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By: **Senator Ruben (By Request)**

Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Minors - Emancipation by Court Order**

3 FOR the purpose of providing that a minor of a certain age who has been emancipated  
4 by a court has the rights and responsibilities of an adult under certain  
5 conditions; altering the jurisdiction of an equity court to include emancipation of  
6 minors; establishing a procedure for a minor of a certain age to file a petition for  
7 emancipation; specifying the contents of the petition; authorizing the court to  
8 take certain action; requiring the court to hold a hearing after a petition is filed;  
9 establishing that the allegations of the petition shall be proved by a  
10 preponderance of evidence; establishing that a minor emancipated by the court  
11 has certain rights and responsibilities of an adult with certain exceptions;  
12 limiting the liability of a certain parent or guardian of an emancipated minor  
13 under certain circumstances; providing that emancipation obtained by fraud is  
14 voidable; establishing a procedure for rescission of an order of emancipation;  
15 authorizing a party to appeal a final order in accordance with certain laws;  
16 establishing that the Maryland Rules govern the format of a certain petition;  
17 and generally relating to emancipation by court order.

18 BY repealing and reenacting, with amendments,  
19 Article 1 - Rules of Interpretation  
20 Section 24  
21 Annotated Code of Maryland  
22 (2001 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Family Law  
25 Section 1-201(a)  
26 Annotated Code of Maryland  
27 (2004 Replacement Volume)

28 BY adding to  
29 Article - Family Law  
30 Section 5-2A-01 through 5-2A-07, inclusive, to be under the new subtitle  
31 "Subtitle 2A. Emancipation of a Minor by Court Order"

1 Annotated Code of Maryland  
2 (2004 Replacement Volume)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article 1 - Rules of Interpretation**

6 24.

7 (a) (1) Except as provided in SUBSECTION (B)(1)(II) OF THIS SECTION,  
8 paragraph (2) of this [subsection] SUBSECTION, or as otherwise specifically provided  
9 by statute, a person eighteen years of age or more is an adult for all purposes  
10 whatsoever and has the same legal capacity, rights, powers, privileges, duties,  
11 liabilities, and responsibilities as prior to July 1, 1973, persons had at twenty-one  
12 years of age, and the "age of majority" is hereby declared to be eighteen years.

13 (2) A person who has attained the age of 18 years and who is enrolled in  
14 secondary school has the right to receive support and maintenance from both of the  
15 person's parents until the first to occur of the following events:

16 (i) The person dies;

17 (ii) The person marries;

18 (iii) The person is emancipated;

19 (iv) The person graduates from or is no longer enrolled in secondary  
20 school; or

21 (v) The person attains the age of 19 years.

22 (b) (1) The terms "adult", "of full age", or "of legal age" refer to persons who:

23 (I) [have] HAVE attained the age of eighteen years; OR

24 (II) HAVE BEEN EMANCIPATED BY COURT ORDER UNDER TITLE 5,  
25 SUBTITLE 2A OF THE FAMILY LAW ARTICLE.

26 (2) Except as provided in subsection (a)(2) OR SUBSECTION (B)(1)(II) of  
27 this section, the term "minor", as it pertains to legal age and capacity, refers to  
28 persons who have not attained the age of eighteen years.

29 **Article - Family Law**

30 1-201.

31 (a) An equity court has jurisdiction over:

1 (1) adoption of a child, except for a child who is under the jurisdiction of  
2 any juvenile court and who previously has been adjudicated to be a child in need of  
3 assistance;

4 (2) alimony;

5 (3) annulment of a marriage;

6 (4) divorce;

7 (5) custody or guardianship of a child except for a child who is under the  
8 jurisdiction of any juvenile court and who previously has been adjudicated to be a  
9 child in need of assistance;

10 (6) visitation of a child;

11 (7) legitimation of a child;

12 (8) paternity; [and]

13 (9) support of a child; AND

14 (10) EMANCIPATION OF A MINOR.

15 SUBTITLE 2A. EMANCIPATION OF A MINOR BY COURT ORDER.

16 5-2A-01.

17 (A) A MINOR WHO IS AT LEAST 16 YEARS OLD MAY FILE A PETITION FOR  
18 EMANCIPATION IN THE EQUITY COURT OF THE COUNTY WHERE THE MINOR  
19 RESIDES.

