend where they talk about regretting having sex at the age they did. In many cases they believed themselves to be too young to understand the repercussions of the act. The U.S. Department of Health and Human Services (HHS) found that “adolescents who are sexually active at a young age are more likely to have experienced coercive sex. Almost three-quarters of women who had intercourse before age 14, and 60 percent who did so before age 15, reported having a forced sexual experience” (Glosser and Gardiner 1). I believe it is vital for the federal government to declare the national age of consent to be 18. I will start off by saying that I understand that raising the age of consent will not stop minors from having sex, rather I think it allows for an opportunity for people that feel like they have been taken advantage of to get their justice in court.

In the present day states have their ages of consent ranging from 16-18. However, in 2007 the State of South Carolina attempted at raising their age of consent to 18, and the same thing occurred in Missouri in 2008. The age of consent in Missouri and South Carolina are 17 and 16 respectively (Glosser and Gardiner). Some states find loopholes in their consent laws by having their consent laws include Romeo and Juliet clauses (or age differentials), minimum age of victims, and minimum age to prosecute.

Statutory rape is when someone above the age of consent has sex with someone younger than the age of consent. This also includes when two parties that are below the age of consent engage in intercourse. In the most simple of terms statutory rape is when someone has sex with someone who cannot legally consent to it.

Age differential is when state laws specify age ranges outside of which parties cannot consent to sex. For example in Utah the age of consent is 18, the minimum age of victim is 16 and the age differential between the victim and defendant—if the victim is above minimum age—is 10 (Glosser and Gardiner p 5-7). This means that a 16 year old and 26 year old can legally have intercourse.

Minimum age of victim is when the state defines the age where someone cannot legally consent to sex. In Missouri the age of consent is 17 however 14 is the earliest age someone can consent to sex, thus really making the age of consent 14. This is bad, but not as bad as Alabama who's minimum age is 12 and South Dakota who's minimum age is 10 (Glosser and Gardiner p 5-7).

Finally the minimum age of defendant is where states have an age where if the defendant is below that age they cannot be prosecuted for having sex with a minor. In Florida the age of consent is 18, the minimum age of victim is 16, and the minimum age of defendant is 24 so long as the victim is at least 16 (Glosser and Gardiner p 5-7). To put it into perspective someone who is two years out of college can have sex with someone who just earned their driver's license and walk free.

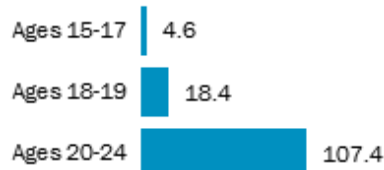
I believe it important to say that all states have an age of consent, most have a minimum age of victim, some have age differentials and minimum age of defendant in order to prosecute. I am going to cut to the chase: raising the age of consent to 18 nationally protects and saves children. The first wave of consent ages to be raised in the early 20th century was due to the suffrage movement and the expansion of women's rights, and I believe there is still work to be done to ensure every child-regardless of gender, the protection of their body.

The Proposition

In order for this bill to be passed it would have to be produced as an Act of Congress and be passed in both the House of Representatives as well as the Senate before being sent to the President's desk for approval or veto. Although I believe this bill is vital to the protection of adolescents, especially teenage girls, I also understand that this bill will face a multitude of backlash due to religious reasons, as well as the concept that this law will ultimately not stop sexual acts between adolescents from occurring. One of the main arguments against raising the age of consent to 18 is in doing so it criminalizes consensual "peer sex" between adolescents (Davis and Twombly p 8). The concept of a minimum age of consent was introduced as a way to still have a higher age of consent but allow minors to engage in consensual sex—however this creates a loophole because technically the minimum age of consent becomes the true age of consent. As of the publication of this document—State Legislators' Handbook for Statutory Rape Issues—there are 23 states with age differentials, and 26 states have specified minimum ages of consent; the American Bar Association (ABA) determined that "all States that considered raising the age of the minor protected also considered age differentials between the minor and the defendant and/or age minimums for the defendant" (Davis and Twombly p 8). Essentially what all of this means is

