

SENATE BILL 680

D4

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By: **Senators Washington, Feldman, Lee, and Smith**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

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; authorizing a minor to file a petition for emancipation
6 in the minor's own name subject to certain requirements; prohibiting a parent from
7 filing a petition for the emancipation of a minor; requiring that a certain petition for
8 the emancipation of a minor contain certain information; requiring a court to appoint
9 a certain attorney to represent the petitioner on the filing of a petition for the
10 emancipation of a minor; requiring the court to request certain information from the
11 Department of Human Services and requiring the Department to provide the
12 information to the court; requiring a court to issue a certain show-cause order under
13 certain circumstances; requiring a petitioner to serve a certain show-cause order on
14 certain individuals and in a certain manner; authorizing a court to issue certain
15 orders; requiring a court to hold a hearing on a petition for the emancipation of a
16 minor within a certain period of time; authorizing a court to issue an order of
17 emancipation under certain circumstances; requiring a clerk of the court to issue a
18 certified copy of an order of emancipation to a petitioner under certain
19 circumstances; providing for the effect of an order of emancipation; prohibiting the
20 emancipation of a minor from being used as a factor in determining whether the
21 minor is charged as an adult or proceeded against as a juvenile; authorizing an
22 emancipated minor to file a petition for the rescission of an order of emancipation;
23 requiring a petitioner to serve a petition for the rescission of an order of emancipation
24 on certain individuals; requiring a court to hold a hearing on a petition for the
25 rescission of an order of emancipation within a certain period of time; authorizing a
26 court to rescind an order of emancipation under certain circumstances; requiring a
27 court to maintain a record of the rescission of an order of emancipation until the
28 minor reaches a certain age; providing for the effect of the rescission of an order of
29 emancipation; authorizing a minor to appeal the denial of a petition for rescission of
30 an order of emancipation to the Court of Special Appeals in accordance with the
31 Maryland Rules; authorizing the Court of Appeals to adopt rules to implement the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



provisions of this Act; making conforming changes; and generally relating to the emancipation of a minor.

BY repealing and reenacting, with amendments,

Article – Family Law

Section 1–201(b)

Annotated Code of Maryland

(2019 Replacement Volume)

BY adding to

Article – Family Law

Section 5–2A–01 through 5–2A–07 to be under the new subtitle “Subtitle 2A. Emancipation of a Minor”

Annotated Code of Maryland

(2019 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – General Provisions

Section 1–401(a)

Annotated Code of Maryland

(2019 Replacement Volume)

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 THE EMANCIPATION OF A MINOR.

SUBTITLE 2A. EMANCIPATION OF A MINOR.

5-2A-01.

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

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

5-2A-02.

A PETITION FOR THE EMANCIPATION OF A MINOR SHALL CONTAIN THE FOLLOWING:

(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 EMANCIPATION SHOULD BE GRANTED; AND

(4) SUPPORTING DOCUMENTS, WHICH MAY INCLUDE:

(I) PROOF OF THE PETITIONER'S EMPLOYMENT OR OTHER MEANS OF SELF-SUPPORT;

(II) A STATEMENT BY THE PETITIONER OUTLINING HOW THE

1 PETITIONER PLANS TO PROVIDE FOR FOOD, HOUSING, MEDICAL CARE, AND OTHER
2 NECESSITIES;

3 (III) A STATEMENT CONCERNING THE PETITIONER'S EDUCATION
4 PLANS;

5 (IV) AFFIDAVITS OF SUPPORT FROM INDIVIDUALS WITH
6 PERSONAL KNOWLEDGE OF THE PETITIONER'S CIRCUMSTANCES; AND

7 (V) ANY OTHER INFORMATION THAT MAY HELP SUPPORT THE
8 PETITION.

9 **5-2A-03.**

10 (A) ON THE FILING OF A PETITION FOR THE EMANCIPATION OF A MINOR, A
11 COURT SHALL:

12 (1) APPOINT A CHILD ADVOCATE ATTORNEY TO REPRESENT AND
13 ADVOCATE ON BEHALF OF THE PETITIONER; AND

14 (2) REQUEST FROM THE DEPARTMENT AND THE DEPARTMENT
15 SHALL PROVIDE:

16 (I) ANY RECORDS OF REPORTED CHILD ABUSE OR NEGLECT
17 RELATING TO THE PETITIONER; AND

18 (II) A STATEMENT CONCERNING WHETHER THE PETITIONER IS
19 CURRENTLY IN THE CARE OF THE DEPARTMENT.

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

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

26 (3) SERVICE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE
27 BY:

28 (I) PERSONAL SERVICE; OR

29 (II) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT

1 REQUESTED.

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

4 (D) A COURT SHALL HOLD A HEARING ON A PETITION FOR THE
5 EMANCIPATION OF A MINOR WITHIN 30 DAYS AFTER THE FILING OF THE PETITION.

6 5-2A-04.

7 (A) AFTER A HEARING, A COURT MAY ENTER AN ORDER OF EMANCIPATION
8 IF THE COURT FINDS THAT:

9 (1) THE PETITIONER IS CAPABLE OF LIVING INDEPENDENTLY, BEING
10 SELF-SUPPORTING, AND MANAGING THE PETITIONER'S OWN AFFAIRS;

11 (2) THE PETITIONER UNDERSTANDS THE RIGHTS, RESPONSIBILITIES,
12 AND OTHER CONSEQUENCES OF EMANCIPATION; AND

13 (3) EMANCIPATION IS IN THE BEST INTEREST OF THE PETITIONER.

