



July 3, 2020

Dr. Naomi Goldstein  
Deputy Assistant Secretary  
Office of Planning, Research, and Evaluation  
Administration for Children and Families  
330 C Street SW  
Washington, DC 20201

**Re: Comments Regarding Proposed Data Collection RHY-HMIS (Document No. 2020-09458)**

Dear Deputy Assistant Secretary Goldstein:

American Atheists and Unchained At Last write in response to the Administration for Children and Families (ACF) request for public comments regarding the “Proposed Information Collection Activity; Runaway and Homeless Youth Homeless Management Information System (RHY-HMIS; New Collection).”<sup>1</sup> Our organizations strongly support efforts to collect more accurate and detailed data pertaining to homeless youth. However, we request that ACF improve the quality and utility of these data standards by integrating child and forced marriage data collection.

Forced and child marriage are prevalent but frequently overlooked issues in the United States that can lead to youth homelessness, and these issues present a set of unique obstacles for agencies serving runaway and homeless youth. Child marriage is where one or both parties to a marriage is under the age of 18. A forced marriage is where one or both parties enters the marriage without full, free, informed consent. Further, even if both parties enter a marriage with full, free, informed consent, the union can later become a forced marriage if one or both parties is forced to stay in it. Child marriage is often forced but forced marriage can happen at any age. It is necessary to collect data on both forced and child marriage for the RHY-HMIS data collection, as the Runaway and Homeless Youth Act defines homeless youth as individuals less than 21 years of age.<sup>2</sup>

American Atheists is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the “wall of separation” between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our nation’s communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote understanding of atheists through education, outreach, and community-building and work to end the stigma associated with being an atheist in America. As advocates for religious liberty and equality, American Atheists opposes laws and policies which would allow for discrimination against vulnerable individuals and communities based on religious beliefs.

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<sup>1</sup> Notice for RHY-HMIS; New Collection, 85 Fed. Reg. 26482, May 4, 2020, Document No. 2020-09458, available at <https://www.federalregister.gov/documents/2020/05/04/2020-09458/proposed-information-collection-activity-runaway-and-homeless-youth-homeless-management-information> [hereinafter, “data standards”].

<sup>2</sup> 34 U.S.C. § 11279(3)(A)(i), available at <https://www.acf.hhs.gov/fysb/resource/rhy-act>.

Unchained At Last is the only organization dedicated to ending forced and child marriage in the United States through direct services and advocacy. Unchained provides crucial legal and social services, always for free, to help women, girls, and others in the U.S. escape arranged/forced marriages. At the same time, Unchained pushes for social, policy, and legal change. The organization started and now leads a growing national movement to eliminate child marriage in every U.S. state and at the federal level.

**Forced and child marriage are critical but too-often overlooked issues that likely have a significant impact on youth homelessness.**

Child marriage is an urgent problem in the United States: Child marriage remains legal in 46 of the 50 states, the District of Columbia and several territories. Unchained At Last estimates that between 2000 and 2010, 248,000 children as young as 12 were married in the United States – mostly girls married to adult men.<sup>3</sup>

Unfortunately, not much data is available about the causes or context of child marriage in the U.S. However, we know that child marriage causes devastating, lifelong repercussions for children – especially girls. Data shows that child marriage destroys girls’ health, education, and economic opportunities, and it increases their risk of experiencing violence.<sup>4</sup> In fact, the U.S. State Department has declared that marriage before 18 is a “human rights abuse” that contributes to economic hardship and leads to under-investment in girls’ educational and health care needs.<sup>5</sup> The devastating repercussions of marriage for a girl effectively end her childhood.

Although we currently lack quantitative data on this subject, there are numerous avenues through which child marriage can drive youth homelessness or impact homeless youth. The National Coalition for the Homeless has identified three categories for the causes of youth homelessness, two of which could be significantly related to child marriage: family problems and economic problems.<sup>6</sup> Based on the organization’s work with survivors of child marriage, Unchained At Last is familiar with how child marriage affects youth homelessness for each of these categories.

