

## INSTRUCTIONS FOR UNDERAGE PERSON SEEKING COURT AUTHORIZATION TO MARRY

### 1. Who may marry?

A person who is 18 years of age or older.

A person who is 16 or 17 years of age (a) who has been emancipated in a district court proceeding or (b) with consent of a parent having full or joint legal custody of the minor or by a person or agency having legal custody or serving as guardian of the minor.

A person who is 16 or 17 years of age may marry a person who is no more than four years older, upon an order of a district court judge authorizing the minor to marry.

### 2. Who may bring a civil action to ask a judge to authorize the person to marry?

A person who is 16 or 17 years of age who is seeking to marry a person who is no more than four years older may file a civil action in district court to have a judge enter an order authorizing the underage party to marry. The judge must find that the 16- or 17-year-old is capable of assuming the responsibilities of marriage and that the marriage will serve the best interest of the underage party. The person the underage party is seeking to marry must consent to the marriage.

### 3. Who can help you with this proceeding?

You can fill out the complaint form and summons (if the clerk asks you to complete the summons) by yourself or you can hire an attorney who can fill them out for you. However, whether or not you have an attorney when you file this action, the clerk will appoint an attorney as guardian ad litem to represent your best interest in this case. If you are unable to pay the expenses of this attorney guardian ad litem, the State will pay.

### 4. How do you ask the judge to authorize you to marry?

You ask the clerk of court in the county in which you live to give you a copy of the form to seek authorization to marry. The form is entitled "*Complaint For Judicial Authorization For Underage Person To Marry*," AOC-CV-120.

### 5. How do you fill out the form asking for judicial authorization to marry?

In filling out the form, you are the "plaintiff." You must print your name and address in the block asking for the name and address of the plaintiff. The following persons are to be listed as Defendants No. 1-3 in the order listed: Your father, your mother, your legal custodian or guardian. You must print their names and addresses in the blocks listed.

### 6. What do you do when you have filled out the complaint form?

You must file the complaint form with the clerk of court.

### 7. What is the cost of the proceeding?

The clerk will ask you to pay the costs of filing a district court civil action, which are the amount set forth in G.S. 7A-305. If you are unable to pay these costs you may ask to sue as an indigent. Ask the clerk to give you a copy of AOC-G-106, "*Petition To Proceed As An Indigent*." You may be asked by the clerk to list your income, expenses, assets, and liabilities.

### 8. What happens after you have filed the complaint?

Some clerks will ask you to fill out the summons. The clerk will give you copies of AOC-CV-121, "*Civil Summons In Action By Underage Person For Authorization To Marry*." You must fill out an original and one copy for each defendant plus an additional copy for the guardian ad litem appointed by the clerk. YOU MUST SEE THAT COPIES OF THE COMPLAINT AND SUMMONS ARE SERVED ON ALL OF THE DEFENDANTS AND ON THE GUARDIAN AD LITEM. (See 9. for details.)

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## **9. How do you serve copies of the complaint and summons?**

You must serve your parents, legal custodian, or guardian by either asking the sheriff to effect service or by mailing a copy of the complaint and summons by certified mail, return receipt requested, to each defendant.

If you paid the filing fee at the clerk's office, you must pay the sheriff a service fee for each person to be served. If you were authorized to sue as an indigent, you are not required to pay the service fee to the sheriff. If the sheriff serves the process, the sheriff will make a return of service to the court.

If you serve the defendants by certified mail, you must file an affidavit with the clerk of court indicating that a copy of the summons and complaint were deposited in the post office for mailing by registered or certified mail, return receipt requested, to each defendant served by registered or certified mail and that it was in fact received by the defendant served as evidenced by the attached registry receipt or other evidence; and you must attach to the affidavit the genuine receipt (green postal receipt of service) or other evidence of delivery. You may ask the guardian ad litem to help you with this.

YOU ALSO MUST SERVE A COPY OF THE COMPLAINT AND SUMMONS ON THE GUARDIAN AD LITEM APPOINTED BY THE CLERK. You may serve the guardian ad litem by one of the same methods described above for serving the defendants or you may serve the guardian ad litem by mailing a copy by first class mail to the guardian ad litem at the address listed on AOC-CV-120, "*Complaint For Judicial Authorization For Underage Person To Marry*," or by handing a copy to the guardian ad litem.

## **10. What happens at the hearing?**

You may participate in the court hearing on your own behalf. The guardian ad litem appointed to represent your best interest will also present evidence to the court about whether you are capable of assuming the responsibilities of marriage and whether it is in your best interest to marry. Also your parents, legal custodian, or guardian may testify about whether they think it is in your best interest to marry. You may ask the guardian ad litem to help you have the hearing scheduled. You might also ask the guardian ad litem to assure the presence of the person you wish to marry at the hearing so that person can testify that he or she consents to the marriage.

## **11. What happens after the hearing?**

If the judge authorizes your marriage, you can ask the Clerk of Superior Court for a certified copy of the judge's order and take that order to the Register of Deeds where you and the person you are authorized to marry must fill out an application for a marriage license. If the judge denies your request for authorization to marry, there is no right of appeal. You may not seek authorization to marry from any Court until after one year from the date of entry of the order denying your request.