

SENATE BILL 173

D4

(PRE-FILED)

1lr1301
CF HB 242

By: **Senators Elfreth and Hettleman**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Emancipation of a Minor and Authorization to Marry**

3 FOR the purpose of extending the jurisdiction of the equity court to include a petition for
4 emancipation of a minor and authorization to marry; altering the conditions under
5 which an individual who is 17 years old is authorized to marry; prohibiting an
6 individual under the age of 17 years from marrying; requiring an applicant for a
7 marriage license to provide a certain document to a clerk of the court; requiring a
8 clerk of the court to review a certain order before issuing a marriage license under
9 certain circumstances; authorizing a minor to file a petition for emancipation of a
10 minor and authorization to marry in the minor’s own name subject to certain
11 requirements; requiring that a certain petition contain certain information;
12 requiring the court to appoint an attorney to represent a petitioner on the filing of a
13 certain petition; requiring a court to conduct a certain interview at a hearing on a
14 certain petition; authorizing a court to issue an order emancipating a minor and
15 granting authorization to marry after making certain findings; prohibiting a court
16 from issuing a certain order under certain circumstances; providing for the effect of
17 an order granting emancipation of a minor; requiring a clerk of the court to issue a
18 certified copy of a certain order under certain circumstances; authorizing the Court
19 of Appeals to adopt rules to implement certain provisions of this Act; making
20 conforming changes; and generally relating to marriage of minors.

21 BY repealing and reenacting, with amendments,
22 Article – Family Law
23 Section 1–201(b), 2–301, 2–402(b), and 2–405(c)
24 Annotated Code of Maryland
25 (2019 Replacement Volume and 2020 Supplement)

26 BY adding to
27 Article – Family Law
28 Section 5–2A–01 through 5–2A–05 to be under the new subtitle “Subtitle 2A.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Emancipation of a Minor and Authorization to Marry”
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

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

Article – Family Law

1–201.

(b) An equity court has jurisdiction over:

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

(2) alimony;

(3) annulment of a marriage;

(4) divorce;

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

(6) visitation of a child;

(7) legitimation of a child;

(8) paternity;

(9) support of a child; [and]

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

(11) A PETITION FOR EMANCIPATION OF A MINOR AND AUTHORIZATION TO MARRY.

2–301.

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

1 [(1) the individual has the consent of a parent or guardian and the parent
2 or guardian swears that the individual is at least 16 years old; or

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

8 **(1) THE INDIVIDUAL PRESENTS A CERTIFIED COPY OF AN ORDER
9 GRANTING EMANCIPATION OF A MINOR AND AUTHORIZATION TO MARRY IN
10 ACCORDANCE WITH THE PROVISIONS OF TITLE 5, SUBTITLE 2A OF THIS ARTICLE TO
11 THE CLERK OF THE CIRCUIT COURT NOT EARLIER THAN 15 DAYS AFTER THE ORDER
12 WAS ISSUED; AND**

13 **(2) THE OTHER PARTY TO BE MARRIED IS NOT MORE THAN 4 YEARS
14 OLDER THAN THE INDIVIDUAL.**

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

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

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

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

22 2–402.

23 (b) Except as provided in subsection (d) of this section, to apply for a license, 1 of
24 the parties to be married shall:

25 (1) appear before the clerk and give, under oath, the following information,
26 which shall be placed on an application form by the clerk:

27 (i) the full name of each party;

28 (ii) the place of residence of each party;

29 (iii) the age of each party;

30 (iv) whether the parties are related by blood or marriage and, if so,
31 in which degree of relationship;

1 (v) the marital status of each party; and

2 (vi) whether either party was married previously, and the date and
3 place of each death or judicial determination that ended any former marriage;

4 (2) sign the application form; and

5 (3) provide the clerk with:

6 (I) the Social Security number of each party who has a Social
7 Security number; AND

8 (II) **A COPY OF AN OFFICIAL GOVERNMENT–ISSUED BIRTH
9 CERTIFICATE OR OTHER OFFICIAL GOVERNMENT–ISSUED DOCUMENT OR RECORD
10 DEMONSTRATING THE AGE OF EACH PARTY.**

11 2–405.

12 (c) (1) If either party to be married is known to be of an age where [the
13 parental or guardian’s consent and oath, or the licensed physician’s certificate] **A
14 CERTIFIED COPY OF AN ORDER GRANTING EMANCIPATION OF A MINOR AND
15 AUTHORIZATION TO MARRY**, required by § 2–301 of this title, is required, the clerk shall
16 [obtain the consent and oath or the certificate] **REVIEW THE CERTIFIED COPY OF THE
17 ORDER** before issuing the license.

