

Opinion No. 71-63

April 30, 1971

BY: OPINION OF DAVID L. NORVELL, Attorney General

TO: Ms. Gladys Hansen County Clerk Dona Ana County Courthouse Las Cruces, N.M.
88001

QUESTIONS

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1. Does Chapter 213, Laws 1971 do away with the requirement that males between the age of eighteen and twenty-one years must have the consent of their parent or guardian in order to marry?
2. Does Chapter 213, Laws 1971 have the effect of amending or repealing laws prohibiting persons under the age of twenty-one from entering into a binding contract?

CONCLUSIONS

1. Yes.
2. Yes.

OPINION

{*91} ANALYSIS

Section 57-1-5, N.M.S.A., 1953 Comp. provides that:

"No person being a male, under twenty-one years of age, . . . can marry, unless he . . . obtain(s) the consent of his . . . parents, guardian or of the person under whose charge he . . . is, and for that purpose the presence of those parties, or of a certificate in writing, authenticated before competent authority, is required."

The portion of this law that refers to males has been repealed by Laws 1971, Chapter 213, entitled AN ACT LOWERING THE AGE OF MAJORITY. We herewith quote this Act in its entirety because it answers both of your questions and probably many others:

{*92} "Section 1. AGE OF MAJORITY -- EIGHTEEN YEARS -- EXCEPTION. --

A. Except as provided in Subsections B and C, **notwithstanding any other law to the contrary:**

(1) **any person who has reached his eighteenth birthday shall be considered to have reached his majority** and is an adult for all purposes the same as if he had reached his twenty-first birthday;

(2) any law conferring any right or privilege, or imposing any duty or obligation, upon any person **who has reached his twenty-first birthday shall apply to any person who has reached his eighteenth birthday;**

(3) any law which denies any right or privilege to persons who have not reached their twenty-first birthday **shall apply only to persons who have not reached their eighteenth birthday;** and

(4) any law, except the liquor control act, which differentiates between treatment to be accorded persons who have reached their twenty-first birthday and those who have not, shall differentiate between treatment to be accorded persons who have reached their eighteenth birthday and those who have not.

B. It is the intent of the legislature that this general law shall control over any conflicting special law except that it shall not apply to or change any age requirements for exercising the elective franchise.

C. Provided, however, that for the purposes of the Uniform Gifts to Minors Act, as it relates to any gift made prior to the effective date of this act, the donee shall not be entitled to delivery or payment over of the gift until he has reached his twenty-first birthday." (Emphasis added)

The effective date of this legislative enactment will be June 18, 1971.

By: Oliver E. Payne

Deputy Attorney General