

JAN 20 2023

A BILL FOR AN ACT

RELATING TO CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 571-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§571-11 Jurisdiction; children. Except as otherwise
4 provided in this chapter, the court shall have exclusive
5 original jurisdiction in proceedings:

6 (1) Concerning any person who is alleged to have committed
7 an act [~~prior to~~] before achieving eighteen years of
8 age that would constitute a violation or attempted
9 violation of any federal, state, or local law or
10 county ordinance. Regardless of where the violation
11 occurred, jurisdiction may be taken by the court of
12 the circuit where the person resides, is living, or is
13 found, or in which the offense is alleged to have
14 occurred;

15 (2) Concerning any child living or found within the
16 circuit:



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- 1 (A) Who is neglected as to or deprived of educational
2 services because of the failure of any person or
3 agency to exercise that degree of care for which
4 it is legally responsible;
- 5 (B) Who is beyond the control of the child's parent
6 or other custodian or whose behavior is injurious
7 to the child's own or others' welfare;
- 8 (C) Who is neither attending school nor receiving
9 educational services required by law whether
10 through the child's own misbehavior or
11 nonattendance or otherwise; or
- 12 (D) Who is in violation of curfew;
- 13 (3) To determine the custody of any child or appoint a
14 guardian of any child;
- 15 (4) For the adoption of a person under chapter 578;
- 16 (5) For the termination of parental rights under [sections
17 ~~571-61 through 571-63,~~ part VI of this chapter;
- 18 (6) For judicial consent to the marriage, employment, or
19 enlistment of a child, when consent is required by
20 law;



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- 1 (7) For the treatment or commitment of a mentally
2 defective or mentally ill child, or a child with an
3 intellectual disability;
- 4 (8) Under the Interstate Compact on Juveniles under
5 chapter 582 or the Interstate Compact for Juveniles
6 under chapter 582D;
- 7 (9) For the protection of any child under chapter 587A;
- 8 (10) For a change of name as provided in section 574-
9 5(a)(2)(C); ~~and~~
- 10 (11) Concerning custody or guardianship of an immigrant
11 child pursuant to a motion for special immigrant
12 juvenile factual findings requesting a determination
13 that the child was abused, neglected, or abandoned
14 before the age of eighteen years for purposes of
15 section 101(a)(27)(J) of the federal Immigration and
16 Nationality Act. For the purposes of this paragraph,
17 "child" means an unmarried individual under the age of
18 twenty-one years[-]; and
- 19 (12) Concerning emancipation of a minor pursuant to section
20 577-25."



1 SECTION 2. Section 577-25, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[§577-25]~~ **Emancipation of certain minors.** (a) Any
4 law to the contrary notwithstanding, a minor ~~[who has been~~
5 ~~married pursuant to chapter 572]~~ shall be deemed to be
6 emancipated ~~[and shall be regarded as though he or she were of~~
7 ~~legal age and shall have all the rights, duties, privileges, and~~
8 ~~responsibilities provided by the civil law to a person who has~~
9 ~~reached the age of majority under civil law; provided that:~~

10 ~~(1) Nothing in this section shall be deemed to confer upon~~
11 ~~such person the right to vote in any federal, state,~~
12 ~~or county election or the right to purchase, possess,~~
13 ~~or sell alcoholic beverages; and~~

14 ~~(2) Nothing in this section shall change the status of~~
15 ~~such persons as minors in connection with any criminal~~
16 ~~law, nor affect the exclusive original jurisdiction of~~
17 ~~the family court over such persons under section 571-~~
18 ~~11(1).~~

19 ~~For purposes of this section, "minor" means a person under~~
20 ~~the age of majority.] if the minor:~~



1 (1) Has entered into a valid marriage pursuant to chapter
2 572;

3 (2) Is on active duty with the armed forces of the United
4 States; or

5 (3) Has received a declaration of emancipation issued by
6 the family court pursuant to this section.