14 (B) ON ENTERING AN ORDER OF EMANCIPATION, THE CLERK OF THE COURT
15 SHALL ISSUE A CERTIFIED COPY OF THE ORDER TO THE PETITIONER.

16 5-2A-05.

17 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN ORDER
18 OF EMANCIPATION SHALL HAVE THE SAME EFFECT AS THE PETITIONER REACHING
19 THE AGE OF MAJORITY AND SHALL CONFER ON THE PETITIONER ALL OF THE RIGHTS
20 AND RESPONSIBILITIES OF LEGAL ADULTHOOD, INCLUDING THE RIGHT TO:

21 (I) ENTER INTO ENFORCEABLE CONTRACTUAL
22 RELATIONSHIPS INCLUDING LEASE AGREEMENTS, REAL ESTATE TRANSACTIONS,
23 AND AGREEMENTS FOR THE PROVISION OF UTILITIES;

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

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

27 (IV) ESTABLISH A DOMICILE OR RESIDENCE SEPARATE FROM A
28 PARENT OR LEGAL GUARDIAN;

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

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

(VII) FILE AN INDIVIDUAL STATE INCOME TAX RETURN;

(VIII) REGISTER FOR SCHOOL OR ENROLL AT A COLLEGE OR UNIVERSITY;

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

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

(XI) EXECUTE A WILL OR CODICIL; AND

(XII) APPLY FOR A MARRIAGE LICENSE.

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

(I) VOTING;

(II) THE PURCHASE, POSSESSION, OR CONSUMPTION OF ALCOHOLIC BEVERAGES, TOBACCO PRODUCTS, OR ELECTRONIC CIGARETTES;

(III) COMPULSORY SCHOOL ATTENDANCE;

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

(V) GAMING BY A PERSON UNDER THE AGE OF 18 YEARS OR EMPLOYMENT IN GAMING OF A PERSON UNDER THE AGE OF 18 YEARS.

(B) 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.

1 **5-2A-06.**

2 **(A) AN EMANCIPATED MINOR MAY PETITION THE COURT THAT ISSUED AN**
3 **EMANCIPATION ORDER UNDER THIS SUBTITLE FOR A RESCISSION OF THE ORDER OF**
4 **EMANCIPATION.**

5 **(B) THE PETITIONER SHALL SERVE THE PETITION FOR THE RESCISSION OF**
6 **AN ORDER OF EMANCIPATION OF A MINOR ON THE PARENT OR FORMER LEGAL**
7 **GUARDIAN OF THE MINOR.**

8 **(C) THE COURT SHALL HOLD A HEARING ON A PETITION FOR THE**
9 **RESCISSION OF AN ORDER OF EMANCIPATION OF A MINOR WITHIN 30 DAYS AFTER**
10 **THE FILING OF THE PETITION.**

11 **(D) A COURT SHALL GRANT A PETITION FOR THE RESCISSION OF AN ORDER**
12 **OF EMANCIPATION OF A MINOR IF THE COURT FINDS:**

13 **(1) THAT THE MINOR IS INDIGENT AND HAS NO MEANS OF**
14 **SELF-SUPPORT;**

15 **(2) THAT THE MINOR AND THE PARENT OR FORMER GUARDIAN OF**
16 **THE MINOR AGREE THAT THE ORDER OF EMANCIPATION SHOULD BE RESCINDED;**

17 **(3) THAT THERE IS A RESUMPTION OF FAMILY RELATIONS THAT IS**
18 **INCONSISTENT WITH THE EMANCIPATION ORDER; OR**

19 **(4) THAT THE EMANCIPATION DECREE WAS OBTAINED THROUGH**
20 **FRAUD, MISREPRESENTATION, OR THE WITHHOLDING OF MATERIAL FACT.**

21 **(E) IF THE COURT GRANTS A PETITION FOR THE RESCISSION OF AN ORDER**
22 **OF EMANCIPATION OF A MINOR, THE COURT SHALL MAINTAIN A RECORD OF THE**
23 **RESCISSION OF THE ORDER OF EMANCIPATION UNTIL THE MINOR REACHES THE AGE**
24 **OF 25 YEARS.**

25 **(F) A MINOR WHO WAS FORMERLY IN THE CUSTODY OF THE DEPARTMENT**
26 **IS ENTITLED TO THE RESUMPTION OF SERVICES, INCLUDING OUT-OF-HOME**
27 **PLACEMENT, ON THE RESCISSION OF AN ORDER OF EMANCIPATION.**

28 **(G) A MINOR MAY FILE AN APPEAL OF A DENIAL OF A PETITION FOR**
29 **RESCISSION OF AN ORDER OF EMANCIPATION WITH THE COURT OF SPECIAL**
30 **APPEALS DURING THE PERIOD ALLOWED AND IN THE MANNER REQUIRED BY THE**
31 **MARYLAND RULES.**

(H) THE RESCISSION OF AN ORDER OF EMANCIPATION DOES NOT ALTER OR AFFECT CONTRACTUAL OR PROPERTY RIGHTS OR OBLIGATIONS INCURRED DURING THE TIME THAT THE ORDER OF EMANCIPATION WAS IN EFFECT.

5-2A-07.

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

Article – General Provisions

1-401.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.