The relationship between family problems and child marriage is challenging to assess because little research has been done on forced and child marriage in the U.S. However, in Unchained’s experience, when a child or adult in the U.S. is forced to marry, the perpetrators are almost always the parents. Sometimes the forced marriage is just one more form of abuse in a dysfunctional home, but often the parents are loving and stable. With regard to family problems, Unchained has identified at least three ways in which child or forced marriage can result in homelessness:

1. Homelessness can result when a child escapes or runs away from a family that is planning an unwanted marriage or from an unwanted or abusive spouse. Similarly, parents may eject a child from the home when they refuse to marry.

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<sup>3</sup> Fraidy Reiss, *Why Can 12-Year-Olds Still Get Married in the United States*, Washington Post (10 February 2017), available at <https://www.washingtonpost.com/posteverything/wp/2017/02/10/why-does-the-united-states-still-let-12-year-old-girls-get-married>.

<sup>4</sup> *Id.*

<sup>5</sup> U.S. Department of State, et al., *United States Global Strategy to Empower Adolescent Girls* (March 2016), available at <https://2009-2017.state.gov/documents/organization/254904.pdf>.

<sup>6</sup> National Coalition for the Homeless, *Homeless Youth NCH Fact Sheet #13* (August 2007), available at <http://www.nationalhomeless.org/publications/facts/youth.pdf>.

For example, one client Unchained worked with was forced to marry at age 14, to a man who was 11 years older than her. She viewed it as a way to escape an abusive home, where she was sexually assaulted by a family member and his friends, and where her parents knew but did nothing about it. Her parents eventually conspired to coerce her to marry a man they knew. In explaining her reason for marrying, she said, “Because my rapist was still in the family, I knew I had to get out of that house as soon as I could, so I agreed to marry him.” Her husband was abusive and after several years of marriage she was able to divorce him. However, the power imbalance in the marriage led to a cruel divorce. She explained: “I lost both houses, he got primary custody of the kids, I even ended up paying him child support - up to half of my paycheck some weeks even though I made less than 10k per year and he made about 75k more than I did . . . Eventually my car got repossessed; I lost my job, and then my apartment. I was homeless. I made some ugly choices and ended up in prison.”

Relatedly, Unchained has also seen child or forced marriage be used by families as a form of conversion therapy applied to LGBTQ young people. Conversion therapy is a range of dangerous and discredited practices intended to change a person’s sexual orientation or gender identity or expression. The connection between conversion therapy and homelessness is well established.<sup>7</sup>

2. Under state law, children frequently have limited options for divorce because, as minors, they cannot legally obtain an attorney or file for divorce. This leaves these children with little option but to flee to escape an unwanted or abusive marriage. For example, in Maryland, for example:
  - Those fleeing an impending forced marriage often have complex legal needs, but most contracts with children in Maryland, including retainer agreements with attorneys, are voidable.<sup>8</sup> Thus, only the most generous attorneys would agree to represent a child.
  - Further, Maryland law does not allow minors to bring legal actions on their own; a parent or guardian must initiate and terminate a suit on the child’s behalf.<sup>9</sup> Children may seek a protective order against an abusive husband or against parents who are coercing them into marriage only if they are represented by the State’s Attorney, DSS, a relative or another adult who lives in their home.<sup>10</sup>
  - Children in Maryland are allowed to marry but *not allowed to file for divorce or annulment on their own behalf*.<sup>11</sup> Therefore, a child whose parents forced the child to marry cannot divorce unless those same parents initiate a divorce on the child’s behalf.
3. In some states, children are automatically emancipated upon marriage, which means that their parents are freed from any responsibility or financial obligations. Those who marry before 18 have a 70 to 80% chance of getting divorced.<sup>12</sup> Unchained has seen children in the U.S., who were

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<sup>7</sup> Choi, S.K., Wilson, B.D.M., Shelton, J., & Gates, G., *Serving Our Youth 2015: The Needs and Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth Experiencing Homelessness*, Los Angeles: The Williams Institute with True Colors Fund (2015), available at <https://truecolorsunited.org/portfolio/serving-our-youth/>.

