

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0548.01 Brita Darling x2241

HOUSE BILL 19-1251

HOUSE SPONSORSHIP

Hansen and Landgraf, Caraveo, Carver, Hooton, Valdez A.

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ONLY PERMITTING THE MARRIAGE OF MINORS WHO ARE**
102 **EMANCIPATED THROUGH A COLORADO COURT EMANCIPATION**
103 **PROCEDURE, AND, IN CONNECTION THEREWITH, INCREASING**
104 **THE AGE OF MARRIAGE TO EIGHTEEN YEARS OF AGE UNLESS THE**
105 **MINOR IS EMANCIPATED AND CREATING A STATUTORY**
106 **EMANCIPATION PROCEDURE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill permits the issuance of a marriage license only to a person

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

who is 18 years of age, unless the person is at least 16.5 years of age and emancipated through a court procedure.

The bill creates a statutory procedure for the emancipation of minors. The court may issue an order for emancipation if the minor has attained 16.5 years of age at the time the order becomes effective, the order is in the minor's best interests, and the court determines that the minor has met the statutory requirements for emancipation, including but not limited to the ability to support himself or herself and to manage his or her own affairs.

The court shall provide a minor with information about rights and responsibilities of emancipation and alternatives to emancipation and shall appoint an attorney to serve as guardian ad litem for the minor to investigate and report on the statutory criteria and the minor's best interests.

The bill includes provisions relating to who may file a petition for an order of emancipation, the contents of the petition, and the hearing procedure and necessary court findings.

As a result of the statutory procedure, an emancipated minor is considered to be 18 years of age and shall have all of the rights and responsibilities of a person who is 18 years of age; except that an emancipated minor is still subject to age restrictions relating to voting and possession of tobacco products.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 14-2-106, **amend**
3 (1)(a) as follows:

4 **14-2-106. License to marry.** (1) (a) When a marriage application
5 has been completed and signed by both parties to a prospective marriage
6 and at least one party has appeared before the county clerk and recorder
7 and has paid the marriage license fee of seven dollars, a fee of twenty
8 dollars to be transmitted by the county clerk and recorder to the state
9 treasurer and credited by the treasurer to the Colorado domestic abuse
10 program fund created in section 39-22-802 (1), ~~C.R.S.~~, and an additional
11 amount established pursuant to section 25-2-121, ~~C.R.S.~~, ~~such amount~~ to
12 be credited to the vital statistics records cash fund pursuant to section
13 25-2-121, ~~C.R.S.~~, the county clerk shall issue a license to marry and a

1 marriage certificate form upon being furnished:

2 (I) Satisfactory proof that each party to the marriage will have
3 attained the age of eighteen years at the time the marriage license
4 becomes effective, ~~or, if over the age of sixteen years but has not attained~~
5 ~~the age of eighteen years, has the consent of both parents or guardian or,~~
6 ~~if the parents are not living together, the parent who has legal custody or~~
7 ~~decision-making responsibility concerning such matters or with whom the~~
8 ~~child is living or judicial approval, as provided in section 14-2-108; or, if~~
9 ~~under the age of sixteen years, has both the consent to the marriage of~~
10 ~~both parents or guardian or, if the parents are not living together, the~~
11 ~~parent who has legal custody or decision-making responsibility~~
12 ~~concerning such matters or with whom the child is living and judicial~~
13 ~~approval, as provided in section 14-2-108; OR THE PARTY TO THE~~
14 ~~MARRIAGE HAS BEEN EMANCIPATED AND THE REQUIREMENTS OF SECTION~~
15 ~~19-8-108 (3) HAVE BEEN MET; and~~

16 (II) Satisfactory proof that the marriage is not prohibited, as
17 provided in section 14-2-110.

18 ~~(III) Repealed.~~

19 **SECTION 2.** In Colorado Revised Statutes, **amend** 14-2-108 as
20 follows:

21 **14-2-108. Judicial approval.** ~~(1) The juvenile court, as defined~~
22 ~~in section 19-1-103 (17), C.R.S., after a reasonable effort has been made~~
23 ~~to notify the parents or guardian of each underage party, may order the~~
24 ~~county clerk and recorder to issue a marriage license and a marriage~~
25 ~~certificate form:~~

26 (a) ~~To a party aged sixteen or seventeen years who has no parent~~
27 ~~or guardian, or who has no parent capable of consenting to his marriage,~~

1 or whose parent or guardian has not consented to his marriage; or

2 (b) To a party under the age of sixteen years who has the consent
3 to his or her marriage of both parents, if capable of giving consent, or his
4 or her guardian or, if the parents are not living together, the parent who
5 has legal custody or decision-making responsibility concerning such
6 matters or with whom the child is living.

