

House Bill 847 (COMMITTEE SUBSTITUTE)

By: Representatives Butler of the 18th, Oliver of the 83rd, and Smith of the 70th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
2 juvenile proceedings, so as to establish the conditions for minors to become emancipated by
3 law; to provide for definitions; to provide for the rights and duties of parents, and guardians;
4 to provide for court proceedings for emancipation; to provide for powers of the court relative
5 to an emancipation proceeding; to provide for rescission and the effect of rescission on
6 obligations, rights, or interests; to provide for the rights and responsibilities of an
7 emancipated minor; to amend Titles 1, 13, 19, and 44, relating respectively to general
8 provisions, contracts, domestic relations, and property, so as to correct cross-references; to
9 change certain provisions relating to rights of minors; to change certain provisions relating
10 to minors' contracts for property or valuable consideration or necessities; to change certain
11 provisions relating to in whom parental power lies; to change certain provisions relating to
12 parents' obligation to child born out of wedlock; to change certain provisions relating to
13 abandonment of a dependent child; to change certain provisions relating to voidance and
14 ratification of conveyance to or by an infant; to change certain provisions relating to
15 reversion of property set apart for spouse, children, or dependents; to provide for related
16 matters; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
20 proceedings, is amended by adding a new article to the end of the chapter, to read as follows:

21 "ARTICLE 6

22 15-11-200.

23 As used in this article, the term:

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1 (1) 'Emancipation' means termination of the rights of the parents to the custody, control,
2 services, and earnings of a minor.

3 (2) 'Minor' means a person under the age of 18 years.

4 (3) 'Parents' has the same meaning as set forth in Code Section 15-11-2.

5 15-11-201.

6 (a) Emancipation may occur by operation of law or pursuant to a petition filed by a minor
7 with the juvenile court as provided in this article.

8 (b) An emancipation occurs by operation of law:

9 (1) When a minor is validly married;

10 (2) When a person reaches the age of 18 years; or

11 (3) During the period when the minor is on active duty with the armed forces of the
12 United States.

13 (c) An emancipation occurs by court order pursuant to a petition filed by a minor with the
14 juvenile court as provided in Code Sections 15-11-202 through 15-11-207.

15 15-11-202.

16 A minor seeking emancipation shall file a petition for emancipation in the juvenile court
17 in the county where the minor resides. The petition shall be signed and verified by the
18 minor, and shall include:

19 (1) The minor's full name and birth date, and the county and state where the minor was
20 born;

21 (2) A certified copy of the minor's birth certificate;

22 (3) The name and last known address of the minor's parents or guardian, and if no parent
23 or guardian can be found, the name and address of the minor's nearest living relative
24 residing within this state;

25 (4) The minor's present address and length of residency at that address;

26 (5) A declaration by the minor indicating that he or she has demonstrated the ability to
27 manage his or her financial affairs; the minor may include any information he or she
28 considers necessary to support the declaration;

29 (6) A declaration by the minor indicating that he or she has the ability to manage his or
30 her personal and social affairs; the minor may include any information he or she
31 considers necessary to support the declaration; and

32 (7) The names of adults who have personal knowledge of the minor's circumstances and
33 believe that under those circumstances emancipation is in the best interest of the minor.

34 Such individuals may include any of the following:

35 (A) Physician or osteopath licensed pursuant to Chapter 34 of Title 43;

- 1 (B) Registered professional nurse or licensed practical nurse licensed pursuant to
 2 Chapter 26 of Title 43;
- 3 (C) Psychologist licensed pursuant to Chapter 39 of Title 43;
- 4 (D) Professional counselor, social worker, or marriage and family therapist licensed
 5 pursuant to Chapter 10A of Title 43;
- 6 (E) School guidance counselor, school social worker, or school psychologist;
- 7 (F) School administrator, school principal, or school teacher;
- 8 (G) Member of the clergy;
- 9 (H) Law enforcement officer; or
- 10 (I) Attorney.

11 15-11-203.

- 12 (a) Upon filing the petition, a copy of the petition for emancipation and a summons to
 13 appear at the hearing shall be served on the minor's parents or guardian, if applicable, upon
 14 any individual who provided an affidavit as set forth in paragraph (7) of Code Section
 15 15-11-202, and any other individual named in the petition.
- 16 (b) Any individual served with the petition for emancipation may file an answer to such
 17 petition in the juvenile court within 30 days of being served.

18 15-11-204.

