

HOUSE BILL 1304

D4

8lr2218

By: **Delegates Atterbeary and Dumais**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

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 juvenile court to include a petition for
5 the emancipation of a minor; establishing that a minor who is at least a certain age
6 may become emancipated from a parent or legal guardian under certain
7 circumstances; authorizing a minor to file a petition for emancipation in the minor's
8 own name subject to certain requirements; prohibiting a parent from filing a petition
9 for the emancipation of a minor; requiring that a certain petition for the
10 emancipation of a minor contain certain information; requiring that a court appoint
11 a lawyer to serve as a best interest attorney for certain petitioners for emancipation;
12 requiring a court-appointed attorney to conduct a certain investigation, make a
13 certain request, and make certain recommendations; requiring a court to issue a
14 certain show cause order under certain circumstances; requiring a petitioner to serve
15 a certain show-cause order on certain individuals and in a certain manner; requiring
16 a court to hold a hearing on a petition for the emancipation of a minor within a
17 certain period of time; establishing a certain burden and standard of proof; requiring
18 a court to consider certain factors in determining whether to enter an order of
19 emancipation in certain circumstances; requiring a clerk of the court to issue a
20 certified copy of an order of emancipation to a petitioner under certain
21 circumstances; providing for the effect of an order of emancipation; authorizing an
22 emancipated minor to apply for, and a clerk of the court to grant, a marriage license
23 subject to certain requirements; authorizing the Court of Appeals to adopt rules to
24 implement the provisions of this Act; specifying that a certain report or record
25 concerning child abuse or neglect may be disclosed on request to a court-appointed
26 attorney under this Act; requiring the Motor Vehicle Administration to ensure that
27 the driver's license or identification card of an applicant who provides certain proof
28 that the applicant is an emancipated minor includes a notation specifying that status
29 and includes certain restrictions; requiring an application for a driver's license or an
30 identification card to allow an applicant to indicate that the applicant is an

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 emancipated minor; authorizing the Administration to adopt regulations to carry out
2 this Act; and generally relating to the emancipation of a minor.

3 BY repealing and reenacting, with amendments,
4 Article – Family Law
5 Section 1–201(b)
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2017 Supplement)

8 BY adding to
9 Article – Family Law
10 Section 5–2A–01 through 5–2A–07 to be under the new subtitle “Subtitle 2A.
11 Emancipation of a Minor”
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2017 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Human Services
16 Section 1–202(c)(1)(x) and (xi)
17 Annotated Code of Maryland
18 (2007 Volume and 2017 Supplement)

19 BY adding to
20 Article – Human Services
21 Section 1–202(c)(1)(xii)
22 Annotated Code of Maryland
23 (2007 Volume and 2017 Supplement)

24 BY adding to
25 Article – Transportation
26 Section 12–305
27 Annotated Code of Maryland
28 (2012 Replacement Volume and 2017 Supplement)

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

31 **Article – Family Law**

32 1–201.

33 (b) An equity court has jurisdiction over:

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

- 1 (2) alimony;
- 2 (3) annulment of a marriage;
- 3 (4) divorce;
- 4 (5) custody or guardianship of a child except for a child who is under the
5 jurisdiction of any juvenile court and who previously has been adjudicated to be a child in
6 need of assistance;
- 7 (6) visitation of a child;
- 8 (7) legitimation of a child;
- 9 (8) paternity;
- 10 (9) support of a child; [and]
- 11 (10) custody or guardianship of an immigrant child pursuant to a motion for
12 Special Immigrant Juvenile factual findings requesting a determination that the child was
13 abused, neglected, or abandoned before the age of 18 years for purposes of § 101(a)(27)(J)
14 of the federal Immigration and Nationality Act; AND

15 (11) A PETITION FOR THE EMANCIPATION OF A MINOR.

16 SUBTITLE 2A. EMANCIPATION OF A MINOR.

17 5-2A-01.

18 (A) A MINOR WHO IS AT LEAST 16 YEARS OLD MAY FILE A PETITION IN THE
19 MINOR'S OWN NAME TO BECOME EMANCIPATED FROM THE MINOR'S PARENTS OR
20 LEGAL GUARDIAN:

21 (1) IF THE MINOR ENTERS INTO A VALID MARRIAGE UNDER § 2-301
22 OF THIS ARTICLE, WITHOUT REGARD TO A SUBSEQUENT DISSOLUTION OF THE
23 MARRIAGE;

24 (2) IF THE MINOR ENTERS INTO ACTIVE DUTY SERVICE WITH A
25 BRANCH OF THE ARMED FORCES OF THE UNITED STATES OF AMERICA; OR

26 (3) IN ACCORDANCE WITH §§ 5-2A-02 THROUGH 5-2A-05 OF THIS
27 SUBTITLE.

