

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 242  
Judiciary

(Delegate Atterbeary)

Judicial Proceedings

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Family Law - Emancipation of a Minor and Authorization to Marry

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This bill repeals provisions authorizing individuals ages 15 and 16 to marry under specified circumstances and alters the circumstances under which an individual who is age 17 may marry. The bill establishes procedures by which a minor (age 17) may petition for, and a court may issue, an emancipation order and authorization to marry.

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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.

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Analysis

**Bill Summary:** Individuals younger than age 17 may not marry. An individual age 17 may not marry unless the individual presents a certified copy of an order granting emancipation and authorization for a minor to marry to the clerk of the circuit court no earlier than 15 days after the order was issued. The other party to be married may not be more than four years older than the minor. The bill also establishes that one of the parties to be married (regardless of age) must present to the clerk a copy of a birth certificate or other government-issued document or record demonstrating the age of each party.

The bill expands the jurisdiction of an equity court to include petitions for the emancipation of minors and authorization to marry. A minor who is age 17 may file a petition in the minor's own name for emancipation and the authorization to marry.

A petition must contain specified information, including (1) identifying information regarding the petitioner and the intended spouse; (2) a statement explaining how the parties met and how long they have known each other; (3) a copy of any criminal records and peace or protective orders concerning either party; and (4) evidence that the minor is mature and capable of self-sufficiency and self-support independent of the minor's parents, guardian, or intended spouse.

On the filing of a petition, the court must appoint a lawyer with family law experience to represent the petitioner, set an evidentiary hearing on the petition, and provide the minor with specified information, including information on State and national hotlines for child abuse, domestic violence, sexual assault, and human trafficking.

The court must conduct an in-camera interview of the petitioner separate from the petitioner's parents or guardians and intended spouse. Neither the wishes of the parents or legal guardians of the petitioner nor the fact that the petitioner or the petitioner's intended spouse is pregnant is sufficient evidence that marriage is in the best interest of the petitioner. There is a rebuttable presumption that emancipation and marriage are not in the best interests of the petitioner if all the parents or guardians of the petitioner oppose the petition.

After a hearing, a court may issue an order granting emancipation and authorization for a minor to marry if the court makes specified written findings that (1) the petitioner is a county resident who is at least age 17 and the intended spouse is no more than 4 years older than the petitioner; (2) the petitioner seeks to marry voluntarily and free from force, coercion, and fraud; and (3) the petitioner is mature and capable of self-sufficiency and self-support. A court may deny a petition for the emancipation of a minor and authorization to marry if the court makes a written finding that emancipation and marriage are not in the best interest of the petitioner.

A court may not issue an order granting emancipation and authorization for a minor to marry if the court determines that:

- the intended spouse of the petitioner (1) at any time has been in a position of authority or special trust with the petitioner or has had a professional relationship with the petitioner or (2) has been convicted or adjudicated delinquent for specified crimes;
- one party is pregnant or has a child with the other party that evidences that the petitioner was the victim of a sexual crime committed by the intended spouse; or

- a protective order or peace order was issued against the intended spouse of the petitioner, regardless of whether the petitioner was the victim.

On the issuance of an order granting emancipation and the authorization to marry, the clerk of the court must provide 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. However, an order of emancipation does not supersede age requirements for (1) voting; (2) the purchase, possession, or consumption of alcoholic beverages, tobacco products, or electronic cigarettes; (3) compulsory school attendance; and (4) health and safety regulations, including workplace regulations designed to protect individuals younger than age 18.

The Court of Appeals may adopt rules to implement the provisions of the bill.

**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 and authorization to marriage 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.

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### **Additional Information**

**Prior Introductions:** None. However, numerous bills related to emancipation and/or the marriage of minors have been introduced in prior sessions. HB 458 of 2020 received a hearing in the House Judiciary Committee, but no further action was taken. HB 1231 of HB 242/ Page 3

2020 passed the House as amended and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Both its cross files, SB 949, and SB 680 received hearings in the Senate Judicial Proceedings Committee, but no further action was taken on either bill. HB 855 of 2019 received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 231, received a hearing in the Senate Judicial Proceedings Committee but was subsequently withdrawn. HB 1147 of 2019 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. Related bills were also introduced in prior sessions.

**Designated Cross File:** SB 173 (Senators Elfreth and Hettleman) - Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** rh/lgc  
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