<sup>8</sup> *Schmidt v. Prince George’s Hospital*, 784 A.2d 1112, 1122 (Md. Nov. 15, 2001).

<sup>9</sup> Md. Code Ann., Cts. & Jud. Proc. § 5-201.

<sup>10</sup> Md. Code Ann., Fam. Law § 4-501.

<sup>11</sup> Md. Code Ann., Cts. & Jud. Proc. § 5-201.

<sup>12</sup> Vivian Hamilton, *The Age of Marital Capacity: Reconsidering Recognition of Adolescent Marriage*, William & Mary Law School Scholarship Repository (2012), available at <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2467&context=facpubs>.

automatically emancipated through marriage and divorced before 18, end up homeless when their parents refused to allow them back home.

For example, in New York and New Hampshire, children are automatically emancipated upon marriage,<sup>13</sup> which likely ends their parents' financial obligation to them, without considering their level of financial or emotional independence.<sup>14</sup> While New York does not have an emancipation statute that lays out an affirmative process for a minor to seek emancipation, in New Hampshire and other states, minors normally cannot be emancipated unless they first show they have lived separately from their parents or legal guardians for at least three months,<sup>15</sup> can financially support themselves,<sup>16</sup> and have obtained or are pursuing a high school diploma or an equivalent certificate.<sup>17</sup>

These are just a few examples of how child marriage makes children vulnerable to homelessness and why we need to better understand how family problems related to forced and child marriage can result in homelessness.

The relationship between child marriage and economic problems can be seen through the impact of child marriage on education and economic opportunities. Data shows that girls married before the age of 19 are 50 percent more likely to drop out of high school than their unmarried peers.<sup>18</sup> Additionally, they are four times less likely to graduate from college.<sup>19</sup> Teen mothers who marry while pregnant are less likely ever to return to school than teen mothers who do not marry.<sup>20</sup> Furthermore, women who marry young are 31 percent more likely to live in poverty. Those who marry before 18 have a 70 to 80% chance of getting divorced—and teen mothers who marry and then divorce are much more likely to end up in poverty than teen mothers who stay single.<sup>21</sup>

Unchained At Last sees these statistics reflected in the clients they serve. Many survivors were pulled out of school, forced to have many children and are left with nothing if and when they are able to leave. For example, one survivor Unchained worked with was coerced to marry a man who was 27 when she was 15. After they were married, she shared that:

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<sup>13</sup> N.Y. Dom. Rel. Law § 15(3)(b)(iii); N.H. R.S.A. § 21-B:3: (“The certificate of marriage shall provide evidence of a minor's emancipation.”).

<sup>14</sup> Parents are chargeable with child support until the child turns 21. N.Y. Family Ct. Act § 413. Emancipation appears to be a construct created by New York case law to exempt parents from the foregoing obligation. See *Parker v Stage*, 43 N.Y.2d 128, 400 N.Y.S.2d 794 (N.Y. 1977) (stating that the statutory obligation of a father to support a child is forfeited when a child voluntarily and without good cause abandons the parent's home); See N.H. R.S.A. § 458-C:1(I) (“Both parents shall share responsibility for economic support of the children”); N.H. R.S.A. § 169-C:3(V) (“‘Child’ means any person who has not reached his eighteenth birthday”); and N.H. R.S.A. § 461-B(8)(VI) (“An emancipated minor with the enumerated right to live independently shall not be considered a minor child pursuant to RSA 173-B”).

<sup>15</sup> N.H. R.S.A. § 461-B(8)(I)(c).

<sup>16</sup> N.H. R.S.A. § 461-B(8)(I)(d).

<sup>17</sup> N.H. R.S.A. § 461-B(8)(I)(e).

<sup>18</sup> Gordon Dahl, *Early Teen Marriage and Future Poverty*, The National Bureau of Economic Research (May 2005), available at <http://www.nber.org/papers/w11328.pdf>.

