

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1304 (Delegates Atterbear and Dumais)
 Judiciary

Family Law – Minors – Emancipation
(Emancipation of Minors Act)

This bill sets forth a process by which a minor may petition an equity court to become emancipated under specified circumstances.

Fiscal Summary

State Effect: Transportation Trust Fund expenditures increase by \$114,000. Revenues are not materially affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	114,000	0	0	0	0
Net Effect	(\$114,000)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially impact the workload of the circuit courts.

Small Business Effect: Minimal.

Analysis

Bill Summary: A minor who is at least age 16 may file a petition in the minor’s own name to become emancipated from the minor’s parents or legal guardian (1) if the minor enters into a valid marriage without regard to a subsequent dissolution of the marriage or (2) if the minor enters into active duty service with a branch of the U.S. Armed Forces. After a hearing, the court must order the emancipation of a minor, under the circumstances

specified above, who properly files a petition for emancipation in the circuit court for the county in which the minor resides. A hearing must be held within 60 days after the filing of the petition. A parent may not file a petition individually or on behalf of the minor. The requirements set forth below regarding emancipation do not apply to minors who meet the qualifications specified above.

Minors who are not filing a petition based on a valid marriage or because of active duty service may also file a petition for emancipation. The minor must be at least age 16 and have resided in the State for at least 12 consecutive months immediately before the filing of a petition. A petition must contain specified information, including (1) the name and last known address of the minor's parents or legal guardian; (2) proof that the petitioner has been living separate and apart from the petitioner's parents or legal guardian for specified time periods before the filing of the petition; (3) proof of the petitioner's employment or other means of self-support; and (4) a statement explaining why the petitioner seeks emancipation and why it should be granted.

A petition must also include an affidavit by at least two individuals, as specified, who have personal knowledge of the petitioner's circumstances. The affidavit must state that the petitioner has the maturity to live independently and that emancipation is in the best interest of the petitioner. Individuals who may submit an affidavit include physicians, nurses, school administrators, teachers, social workers, and law enforcement officers.

On the filing of a petition for emancipation, a court must appoint a lawyer to serve as a best interest attorney for the minor. A lawyer must (1) investigate statements and claims made in the petition; (2) request from the Department of Human Services any records of reported child abuse or neglect; and (3) report the findings of the investigation and make recommendations regarding the petition to the court. The bill specifies requirements relating to show-cause orders and service. The court must hold a hearing on a petition for emancipation within 60 days after the filing of the petition.

In determining whether to enter an order of emancipation, the court must consider all relevant factors, including (1) whether the petitioner fully understands the rights, responsibilities, risks, and consequences of emancipation; (2) whether the petitioner has a viable plan for living independently, as specified; and (3) whether emancipation is in the best interest of the petitioner. A petitioner has the burden of showing by clear and convincing evidence that the requirements for emancipation have been met.

On entering an order of emancipation, the clerk of the court must issue a certified copy of the order to the petitioner. An order of emancipation has the same effect as the petitioner reaching the age of majority and generally confers on the petitioner all of the rights and responsibilities of legal adulthood. However, an order of emancipation does not supersede age requirements for (1) voting; (2) the purchase, possession, or consumption of alcoholic

beverages or tobacco products; (3) compulsory school attendance; or (4) health and safety regulations. An emancipated minor remains subject to the criminal jurisdiction of the juvenile court. An emancipated minor may apply for, and a clerk of the court may grant, a marriage license if the applicant is at least age 17 and at least 30 days have passed since the order of emancipation was issued.

MVA must ensure that the driver's license or identification card for an emancipated minor include a notation indicating that the applicant is an emancipated minor and is not entitled to purchase alcoholic beverages or tobacco products for an applicant who presents specified documents. An application for a driver's license or an identification card must allow an applicant to indicate that the applicant is an emancipated minor.

Current Law: There are no statutory provisions for the emancipation of a minor. A person who is age 18 or older is an adult for all purposes and has the legal capacity, rights, privileges, powers, and duties of adults. Article 1, § 24 of the Annotated Code of Maryland establishes that the age of majority is age 18. Except as otherwise provided, the term "minor," as it pertains to legal age and capacity means an individual younger than age 18.

State/Local Fiscal Effect: MVA advises it will incur one-time programming costs of \$114,000 in fiscal 2019 only.

Any potential minimal increase in expenditures to accommodate additional hearings on emancipation petitions is not anticipated to materially impact expenditures of the Judiciary and the circuit courts. It is also assumed that the Judiciary can use existing budgeted resources to make any necessary form revisions. The Judiciary advises that best interest attorneys are often appointed on a *pro bono* basis or the attorney's fees are divided between the parties. For purposes of this fiscal and policy note, it is assumed that circuit courts will generally be able to utilize *pro bono* attorneys to serve as best interest attorneys.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Human Services; Maryland Department of Transportation; Department of Legislative Services

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mm/kdm

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