7 (b) An emancipated minor shall be considered to have the
8 rights and responsibilities of an adult; provided that nothing
9 in this section shall be deemed to confer upon an emancipated
10 minor the right to vote in any federal, state, or county
11 election, or the right to purchase, possess, consume, or sell
12 alcoholic beverages; provided further that nothing in this
13 section shall change the status of the emancipated minor to be
14 deemed a minor in connection with any criminal law, nor affect
15 the exclusive original jurisdiction of the family court over
16 persons under section 571-11 paragraphs (1) and (12).

17 A minor shall be considered emancipated for purposes
18 including, but not limited to:

19 (1) The right to enter into enforceable contracts,
20 including apartment leases;

21 (2) The right to sue or be sued in the minor's own name;



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- 1 (3) The right to retain the minor's personal earnings;
- 2 (4) The right to establish a separate domicile;
- 3 (5) The right to act autonomously, and with the rights and
4 responsibilities of an adult, in all business
5 relationships, including property transactions and
6 obtaining accounts for utilities, except for estate or
7 property matters that a court determines may require a
8 conservator or guardian ad litem;
- 9 (6) The right to earn a living, subject only to the health
10 and safety regulations designed to protect individuals
11 under the age of majority regardless of their legal
12 status;
- 13 (7) The right to file the minor's own tax returns and pay
14 taxes pursuant to applicable personal income tax laws;
- 15 (8) The right to authorize the minor's own preventive
16 health care, medical care, dental care, mental health
17 care, and substance abuse treatment without knowledge
18 or liability of the minor's parents or guardian;
- 19 (9) The right to apply for a driver's license or other
20 state licenses for which the minor may be eligible;
- 21 (10) The right to register for school;



1 (11) The right to marry;

2 (12) The right to apply to medical and other public
3 assistance programs administered by the State or its
4 political subdivisions;

5 (13) The right, if the minor is a parent, to make decisions
6 and give authority in caring for the minor's child;
7 and

8 (14) The right to execute a will and other estate planning
9 documents, including trust documents, durable power of
10 attorney, or an advance health care directive.

11 (c) A minor who has reached the age of sixteen years who
12 seeks to be emancipated shall file a petition for a declaration
13 of emancipation with the family court in the circuit in which
14 the minor resides. The petition shall be filed by the minor
15 seeking emancipation. No parent or guardian of a minor, in
16 their individual capacity or as a representative or agent of the
17 minor, shall petition for emancipation of the minor.

18 (d) The petition for a declaration of emancipation shall
19 be signed and verified by the petitioning minor and shall
20 include:

21 (1) The minor's full name and birth date;



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- 1 (2) A certified copy of the minor's birth certificate, if
2 available;
- 3 (3) The name and last known address of the minor's parents
4 or guardian;
- 5 (4) The minor's present address and duration of the
6 minor's residency at that address;
- 7 (5) A declaration by the minor attesting that:
- 8 (A) The minor resides separately and apart from the
9 minor's parents or guardian at the minor's own
10 will;
- 11 (B) The minor is managing or has the ability to
12 manage the minor's financial affairs, including
13 supporting documentation of the minor's income
14 and expenses;
- 15 (C) The minor is managing or has the ability to
16 manage the minor's personal and social affairs,
17 including supporting documentation on proof of
18 housing; and
- 19 (D) The source of the minor's income does not include
20 public assistance and is not derived from any



1 activity in violation of any federal laws or laws
2 of this State; and

3 (6) Any other information deemed necessary by the court.