Nearly five of every 1,000 15- to 17-year-olds in the United States are married

Number of people married per thousand, by age group

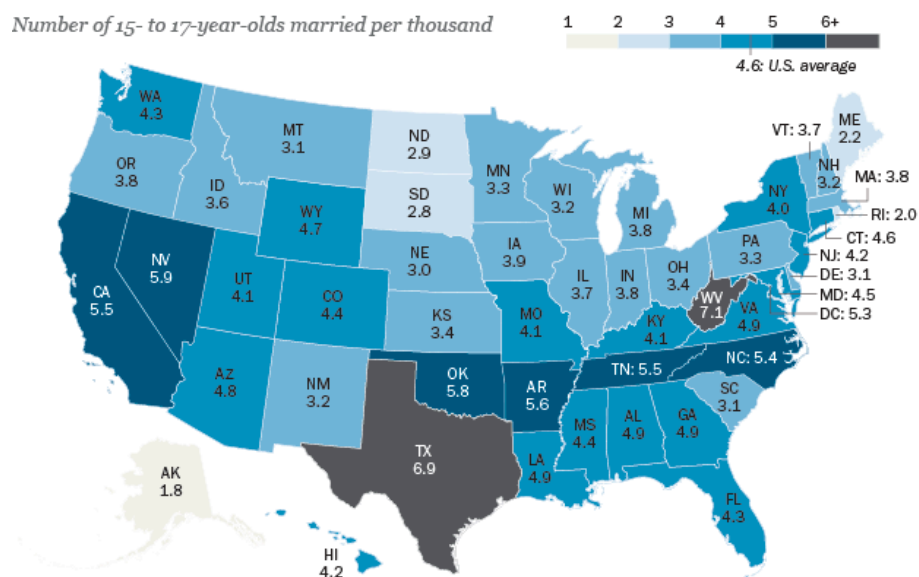


Notes: Marriage rates for 2014 are five-year estimates that include data collected from 2010-2014. Respondents who are separated, divorced, or widowed are not counted as "married" but are included in the total population of 15-17 year olds. Source: Pew Research Center analysis of American Community Survey data (2014 five-year estimates).

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Child marriage is more common in the southern United States

Number of 15- to 17-year-olds married per thousand



Note: Marriage rates for 2014 are five-year estimates that include data collected from 2010-2014. Respondents who are separated, divorced, or widowed are not counted as "married" but are included in the total population of 15- to 17-year-olds. Source: Pew Research Center analysis of American Community Survey data (2014 five-year estimates)

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whenever a state attempted at raising the age of consent a loophole occurred through either including a minimum age of consent, age differentials, or minimum age of defendant.

Another way legislators turned a blind eye to statutory rape cases was through the loophole of underage marriages. According to the graphs above child marriages are not a thing of the past in the U.S. and it disproportionately affects children in the South compared to the North (McClendon and Sandstrom). What we can learn from these charts is that although the Bible Belt has higher rates of child marriages, so does California, Nevada, New York, and Washington, meaning this is a bipartisan issue. Now this policy proposal is not about the abolition of child marriages, however I believed it to be important to include these statistics to show how through loopholes ages of consent can be blurred, and the biggest loophole utilized is child marriages.

In order to make this bill passable five conditions must be present. The first being the motivation for states to modify their ages of consent. Once a bill is passed, although it can be effective immediately, it does not mean it will be observed immediately. For example *Brown v. Board of Education* was ratified in 1954 but the last public schools were desegregated in 1970. In order to make States raise their ages of consent in a timely manner, if the bill was passed on the due date of this paper—the 22 of April 2022—then states would have one year to increase their age of consent to 18, eliminate minimum ages, age differentials, and minimum age of defendant. If a state has not changed their age by April 22, 2023, then that state will lose federal funding for their school system. By losing federal funding, public schools would then have to turn to taxpayers to make up for the loss of money, and the average American citizen would prefer raising the age of consent rather than having to pay a higher tax. In addition to the loss of government funding, the second condition is that in addition to raising the age of consent to 18, all states must have legislation that requires mandatory reporting. In the State of Delaware statutory rape cases are reported as child abuse, but in the case of this bill statutory rape will be reported and treated as a sexual assault case (Davis and Twombly 14). In terms of logistics someone found guilty of statutory rape would serve a mandatory minimum prison sentence of at least five years and pay fines up to \$5,000—which would go to the victim. An additional penalty would be added on if pregnancy occurs. If a pregnancy does occur in addition to extra prison time the defendant would have to pay for child support as well as hospital bills should the victim keep the child, however if the victim uses their right to choose, the defendant would have to cover the cost of the procedure. Finally, if the defendant is found guilty, they will have to become a registered sex offender. I think this bill will be a hard one to pass, however these five penalties heighten the urgency of this bill and the importance of observing a federally mandated age of consent.

