

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1147
Judiciary

(Delegate Atterbeary)

Judicial Proceedings

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. The bill also repeals provisions authorizing individuals ages 15 and 16 to marry under specified circumstances. Furthermore, an individual who is age 17 may only marry if (1) the individual has been granted an order of emancipation and presents a certified copy of the order to the court clerk; and (2) at least 30 days have passed since the order was entered.

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State operations or finances.

Local Effect: The bill is not anticipated to materially impact local operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The jurisdiction of an equity court is expanded to include petitions for the emancipation of minors. 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. A parent may not file a petition individually or on behalf of the minor.

A petition must contain specified information, including (1) the petitioner's full name and date of birth; (2) the name and last known address of the petitioner's parents or legal guardian; (3) a statement explaining why the petitioner seeks emancipation and why it should be granted; and (4) supporting documents, which may include specified items such

as a statement on the petitioner's education plans and affidavits of support from individuals with personal knowledge of the petitioner's circumstances.

On the filing of a petition for emancipation, a court must appoint a lawyer to represent the petitioner. The court must also request from the Department of Human Services (DHS) any records of reported child abuse or neglect relating to the petitioner and a statement on whether the petitioner is in the care of DHS; DHS must provide the information. The bill specifies requirements relating to show-cause orders and service and authorizes the court to issue any other order regarding the petition or the petitioner that it considers appropriate or necessary. The court must hold a hearing on a petition for emancipation within 60 days after the filing of the petition. After a hearing, a court may enter an order of emancipation if the court finds that (1) the petitioner is capable of living independently, being self-supporting, and managing the petitioner's own affairs; (2) the petitioner understands the rights, responsibilities, and other consequences of emancipation; and (3) emancipation is in the best interest of the petitioner.

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, including numerous rights and responsibilities specified within the bill. However, an order of emancipation does not have the same effect as the petitioner reaching the age of majority for the purposes of (1) voting; (2) the purchase, possession, or consumption of alcoholic beverages, tobacco products, or electronic nicotine delivery systems; (3) compulsory school attendance; (4) health and safety regulations; or (5) provisions of law governing children who are alleged to have committed delinquent acts or specified crimes.

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.

An individual younger than age 15 may not marry. An individual, age 16 or 17, may not marry unless (1) the individual has the consent of a parent or guardian and the parent or guardian swears the individual is at least age 16 or (2) if the individual does not have consent, either party to be married presents the clerk of the circuit court a certificate from a licensed physician or physician assistant or certified nurse practitioner stating that an examination of the woman to be married demonstrates that she is pregnant or has given birth to a child. An individual who is age 15 may not marry without consent of a parent or guardian and a certificate from a medical professional, as specified above.

Background: According to the Pew Charitable Trusts, the vast majority of states allow individuals younger than age 18 to marry but typically require permission of a judge or parent. Approximately half of the states, including Maryland, set a minimum age for individuals wishing to marry; in the remaining states, individuals of any age may marry so long as they meet the necessary requirements (*e.g.*, permission from a parent). A recent law in Virginia requires individuals ages 16 and 17 to be emancipated before they can marry. In 2018, Delaware became the first state to ban marriage for anyone younger than age 18; New Jersey has since also banned marriage for anyone younger than 18.

State/Local Fiscal Effect: 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. Although the bill does not specify who is responsible for compensating attorneys appointed by the court to represent petitioners, for purposes of this fiscal and policy note, it is assumed that circuit courts will generally be able to utilize *pro bono* attorneys.

Any minimal decrease in marriage license fee revenues does not materially impact State or local finances.

Additional Information

Prior Introductions: HB 1304 of 2018, a similar bill, received a hearing in the House Judiciary Committee, but was subsequently withdrawn.

Cross File: None.

Information Source(s): Harford and Montgomery counties; Judiciary (Administrative Office of the Courts); Department of Human Services; Pew Charitable Trusts; Department of Legislative Services

Fiscal Note History:
sb/kdm

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