<sup>19</sup> *Id.*

<sup>20</sup> Hamilton, *supra* footnote 12.

<sup>21</sup> *Id.*

“He told me I was his wife now and that I had to do whatever he wanted. I had to submit, that was what wives did, I didn't even know what that meant. Three months later I was pregnant and very sick . . . and I wasn't allow[ed] to go to school.” She also explained how difficult it was to eventually leave him: “I divorced him after I got the nerve to leave, it was hard but I left everything to get away but fought for my children. I had to agree to not take anything from him in order to keep the kids. He said he would fight me on that and that I had no education or anyone to rely on if I did try to fight him in court. [S]o I walked away with nothing, to speak of.”

Unfortunately, the issues of child and forced marriage and survivors of child marriage are under-researched in the U.S., which currently makes it impossible to fully detail the relationship between child marriage and youth homelessness. However, data collection by ACF through the proposed data standards can play a crucial role in addressing this deficiency. In addition to the recommendations for data elements below, we encourage you to consider how ACF and other relevant federal agencies can both examine and begin to address the manifold harms cause by child marriage in the US.

**Forced and child marriage is a distinct issue that can and should be incorporated into the RHY-HMIS data standards.**

While there are several issues covered by the data standards that share some overlap with forced and child marriage, such as domestic violence and exploitation/trafficking, there are elements essential to understanding child marriage in the U.S. that are not already captured by these categories. For example, data showing that globally, women who married before 18 are three times more likely to have been beaten by their spouses than women who married at 21 or older confirms how child marriage and domestic violence often occur simultaneously.<sup>22</sup> Child marriage fosters conditions that exacerbate—and even enable—violence and insecurity. Unfortunately, the domestic violence data elements in the data standards fails to address a victim’s current relationship with their abuser. By adding a child marriage element to the data standards, the data collected will not only provide essential information about child marriage in the US, it will also provide more robust and accurate data about related issues such as domestic violence.

Similarly, there is incomplete overlap with the issue of sexual exploitation and trafficking because the data elements in this section do not capture any information about the types of exploitation most closely associated with child marriage. For example, the existing questions focus on whether the child has received anything in exchange for sex (money, food, drugs, shelter, etc.), but an individual involved in a child marriage may understand their situation very differently, even though they are effectively being sexually exploited. Unfortunately, this reality obscures information about children who have been victimized through child marriage. As an additional complicating factor, federal law provides an exception to federal statutory rape law for marriage. Federal law prohibits a person from “knowingly engag[ing] in a sexual act with another person” who is between the ages of 12 and 16 and is at least four years younger than the perpetrator.<sup>23</sup> However, the statutory rape exception allows a defense if “the persons engaging in the sexual act were at that time married to each other.”<sup>24</sup> Not only does this exception condone sexual activity with children as young as 12, but it also gives sexual predators an

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<sup>22</sup> World Policy Analysis Center, *Fact Sheet* (March 2015), [https://www.worldpolicycenter.org/sites/default/files/WORLD\\_Fact\\_Sheet\\_Legal\\_Protection\\_Against\\_Child\\_Marriage\\_2015.pdf](https://www.worldpolicycenter.org/sites/default/files/WORLD_Fact_Sheet_Legal_Protection_Against_Child_Marriage_2015.pdf).

<sup>23</sup> 18 U.S.C. § 2243(a).

<sup>24</sup> 18 U.S.C. § 2243(c)(2).

incentive to engage in child marriage. Moreover, this exception clearly demonstrates the limits of the current exploitation/trafficking elements in the data standards.

Married children, and those at risk for child marriage, are uniquely vulnerable and have distinct legal needs. Unlike adults who marry, typically married children have no legal capacity to exit the marriage. State law can create additional legal vulnerabilities for these children. For example, in Massachusetts, children married cannot seek help from the state Department of Children & Families (DCF) if their husband is physically abusive because DCF intervenes only in cases of abuse by “parents or parent substitutes.”<sup>25</sup> In Tennessee, a child 17 or younger who leaves home commits a status offense under Tennessee law and can be taken into custody.<sup>26</sup> Agencies serving runaway and homeless youth need to know whether their clients are married or fleeing a planned marriage so that they can contend with these legal realities.