In the current makeup of Congress I personally do not think this bill would be favorable amongst the Republican party. I believe that once this bill is introduced to the House—hypothetically the bill begins in the House—there will immediately be an amendment that eliminates the clause of the defendant paying for an abortion, and potentially paying for hospital bills. I do think however that for this bill to pass the media would have to catch wind of it and sensationalize it. I really believe that the media has the power to make this bill highly political and have it take on the approach of “if you are not for this bill then you are a pedophile.” I understand that this is an extremely crass way of putting things, however being labeled as a

pedophile is the easiest way to lose your reelection campaign, and respect from your constituents. I think that if the media sensationalizes this bill it is more likely to pass in Congress, however if it is not, then there is a higher likelihood of it failing.

Recalling the introduction section of this paper: Missouri and South Carolina tried raising their ages of consent to 18 in different years and both failed. Reproductive rights are currently in jeopardy to anyone who is at risk of pregnancy. If *Roe v. Wade* is overturned then the access to birth control will likely follow. This includes the pill, Plan B, the IUD (both hormonal and copper), the implant, the ring, and condoms. Once the access to birthcontrol is stripped from those that need it, the right to consent to sex will likely be lost in laws and Supreme Court Cases as well. It is no secret that in the present day reproductive rights are under attack, and with ages of consent being raised in the early 1900s during first wave feminism, one can infer that once reproductive rights are stripped the consent to sex will likely follow.

The Imperfections

Although this law is designed to protect minors from nonconsensual sexual acts, it is important to note that this bill ultimately will not stop rape, sexual assault, grooming, and pedophilia in its tracks. The true reason for this bill is if someone under the age of 18 is taken advantage of and lose the case in court, they can still receive justice through this statutory rape amendment. My counter argument to the claim that this law is ultimately worthless comes from the U.S. Department of Justice specifically the Office of Juvenile Justice and Delinquency Prevention where they found that in just the year “2000, there was 1 statutory rape for every 3 forcible rapes involving a juvenile victim reported to law enforcement” (Troup-Leasure and Snyder p 1). The key words here is reported to law enforcement, essentially what this statistic is saying is that one-third of forcible rapes were statutory rape and that was only the rapes reported to the police. In addition to this I also bring to light the statistic from the same source of “regardless of victim gender, almost 3 of every 5 victims of statutory rape were age 14 or 15” as well as “an arrest occurred in 42% of statutory rape incidents with the probability of arrest declining as victim age increased” (Troup-Leasure and Snyder p 1). Keep in mind that the minimum ages of consent—in states that have one—ranges from 10-18 with the average age of 14. This means that three-fifths of every statutory rape case is technically legal in most states. States claim to have minimum ages of consent as a way to not criminalize teenage intercourse, however “according to the 1997 National Longitudinal Survey of Youth, 27% of youth ages 14-17 were sexually active” (Troup-Leasure and Snyder p 1). State lawmakers claim the necessity of a minimum age of consent as a way to not criminalize consensual sex between two teenagers, yet less than 30% of the population that these laws are made for are even sexually active. This leaves myself to wonder if the minimum ages of consent were to decriminalize teenage sex or encourage grooming?

Another imperfection with this policy proposal is a call back to the section above and child marriages. Child marriages are unfortunately not a thing of the past and affect all regions of the United States. Pew Research found that nearly 5 out of every 1,000 citizens ages 15-17 are married in the United States (McClendon and Sandstrom). If two adolescents (or a teenager and an adult) are married then age of consent laws do not apply to them—thus creating a loophole in the law. There is, however, a relatively easy solution to sealing this loophole which is to

federally ban child marriages. The political as well as public reaction to the law banning child marriages would be equal to the reaction of this policy proposal and has the potential of having the same success rate in Congress as well. In summary the layout of that bill would be very similar to the layout of this policy proposal, citing similar sources due to the fact that age of consent laws and child marriage laws go together and grant the same protection to the same demographic: underage girls.

The final argument those opposed to the passing of this law would bring to light is the fact that change will not occur unless statutory rape is reported. The same study done by the U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention found that 30% of statutory rape offenders were significant others, 62% were acquaintances, 7% were family members, and only 2% were strangers to the victim (Troup-Leasure and Snyder p 2). Although these numbers are alarming to begin with it is important to remember that statutory rape—as well as most crimes—are consistently underreported and underrepresented so we will never know the true numbers of statutory rape victims.