7 (2) A license shall be ordered to be issued under subsection (1) of
8 this section only if the court finds that the underage party is capable of
9 assuming the responsibilities of marriage and the marriage would serve
10 his best interests. Pregnancy alone does not establish that the best
11 interests of the party would be served.

12 (3) The district court or the juvenile court, as the case may be,
13 shall authorize performance of a marriage by proxy upon the showing
14 required by the provisions on solemnization, being AS SET FORTH IN
15 section 14-2-109.

16 **SECTION 3.** In Colorado Revised Statutes, 14-2-109, **amend**
17 (2)(a)(IV) as follows:

18 **14-2-109. Solemnization and registration of marriages - proxy**
19 **marriage.** (2) (a) The requirements for applying for a marriage license
20 for a proxy marriage are the following:

21 (IV) ~~Notwithstanding the requirements of section 14-2-106~~
22 ~~(1)(a)(I)~~, Both parties to the proxy marriage are eighteen years of age or
23 older.

24 **SECTION 4.** In Colorado Revised Statutes, 19-1-103, **add** (45.5)
25 and (77.2) as follows:

26 **19-1-103. Definitions.** As used in this title 19 or in the specified
27 portion of this title 19, unless the context otherwise requires:

1 (45.5) "EMANCIPATED MINOR", AS USED IN ARTICLE 8 OF THIS
2 TITLE 19, MEANS A PERSON WHO:

3 (a) HAS ENTERED INTO A VALID MARRIAGE, REGARDLESS OF
4 WHETHER THE MARRIAGE HAS SUBSEQUENTLY BEEN DISSOLVED; OR

5 (b) IS ON ACTIVE DUTY IN THE UNITED STATES ARMED FORCES; OR

6 (c) HAS RECEIVED AN ORDER OF EMANCIPATION FROM A JUVENILE
7 COURT PURSUANT TO ARTICLE 8 OF THIS TITLE 19.

8 (77.2) "MINOR", AS USED IN ARTICLE 8 OF THIS TITLE 19, MEANS
9 A PERSON WHO HAS NOT YET ATTAINED EIGHTEEN YEARS OF AGE.

10 **SECTION 5.** In Colorado Revised Statutes, **add** article 8 to title
11 19 as follows:

12 **ARTICLE 8**

13 **Emancipation of Minors Act**

14 **19-8-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 8 IS THE
15 "EMANCIPATION OF MINORS ACT".

16 **19-8-102. Legislative declaration.** THE GENERAL ASSEMBLY
17 FINDS AND DECLARES THAT IN ORDER TO PROVIDE A PROCEDURE FOR THE
18 EMANCIPATION OF CERTAIN YOUTH UNDER EIGHTEEN YEARS OF AGE FROM
19 THEIR PARENTS OR LEGAL GUARDIANS, AND TO CLARIFY THE LEGAL RIGHTS
20 AND RESPONSIBILITIES OF THOSE YOUTH, THERE IS REASONABLE CAUSE TO
21 CREATE A STATUTORY EMANCIPATION PROCEDURE.

22 **19-8-103. Definitions.** AS USED IN THIS ARTICLE 8, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "EMANCIPATED MINOR" HAS THE SAME MEANING AS SET FORTH
25 IN SECTION 19-1-103 (45.5).

26 (2) "MINOR" HAS THE SAME MEANING AS SET FORTH IN SECTION
27 19-1-103 (77.2).

1 (3) "PETITION" MEANS A PETITION FOR AN ORDER OF
2 EMANCIPATION PURSUANT TO THIS ARTICLE 8.

3 **19-8-104. Who may petition for emancipation.** (1) A MINOR
4 WHO HAS RESIDED CONTINUOUSLY IN THIS STATE FOR AT LEAST SIX
5 MONTHS PRIOR TO THE DATE A PETITION IS FILED MAY PETITION THE
6 JUVENILE COURT IN THE COUNTY IN WHICH THE MINOR RESIDES FOR AN
7 ORDER OF EMANCIPATION IF THE MINOR IS CAPABLE OF SELF-SUPPORT AND
8 OF MANAGING THE MINOR'S OWN AFFAIRS.

9 (2) A MINOR MAY FILE THE PETITION IN THE MINOR'S OWN NAME
10 AND NEED NOT FILE THROUGH A REPRESENTATIVE.

11 (3) A PARENT OR LEGAL GUARDIAN MAY NOT PETITION FOR AN
12 ORDER OF EMANCIPATION, EITHER INDIVIDUALLY OR ON BEHALF OF A
13 MINOR.

