

HOUSE BILL 1147

D4

9lr2665

By: **Delegate Atterbeary**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **Family Law – Minors – Emancipation**
3 **(Emancipation of Minors Act)**

4 FOR the purpose of extending the jurisdiction of the equity court to include a petition for
5 the emancipation of a minor; altering the conditions under which an individual who
6 is 17 years old may marry; prohibiting an individual under the age of 17 years from
7 marrying; repealing a certain exception to the prohibition against disclosure of an
8 application for a marriage license by a clerk of the court; requiring a clerk of the
9 court to review a certain order before issuing a marriage license under certain
10 circumstances; altering what is required to be kept as a record by a clerk of the court
11 under certain circumstances; authorizing a minor to file a petition for emancipation
12 in the minor's own name subject to certain requirements; prohibiting a parent from
13 filing a petition for the emancipation of a minor; requiring that a certain petition for
14 the emancipation of a minor contain certain information; requiring the court to
15 appoint an attorney to represent the petitioner on the filing of a petition for the
16 emancipation of a minor; requiring the court to request certain information from the
17 Department of Human Services and requiring the Department to provide the
18 information to the court; requiring a court to issue a certain show-cause order under
19 certain circumstances; requiring a petitioner to serve a certain show-cause order on
20 certain individuals and in a certain manner; requiring a court to hold a hearing on a
21 petition for the emancipation of a minor within a certain period of time; authorizing
22 a court to issue an order of emancipation after making certain findings; requiring a
23 clerk of the court to issue a certified copy of an order of emancipation to a petitioner
24 under certain circumstances; providing for the effect of an order of emancipation;
25 authorizing the Court of Appeals to adopt rules to implement the provisions of this

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Act; making conforming changes; and generally relating to the emancipation of a
2 minor.

3 BY repealing and reenacting, with amendments,
4 Article – Family Law
5 Section 1–201(b), 2–301, 2–402(e), and 2–405(c)
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2018 Supplement)

8 BY adding to
9 Article – Family Law
10 Section 5–2A–01 through 5–2A–06 to be under the new subtitle “Subtitle 2A.
11 Emancipation of a Minor”
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2018 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – General Provisions
16 Section 1–401(a)
17 Annotated Code of Maryland
18 (2014 Volume and 2018 Supplement)

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

21 **Article – Family Law**

22 1–201.

23 (b) An equity court has jurisdiction over:

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

27 (2) alimony;

28 (3) annulment of a marriage;

29 (4) divorce;

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

33 (6) visitation of a child;

1 (7) legitimation of a child;

2 (8) paternity;

3 (9) support of a child; [and]

4 (10) custody or guardianship of an immigrant child pursuant to a motion for
5 Special Immigrant Juvenile factual findings requesting a determination that the child was
6 abused, neglected, or abandoned before the age of 18 years for purposes of § 101(a)(27)(J)
7 of the federal Immigration and Nationality Act; **AND**

8 **(11) A PETITION FOR THE EMANCIPATION OF A MINOR.**

9 2–301.

10 (a) An individual [16 or] 17 years old may not marry unless:

11 (1) the individual has [the consent of a parent or guardian and the parent
12 or guardian swears that the individual is at least 16 years old; or] **BEEN GRANTED AN
13 ORDER OF EMANCIPATION;**

14 [(2) if the individual does not have the consent of a parent or guardian,
15 either party to be married gives the clerk a certificate from a licensed physician, licensed
16 physician assistant, or certified nurse practitioner stating that the physician, physician
17 assistant, or nurse practitioner has examined the woman to be married and has found that
18 she is pregnant or has given birth to a child.]

19 **(2) AT LEAST 30 DAYS HAVE PASSED SINCE THE ORDER OF
20 EMANCIPATION WAS ENTERED; AND**

21 **(3) THE INDIVIDUAL PRESENTS A CERTIFIED COPY OF THE
22 EMANCIPATION ORDER TO THE CLERK.**

23 (b) [An individual 15 years old may not marry unless:

24 (1) the individual has the consent of a parent or guardian; and

25 (2) either party to be married gives the clerk a certificate from a licensed
26 physician, licensed physician assistant, or certified nurse practitioner stating that the
27 physician, physician assistant, or nurse practitioner has examined the woman to be
28 married and has found that she is pregnant or has given birth to a child.

29 (c)] An individual under the age of [15] **17** may not marry.

30 2–402.

1 (e) Until a license becomes effective, a clerk may not disclose the fact that an
2 application for a license has been made [except to the parent or guardian of a party to be
3 married].

4 2-405.

5 (c) (1) If either party to be married is known to be of an age where [the
6 parental or guardian's consent and oath, or the licensed physician's certificate] **A**
7 **CERTIFIED COPY OF AN ORDER OF EMANCIPATION**, required by § 2-301 of this title, is
8 required, the clerk shall [obtain the consent and oath or the certificate] **REVIEW THE**
9 **CERTIFIED COPY OF THE ORDER OF EMANCIPATION** before issuing the license.