20 (B) THE PETITION SHALL CONTAIN THE FOLLOWING INFORMATION:

21 (1) THE MINOR'S FULL NAME, BIRTH DATE, AND THE COUNTY AND  
22 STATE WHERE THE MINOR WAS BORN;

23 (2) A CERTIFIED COPY OF THE MINOR'S BIRTH CERTIFICATE;

24 (3) THE NAME AND LAST KNOWN ADDRESS OF THE MINOR'S PARENTS,  
25 GUARDIAN, OR CUSTODIAN;

26 (4) THE MINOR'S PRESENT ADDRESS AND LENGTH OF RESIDENCY AT  
27 THAT ADDRESS;

28 (5) A DECLARATION BY THE MINOR THAT THE MINOR HAS THE ABILITY  
29 TO MANAGE FINANCIAL AFFAIRS WITH ANY SUPPORTING DOCUMENTATION THAT  
30 THE MINOR CONSIDERS NECESSARY TO SUPPORT THE DECLARATION;

31 (6) A DECLARATION BY THE MINOR THAT THE MINOR HAS THE ABILITY  
32 TO MANAGE PERSONAL AND SOCIAL AFFAIRS WITH ANY SUPPORTING

1 DOCUMENTATION THAT THE MINOR CONSIDERS NECESSARY TO SUPPORT THE  
2 DECLARATION; AND

3 (7) AN AFFIDAVIT BY ONE OF THE FOLLOWING INDIVIDUALS THAT THE  
4 INDIVIDUAL HAS PERSONAL KNOWLEDGE OF THE MINOR'S CIRCUMSTANCES AND  
5 BELIEVES THAT UNDER THE CIRCUMSTANCES EMANCIPATION IS IN THE BEST  
6 INTERESTS OF THE MINOR:

- 7 (I) A PHYSICIAN;
- 8 (II) A NURSE;
- 9 (III) A MEMBER OF THE CLERGY;
- 10 (IV) A PSYCHOLOGIST;
- 11 (V) A FAMILY THERAPIST;
- 12 (VI) A LICENSED SOCIAL WORKER;
- 13 (VII) A SCHOOL ADMINISTRATOR;
- 14 (VIII) A SCHOOL COUNSELOR;
- 15 (IX) A TEACHER; OR
- 16 (X) A LAW ENFORCEMENT OFFICER.

17 (C) (1) A COPY OF THE PETITION AND SUMMONS TO APPEAR AT THE  
18 HEARING SHALL BE SERVED ON THE MINOR'S PARENT OR GUARDIAN.

19 (2) A NOTICE OF THE HEARING SHALL BE SENT TO THE INDIVIDUAL  
20 WHO PROVIDED THE AFFIDAVIT REQUIRED UNDER SUBSECTION (B) OF THIS  
21 SECTION.

22 (D) AFTER THE PETITION IS FILED, THE COURT MAY:

23 (1) APPOINT LEGAL COUNSEL FOR THE MINOR; AND

24 (2) IF THE MINOR'S PARENT OR GUARDIAN IS INDIGENT AND CONTESTS  
25 THE PETITION, APPOINT LEGAL COUNSEL FOR THE PARENT OR GUARDIAN .

26 5-2A-02.

27 (A) THE COURT SHALL HOLD A HEARING ON A PETITION FILED UNDER §  
28 5-2A-01 OF THIS SUBTITLE.

29 (B) THE ALLEGATIONS OF THE PETITION SHALL BE PROVED BY A  
30 PREPONDERANCE OF EVIDENCE.

