

---

---

# 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:



- 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 part VI
- 17          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;



- 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 person 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~~  
18 ~~571-11(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; or

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

5       (b) An emancipated minor shall be considered to have the  
6       rights and responsibilities of an adult; provided that nothing  
7       in this section shall be deemed to confer upon an emancipated  
8       minor the right to vote in any federal, state, or county  
9       election, or the right to purchase, possess, consume, or sell  
10       alcoholic beverages; provided further that nothing in this  
11       section shall prevent the petitioning minor from continuing to  
12       receive educational, mental health, or other services the minor  
13       is receiving solely due to the minor's age; provided further  
14       that nothing in this section shall change the status of the  
15       emancipated minor to be deemed a minor in connection with any  
16       criminal law or affect the exclusive original jurisdiction of  
17       the family court over such persons under sections 571-11(1) and  
18       (12).

19       A minor shall be considered emancipated for the purposes  
20       of, but not limited to:



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



- 1        (9) The right to apply for a driver's license or other  
2        state licenses for which the minor may be eligible;
- 3        (10) The right to register for school;
- 4        (11) The right to marry;
- 5        (12) The right to apply to medical and other public  
6        assistance programs administered by the State or its  
7        political subdivisions;
- 8        (13) The right, if the minor is a parent, to make decisions  
9        and give authority in caring for the minor's child;  
10       and
- 11       (14) The right to execute a will and other estate planning  
12       documents, including trust documents, durable power of  
13       attorney, and an advance health care directive.
- 14       (c) A minor who has reached the age of sixteen years who  
15       seek to be emancipated may file a petition for a declaration of  
16       emancipation with the family court in the circuit in which the  
17       minor resides. The petition shall be filed on behalf of the  
18       minor seeking emancipation by a youth service organization  
19       recognized by the department of human services or an attorney of  
20       the minor, and a parent or guardian of a minor shall not, in



1 their individual capacity or as a representative or agent of the  
2 minor, petition for emancipation of the minor.

3 (d) The petition for a declaration of emancipation shall  
4 be signed and verified by the petitioning minor, and shall  
5 include:

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

7 (2) A certified copy of the minor's birth certificate, if  
8 available;

9 (3) The name and last known address of the minor's parents  
10 or guardian;

11 (4) The minor's present address and duration of the  
12 minor's residency at that address;

13 (5) A declaration by the minor attesting that:

14 (A) The minor resides separately and apart from the  
15 minor's parents or guardian at the minor's own  
16 will;

17 (B) The minor is managing or has the ability to  
18 manage the minor's financial affairs, including  
19 supporting documentation of the minor's income  
20 and expenses;



1           (C) The minor is managing or has the ability to  
2           manage the minor's personal and social affairs,  
3           including supporting documentation on proof of  
4           housing; and

5           (D) The source of the minor's income does not include  
6           public assistance and is not derived from any  
7           activity in violation of any laws of this State  
8           or the United States; and

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

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

12          (e) Upon receipt of the petition, the court shall:

13          (1) Set a date for hearing on the petition as soon as  
14          practicable;

15          (2) Issue a summons requiring the appearance of the  
16          minor's parents or guardian and any other person  
17          deemed necessary by the court unless the parents or  
18          guardian and the person deemed necessary by the court  
19          promises in writing to appear voluntarily;



1       (3) Appoint a guardian ad litem to represent the interest  
2       of the minor throughout the pendency of the minor's  
3       emancipation proceedings; and

4       (4) Require the minor to undergo a mental health  
5       evaluation conducted by a licensed mental health  
6       professional, as arranged for by the court or the  
7       minor's parents or guardian.

8       Nothing in this subsection shall be construed to prevent the  
9       petitioning minor from obtaining the minor's own legal counsel  
10       to represent the minor in the emancipation proceeding.

11       (f) Proceedings for a petition for declaration of  
12       emancipation shall be heard by the court separately from  
13       hearings of adult cases and without a jury. The court shall  
14       grant the petition and issue a declaration of emancipation if it  
15       finds clear and convincing evidence that:

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

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

18       (3) The minor resides separately and apart from the  
19       minor's parents or legal guardian at the minor's own  
20       will, with or without the parents' or legal guardian's  
21       consent;



- 1        (4) The minor is managing or has the ability to manage the  
2        minor's financial affairs;
- 3        (5) The minor is managing or has the ability to manage the  
4        minors' personal and social affairs;
- 5        (6) The source of the minor's income does not include  
6        public assistance and is not derived from any activity  
7        in violation of any laws of this State or the United  
8        States;
- 9        (7) The minor understands the minor's rights and  
10       responsibilities as an emancipated minor in the State,  
11       and has been given the time and opportunity to  
12       consider alternatives to emancipation, if any, before  
13       conclusion of the hearing;
- 14       (8) The minor is not seeking emancipation under duress,  
15       including by coercion of a parent or guardian; and
- 16       (9) Emancipation is in the best interest of the minor.
- 17 A declaration of emancipation issued by the court is conclusive  
18 evidence that the minor is emancipated and shall terminate the  
19 rights of the minor's parents to the custody, control, services  
20 and earnings of the minor.



