

JAN 22 2021

A BILL FOR AN ACT

RELATING TO CHILDREN.

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

1 SECTION 1. 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]~~ the
7 minor were of legal age and shall have all the rights, duties,
8 privileges, and responsibilities provided by ~~[the]~~ civil law to
9 a person who has reached the age of majority under civil law;
10 provided that:

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

15 (2) Nothing in this ~~[section]~~ subsection shall change the
16 status of ~~[such persons as minors]~~ a person as a minor
17 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 may
4 petition the family court in the circuit in which the minor
5 resides for a determination that the minor named in the petition
6 be emancipated. The petition shall:

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

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

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

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

20 (2) Require the minor to receive a mental health
21 evaluation from an appropriate mental health



1 professional, as arranged for by the court or the
2 minor's parents or guardians.

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

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

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

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

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



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

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

9 (1) The minor is on active duty with any of the armed
10 forces of the United States of America; or

11 (2) The minor willingly resides separate and apart from
12 the minor's parents or legal guardians irrespective of
13 their consent, the minor understands the rights,
14 responsibilities, and alternatives, if any, to
15 emancipation, the minor is currently self-supporting
16 or is capable of self-support and managing the minor's
17 own financial affairs, and that emancipation is in the
18 best interest of the minor.

19 (f) A minor emancipated under subsection (e) shall be
20 considered to have the rights and responsibilities of an adult,
21 except for those specific constitutional and statutory age



1 requirements including but not limited to voting, consuming or
2 purchasing liquor, and other relevant health and safety
3 regulations imposed based on age. A minor shall be considered
4 emancipated for the purposes of, but not limited to, all of the
5 following:

- 6 (1) The right to enter into enforceable contracts,
7 including apartment leases;
- 8 (2) The right to sue or be sued in the minor's own name;
- 9 (3) The right to retain personal earnings;
- 10 (4) The right to establish a separate domicile;
- 11 (5) The right to act autonomously, and with the rights and
12 responsibilities of an adult, in all business
13 relationships, including but not limited to property
14 transactions and obtaining accounts for utilities,
15 except for estate or property matters that a court
16 determines may require a conservator or guardian ad
17 litem;
- 18 (6) The right to earn a living, subject only to the health
19 and safety regulations designed to protect those under
20 the age of majority regardless of their legal status;

S.B. NO. 821

- 1 (7) The right to file as an individual under state
- 2 statutes and rules regarding income taxes;
- 3 (8) The right to authorize personal preventive health
- 4 care, medical care, dental care, mental health care,
- 5 and substance abuse treatment without knowledge or
- 6 liability of a parent or legal guardian;
- 7 (9) The right to apply for a driver's license or other
- 8 state licenses for which the minor may be eligible;
- 9 (10) The right to register for school;
- 10 (11) The right to marry;
- 11 (12) The right to personally apply for medical and other
- 12 public assistance benefits administered by the State
- 13 or the counties, if needed;
- 14 (13) The right, if the minor is a parent, to make decisions
- 15 and give authority in caring for the minor's child;
- 16 and
- 17 (14) The right to execute a will and other estate planning
- 18 documents, including trust documents, durable power of
- 19 attorney, and an advance health care directive.
- 20 (g) The court may require a minor's parents or legal
- 21 guardians to pay for any services ordered by the court for the



1 minor pursuant to a petition for emancipation under subsection
2 (b), including service of the petition, the guardian ad litem,
3 legal counsel, or mental health providers.

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

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

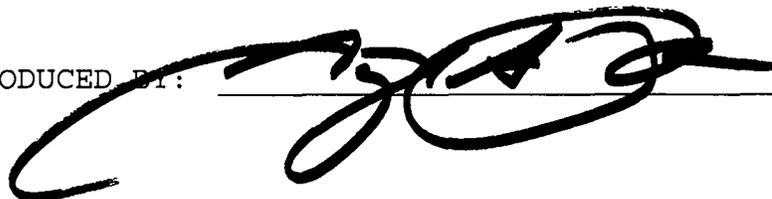
10 SECTION 2. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY: _____

A large, bold, handwritten signature in black ink is written over the line following "INTRODUCED BY:". The signature is highly stylized and appears to be a cursive name.

S.B. NO. 821

Report Title:

Emancipation of Minors; Children; Parents; Family Court

Description:

Allows a minor who has reached the age of 16 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, HRS.

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

