
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 sections
- 17 571-61 through 571-63;
- 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 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; 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:

8 (1) Be deemed to confer upon an emancipated minor the
9 right to vote in any federal, state, or county
10 election, or the right to purchase, possess, consume,
11 or sell alcoholic beverages;

12 (2) Prevent the petitioning minor from continuing to
13 receive educational, mental health, or other services
14 the minor is receiving solely due to the minor's age;
15 or

16 (3) Change the status of the emancipated minor to be
17 deemed a minor in connection with any criminal law or
18 affect the exclusive original jurisdiction of the
19 family court over such persons under sections 571-
20 11(1) and (12).



1 (c) A minor shall be considered emancipated for the
2 purposes of, but not limited to:

3 (1) The right to enter into enforceable contracts,
4 including apartment leases;

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

6 (3) The right to retain the minor's personal earnings;

7 (4) The right to establish a separate domicile;

8 (5) The right to act autonomously, and with the rights and
9 responsibilities of an adult, in all business

10 relationships, including property transactions and
11 obtaining accounts for utilities, except for estate or
12 property matters that a court determines may require a
13 conservator or guardian ad litem;

14 (6) The right to earn a living, subject only to the health
15 and safety regulations designed to protect individuals
16 under the age of majority regardless of their legal
17 status;

18 (7) The right to file the minor's own tax returns and pay
19 taxes pursuant to applicable personal income tax laws;

20 (8) The right to authorize the minor's own preventive
21 health care, medical care, dental care, mental health



- 1 care, and substance abuse treatment without knowledge
2 or liability of the minor's parents or guardian;
3 (9) The right to apply for a driver's license or other
4 state licenses for which the minor may be eligible;
5 (10) The right to register for school;
6 (11) The right to marry;
7 (12) The right to apply to medical and other public
8 assistance programs administered by the State or its
9 political subdivisions;
10 (13) The right, if the minor is a parent, to make decisions
11 and give authority in caring for the minor's child;
12 and
13 (14) The right to execute a will and other estate planning
14 documents, including trust documents, durable power of
15 attorney, and an advance health care directive.
16 (d) A minor who has reached the age of sixteen years who
17 seek to be emancipated may file a petition for a declaration of
18 emancipation with the family court in the circuit in which the
19 minor resides. The petition shall be filed on behalf of the
20 minor seeking emancipation by a youth service organization
21 recognized by the department of human services or an attorney of



1 the minor, and a parent or guardian of a minor shall not, in
2 their individual capacity or as a representative or agent of the
3 minor, petition for emancipation of the minor.

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

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

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

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

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

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

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

18 (B) The minor is managing or has the ability to
19 manage the minor's financial affairs, including
20 supporting documentation of the minor's income
21 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 is not derived
6 from any activity in violation of any laws of the
7 State or the United States; and

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

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

11 (f) Upon receipt of the petition, the court shall:

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

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

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



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

5 Nothing in this subsection shall be construed to prevent the
6 petitioning minor from obtaining the minor's own legal counsel
7 to represent the minor in the emancipation proceeding.

8 (g) The fees and costs of a guardian ad litem appointed
9 pursuant to subsection (f) may be paid for by the court, unless
10 the minor or the minor's parents or guardian have sufficient
11 funds.

12 (h) The mental health evaluation ordered pursuant to
13 subsection (f) shall be paid for by the minor or the minor's
14 parents or guardian, and, if they are unable to, the evaluation
15 shall be conducted by the child and adolescent mental health
16 division of the department of health.

17 (i) Proceedings for a petition for declaration of
18 emancipation shall be heard by the court separately from
19 hearings of adult cases and without a jury. The court shall
20 grant the petition and issue a declaration of emancipation if it
21 finds clear and convincing evidence that:



- 1 (1) The minor is at least sixteen years of age;
- 2 (2) The minor is a resident of the State;
- 3 (3) The minor resides separately and apart from the
4 minor's parents or legal guardian at the minor's own
5 will, with or without the parents' or legal guardian's
6 consent;
- 7 (4) The minor is managing or has the ability to manage the
8 minor's financial affairs;
- 9 (5) The minor is managing or has the ability to manage the
10 minors' personal and social affairs;
- 11 (6) The source of the minor's income is not derived from
12 any activity in violation of any laws of the State or
13 the United States;
- 14 (7) The minor understands the minor's rights and
15 responsibilities as an emancipated minor in the State,
16 and has been given the time and opportunity to
17 consider alternatives to emancipation, if any, before
18 conclusion of the hearing;
- 19 (8) The minor is not seeking emancipation under duress,
20 including by coercion of a parent or guardian; and
- 21 (9) Emancipation is in the best interest of the minor.



