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# 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[+] who is:



- 1 (A) [~~Who is neglected~~] Neglected as to or deprived of  
2 educational services because of the failure of  
3 any person or agency to exercise that degree of  
4 care for which it is legally responsible;
- 5 (B) [~~Who is beyond~~] Beyond the control of the child's  
6 parent or other custodian or whose behavior is  
7 injurious to the child's own or others' welfare;
- 8 (C) [~~Who is neither~~] Neither attending school nor  
9 receiving educational services required by law  
10 whether through the child's own misbehavior or  
11 nonattendance or otherwise; or
- 12 (D) [~~Who is in~~] 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 "~~[H]~~§577-25~~[H]~~ **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 has:~~



- 1        (1) Entered into a valid marriage pursuant to chapter 572;  
2                or  
3        (2) Received a declaration of emancipation issued by the  
4                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, tobacco products, or  
12                electronic smoking devices;  
13        (2) Prevent the petitioning minor from continuing to  
14                receive educational, mental health, or other services  
15                the minor is receiving solely due to the minor's age;  
16                or  
17        (3) Change the status of the emancipated minor to be  
18                deemed a minor in connection with any criminal law or  
19                affect the exclusive original jurisdiction of the  
20                family court over such persons under sections 571-  
21                11(1) and (12).



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

3        (1) Enter into enforceable contracts, including apartment  
4        leases;

5        (2) Sue or be sued in the minor's own name;

6        (3) Retain the minor's personal earnings;

7        (4) Establish a separate domicile;

8        (5) 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) Earn a living, subject only to the health and safety

15       regulations designed to protect individuals under the

16       age of majority regardless of their legal status;

17       (7) File the minor's own tax returns and pay taxes

18       pursuant to applicable personal income tax laws;

19       (8) Authorize the minor's own preventive health care,

20       medical care, dental care, mental health care, and



- 1 substance abuse treatment without knowledge or  
2 liability of the minor's parents or guardian;
- 3 (9) Apply for a driver's license or other state licenses  
4 for which the minor may be eligible;
- 5 (10) Register for school;
- 6 (11) Marry;
- 7 (12) Apply to medical and other public assistance programs  
8 administered by the State or its political  
9 subdivisions;
- 10 (13) If the minor is a parent, make decisions and give  
11 authority in caring for the minor's child; and
- 12 (14) Execute a will and other estate planning documents,  
13 including trust documents, durable power of attorney,  
14 and an advance health care directive.
- 15 (d) A minor who has reached the age of sixteen years who  
16 seek to be emancipated may file a petition for a declaration of  
17 emancipation with the family court in the circuit in which the  
18 minor resides. The petition shall be filed on behalf of the  
19 minor seeking emancipation by a youth service organization  
20 recognized by the department of human services or an attorney of  
21 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 (e) 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 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, or, 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 guardian at the minor's own will,  
5        with or without the parents' or guardian's consent;
- 6        (4) The minor is managing or has the ability to manage the  
7        minor's financial affairs;
- 8        (5) The minor is managing or has the ability to manage the  
9        minors' personal and social affairs;
- 10       (6) The source of the minor's income is not derived from  
11       any activity in violation of any laws of the State or  
12       the United States;
- 13       (7) The minor understands the minor's rights and  
14       responsibilities as an emancipated minor in the State,  
15       and has been given the time and opportunity to  
16       consider alternatives to emancipation, if any, before  
17       conclusion of the hearing;
- 18       (8) The minor is not seeking emancipation under duress,  
19       including by coercion of a parent or guardian; and
- 20       (9) Emancipation is in the best interest of the minor.



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

5 (j) A declaration of emancipation obtained by fraud or by  
6 the withholding of material information shall be voidable. A  
7 petition to void a declaration of emancipation on the ground  
8 that the declaration was obtained by fraud or by the withholding  
9 of material information may be filed by any person with the  
10 family 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 shall be  
13 subject to rescission. A petition to rescind a declaration of  
14 emancipation on the ground that the minor has become indigent  
15 may be filed by:

16 (1) The minor declared emancipated;  
17 (2) The minor's parents or former guardian; or  
18 (3) The corporation counsel or county attorney of the  
19 county in which the minor resides,  
20 with a family court in the circuit in which the minor or the  
21 parents or former guardian 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 guardian of a minor whose emancipation has been  
19 voided or rescinded until the parent or guardian has  
20 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 an order:

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

9       (2) Rescinding the declaration of emancipation if the  
10 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; provided 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 no  
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, and  
13 except as otherwise provided in this section, the court shall  
14 order reasonable fees for counsel, experts, and other costs of  
15 services required in relation to a petition for declaration of  
16 emancipation, including reasonable fees for service of process  
17 of the petition, summons, and notice of hearing, and services  
18 provided by mental health providers, to be paid by the minor's  
19 parents or guardian, regardless of whether the fees were  
20 incurred by the minor or other parties or ordered 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 an 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.

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



**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. Establishes procedures for the emancipation of minors. Effective 6/30/3000. (HD2)

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