

HOUSE BILL 458

D4

0lr2375

By: **Delegate Atterbeary**

Introduced and read first time: January 24, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Minors – Emancipation**
3 **(Emancipation of Minors Act of 2020)**

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; requiring a clerk of the court to review a certain order
7 before issuing a marriage license under certain circumstances; altering what is
8 required to be kept as a record by a clerk of the court under certain circumstances;
9 authorizing a minor to file a petition for emancipation in the minor's own name
10 subject to certain requirements; prohibiting a parent from filing a petition for the
11 emancipation of a minor; requiring that a certain petition for the emancipation of a
12 minor contain certain information; requiring the court to appoint an attorney to
13 represent the petitioner on the filing of a petition for the emancipation of a minor;
14 requiring the court to request certain information from the Department of Human
15 Services and requiring the Department to provide the information to the court;
16 requiring a court to issue a certain show-cause order under certain circumstances;
17 requiring a petitioner to serve a certain show-cause order on certain individuals and
18 in a certain manner; requiring a court to hold a hearing on a petition for the
19 emancipation of a minor within a certain period of time; authorizing a court to issue
20 an order of emancipation after making certain findings; requiring a clerk of the court
21 to issue a certified copy of an order of emancipation to a petitioner under certain
22 circumstances; providing for the effect of an order of emancipation; authorizing the
23 Court of Appeals to adopt rules to implement the provisions of this Act; making
24 conforming changes; and generally relating to the emancipation of a minor.

25 BY repealing and reenacting, with amendments,
26 Article – Family Law
27 Section 1–201(b), 2–301(a), and 2–405(c)
28 Annotated Code of Maryland
29 (2019 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to

Article – Family Law

Section 5–2A–01 through 5–2A–06 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.

2–301.

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

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

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

(3) IF THE INDIVIDUAL IS 17 YEARS OLD AND HAS BEEN GRANTED AN ORDER OF EMANCIPATION, THE INDIVIDUAL GIVES THE CLERK A CERTIFIED COPY OF THE EMANCIPATION ORDER.

2–405.

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

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

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

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

3. A PHOTOCOPY OF THE CERTIFIED COPY OF THE ORDER OF EMANCIPATION REQUIRED UNDER § 2–301 OF THIS TITLE.

(ii) The licensed physician's certificate required by § 2–301 of this title may not be made a part of the clerk's record.

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

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

(III) A STATEMENT ON THE PETITIONER'S EDUCATION PLANS;

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

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

5-2A-03.

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

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

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

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

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

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

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

16 **(3) SERVICE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE**
17 **BY:**

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

19 **(II) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT**
20 **REQUESTED.**

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

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

25 **5-2A-04.**

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

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

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

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

5 ~~5-2A-05.~~

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

8 (B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN
9 ORDER OF EMANCIPATION SHALL HAVE THE SAME EFFECT AS THE PETITIONER
10 REACHING THE AGE OF MAJORITY AND SHALL CONFER ON THE PETITIONER ALL OF
11 THE RIGHTS AND RESPONSIBILITIES OF LEGAL ADULTHOOD, INCLUDING THE RIGHT
12 TO:

13 (I) ENTER INTO ENFORCEABLE CONTRACTUAL
14 RELATIONSHIPS, INCLUDING LEASE AGREEMENTS, REAL ESTATE TRANSACTIONS,
15 AND AGREEMENTS FOR THE PROVISION OF UTILITIES;

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

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

19 (IV) ESTABLISH A DOMICILE OR RESIDENCE SEPARATE FROM A
20 PARENT OR LEGAL GUARDIAN;

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

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

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

27 (VIII) REGISTER FOR SCHOOL;

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

30 (X) APPLY FOR PUBLIC ASSISTANCE AND BENEFITS

ADMINISTERED BY THE STATE AND VARIOUS COUNTIES;

(XI) EXECUTE A WILL OR CODICIL; AND

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

(2) AN ORDER OF EMANCIPATION DOES NOT HAVE THE SAME EFFECT AS THE PETITIONER REACHING THE AGE OF MAJORITY FOR THE PURPOSES OF:

(I) VOTING;

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

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

(IV) COMPULSORY SCHOOL ATTENDANCE;

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

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

5-2A-06.

THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT THE PROVISIONS OF 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.

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