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

19 1. the consent and oath required by § 2–301 of this title, if
20 written; or

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

23 (ii) The licensed physician’s certificate required by § 2–301 of this
24 title may not be made a part of the clerk’s record] **A PHOTOCOPY OF THE CERTIFIED
25 COPY OF THE ORDER GRANTING EMANCIPATION OF A MINOR AND AUTHORIZATION
26 TO MARRY REQUIRED UNDER § 2–301 OF THIS TITLE.**

27 [(3) After an individual has been issued a license in accordance with the
28 provisions of this subtitle, the clerk who issued the license shall seal the licensed
29 physician’s certificate. Except on order of the court, the licensed physician’s certificate shall
30 remain sealed.]

31 **SUBTITLE 2A. EMANCIPATION OF A MINOR AND AUTHORIZATION TO MARRY.**

1 **5-2A-01.**

2 (A) A MINOR WHO IS 17 YEARS OLD MAY FILE A PETITION IN THE MINOR'S
3 OWN NAME FOR EMANCIPATION OF A MINOR AND AUTHORIZATION TO MARRY IN THE
4 CIRCUIT COURT FOR THE COUNTY IN WHICH THE MINOR RESIDES.

5 (B) A PETITION FOR EMANCIPATION OF A MINOR AND AUTHORIZATION TO
6 MARRY SHALL CONTAIN THE FOLLOWING:

7 (1) THE PETITIONER'S FULL NAME, GENDER, DATE OF BIRTH, AND
8 ADDRESS, INCLUDING THE LENGTH OF TIME THE PETITIONER HAS RESIDED AT THE
9 ADDRESS;

10 (2) THE INTENDED SPOUSE'S FULL NAME, GENDER, DATE OF BIRTH,
11 AND ADDRESS, INCLUDING THE LENGTH OF TIME THE INTENDED SPOUSE HAS
12 RESIDED AT THE ADDRESS;

13 (3) A STATEMENT EXPLAINING HOW THE PARTIES MET AND HOW
14 LONG THEY HAVE KNOWN EACH OTHER;

15 (4) A COPY OF ANY CRIMINAL RECORDS CONCERNING EITHER PARTY
16 AND A COPY OF ANY PEACE ORDER OR PROTECTIVE ORDER ISSUED AGAINST EITHER
17 PARTY; AND

18 (5) EVIDENCE THAT THE MINOR IS MATURE AND CAPABLE OF
19 SELF-SUFFICIENCY AND SELF-SUPPORT INDEPENDENT OF THE MINOR'S PARENTS,
20 GUARDIAN, OR INTENDED SPOUSE.

21 **5-2A-02.**

22 ON THE FILING OF A PETITION FOR EMANCIPATION OF A MINOR AND
23 AUTHORIZATION TO MARRY, A COURT SHALL:

24 (1) APPOINT A LAWYER TO REPRESENT THE PETITIONER;

25 (2) SET AN EVIDENTIARY HEARING ON THE PETITION; AND

26 (3) PROVIDE THE MINOR WITH THE FOLLOWING:

27 (I) INFORMATION ON THE RIGHTS AND RESPONSIBILITIES OF
28 AN EMANCIPATED MINOR AND PARTIES TO A MARRIAGE;

29 (II) REFERRAL INFORMATION FOR LEGAL AID AGENCIES; AND

1 (III) INFORMATION ON STATE AND NATIONAL HOTLINES FOR
2 CHILD ABUSE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND HUMAN TRAFFICKING.

3 5-2A-03.

4 (A) AT THE HEARING, THE COURT SHALL CONDUCT AN IN CAMERA
5 INTERVIEW OF THE PETITIONER SEPARATE FROM THE PETITIONER'S PARENTS OR
6 GUARDIANS AND INTENDED SPOUSE.

7 (B) (1) NEITHER THE WISHES OF THE PARENTS OR LEGAL GUARDIANS OF
8 THE PETITIONER NOR THE FACT THAT THE PETITIONER OR THE INTENDED SPOUSE
9 OF THE PETITIONER IS PREGNANT IS SUFFICIENT EVIDENCE TO DETERMINE THAT
10 MARRIAGE IS IN THE BEST INTEREST OF THE PETITIONER.

11 (2) THERE IS A REBUTTABLE PRESUMPTION THAT EMANCIPATION
12 AND MARRIAGE ARE NOT IN THE BEST INTERESTS OF THE PETITIONER IF ALL THE
13 PARENTS OR GUARDIANS OF THE PETITIONER OPPOSE THE PETITION.