Beyond potential legal ramifications, shelters should be as informed as possible about their residents to best protect their clients and staff. Remaining unaware of a child’s marital history may put staff, other clients, and the children themselves at serious risk. The risk associated with a child fleeing from an existing or impending forced marriage closely parallel those of a child fleeing from domestic violence. As is indicated in the data standards, two of the rationales for collecting data on clients and domestic violence are to protect a victim from further abuse and to ensure that victims are provided with the appropriate services to best treat lasting psychological injuries.<sup>27</sup> It would also be helpful to know when a child is facing an impending marriage or fleeing from a spouse, as many domestic violence shelters do not allow children to enter without a parent or guardian - and some states can even criminally charge those who assist children who run away from home.<sup>28</sup>

**Recommendation concerning data elements suitable to assess forced and child marriage-related issues for the data standards.**

In order to adequately assess whether clients have been subject to child marriage or they are fleeing from forced or child marriage, we recommend the following data elements for inclusion in the data standards. Moreover, we offer to work with ACF in order to develop data collection instructions for this module. We recommend that a new section (4.15) might be created for the purpose of elements relating to child marriage. Alternately, because of the relationship between domestic violence and child marriage, these questions might be integrated into section 4.11 of the data standards.

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<sup>25</sup> M.C.L. c. 119 § 1. Spousal abuse of a minor falls outside DCF’s purview.

<sup>26</sup> Tenn. Code § 37-1-113.

<sup>27</sup> FY 2020 HMIS Data Standards, at 125, 183.

<sup>28</sup> An example of this is Tennessee. See Tenn. Code § 39-15-414.

Field Number	Field Name	Dependency	Response Category/Data Type		Descriptions
1	Marital Status	None	1	Married	Current marital status
			2	Divorced	
			3	Widowed	
			4	Separated	
			5	Single	
			8	Client doesn't know	
			9	Client refused	
			99	Data not collected	
A	Child Marriage	Field 1 & Response 1, 2, 3, 4	0	No	Was the Client married before the age of 18?
			1	Yes	
			8	Client doesn't know	
			9	Client refused	
			99	Data not collected	
B	Marriage Age	Field 1A & Response 1		[Integer]	At what age was the Client first married?
2	Forced Marriage	None	0	No	Preferred language: "Has anyone ever tried to groom, pressure, bribe, trick, or force you to marry?"
			1	Yes	
			8	Client doesn't know	
			9	Client refused	
			99	Data not collected	

**Rationale:** To indicate whether client is a survivor of child or forced marriage. Ascertaining whether a person is a survivor of or fleeing from child or forced marriage is necessary to provide the person with the appropriate services and to assess the legal duties and responsibilities of project staff. At the aggregate level, knowing the size of the population of persons experiencing homelessness who have also experienced child or forced marriage is critical for determining the resources needed to address the problem.

## **Conclusion**

For these reasons, American Atheists and Unchained At Last strongly recommend that child and forced marriage data elements be added to the RHY-HMIS data collection standards. With this data, young people facing homelessness as a result of child or forced marriage can be properly assessed and provided with appropriate resources. Moreover, organizations that work to address this issue systemically will have access to data showing how youth homelessness and child and forced marriage overlap and intersect. Given the overall lack of data pertaining to this vulnerable population, it is imperative that we learn as much as possible to better meet the needs of these youth.

If you should have any questions about our comments regarding the RHY-HMIS data standards and our recommendations for the inclusion of child and forced marriage, please contact Alison Gill at 908.276.7300 x309 or by email at [agill@atheists.org](mailto:agill@atheists.org) or Fraidy Reiss at 908.481.4673 or by email at [fraidy@unchainedatlast.org](mailto:fraidy@unchainedatlast.org).

Sincerely,



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