

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 458
Judiciary

(Delegate Atterbeary)

Family Law - Minors - Emancipation (Emancipation of Minors Act of 2020)

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. The bill also authorizes an emancipated individual who is age 17 to marry upon presentation to the court clerk of the emancipation order.

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, 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.

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 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 Human Services; Department of Legislative Services

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mr/lgc

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