14 (C) AFTER A HEARING, A COURT MAY ISSUE AN ORDER GRANTING
15 EMANCIPATION OF A MINOR AND AUTHORIZATION TO MARRY IF THE COURT MAKES
16 WRITTEN FINDINGS THAT:

17 (1) THE PETITIONER IS A COUNTY RESIDENT WHO IS AT LEAST 17
18 YEARS OLD;

19 (2) THE INTENDED SPOUSE OF THE PETITIONER IS NOT MORE THAN 4
20 YEARS OLDER THAN THE PETITIONER;

21 (3) THE PETITIONER SEEKS TO MARRY VOLUNTARILY AND FREE
22 FROM FORCE, COERCION, OR FRAUD; AND

23 (4) THE PETITIONER IS MATURE AND CAPABLE OF
24 SELF-SUFFICIENCY AND SELF-SUPPORT.

25 (D) A COURT MAY NOT ISSUE AN ORDER GRANTING EMANCIPATION OF A
26 MINOR AND AUTHORIZATION TO MARRY UNDER THIS SECTION IF THE COURT
27 DETERMINES THAT:

28 (1) THE INTENDED SPOUSE OF THE PETITIONER:

29 (I) AT ANY TIME HAS BEEN IN A POSITION OF AUTHORITY OVER
30 THE PETITIONER OR IN A POSITION OF SPECIAL TRUST WITH THE PETITIONER OR
31 HAS HAD A PROFESSIONAL RELATIONSHIP WITH THE PETITIONER; OR

1 (II) HAS BEEN CONVICTED OR ADJUDICATED DELINQUENT FOR:

2 1. ANY CRIME AGAINST A MINOR;

3 2. A CRIME OF VIOLENCE UNDER § 14-101 OF THE
4 CRIMINAL LAW ARTICLE;

5 3. A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE
6 CRIMINAL LAW ARTICLE; OR

7 4. HUMAN TRAFFICKING UNDER TITLE 3, SUBTITLE 11
8 OF THE CRIMINAL LAW ARTICLE;

9 (2) ONE PARTY IS PREGNANT OR HAS A CHILD WITH THE OTHER
10 PARTY THAT EVIDENCES THAT THE PETITIONER WAS THE VICTIM OF A SEXUAL
11 CRIME COMMITTED BY THE INTENDED SPOUSE; OR

12 (3) A PROTECTIVE ORDER OR PEACE ORDER WAS ISSUED AGAINST
13 THE INTENDED SPOUSE OF THE PETITIONER, REGARDLESS OF WHETHER THE
14 PETITIONER WAS THE PERSON TO BE PROTECTED.

15 (E) ON THE ISSUANCE OF AN ORDER GRANTING EMANCIPATION OF A MINOR
16 AND AUTHORIZATION TO MARRY, THE CLERK OF THE COURT SHALL PROVIDE A
17 CERTIFIED COPY OF THE ORDER TO THE PETITIONER.

18 5-2A-04.

19 (A) ON THE ISSUANCE OF AN ORDER GRANTING EMANCIPATION OF A MINOR
20 AND AUTHORIZATION TO MARRY, THE CLERK OF THE COURT SHALL PROVIDE A
21 CERTIFIED COPY OF THE ORDER TO THE PETITIONER.

22 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
23 AN ORDER OF EMANCIPATION SHALL HAVE THE SAME EFFECT AS THE PETITIONER
24 REACHING THE AGE OF MAJORITY AND SHALL CONFER ON THE PETITIONER ALL OF
25 THE RIGHTS AND RESPONSIBILITIES OF LEGAL ADULTHOOD.

26 (2) AN ORDER OF EMANCIPATION DOES NOT SUPERSEDE AGE
27 REQUIREMENTS FOR:

28 (I) VOTING;

29 (II) THE PURCHASE, POSSESSION, OR CONSUMPTION OF
30 ALCOHOLIC BEVERAGES;

1 **(III) THE PURCHASE, POSSESSION, OR CONSUMPTION OF**
2 **TOBACCO PRODUCTS OR ELECTRONIC CIGARETTES;**

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

4 **(V) HEALTH AND SAFETY REGULATIONS INCLUDING**
5 **WORKPLACE REGULATIONS DESIGNED TO PROTECT INDIVIDUALS UNDER THE AGE**
6 **OF 18 YEARS.**

7 **5-2A-05.**

8 **THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT THE PROVISIONS**
9 **OF THIS SUBTITLE.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2021.