28 (B) (1) THE REQUIREMENTS UNDER §§ 5-2A-02 THROUGH 5-2A-05 OF
29 THIS SUBTITLE DO NOT APPLY TO A MINOR DESCRIBED IN SUBSECTION (A)(1) OR (2)

1 OF THIS SECTION.

2 (2) FOLLOWING A HEARING, THE COURT SHALL ORDER THE
3 EMANCIPATION OF A MINOR DESCRIBED IN SUBSECTION (A)(1) OR (2) OF THIS
4 SECTION WHO PROPERLY FILES A PETITION FOR EMANCIPATION IN THE CIRCUIT
5 COURT FOR THE COUNTY IN WHICH THE MINOR RESIDES.

6 (3) A HEARING ON A PETITION FOR EMANCIPATION SHALL BE HELD
7 WITHIN 60 DAYS AFTER THE FILING OF THE PETITION.

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

10 5-2A-02.

11 A MINOR MAY FILE A PETITION FOR EMANCIPATION IN THE CIRCUIT COURT
12 FOR THE COUNTY IN WHICH THE MINOR RESIDES IF:

13 (1) THE MINOR IS AT LEAST 16 YEARS OLD; AND

14 (2) THE MINOR HAS RESIDED IN THE STATE FOR AT LEAST 12
15 CONSECUTIVE MONTHS IMMEDIATELY BEFORE THE FILING OF THE PETITION.

16 5-2A-03.

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

19 (1) THE PETITIONER'S FULL NAME AND DATE OF BIRTH;

20 (2) THE NAME AND LAST KNOWN ADDRESS OF THE MINOR'S PARENTS
21 OR LEGAL GUARDIAN;

22 (3) IF THE PETITIONER IS 16 YEARS OLD, PROOF THAT THE
23 PETITIONER HAS BEEN LIVING SEPARATE AND APART FROM THE PETITIONER'S
24 PARENTS OR LEGAL GUARDIAN FOR AT LEAST 6 CONSECUTIVE MONTHS BEFORE THE
25 FILING OF THE PETITION;

26 (4) IF THE PETITIONER IS 17 YEARS OLD, PROOF THAT THE
27 PETITIONER HAS BEEN LIVING SEPARATE AND APART FROM THE PETITIONER'S
28 PARENTS OR LEGAL GUARDIAN FOR AT LEAST 3 CONSECUTIVE MONTHS BEFORE THE
29 FILING OF THE PETITION;

1 (XI) A LICENSED OR REGISTERED CHILD CARE PROVIDER.

2 5-2A-04.

3 (A) (1) ON THE FILING OF A PETITION FOR EMANCIPATION, A COURT
4 SHALL APPOINT A LAWYER TO SERVE AS A BEST INTEREST ATTORNEY FOR THE
5 PETITIONER.

6 (2) A LAWYER APPOINTED UNDER PARAGRAPH (1) OF THIS
7 SUBSECTION SHALL:

8 (I) INVESTIGATE STATEMENTS AND CLAIMS MADE IN THE
9 PETITION FOR EMANCIPATION;

10 (II) REQUEST FROM THE DEPARTMENT ANY RECORDS OF
11 REPORTED CHILD ABUSE OR NEGLECT OF THE PETITIONER AND INFORMATION ON
12 WHETHER THE PETITIONER IS CURRENTLY IN THE CARE OF THE DEPARTMENT; AND

13 (III) REPORT THE FINDINGS OF THE INVESTIGATION AND MAKE
14 RECOMMENDATIONS REGARDING THE PETITION TO THE COURT.

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

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

21 (3) SERVICE UNDER THIS SECTION SHALL BE BY:

22 (I) PERSONAL SERVICE; OR

23 (II) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT
24 REQUESTED.

25 (C) A COURT SHALL HOLD A HEARING ON A PETITION FOR EMANCIPATION
26 WITHIN 60 DAYS AFTER THE FILING OF THE PETITION.

27 5-2A-05.

28 (A) IN DETERMINING WHETHER TO ENTER AN ORDER OF EMANCIPATION,
29 THE COURT SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:

1 **(1) WHETHER THE PETITIONER FULLY UNDERSTANDS THE RIGHTS,**
2 **RESPONSIBILITIES, RISKS, AND CONSEQUENCES OF EMANCIPATION;**

3 **(2) WHETHER THE PETITIONER HAS A VIABLE PLAN FOR LIVING**
4 **INDEPENDENTLY, INCLUDING PLANS FOR:**

5 **(I) HOUSING;**

6 **(II) FOOD;**

7 **(III) CLOTHING; AND**

8 **(IV) HEALTH CARE; AND**

9 **(3) WHETHER EMANCIPATION IS IN THE BEST INTEREST OF THE**
10 **PETITIONER.**

11 **(B) A PETITIONER HAS THE BURDEN OF SHOWING BY CLEAR AND**
12 **CONVINCING EVIDENCE THAT THE REQUIREMENTS FOR EMANCIPATION UNDER**
13 **THIS SUBTITLE HAVE BEEN MET.**

