

SENATE BILL REPORT

ESHB 1157

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 23, 1993

Brief Description: Specifying a procedure for emancipation of minors.

SPONSORS: House Committee on Human Services (originally sponsored by Representatives Ludwig, Riley, Chappell, Johanson, Foreman, Appelwick, H. Myers, Scott, Jones, Leonard, Franklin, Springer and Karahalios)

HOUSE COMMITTEE ON HUMAN SERVICES

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators A. Smith, Chairman; Hargrove, Nelson, Niemi, Rinehart, Roach, and Spanel.

Staff: Lidia Mori (786-7755)

Hearing Dates: March 18, 1993; March 23, 1993

BACKGROUND:

There is no statutory process in Washington which provides for emancipation of minors. Washington courts have held that emancipation is the time at which a child is released from parental control and a parent is released from the duty to support a child. It can occur either by operation of law when a child attains a statutorily mandated age of majority or by factual circumstances such as marriage, military service, incarceration, or economic sufficiency.

Washington accords full adult status to a person at age 18 but provides some important exceptions. Consumption of alcohol is expressly prohibited before the age of 21, as is serving or selling alcohol in a tavern, cocktail lounge or bar. A minor at age 14 may consent for treatment of a sexually transmitted disease, HIV testing and outpatient treatment for alcohol or drug abuse. At age 13, a minor may consent for outpatient mental health treatment.

Minors are limited in the number of hours they may work in accordance with rules of the Department of Labor and Industries. The approval of the minor's parents and school is required for obtaining a work permit.

SUMMARY:

A minor who is at least 16 years of age and a resident of this state may petition in Superior Court for a declaration of emancipation. The petition must allege that the petitioner

has the ability to manage financial, personal, social, educational and nonfinancial affairs.

The court will grant the petition for emancipation if it finds by a preponderance of the evidence that the petitioner has the ability to manage his or her financial affairs, as well as personal, social, educational, and nonfinancial affairs. The petition will be denied if the parents, guardian or Department of Social and Health Services oppose the petition and prove by a preponderance of the evidence that emancipation would be detrimental to the interests of the minor.

The decree of emancipation terminates parental responsibilities and grants the emancipated minor the legal capacity of an adult including the right to sue and be sued, retain earnings, establish a separate residence, enter into nonvoidable contracts, act autonomously in business and property transactions and consent for health care services.

An emancipated minor is not considered an adult for purposes of adult criminal laws unless decline of jurisdiction procedures so dictate. A decree of emancipation does not affect a situation where the minor is a victim and age is an element of the offense nor does it affect the laws governing use of alcohol, voting, and health and safety regulations protecting minors. Emancipated minors are not subject to the Department of Labor rules limiting the number of hours that can be worked by a minor per day or per week and work permits for emancipated minors do not need the approval of the minor's parents or school in order to be issued.

SUMMARY OF PROPOSED COMMITTEE AMENDMENT:

The court will grant the petition for emancipation if it finds by a clear and convincing evidence that the petitioner has the ability to manage his or her financial affairs, as well as personal, social, educational, and nonfinancial affairs. If the parents, guardian or Department of Social and Health Services oppose the petition, it will be denied unless the court finds by clear and convincing evidence that denial of the petition would be detrimental to the interests of the minor.

The judge who is hearing a petition for emancipation need not determine whether counsel should be appointed to represent the petitioner, petitioner's parents, guardian, or custodian.

Appropriation: none

Revenue: none

Fiscal Note: available

Effective Date: January 1, 1994

TESTIMONY FOR:

Some Washington statutes refer to "emancipated minor" yet there is no process in place by which to seek emancipation. There are 16 and 17-year-old juveniles who are truly on their own and having the capabilities and rights of adults would greatly help them.

TESTIMONY AGAINST: None

TESTIFIED: Representative Ludwig, sponsor (pro); Robb Menaul, Washington State Hospital Association (pro); Mike Redman, Washington Association of Prosecuting Attorneys (pro); Kurt Sharar, Washington State Association of Counties (pro)