14 **19-8-105. Content of petition.** (1) A PETITION FILED PURSUANT
15 TO THIS ARTICLE 8 MUST INCLUDE:

16 (a) THE MINOR'S NAME, DATE OF BIRTH, ADDRESS WHERE THE
17 MINOR IS RESIDING AND THE LENGTH OF RESIDENCE AT THAT ADDRESS,
18 AND THE ADDRESS AND LENGTH OF RESIDENCE AT THE ADDRESS FOR ANY
19 PRIOR RESIDENCES NECESSARY TO COMPLY WITH THE RESIDENCY
20 REQUIREMENT SET FORTH IN SECTION 19-8-104;

21 (b) THE NAME AND ADDRESS OF EACH OF THE MINOR'S PARENTS OR
22 LEGAL GUARDIANS, IF KNOWN;

23 (c) A STATEMENT REGARDING WHETHER THE MINOR IS A PARTY TO
24 OR THE SUBJECT OF A PENDING JUDICIAL PROCEEDING OR JUDICIAL ORDER
25 IN THIS STATE OR IN ANY OTHER JURISDICTION, IF KNOWN;

26 (d) A STATEMENT REGARDING WHETHER THE DEPARTMENT OF
27 HUMAN SERVICES' CHILD WELFARE DIVISION HAS EVER INVESTIGATED AN

1 ALLEGATION OF ABUSE OR NEGLECT OF THE MINOR, IF KNOWN;

2 (e) A STATEMENT OF THE REASON OR REASONS WHY THE MINOR IS
3 SEEKING AN ORDER OF EMANCIPATION AND WHY THE MINOR BELIEVES AN
4 ORDER OF EMANCIPATION SHOULD BE GRANTED; AND

5 (f) SPECIFIC FACTS TO SUPPORT THE PETITION, INCLUDING HOW THE
6 MINOR HAS DEMONSTRATED THAT THE MINOR IS CAPABLE OF
7 INDEPENDENCE, SEPARATE FROM THE MINOR'S PARENTS OR LEGAL
8 GUARDIANS OR ANY OTHER PERSON, WITH RESPECT TO:

9 (I) SELF-SUPPORT AND MANAGING THE MINOR'S FINANCIAL
10 AFFAIRS; AND

11 (II) MANAGING THE MINOR'S PERSONAL, SOCIAL, EDUCATIONAL,
12 AND NONFINANCIAL AFFAIRS.

13 (2) THE PETITION MUST BE ACCOMPANIED BY PROOF OF HOUSING,
14 PROOF OF EMPLOYMENT OR MEANS OF SUPPORT, AND MAY BE
15 ACCOMPANIED BY ANY OTHER INFORMATION, DOCUMENTATION, OR
16 AFFIDAVITS NECESSARY TO SUPPORT THE PETITION.

17 **19-8-106. Appointment of counsel - investigation - notice -**
18 **court orders.** (1) UPON THE FILING OF A PETITION, THE COURT SHALL:

19 (a) PROVIDE THE MINOR WITH AN INFORMATIONAL PAMPHLET
20 EXPLAINING THE RIGHTS AND RESPONSIBILITIES OF AN EMANCIPATED
21 MINOR, THE RISKS AND CONSEQUENCES, AND THE ALTERNATIVES TO
22 EMANCIPATION;

23 (b) APPOINT AN ATTORNEY TO SERVE AS GUARDIAN AD LITEM FOR
24 THE MINOR AND DIRECT THE ATTORNEY TO INVESTIGATE THE STATEMENTS
25 MADE IN THE PETITION AND THE BEST INTERESTS STANDARDS DESCRIBED
26 IN SECTION 19-8-107 AND TO FILE A REPORT WITH THE COURT DETAILING
27 THE ATTORNEY'S INVESTIGATIONS AND MAKING RECOMMENDATIONS

1 RELATING TO THE PETITION; AND

2 (c) SET A DATE FOR A HEARING ON THE PETITION THAT IS NOT
3 LATER THAN SIXTY-THREE DAYS AFTER THE DATE THE PETITION WAS
4 FILED.

5 (2) THE COURT SHALL PROVIDE FOR REASONABLE NOTICE TO THE
6 MINOR'S PARENTS OR LEGAL GUARDIANS, AND TO THE MINOR, OF THE
7 PETITION AND THE HEARING DATE ON THE PETITION. THE COURT MAY
8 WAIVE NOTICE REQUIREMENTS TO THE MINOR'S PARENTS OR LEGAL
9 GUARDIANS UPON A SHOWING THAT, DESPITE THE EXERCISE OF DUE
10 DILIGENCE, THE COURT HAS FAILED TO LOCATE THE PARENTS OR LEGAL
11 GUARDIANS, OR THE COURT DETERMINES THAT THE HEALTH AND SAFETY
12 OF THE MINOR COULD BE THREATENED THROUGH NOTIFICATION OF THE
13 MINOR'S PARENTS OR LEGAL GUARDIANS.