- 19 (a) After a petition for emancipation is filed, the court may:
- 20 (1) Assign an employee of the court or appoint a guardian ad litem to investigate the
 21 allegations of the petition and to file a report containing the results of the investigation
 22 with the court, including a recommendation as to whether it is in the best interest of the
 23 minor that the petition for emancipation be granted;
- 24 (2) Appoint an attorney for the minor; and
- 25 (3) Appoint an attorney for the minor's parents or guardian if they are indigent and if
 26 they oppose the petition.
- 27 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each
 28 individual identified in the petition pursuant to paragraph (7) of Code Section 15-11-202
 29 which describes why the individual believes the minor should be emancipated.

30 15-11-205.

- 31 (a) The hearing shall be before a judge; and the court shall issue an emancipation order if
 32 it determines that emancipation is in the best interest of the minor and the minor
 33 establishes:

- 1 (1) That the minor's parent or guardian does not object to the petition; or if a parent or
2 guardian objects to the petition, that the best interest of the child is served by allowing
3 the emancipation to occur by court order;
- 4 (2) That the minor is a resident of this state;
- 5 (3) That the minor has demonstrated the ability to manage his or her financial affairs,
6 including proof of employment or other means of support; 'other means of support' does
7 not include general assistance or aid received from means-tested public assistance
8 programs such as Temporary Assistance for Needy Families or similar programs under
9 Title IV-A of the federal Social Security Act;
- 10 (4) That the minor has the ability to manage his or her personal and social affairs,
11 including, but not limited to, proof of housing; and
- 12 (5) That the minor understands his or her rights and responsibilities under this article as
13 an emancipated minor.
- 14 (b) A minor who petitions the court for emancipation shall have the burden of showing by
15 a preponderance of evidence that emancipation should be ordered.
- 16 (c) If the court issues an emancipation order, the court shall retain a copy of the order until
17 the emancipated minor becomes 25 years of age.
- 18 (d) An emancipation obtained by fraud is voidable. Voiding an emancipation order does
19 not affect an obligation, responsibility, right, or interest that arose during the period of time
20 the order was in effect.
- 21 (e) The minor or a parent or guardian of the minor may appeal the court's grant or denial
22 of an emancipation petition. The appeal shall be filed in the Court of Appeals.
- 23 15-11-206.
- 24 (a) A minor emancipated by court order may petition the juvenile court that issued the
25 emancipation order to rescind such order.
- 26 (b) A copy of the petition for rescission and a summons shall be served on the minor's
27 parents or guardian.
- 28 (c) The court shall grant the petition and rescind the order of emancipation if it finds:
- 29 (1) That the minor is indigent and has no means of support;
- 30 (2) That the minor and the minor's parents or guardian agrees that the order should be
31 rescinded; or
- 32 (3) That there is a resumption of family relations inconsistent with the existing
33 emancipation order.
- 34 (d) If a petition for rescission is granted, the court shall issue an order rescinding the
35 emancipation order and retain a copy of the order until the minor becomes 25 years of age.

1 (e) Rescission of an emancipation order does not alter any contractual obligations or rights
2 or any property rights or interests that arose during the period of time that the emancipation
3 order was in effect.

4 (f) The minor or a parent or guardian of the minor may appeal the court's grant or denial
5 of a petition for rescission of an emancipation order. The appeal shall be filed in the Court
6 of Appeals.

7 15-11-207.

8 (a) A minor emancipated by operation of law or by court order shall be considered to have
9 the rights and responsibilities of an adult, except for those specific constitutional and
10 statutory age requirements regarding voting, use of alcoholic beverages, and other health
11 and safety regulations relevant to the minor because of his or her age. The rights of a
12 minor to receive any transfer of property or money pursuant to 'The Georgia Transfers to
13 Minors Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to
14 Minors Act, the Uniform Gift to Minors Act, or other substantially similar act of another
15 state; or pursuant to a trust agreement shall not be affected by a declaration of an
16 emancipation under this article.

17 (b) A minor shall be considered emancipated for the purposes of, but not limited to:

- 18 (1) The right to enter into enforceable contracts, including apartment leases;
- 19 (2) The right to sue or be sued in his or her own name;
- 20 (3) The right to retain his or her own earnings;
- 21 (4) The right to establish a separate domicile;
- 22 (5) The right to act autonomously, and with the rights and responsibilities of an adult, in
23 all business relationships, including, but not limited to, property transactions and
24 obtaining accounts for utilities, except for those estate or property matters that the court
25 determines may require a conservator or guardian ad litem;
- 26 (6) The right to earn a living, subject only to the health and safety regulations designed
27 to protect those under the age of 18 regardless of their legal status;
- 28 (7) The right to authorize his or her own preventive health care, medical care, dental
29 care, and mental health care, without parental knowledge or liability;
- 30 (8) The right to apply for a driver's license or other state licenses for which he or she
31 might be eligible;
- 32 (9) The right to register for school;
- 33 (10) The right to apply for medical assistance programs and for other welfare assistance,
34 if needed;
- 35 (11) The right, if a parent, to make decisions and give authority in caring for his or her
36 own minor child; and

1 (12) The right to make a will.