14 **5-2A-06.**

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

17 **(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN**
18 **ORDER OF EMANCIPATION SHALL HAVE THE SAME EFFECT AS THE PETITIONER**
19 **REACHING THE AGE OF MAJORITY AND SHALL CONFER ON THE PETITIONER ALL OF**
20 **THE RIGHTS AND RESPONSIBILITIES OF LEGAL ADULTHOOD.**

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

23 **(I) VOTING;**

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

26 **(III) THE PURCHASE, POSSESSION, OR CONSUMPTION OF**
27 **TOBACCO PRODUCTS;**

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

2 (V) **HEALTH AND SAFETY REGULATIONS.**

3 (3) **AN EMANCIPATED MINOR REMAINS SUBJECT TO THE CRIMINAL**
 4 **JURISDICTION OF THE JUVENILE COURT AS OTHERWISE PROVIDED BY LAW.**

5 (C) **NOTWITHSTANDING § 2-301 OF THIS ARTICLE, AN EMANCIPATED**
 6 **MINOR MAY APPLY FOR, AND A CLERK OF THE COURT MAY GRANT, A MARRIAGE**
 7 **LICENSE IF:**

8 (1) **THE APPLICANT IS AT LEAST 17 YEARS OLD; AND**

9 (2) **AT LEAST 30 DAYS HAVE PASSED SINCE THE ORDER OF**
 10 **EMANCIPATION WAS ISSUED BY A COURT.**

11 **5-2A-07.**

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

14 **Article – Human Services**

15 1-202.

16 (c) A report or record concerning child abuse or neglect:

17 (1) may be disclosed on request to:

18 (x) subject to subsection (d) of this section, a licensed practitioner of
 19 a hospital or birthing center to make discharge decisions concerning a child, when the
 20 practitioner suspects that the child may be in danger after discharge based on the
 21 practitioner's observation of the behavior of the child's parents or immediate family
 22 members; [or]

23 (xi) the president of a Maryland public institution of higher
 24 education, as defined in § 10-101 of the Education Article, or the Chancellor of the
 25 University System of Maryland, to carry out appropriate personnel or administrative
 26 actions following a report of child abuse committed:

27 1. by an employee of the institution who has on-campus
 28 contact with children; or

29 2. by a contractor, an employee of a contractor, or a volunteer
 30 of the institution who has on-campus contact with children; [and] **OR**

1 **(XII) A LAWYER APPOINTED AS A BEST INTEREST ATTORNEY IN A**
2 **PROCEEDING FOR THE EMANCIPATION OF A MINOR UNDER TITLE 5, SUBTITLE 2A**
3 **OF THE FAMILY LAW ARTICLE; AND**

4 **Article – Transportation**

5 **12-305.**

6 **(A) THE ADMINISTRATION SHALL ENSURE THAT THE DRIVER’S LICENSE OR**
7 **IDENTIFICATION CARD FOR AN EMANCIPATED MINOR INCLUDES A NOTATION**
8 **INDICATING THAT THE APPLICANT IS AN EMANCIPATED MINOR AND INDICATING**
9 **THAT AN EMANCIPATED MINOR IS NOT ENTITLED TO PURCHASE ALCOHOLIC**
10 **BEVERAGES OR TOBACCO PRODUCTS FOR AN APPLICANT WHO PRESENTS:**

11 **(1) AN ORIGINAL, CERTIFIED COPY OF A COURT ORDER OF**
12 **EMANCIPATION INDICATING THAT THE APPLICANT IS AN EMANCIPATED MINOR;**

13 **(2) AN ORIGINAL, CERTIFIED COPY OF A VALID MARRIAGE**
14 **CERTIFICATE; OR**

15 **(3) PROOF OF THE APPLICANT’S STATUS AS AN ACTIVE DUTY MEMBER**
16 **OF THE ARMED FORCES OF THE UNITES STATES OF AMERICA THAT THE**
17 **ADMINISTRATION DEEMS SUFFICIENT.**

18 **(B) AN APPLICATION FOR A DRIVER’S LICENSE OR AN IDENTIFICATION**
19 **CARD SHALL ALLOW AN APPLICANT TO INDICATE THAT THE APPLICANT IS AN**
20 **EMANCIPATED MINOR.**

21 **(C) THE ADMINISTRATION MAY ADOPT REGULATIONS TO CARRY OUT THIS**
22 **SECTION.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2018.