As much as I would love to say that my policy proposal is perfect and there are no alterations necessary I do believe it important to note that there are a multitude of imperfections prevalent. To begin with it does not ultimately end the issue—it just makes it easier for the victim to gain justice for themselves. Another argument those opposed to the bill would bring to light is the fact that child marriages still exist—and are perfectly legal—in the United States. Child marriages create a loophole for those that benefit from them and I am worried that the passing of this bill would bring forth the consequence of their being a raise in the rates of child marriages. Finally, change will not occur unless statutory rape is properly reported and dealt with in a legal manner. Statutory rape as well as standard forcible rape are a complex issue with the American legal system because it forces the victim to have to come forward—to the public—and bravely state that an unconsensual act was committed against them.

The Change

The change brought on by this law will affect different populations across the United States, as well as its territories, and I can definitely see certain states decide to hold off on raising the age of consent until absolutely necessary. To begin with: in the States I believe this law will be observed in a more serious light in states where the age of consent is already 18, so the legislators would ultimately only have to get rid of age differentials, minimum age, and minimum age of defendant. Realistically speaking I can see states with a more rural population hold off on raising the age of consent due to the fact that their public education probably does not need as much funding as an urban setting. Which transitions into the argument of urban areas compared to rural America. A majority of the land in the United States is rural land, and to add to that rural America trends at a higher rate of conservative ideologies. It is no secret that people with conservative views tend to be against the concept of change as well as the progression of women's rights. Religion also ties in with urban vs. rural because it has been proven time and time again that rural communities tend to turn to faith as a model for how they should shape their lives as well as their ideologies, whereas in urban settings religion is seen as just something a small percentage of the population truly takes part in. All politics are reproductive politics but it is important to note that this law directly affects reproductive rights.

Amongst racial groups I do not believe one ethnicity to favor this law over others because statutory rape is an intersectional issue. The level of education received however has the potential of affecting the popularity of this bill. Study after study has proven that the better educated someone is on the topic of sex and sexuality, the less likely they are to engage in sex at a young age as well as decreased the change of pregnancy and the transmission of sexual diseases. Calling back to the alarming statistic in the opening paragraph “adolescents who are sexually active at a young age are more likely to have experienced coercive sex. Almost three-quarters of women who had intercourse before age 14, and 60 percent who do so before age 15, reported having a forced sexual experience” (Glosser and Gardiner 1). In addition to that if the offense resulted in a pregnancy “half of children born to minors are fathered by adult men, and sexual partners of these adolescents are often 3 to 6 years older” (Office of the Assistant Secretary for Planning and Evaluation). Both of these statistics enhance my argument that mandating the age of consent to be 18 nationally protects adolescents from older men using them for their innocence. Finally, statutory rape is an intersectional problem that affects a wide range of people regardless of their socioeconomic status. With that being said it is for certain that whether someone is in the one percent or below the poverty line they are for the protection of their children. I do believe this bill to be desirable because of its clear and strong message: raising the age of consent to 18 protects adolescents.

The Conclusion

In summary I believe this policy proposal as a beacon of hope for future generations and the protection of themselves from the dangers of statutory rape. The early demands of women’s suffrage were not just the right to vote, but the raising of the age of consent, the encouragement of women to earn an education, as well as giving access to birth control methods. In the 1960s women continued to demand access to safe medical birth controls, the right to open a bank account as well as establish credit, the right to an abortion, and finally the right to coexist in the same educational institutions as men. Many scholars believe we are witnessing a third wave of feminism being brought in from the Me Too movement and continuing with the constant protection of women’s healthcare whether that be access to affordable birthcontrol or maintaining reproductive rights. The term “statutory rape” is one heard time and time again, “however few states have laws which specifically use this term” (Office of the Assistant Secretary for Planning and Evaluation). It appears barbaric the concept of legally allowing a 13-year-old and an 18-year-old engage in sexual intercourse, and this law would guarantee protection of the 13-year-old if they choose to take their abuser to court.

At its core this policy proposal is about protecting America’s youth from people that plan on using their naivety and innocence for their own personal gain. Especially with the rise of social media, grooming is becoming more likely to occur to children that do not understand what truly is happening to them. The statistic is common knowledge at this point to females across the nation: 1 in 5 women will be sexually assaulted in their lifetime We may never know the true rate of women being sexually assaulted, however what we do know is the rates for statutory rape are a lot harder to find. One could argue that this is because many victims of statutory rape are unaware the crime committed against them, which is the root of this issue. If someone is too young to vote, be charged as an adult, enlist in the army, and enroll in the draft and they are having relations with someone who can do all of the things listed above, then they are becoming acquainted with someone who ultimately does not want them for the way they are, rather they

want them for their youth, innocence, and purity. There is hope, with this law adolescents would be guaranteed right to their own autonomy, and if they are forcibly raped by someone they are guaranteed justice in court because of this law.

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