Marriage, minors

Number: INFORMAL

Date: October 09, 2009

Ms. Susan Salameh Tohaimer
1433 Birchstone Avenue
Brandon, Florida 33511

Dear Ms. Tohaimer:

The Florida Attorney General's Office has received a copy of the letter sent to you by the United States Department of Homeland Security, United States Citizenship and Immigration Services. According to the letter, you intend to marry and currently are a resident of the State of Florida. It appears, however, that you are under the age of 18.

Unfortunately, after reviewing this correspondence, I must inform you that this is not a matter in which the Attorney General's Office would be able to assist you. Section 16.01, Florida Statutes, sets forth the powers and duties of this office. This provision of law authorizes the Attorney General to provide legal advice to certain public officials in the performance of their official duties under state law. This precludes this office from providing legal opinions or advice to private individuals.

In an effort to be of assistance, I would generally note that section 741.04 (1), Florida Statutes, provides in part that:

"No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers or any other available identification numbers of each party, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties; *unless both such parties shall be over the age of 18 years, except as provided in s. 741.0405*; and unless one party is a male and the other party is a female. . . ." (e.s.)

Thus, Florida generally requires that parties to a marriage contract be 18 years old, but recognizes certain circumstances when a marriage license may be issued to persons under the age of 18. Section 741.0405, Florida Statutes, which sets forth those circumstances when a marriage license may be issued to persons under 18 years, provides:

"(1) If either of the parties shall be under the age of 18 years but at least 16 years of age, the county court judge or clerk of the circuit court shall issue a license for the marriage of such party only if there is first presented and filed with him or her the written consent of the parents or guardian of such minor to such marriage, acknowledged before some officer authorized by law to take acknowledgments and administer oaths. However, the license shall be issued without parental consent when both parents of such minor are deceased at the time of making application or when such minor has been married previously.

(2) The county court judge of any county in the state may, in the exercise of his or her discretion, issue a license to marry to any male or female under the age of 18 years, upon application of both parties sworn under oath that they are the parents of a child.

(3) When the fact of pregnancy is verified by the written statement of a licensed physician, the county court judge of any county in the state may, in his or her discretion, issue a license to marry:

(a) To any male or female under the age of 18 years upon application of both parties sworn under oath that they are the expectant parents of a child; or

(b) To any female under the age of 18 years and male over the age of 18 years upon the female's application sworn under oath that she is an expectant parent.

(4) No license to marry shall be granted to any person under the age of 16 years, with or without the consent of the parents, except as provided in subsections (2) and (3)."

You may view the Florida Statutes online at: http://www.flsenate.gov/Statutes/.

You may wish to consult a private attorney for any legal assistance you may need. The Florida Bar offers a Lawyer Referral Service which you may contact toll-free at (800) 342-8060. The address is 651 East Jefferson Street, Tallahassee, Florida 32399-2300. The Bar's website is: http://www.floridabar.org.

Please understand that the duties of this office are prescribed by law. Thank you for contacting the Attorney General's Office.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tsh