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# A BILL FOR AN ACT

RELATING TO CHILDREN.

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

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

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

- (1) Nothing in this ~~[section]~~ subsection shall be deemed to confer upon ~~[such person]~~ a minor the right to vote in any federal, state, or county election or the right to purchase, possess, or sell alcoholic beverages; and
- (2) Nothing in this ~~[section]~~ subsection shall change the status of ~~[such persons as minors]~~ a person as a minor in connection with any criminal law, nor affect the



1 exclusive original jurisdiction of the family court  
2 over ~~[such persons]~~ a person under section 571-11(1).

3 (b) A minor who has reached the age of sixteen and has  
4 continuously resided in this State for the preceding twelve  
5 months may petition the family court in the circuit in which the  
6 minor resides for a determination that the minor named in the  
7 petition be emancipated. The petition shall:

8 (1) Outline how the minor has demonstrated independent  
9 capabilities, separate from the minor's parents or  
10 guardians, in matters of care, custody, control, and  
11 earnings; and

12 (2) Be filed by the minor seeking emancipation. A parent  
13 or guardian shall not petition, individually or on  
14 behalf of the minor, for an order of emancipation.

15 (c) Pursuant to a petition for emancipation under  
16 subsection (b), the court may:

17 (1) Require child welfare services to investigate any  
18 reports or allegations of child abuse or neglect and  
19 to file a report of that investigation with the court;  
20 or



1        (2) Require the minor to receive a mental health  
2        evaluation from an appropriate mental health  
3        professional, as arranged for by the court or the  
4        minor's parents or guardians.

5        (d) Pursuant to a petition for emancipation under  
6        subsection (b), the court shall:

7        (1) Appoint a guardian ad litem for the minor;

8        (2) Appoint client-directed legal counsel to represent the  
9        minor throughout the emancipation proceedings and  
10       advise the minor regarding the rights,  
11       responsibilities, and legal consequences associated  
12       with emancipation;

13       (3) Provide the minor with an informational pamphlet and  
14       counseling explaining the minor's rights and  
15       responsibilities as an emancipated minor and a listing  
16       of alternatives to emancipation, if available;

17       (4) Provide service of the petition and notice of hearing  
18       to the minor's parents or legal guardians. If needed,  
19       the court appointed counsel shall assist the minor to  
20       locate the minor's parents or legal guardians. Upon a  
21       showing of due diligence to locate the minor's parents



1           or legal guardians, the court may waive notice  
2           requirements; and

3           (5) At a hearing on the petition prior to issuing a ruling  
4           on the petition, ensure the minor understands the  
5           rights, responsibilities, and alternatives, if any, to  
6           emancipation.

7           (e) Pursuant to a petition for emancipation under  
8           subsection (b), the court may enter an order declaring the minor  
9           emancipated if, after a hearing, it is found by clear and  
10          convincing evidence that:

11          (1) The minor is on active duty with any of the armed  
12          forces of the United States of America;

13          (2) The minor's parents or legal guardians are unable or  
14          unwilling to provide basic material support to the  
15          minor in the form of food, shelter, clothing, and  
16          medical care, or the minor's parents or legal  
17          guardians have deserted or abandoned the minor; or

18          (3) The minor willingly resides separate and apart from  
19          the minor's parents or legal guardians, with the  
20          explicit or implicit consent or acquiescence of the  
21          parents or legal guardians, or even without consent,



1       if the court determines that the weight of evidence  
2       shows that the best interest for the minor will be  
3       served by separation from the minor's parents or legal  
4       guardians, that the minor is currently self-supporting  
5       or is capable of self-support and of managing the  
6       minor's own financial affairs, and that emancipation  
7       is in the best interest of the minor.

8       (f) A minor emancipated under subsection (e) shall be  
9       considered to have the rights and responsibilities of an adult,  
10      except for those specific constitutional and statutory age  
11      requirements including but not limited to voting, consuming or  
12      purchasing liquor, and other relevant health and safety  
13      regulations imposed based on age. A minor shall be considered  
14      emancipated for the purposes of, but not limited to, all of the  
15      following:

- 16       (1) The right to enter into enforceable contracts,  
17       including apartment leases;  
18       (2) The right to sue or be sued in the minor's own name;  
19       (3) The right to retain personal earnings;  
20       (4) The right to establish a separate domicile;



1       (5) The right to act autonomously, and with the rights and  
2       responsibilities of an adult, in all business  
3       relationships, including but not limited to property  
4       transactions and obtaining accounts for utilities,  
5       except for estate or property matters that a court  
6       determines may require a conservator or guardian ad  
7       litem;

8       (6) The right to earn a living, subject only to the health  
9       and safety regulations designed to protect those under  
10      the age of majority regardless of their legal status;

11      (7) The right to file as an individual under state  
12      statutes and rules regarding income taxes;

13      (8) The right to authorize personal preventive health  
14      care, medical care, dental care, mental health care,  
15      and substance abuse treatment without parental  
16      knowledge or liability;

17      (9) The right to apply for a driver's license or other  
18      state licenses for which the minor may be eligible;

19      (10) The right to register for school;

20      (11) The right to marry;



1       (12) The right to personally apply for medical and other  
2           public assistance benefits administered by the State  
3           or the counties, if needed;

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

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

10       (g) The court may require a minor's parents or legal  
11       guardians to pay for any services ordered by the court for the  
12       minor pursuant to a petition for emancipation under subsection  
13       (b), including service of the petition, the guardian ad litem,  
14       legal counsel, or mental health providers.

15       (h) If a petitioning minor has an active case under  
16       chapter 587A pursuant to sections 571-11(9) and 587A-5, then the  
17       proceeding for emancipation shall be stayed until the final  
18       disposition of the chapter 587A case.

19       (i) For the purposes of this section, "minor" means a  
20       person under the age of majority."



1       SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

6       SECTION 4. This Act shall take effect on July 1, 3000.





**Report Title:**

Emancipation of Minors; Children; Parents; Family Court

**Description:**

Allows a minor to petition the Family Court for emancipation, and directs the court regarding investigation of the petition, appointment of legal counsel and a guardian ad litem for the petitioner, and the findings necessary to grant the petition. Specifies the rights gained by the minor upon emancipation and authorizes the court to require the minor's parents or legal guardians to pay for any services ordered by the court. Requires emancipation proceedings to be stayed until final disposition of the minor's child protective case under Chapter 587A. (HB1859 HD1)

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