1 (C) THE COURT SHALL GRANT THE PETITION AND ISSUE AN ORDER OF  
2 EMANCIPATION IF THE COURT FINDS THAT:

3 (1) (I) THE PARENT OR GUARDIAN OF THE MINOR DOES NOT CONTEST  
4 THE PETITION; OR

5 (II) IF THE PARENT OR GUARDIAN CONTESTS THE PETITION, THAT  
6 THE PARENT OR GUARDIAN:

7 1. IS UNREASONABLY WITHHOLDING CONSENT; OR

8 2. IS NOT PROVIDING THE MINOR WITH SUPPORT;

9 (2) THE MINOR IS AT LEAST 16 YEARS OF AGE AND A RESIDENT OF THE  
10 STATE;

11 (3) THE MINOR IS ABLE TO MANAGE FINANCIAL AFFAIRS;

12 (4) THE MINOR IS ABLE TO MANAGE PERSONAL AND SOCIAL AFFAIRS;

13 (5) THE MINOR UNDERSTANDS THE RIGHTS AND RESPONSIBILITIES OF  
14 AN EMANCIPATED MINOR; AND

15 (6) EMANCIPATION IS IN THE BEST INTERESTS OF THE MINOR.

16 5-2A-03.

17 (A) EXCEPT FOR SPECIFIC CONSTITUTIONAL AND STATUTORY AGE  
18 REQUIREMENTS REGARDING VOTING AND POSSESSION OF ALCOHOLIC BEVERAGES,  
19 A MINOR EMANCIPATED UNDER THIS SUBTITLE HAS THE SAME LEGAL CAPACITY,  
20 RIGHTS, POWERS, PRIVILEGES, DUTIES, LIABILITIES, AND RESPONSIBILITIES OF AN  
21 ADULT.

22 (B) A PARENT OR GUARDIAN OF A MINOR EMANCIPATED UNDER THIS  
23 SUBTITLE IS NOT LIABLE FOR ANY DEBT INCURRED BY THE MINOR AFTER THE  
24 COURT ORDERS EMANCIPATION.

25 5-2A-04.

26 (A) AN EMANCIPATION OBTAINED BY FRAUD IS VOIDABLE.

27 (B) VOIDING AN EMANCIPATION ORDER DOES NOT AFFECT ANY OBLIGATION,  
28 RESPONSIBILITY, RIGHT, OR INTEREST THAT AROSE DURING THE PERIOD THAT THE  
29 ORDER WAS IN EFFECT.

30 5-2A-05.

31 (A) A PARENT OR GUARDIAN OF A MINOR EMANCIPATED BY COURT ORDER OR  
32 THE EMANCIPATED MINOR MAY PETITION THE COURT THAT ISSUED THE ORDER TO  
33 RESCIND THE ORDER.

1 (B) A COPY OF THE PETITION FOR RESCISSION AND A SUMMONS SHALL BE  
2 SERVED ON THE EMANCIPATED MINOR OR THE PARENT OR GUARDIAN OF THE  
3 EMANCIPATED MINOR.

4 (C) THE COURT SHALL GRANT THE PETITION AND RESCIND THE ORDER OF  
5 EMANCIPATION IF IT DETERMINES ONE OR MORE OF THE FOLLOWING:

6 (1) THE EMANCIPATED MINOR IS INDIGENT AND HAS NO MEANS OF  
7 SUPPORT;

8 (2) THE MINOR AND THE PARENT OR GUARDIAN AGREE THAT THE  
9 ORDER SHOULD BE RESCINDED; OR

10 (3) THERE IS A RESUMPTION OF FAMILY RELATIONS INCONSISTENT  
11 WITH THE EXISTING EMANCIPATION ORDER.

12 (D) IF A PETITION FOR RESCISSION IS GRANTED, THE COURT SHALL ISSUE AN  
13 ORDER RESCINDING THE EMANCIPATION ORDER.

14 (E) RESCISSION OF AN EMANCIPATION ORDER DOES NOT ALTER ANY  
15 CONTRACTUAL OBLIGATIONS OR RIGHTS OR ANY PROPERTY RIGHTS OR INTERESTS  
16 THAT AROSE DURING THE PERIOD THAT THE EMANCIPATION ORDER WAS IN EFFECT.

17 5-2A-06.

18 A PARTY MAY APPEAL A FINAL ORDER ENTERED UNDER THIS SUBTITLE AS  
19 PROVIDED IN TITLE 12 OF THE COURTS ARTICLE AND THE MARYLAND RULES.

20 5-2A-07.

21 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE MARYLAND RULES  
22 GOVERN THE FORMAT OF THE PETITION AND THE PROCEDURES TO BE FOLLOWED  
23 BY THE COURT AND THE PARTIES UNDER THIS SUBTITLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2005.