10 (2) [(i)] The clerk's record required under this title shall include[:

11 1. the consent and oath required by § 2-301 of this title, if
12 written; or

13 2. the fact that consent was given and an oath was made, if
14 given and made in person.

15 (ii) The licensed physician's certificate required by § 2-301 of this
16 title may not be made a part of the clerk's record] **A PHOTOCOPY OF THE CERTIFIED**
17 **COPY OF THE ORDER OF EMANCIPATION REQUIRED UNDER § 2-301 OF THIS TITLE.**

18 [(3) After an individual has been issued a license in accordance with the
19 provisions of this subtitle, the clerk who issued the license shall seal the licensed
20 physician's certificate. Except on order of the court, the licensed physician's certificate shall
21 remain sealed.]

22 **SUBTITLE 2A. EMANCIPATION OF A MINOR.**

23 **5-2A-01.**

24 (A) **A MINOR WHO IS AT LEAST 16 YEARS OLD MAY FILE A PETITION IN THE**
25 **MINOR'S OWN NAME TO BECOME EMANCIPATED FROM THE MINOR'S PARENTS OR**
26 **LEGAL GUARDIAN IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MINOR**
27 **RESIDES.**

28 (B) **A PARENT MAY NOT FILE A PETITION FOR THE EMANCIPATION OF A**
29 **MINOR INDIVIDUALLY OR ON BEHALF OF THE MINOR.**

30 **5-2A-02.**

31 **A PETITION FOR THE EMANCIPATION OF A MINOR SHALL CONTAIN THE**
32 **FOLLOWING:**

1 **(1) THE PETITIONER’S FULL NAME AND DATE OF BIRTH;**

2 **(2) THE NAME AND LAST KNOWN ADDRESS OF THE PETITIONER’S**
3 **PARENTS OR LEGAL GUARDIAN;**

4 **(3) A STATEMENT EXPLAINING WHY THE PETITIONER SEEKS**
5 **EMANCIPATION AND WHY EMANCIPATION SHOULD BE GRANTED; AND**

6 **(4) SUPPORTING DOCUMENTS, WHICH MAY INCLUDE:**

7 **(I) PROOF OF THE PETITIONER’S EMPLOYMENT OR OTHER**
8 **MEANS OF SELF-SUPPORT;**

9 **(II) A STATEMENT BY THE PETITIONER OUTLINING HOW THE**
10 **PETITIONER PLANS TO PROVIDE FOR FOOD, HOUSING, MEDICAL CARE, AND OTHER**
11 **NECESSITIES;**

12 **(III) A STATEMENT ON THE PETITIONER’S EDUCATION PLANS;**

13 **(IV) AFFIDAVITS OF SUPPORT FROM INDIVIDUALS WITH**
14 **PERSONAL KNOWLEDGE OF THE PETITIONER’S CIRCUMSTANCES; AND**

15 **(V) ANY OTHER INFORMATION THAT MAY HELP SUPPORT THE**
16 **PETITION.**

17 **5-2A-03.**

18 **(A) ON THE FILING OF A PETITION FOR THE EMANCIPATION OF A MINOR, A**
19 **COURT SHALL:**

20 **(1) APPOINT A LAWYER TO REPRESENT THE PETITIONER; AND**

21 **(2) REQUEST FROM THE DEPARTMENT OF HUMAN SERVICES, AND**
22 **THE DEPARTMENT SHALL PROVIDE:**

23 **(I) ANY RECORDS OF REPORTED CHILD ABUSE OR NEGLECT**
24 **RELATING TO THE PETITIONER; AND**

25 **(II) A STATEMENT ON WHETHER THE PETITIONER IS**
26 **CURRENTLY IN THE CARE OF THE DEPARTMENT.**

27 **(B) (1) PROMPTLY AFTER A PETITION IS FILED UNDER THIS SUBTITLE,**
28 **THE COURT SHALL ISSUE A SHOW-CAUSE ORDER THAT REQUIRES THE PARTY TO**
29 **WHOM IT IS ISSUED TO RESPOND AS REQUIRED UNDER THE MARYLAND RULES.**

1 **(2) ON ISSUANCE OF A SHOW-CAUSE ORDER AS TO THE**
2 **EMANCIPATION OF THE PETITIONER, A PETITIONER SHALL SERVE THE ORDER ON**
3 **EACH OF THE PETITIONER'S LIVING PARENTS OR THE PETITIONER'S GUARDIAN.**

4 **(3) SERVICE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE**
5 **BY:**

6 **(I) PERSONAL SERVICE; OR**

7 **(II) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT**
8 **REQUESTED.**

9 **(C) A COURT MAY ISSUE ANY OTHER ORDER REGARDING THE PETITION OR**
10 **THE PETITIONER THAT IT CONSIDERS APPROPRIATE OR NECESSARY.**

11 **(D) A COURT SHALL HOLD A HEARING ON A PETITION FOR THE**
12 **EMANCIPATION OF A MINOR WITHIN 60 DAYS AFTER THE FILING OF THE PETITION.**

