

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 680

(Senator Washington, *et al.*)

Judicial Proceedings

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

This bill sets forth a process by which a minor who is at least age 16 may petition an equity court to become emancipated under specified circumstances.

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 child advocate attorney 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 30 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 cigarettes; (3) compulsory school attendance; (4) health and safety regulations; or (5) gaming by a person younger than age 18 or employment in gaming by a person younger than age 18. The emancipation of a minor may not be used as a factor in determining whether a minor alleged to have committed a criminal or delinquent act is charged as an adult or proceeded against as a juvenile.

An emancipated minor may petition the court that issued an emancipation order for a rescission of the order. The petitioner must serve the petition on the parent or former legal guardian. The court must hold a hearing within 30 days after the petition is filed. A court must grant a petition to rescind an order of emancipation if the court finds that (1) the minor is indigent and has no means of self-support; (2) the minor and the parent or former guardian agree that the order should be rescinded; (3) there is a resumption of family relations that is inconsistent with the emancipation order; or (4) the emancipation decree was obtained through fraud, misrepresentation, or the withholding of material fact. If a petition to rescind the order is granted, the court must maintain a record of the rescission until the minor reaches age 25. A minor who was formerly in the custody of DHS is entitled to the resumption of services, including out-of-home placement, on the rescission of an emancipation order. The rescission of an emancipation order does not alter or affect contractual or property rights or obligations incurred during the time that the order of emancipation was in effect. A minor may appeal the denial of a petition for rescission of an emancipation order, as specified.

The Court of Appeals may adopt implementing rules.

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: 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. The Judiciary can use existing budgeted resources to make any necessary form revisions. Although the bill does not specify who is responsible for compensating child advocate 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.

Additional Information

Prior Introductions: HB 1147 of 2019, a similar bill, passed the House as amended and passed the Senate as amended. However, differences in the versions of the bill passed in each chamber were not reconciled prior to the conclusion of the legislative session. HB 1304 of 2018, a similar bill, received a hearing in the House Judiciary Committee but was subsequently withdrawn.

Designated Cross File: None.

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

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