1 A declaration of emancipation issued by the court is conclusive
2 evidence that the minor is emancipated and shall terminate the
3 rights of the minor's parents to the custody, control, services
4 and earnings of the minor.

5 (j) A declaration of emancipation obtained by fraud or by
6 the withholding of material information is voidable. A petition
7 to void a declaration of emancipation on the ground that the
8 declaration was obtained by fraud or by the withholding of
9 material information may be filed by any person with the family
10 court that issued the declaration of emancipation.

11 (k) A declaration of emancipation of a minor who has
12 subsequently become indigent with no means of support other than
13 public assistance is subject to rescission. A petition to
14 rescind a declaration of emancipation on the ground that the
15 minor has become indigent may be filed by:

16 (1) The minor declared emancipated;

17 (2) The minor's conservator; or

18 (3) Corporation counsel or county attorney of the county
19 in which the minor resides,

20 with a family court in the circuit in which the minor or the
21 conservator resides.



1 (1) Upon filing of a petition to void or rescind a
2 declaration of emancipation pursuant to subsections (j) or (k),
3 the court shall:

4 (1) Set a date for hearing on the petition as soon as
5 practicable; and

6 (2) Issue a summons requiring the appearance of the minor
7 if the minor is not the petitioner, the minor's
8 parents or former guardian, and any other person
9 deemed necessary by the court unless the minor, the
10 minor's parents or former guardian, and the person
11 deemed necessary by the court promise in writing to
12 appear voluntarily. Summons issued to the parents or
13 former guardian of the minor shall be accompanied by a
14 statement that they may be liable to provide support
15 to the minor, including provision of medical insurance
16 coverage, if the declaration of emancipation is voided
17 or rescinded. Liability shall not accrue to a parent
18 or legal guardian of a minor whose emancipation has
19 been voided or rescinded until the parent or guardian
20 has actual notice of the voidance or rescission.



1 (m) Proceedings for a petition to void or rescind a
2 declaration of emancipation shall be heard by the court
3 separately from hearings of adult cases and without a jury. The
4 court shall grant the petition and issue:

5 (1) An order voiding the declaration of emancipation if
6 the court finds clear and convincing evidence that the
7 declaration was obtained by fraud or by the
8 withholding of material information; or

9 (2) An order rescinding the declaration of emancipation if
10 the court finds clear and convincing evidence that the
11 rescission of the declaration of emancipation will be
12 in the best interest of the minor.

13 The voiding or rescission of a declaration of emancipation shall
14 not alter any contractual obligation or right or any property
15 right or interest that arose during the period that the
16 declaration was in effect.

17 (n) Service of summons issued pursuant to this section
18 shall be made personally by the delivery of a copy thereof,
19 together with a copy of the relevant petition, to the person
20 summoned, except that if a judge determines that personal
21 service of the summons is impracticable, the judge may order



1 service by certified or registered mail addressed to the last
2 known address, or by publication, or both. Service effected not
3 less than forty-eight hours before the time fixed in the summons
4 for the return thereof shall be sufficient to confer
5 jurisdiction; provided that jurisdiction shall be conferred if
6 any person who might be so summoned appears voluntarily at the
7 time and place appointed and waives the service and the notice.

8 Service of summons, process, or any notice required by this
9 section may be made by any suitable person under the direction
10 of the court and upon request of the court shall be made by any
11 police officer.

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



1 (p) 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 (q) 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 "Minor" means a person under the age of majority."

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

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



1 SECTION 5. This Act shall take effect on June 30, 3000.

2



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. Effective 6/30/3000. (HD1)

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