1        (g) A declaration of emancipation obtained by fraud or by  
2 the withholding of material information is voidable. A petition  
3 to void a declaration of emancipation on the ground that the  
4 declaration was obtained by fraud or by the withholding of  
5 material information may be filed by any person with the family  
6 court that issued the declaration of emancipation.

7        (h) A declaration of emancipation of a minor who has  
8 subsequently become indigent with no means of support other than  
9 public assistance is subject to rescission. A petition to  
10 rescind a declaration of emancipation on the ground that the  
11 minor has become indigent may be filed by:

12        (1) The minor declared emancipated;

13        (2) The minor's conservator; or

14        (3) Corporation counsel or county attorney of the county  
15        in which the minor resides,

16 with a family court in the circuit in which the minor or the  
17 conservator resides.

18        (i) Upon filing of a petition to void or rescind a  
19 declaration of emancipation pursuant to subsections (g) or (h),  
20 the court shall:



- 1        (1) Set a date for hearing on the petition as soon as  
2        practicable; and
- 3        (2) Issue a summons requiring the appearance of the minor  
4        if the minor is not the petitioner, the minor's  
5        parents or former guardian, and any other person  
6        deemed necessary by the court unless the minor, the  
7        minor's parents or former guardian, and the person  
8        deemed necessary by the court promises in writing to  
9        appear voluntarily. Summons issued to the parents or  
10       former guardian of the minor shall be accompanied by a  
11       statement that they may be liable to provide support  
12       to the minor, including provision of medical insurance  
13       coverage, if the declaration of emancipation is voided  
14       or rescinded. Liability shall not accrue to a parent  
15       or legal guardian of a minor whose emancipation has  
16       been voided or rescinded until the parent or guardian  
17       has actual notice of the voidance or rescission.
- 18       (j) Proceedings for a petition to void or rescind a  
19       declaration of emancipation shall be heard by the court  
20       separately from hearings of adult cases and without a jury. The  
21       court shall grant the petition and issue:



- 1       (1) An order voiding the declaration of emancipation if it  
2       finds clear and convincing evidence that the  
3       declaration was obtained by fraud or by the  
4       withholding of material information; or
- 5       (2) An order rescinding the declaration of emancipation if  
6       it finds clear and convincing evidence that the  
7       rescission of the declaration of emancipation will be  
8       in the best interest of the minor.

9       The voiding or rescission of a declaration of emancipation shall  
10       not alter any contractual obligation or right or any property  
11       right or interest that arose during the period that the  
12       declaration was in effect.

13       (k) Service of summons issued pursuant to this section  
14       shall be made personally by the delivery of a copy thereof,  
15       together with a copy of the relevant petition, to the person  
16       summoned, except that if a judge determines that personal  
17       service of the summons is impracticable, the judge may order  
18       service by certified or registered mail addressed to the last  
19       known address, or by publication, or both. Service effected not  
20       less than forty-eight hours before the time fixed in the summons  
21       for the return thereof shall be sufficient to confer



1 jurisdiction; provided that jurisdiction shall be conferred if  
2 any person who might be so summoned appears voluntarily at the  
3 time and place appointed and waives such service and such  
4 notice.

5 Service of summons, process, or any notice required by this  
6 section may be made by any suitable person under the direction  
7 of the court and upon request of the court shall be made by any  
8 police officer. The judge may authorize the payment of  
9 necessary travel expenses incurred by persons summoned or  
10 otherwise required to appear at the hearing of a case coming  
11 within the purview of this section. Section 621-7 shall apply  
12 to persons summoned under this section other than a parent,  
13 guardian, or other legal custodian of the child concerned.

14 (1) Notwithstanding any other law to the contrary, the  
15 court shall order reasonable fees of counsel, experts, and the  
16 minor's guardian ad litem, and other costs of services required  
17 in relation to a petition for declaration of emancipation,  
18 including reasonable fees for service of process of the  
19 petition, summons, and notice of hearing, and services provided  
20 mental health providers, to be paid by the minor's parents or  
21 guardian.



1       (m) The petitioner or any other person admitted as party  
2 to a petition hearing concerning emancipation of a minor  
3 pursuant to this section may file an appeal from the court's  
4 issuance of or denial of a declaration of emancipation, an order  
5 voiding a declaration of emancipation, or order rescinding a  
6 declaration of emancipation pursuant to section 571-54.

7       (n) As used in this section:

8       "Emancipation" means termination of the rights of the  
9 parents of a minor to the custody, control, services, and  
10 earnings of a minor.

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

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

17       SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

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



**Report Title:**

Emancipation of Minors; Family Court

**Description:**

Expands the original jurisdiction of family court to include proceedings for declaration of emancipation of minors. 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. Allows certain parties to petition the family court for voidance or rescission of a declaration of emancipation. Sets forth court procedures and standards in issuing, voiding, and rescinding a declaration of emancipation. Allows parties to appeal the court's decisions pertaining to emancipation to the Intermediate Court of Appeals. (SD1)

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