4 The judiciary shall prepare and make available to the public
5 forms that may be used for emancipation proceedings.

6 (e) Upon receipt of the petition for a declaration of
7 emancipation, the court shall:

8 (1) Set a date for hearing on the petition as soon as
9 practicable;

10 (2) Issue a summons requiring the appearance of the
11 minor's parents or guardian and any other person
12 deemed necessary by the court, unless the parents or
13 guardian and any other person deemed necessary by the
14 court commits in writing to appear voluntarily;

15 (3) Appoint a guardian ad litem to represent the interest
16 of the minor throughout the pendency of the minor's
17 emancipation proceedings;

18 (4) Appoint a legal counsel to represent the interest of
19 the minor throughout the pendency of the minor's
20 emancipation proceedings, where the court finds that
21 the minor requires a separate legal advocate to advise



1 the minor regarding the rights, responsibilities, and
2 legal consequences associated with emancipation;
3 provided that the minor is unable to afford private
4 counsel;

5 (5) Require:

6 (A) The child welfare services branch of the
7 department of human services' social services
8 division to investigate the allegations in the
9 petition and file a report containing the results
10 of the investigation with the court; or

11 (B) The minor to undergo a mental health evaluation
12 conducted by a licensed mental health
13 professional, as arranged for by the court or the
14 minor's parents or guardian; and

15 (6) Provide the minor with counseling and a pamphlet
16 written in plain language informing the minor of the
17 rights and responsibilities of an emancipated minor
18 and alternative options to emancipation available to
19 the minor.



1 Nothing in this subsection shall be construed to prevent the
2 petitioning minor from obtaining the minor's own legal counsel
3 to represent the minor in the emancipation proceeding.

4 (f) The hearing for a petition for declaration of
5 emancipation shall be conducted before a judge sitting without a
6 jury. The court shall grant the petition and issue a
7 declaration of emancipation if it finds clear and convincing
8 evidence that:

9 (1) The minor is at least sixteen years of age;

10 (2) The minor is a resident of the State;

11 (3) The minor resides separately and apart from the
12 minor's parents or legal guardian at the minor's own
13 will, with or without the parents' or legal guardian's
14 consent;

15 (4) The minor is managing or has the ability to manage the
16 minor's financial affairs;

17 (5) The minor is managing or has the ability to manage the
18 minors' personal and social affairs;

19 (6) The source of the minor's income does not include
20 public assistance and is not derived from any activity



1 in violation of any federal laws or laws of this
2 State;

3 (7) The minor understands the minor's rights and
4 responsibilities as an emancipated minor in the State
5 and has been given the time and opportunity to
6 consider alternatives to emancipation, if any, before
7 conclusion of the hearing; and

8 (8) Emancipation is in the best interest of the minor.

9 A declaration of emancipation issued by the court shall be
10 conclusive evidence that the minor is emancipated and shall
11 terminate the rights of the minor's parents to the custody,
12 control, services, and earnings of the minor.

13 (g) A declaration of emancipation obtained by fraud or by
14 the withholding of material information shall be voidable. A
15 petition to void a declaration of emancipation on the ground
16 that the declaration was obtained by fraud or by the withholding
17 of material information may be filed by any person with the
18 family court that issued the declaration of emancipation.

19 (h) A declaration of emancipation of a minor who has
20 subsequently become indigent with no means of support other than
21 public assistance shall be subject to rescission. A petition to



1 rescind a declaration of emancipation on the ground that the
2 minor has become indigent may be filed by:

- 3 (1) The minor declared emancipated;
4 (2) The minor's conservator; or
5 (3) Corporation counsel or county attorney of the county
6 in which the minor resides,
7 with a family court in the circuit in which the minor or the
8 conservator resides.

9 (i) Upon filing of a petition to void or rescind a
10 declaration of emancipation pursuant to subsections (g) or (h),
11 the court shall:

- 12 (1) Set a date for hearing on the petition as soon as
13 practicable; and
14 (2) Issue a summons requiring the appearance of the minor
15 if the minor is not the petitioner, the minor's
16 parents or former guardian, and any other person
17 deemed necessary by the court unless the minor, the
18 minor's parents or former guardian, and the person
19 deemed necessary by the court commits in writing to
20 appear voluntarily. Summons issued to the parents or
21 former guardian of the minor shall be accompanied by a



1 statement that they may be liable to provide support
2 to the minor, including provision of medical insurance
3 coverage, if the declaration of emancipation is voided
4 or rescinded. Liability shall not accrue to a parent
5 or legal guardian of a minor whose emancipation has
6 been voided or rescinded until the parent or guardian
7 receives notice of the court's order of voidance or
8 rescission.