13 **5-2A-04.**

14 **AFTER A HEARING, A COURT MAY ENTER AN ORDER OF EMANCIPATION IF THE**
15 **COURT FINDS:**

16 **(1) THAT THE PETITIONER IS CAPABLE OF LIVING INDEPENDENTLY,**
17 **BEING SELF-SUPPORTING, AND MANAGING THE PETITIONER'S OWN AFFAIRS;**

18 **(2) THAT THE PETITIONER UNDERSTANDS THE RIGHTS,**
19 **RESPONSIBILITIES, AND OTHER CONSEQUENCES OF EMANCIPATION; AND**

20 **(3) THAT EMANCIPATION IS IN THE BEST INTEREST OF THE**
21 **PETITIONER.**

22 **5-2A-05.**

23 **(A) ON ENTERING AN ORDER OF EMANCIPATION, THE CLERK OF THE COURT**
24 **SHALL ISSUE A CERTIFIED COPY OF THE ORDER TO THE PETITIONER.**

25 **(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN**
26 **ORDER OF EMANCIPATION SHALL HAVE THE SAME EFFECT AS THE PETITIONER**
27 **REACHING THE AGE OF MAJORITY AND SHALL CONFER ON THE PETITIONER ALL OF**
28 **THE RIGHTS AND RESPONSIBILITIES OF LEGAL ADULTHOOD, INCLUDING THE RIGHT**
29 **TO:**

1 (I) ENTER INTO ENFORCEABLE CONTRACTUAL
2 RELATIONSHIPS INCLUDING LEASE AGREEMENTS, REAL ESTATE TRANSACTIONS,
3 AND AGREEMENTS FOR THE PROVISION OF UTILITIES;

4 (II) SUE AND BE SUED IN THE PETITIONER'S OWN NAME;

5 (III) EARN A LIVING AND RETAIN THE EARNINGS FREE OF
6 CONTROL BY A PARENT OR LEGAL GUARDIAN;

7 (IV) ESTABLISH A DOMICILE OR RESIDENCE SEPARATE FROM A
8 PARENT OR LEGAL GUARDIAN;

9 (V) ACT AUTONOMOUSLY AND WITH THE RIGHTS AND
10 RESPONSIBILITIES OF AN ADULT IN BUSINESS RELATIONSHIPS;

11 (VI) AUTHORIZE HEALTH CARE INCLUDING PREVENTIVE CARE,
12 DENTAL CARE, AND MENTAL HEALTH CARE, WITHOUT THE KNOWLEDGE OR
13 LIABILITY OF A PARENT OR LEGAL GUARDIAN;

14 (VII) FILE AN INDIVIDUAL STATE INCOME TAX RETURN;

15 (VIII) REGISTER FOR SCHOOL;

16 (IX) APPLY FOR A DRIVER'S LICENSE OR OTHER STATE
17 IDENTIFICATION FOR WHICH THE PETITIONER IS ELIGIBLE;

18 (X) APPLY FOR PUBLIC ASSISTANCE AND BENEFITS
19 ADMINISTERED BY THE STATE AND VARIOUS COUNTIES;

20 (XI) EXECUTE A WILL OR CODICIL; AND

21 (XII) MARRY, SUBJECT TO THE REQUIREMENTS OF § 2-301 OF
22 THIS ARTICLE.

23 (2) AN ORDER OF EMANCIPATION DOES NOT ~~SUPERSEDE AGE~~
24 ~~REQUIREMENTS FOR~~ HAVE THE SAME EFFECT AS THE PETITIONER REACHING THE
25 AGE OF MAJORITY FOR THE PURPOSES OF:

26 (I) VOTING;

27 (II) THE PURCHASE, POSSESSION, OR CONSUMPTION OF
28 ALCOHOLIC BEVERAGES;

1 (III) THE PURCHASE, POSSESSION, OR CONSUMPTION OF
2 TOBACCO PRODUCTS OR ELECTRONIC NICOTINE DELIVERY SYSTEMS;

3 (IV) COMPULSORY SCHOOL ATTENDANCE; ~~OR~~

4 (V) HEALTH AND SAFETY REGULATIONS INCLUDING
5 WORKPLACE REGULATIONS DESIGNED TO PROTECT THOSE UNDER THE AGE OF 18
6 YEARS; OR

7 (VI) THE PROVISIONS OF TITLE 3, SUBTITLE 8A OF THE COURTS
8 ARTICLE OR § 4-202, § 4-202.1, OR § 4-202.2 OF THE CRIMINAL PROCEDURE
9 ARTICLE.

10 5-2A-06.

11 THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT THE PROVISIONS
12 OF THIS SUBTITLE.

13 Article – General Provisions

14 1-401.

15 (a) (1) The age of majority is 18 years.

16 (2) Except as provided in subsection (b) of this section, **TITLE 5, SUBTITLE**
17 **2A OF THE FAMILY LAW ARTICLE**, or as otherwise specifically provided by statute, an
18 individual at least 18 years old is an adult for all purposes and has the same legal capacity,
19 rights, powers, privileges, duties, liabilities, and responsibilities that an individual at least
20 21 years old had before July 1, 1973.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.