2 (c) The parents or guardian of a minor emancipated by court order are not liable for any
3 debts incurred by the minor during the period of emancipation.

4 15-11-208.

5 (a) The duty to provide support for a minor child shall continue until an emancipation
6 order is granted.

7 (b) A child emancipated under this article shall not be considered a 'deprived child' for
8 purposes of Part 6 of Article 1 of this chapter.

9 (c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract
10 for marriage shall apply to a minor who has become emancipated under this article."

11 SECTION 2.

12 Title 1 of the Official Code of Georgia Annotated, relating to general provisions, is amended
13 by striking Code Section 1-2-8, relating to rights of minors, and inserting in lieu thereof the
14 following:

15 "1-2-8.

16 The law prescribes certain ages at which persons shall be considered of sufficient maturity
17 to discharge certain civil functions, to make contracts, and to dispose of property. Prior to
18 those ages they are minors and are, on account of that disability, unable to exercise these
19 rights as citizens unless such minor becomes emancipated by operation of law or pursuant
20 to Article 6 of Chapter 11 of Title 15."

21 SECTION 3.

22 Title 13 of the Official Code of Georgia Annotated, relating to contracts, is amended by
23 striking Code Section 13-3-20, relating to minors' contracts for property or valuable
24 consideration or necessities, and inserting in lieu thereof the following:

25 "13-3-20.

26 (a) Generally the contract of a minor is voidable. If in a contractual transaction a minor
27 receives property or other valuable consideration and, after arrival at the age of ~~majority~~
28 18, retains possession of such property or continues to enjoy the benefit of such other
29 valuable consideration, ~~he~~ the minor shall have thereby ratified or affirmed the contract and
30 it shall be binding on him or her. Such contractual transaction shall also be binding upon
31 any minor who becomes emancipated by operation of law or pursuant to Article 6 of
32 Chapter 11 of Title 15.

33 (b) The contract of a minor for necessities shall be binding on ~~him as if he were of legal~~
34 ~~majority~~ the minor as if the minor were 18 years of age except that the party furnishing

1 them to ~~him~~ must the minor shall prove that the parent or guardian of such minor had failed
 2 or refused to supply sufficient necessities for ~~him~~ the minor, that the minor was
 3 emancipated by operation of law, or the minor was emancipated pursuant to Article 6 of
 4 Chapter 11 of Title 15."

5 SECTION 4.

6 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
 7 amended by striking subsection (a) of Code Section 19-7-1, relating to in whom parental
 8 power lies, and inserting in lieu thereof the following:

9 "(a) Until ~~he~~ a child reaches the age of ~~majority 18 or becomes emancipated~~, the child shall
 10 remain under the control of his or her parents, who are entitled to ~~his~~ the child's services
 11 and the proceeds of ~~his~~ the child's labor. In the event that a court has awarded custody of
 12 the child to one parent, only the parent who has custody of the child is entitled to ~~his~~ the
 13 child's services and the proceeds of ~~his~~ the child's labor."

14 SECTION 5.

15 Said title is further amended by striking Code Section 19-7-24, relating to parents' obligation
 16 to child born out of wedlock, and inserting in lieu thereof the following:

17 "19-7-24.

18 It is the joint and several duty of each parent of a child born out of wedlock to provide for
 19 the maintenance, protection, and education of the child until ~~he~~ the child reaches the age
 20 of ~~majority 18 or becomes emancipated~~, except to the extent that the duty of one parent is
 21 otherwise or further defined by court order."

22 SECTION 6.

23 Said title is further amended by striking paragraph (2) of subsection (j) of Code Section
 24 19-10-1, relating to abandonment of a dependent child, and inserting in lieu thereof the
 25 following:

26 "(2) Service of any sentence suspended in abandonment cases may be ordered by the
 27 court having jurisdiction thereof at any time before the child or children reach the age of
 28 ~~majority 18 or become emancipated~~, after a hearing as provided in paragraph (1) of this
 29 subsection and a finding by the court that the defendant has failed or refused to comply
 30 with the terms and conditions upon which service of the sentence was suspended by the
 31 court having jurisdiction thereof."