9 (j) The hearing for a petition to void or rescind a
10 declaration of emancipation shall be conducted before a judge
11 sitting without a jury. The court shall grant the petition and
12 issue an order:

13 (1) Voiding the declaration of emancipation if it finds
14 clear and convincing evidence that the declaration was
15 obtained by fraud or by the withholding of material
16 information; or

17 (2) Rescinding the declaration of emancipation if it finds
18 clear and convincing evidence that the rescission of
19 the declaration of emancipation is in the best
20 interest of the minor.



1 The voiding or rescission of a declaration of emancipation shall
2 not alter any contractual obligation or right or any property
3 right or interest that arose during the period that the
4 declaration was in effect.

5 (k) Service of summons issued pursuant to this section
6 shall be made personally by the delivery of a copy of the
7 summons, together with a copy of the relevant petition, to the
8 person summoned; provided that, if a judge determines that
9 personal service of the summons is impracticable, the judge may
10 order service by certified or registered mail addressed to the
11 last known address, or by publication, or both. Service
12 effected not less than forty-eight hours before the time fixed
13 in the summons for the return thereof shall be sufficient to
14 confer jurisdiction; provided that jurisdiction shall be
15 conferred if any person summoned appears voluntarily at the time
16 and place appointed and waives service and notice.

17 Service of summons, process, or any notice required by this
18 section may be made by any suitable person under the direction
19 of the court, and upon request of the court, shall be made by
20 any police officer. The judge may authorize the payment of
21 necessary travel expenses incurred by persons summoned or



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1 otherwise required to appear at the hearing of a case pursuant
2 to this section. Section 621-7 shall apply to persons summoned
3 under this section other than a parent, guardian, or other legal
4 custodian of the minor concerned.

5 (l) Notwithstanding any other law to the contrary, the
6 court shall order reasonable fees of counsel, experts, and the
7 minor's guardian ad litem, and other costs of services required
8 in relation to a petition for declaration of emancipation,
9 including reasonable fees for service of process of the
10 petition, summons, and notice of hearing, and services rendered
11 by mental health providers, to be paid by the minor's parents or
12 guardian.

13 (m) The petitioner or any other person admitted as party
14 to a petition proceeding concerning emancipation of a minor
15 pursuant to this section may file an appeal pursuant to section
16 571-54 from the court's issuance of, or denial of, a declaration
17 of emancipation, an order voiding a declaration of emancipation,
18 or order rescinding a declaration of emancipation.

19 (n) As used in this section:



1 "Emancipation" means termination of the rights of the
2 parents of a minor to the custody, control, services, and
3 earnings of a minor.

4 "Guardian" means a person appointed or qualified by a court
5 as a guardian of an individual and includes a limited guardian,
6 but excludes a person who is merely a guardian ad litem."

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5 This Act shall take effect upon its approval.

13

INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and appears to be the name of the bill's sponsor.

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Report Title:

Emancipation of Minors; Family Court

Description:

Expands the original jurisdiction of family court to include proceedings for declaration of emancipation of minors. Expands the circumstances under which a minor shall be deemed to be emancipated to include minors on active duty with the Armed Forces of the United States and upon issuance of a declaration of emancipation by the family court. Specifies the rights of an emancipated minor. Allows a minor who has reached the age of sixteen years to petition the family court for a declaration of emancipation. Requires the court to take certain actions regarding investigation of the petition for declaration of emancipation, including appointment of a guardian ad litem and legal counsel for the petitioning minor, and the findings necessary to grant the petition. Requires the court to order the minor's parents or legal guardian to pay for any services ordered by the court for the petition. Allows certain parties to petition the family court for voidance or rescission of a declaration of emancipation. Allows parties to appeal the court's decision to the intermediate court of appeals.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