14 (3) WHILE THE PETITION IS PENDING, THE COURT MAY ENTER
15 OTHER ORDERS, AS AUTHORIZED BY LAW, THAT THE COURT DEEMS
16 APPROPRIATE.

17 **19-8-107. Hearing on petition - necessary findings.** (1) THE
18 MINOR HAS THE BURDEN OF SHOWING BY CLEAR AND CONVINCING
19 EVIDENCE THAT THE REQUIREMENTS FOR AN ORDER OF EMANCIPATION
20 PURSUANT TO THIS ARTICLE 8 HAVE BEEN MET.

21 (2) THE COURT MAY ENTER AN ORDER OF EMANCIPATION OF THE
22 MINOR IF, AFTER A HEARING, THE COURT DETERMINES THAT:

23 (a) THE MINOR WILL HAVE ATTAINED SIXTEEN AND ONE-HALF
24 YEARS OF AGE PRIOR TO THE EFFECTIVE DATE OF THE ORDER OF
25 EMANCIPATION;

26 (b) THE RESIDENCY REQUIREMENTS OF SECTION 19-8-104 HAVE
27 BEEN MET;

1 (c) THE MINOR HAS DEMONSTRATED THAT THE MINOR IS CAPABLE
2 OF INDEPENDENCE, SEPARATE FROM THE MINOR'S PARENTS OR LEGAL
3 GUARDIANS OR ANY OTHER PERSON, WITH RESPECT TO SELF-SUPPORT AND
4 MANAGING THE MINOR'S FINANCIAL, PERSONAL, SOCIAL, EDUCATIONAL,
5 AND NONFINANCIAL AFFAIRS; AND

6 (d) THE ORDER OF EMANCIPATION IS IN THE MINOR'S BEST
7 INTERESTS.

8 (3) IN DETERMINING THE MINOR'S BEST INTERESTS, THE COURT
9 SHALL CONSIDER AND MAKE WRITTEN FINDINGS CONCERNING THE
10 FOLLOWING FACTORS:

11 (a) WHETHER THE MINOR UNDERSTANDS THE RIGHTS AND
12 RESPONSIBILITIES OF AN EMANCIPATED MINOR AND THE RISKS AND
13 CONSEQUENCES OF EMANCIPATION;

14 (b) THE MINOR'S FINANCIAL RESOURCES; EMPLOYMENT HISTORY,
15 EMPLOYMENT STATUS, AND STABILITY; AND OTHER EVIDENCE OF THE
16 MINOR'S ABILITY TO SUSTAIN FINANCIAL SELF-SUFFICIENCY;

17 (c) WHETHER THE MINOR HAS AN APPROPRIATE PLAN FOR
18 INDEPENDENT LIVING AND STABLE LIVING ARRANGEMENTS THAT WILL
19 ENABLE THE MINOR'S NEEDS WITH RESPECT TO FOOD, HOUSING, CLOTHING,
20 MEDICAL CARE, AND OTHER NECESSITIES TO BE MET; AND

21 (d) THE MINOR'S LEVEL OF EDUCATION AND SUCCESS IN SCHOOL,
22 AND WHETHER THE MINOR WILL BE ABLE TO CONTINUE EDUCATION IF
23 EMANCIPATED.

24 **19-8-108. Effect of emancipation order.** (1) AN EMANCIPATED
25 MINOR IS CONSIDERED TO BE A PERSON WHO HAS ATTAINED EIGHTEEN
26 YEARS OF AGE AND HAS ALL OF THE RIGHTS AND RESPONSIBILITIES OF A
27 PERSON OF THAT AGE; EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS

1 SECTION.

2 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) TO THE
3 CONTRARY, AN EMANCIPATED MINOR SHALL STILL MEET THE AGE
4 REQUIREMENT TO VOTE AND POSSESS TOBACCO PRODUCTS.

5 (3) NOTWITHSTANDING ANY PROVISIONS OF SECTION 14-2-106 TO
6 THE CONTRARY, AN EMANCIPATED MINOR MAY APPLY FOR A MARRIAGE
7 LICENSE ONLY IF THE MINOR IS AT LEAST SIXTEEN AND ONE-HALF YEARS
8 OF AGE AND AT LEAST THIRTY-FIVE DAYS HAVE PASSED SINCE THE DATE
9 THAT THE ORDER OF EMANCIPATION WAS ENTERED.

10 (4) UPON ENTERING AN ORDER OF EMANCIPATION OF A MINOR, THE
11 COURT SHALL ISSUE FIVE CERTIFIED COPIES OF THE ORDER TO THE
12 EMANCIPATED MINOR.

13 **SECTION 6. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2020 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.