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# Committee Report

**CONSENT CALENDAR**

**February 20, 2018**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Children and Family Law to which  
was referred HB 1377,**

**AN ACT relative to the emancipation of minors. Having  
considered the same, report the same with the following  
amendment, and the recommendation that the bill  
OUGHT TO PASS WITH AMENDMENT.**

**Rep. Daniel Itse**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

|                   |  |
|-------------------|--|
| Committee:        | Children and Family Law                    |
| Bill Number:      | HB 1377                                    |
| Title:            | relative to the emancipation of minors.    |
| Date:             | February 20, 2018                          |
| Consent Calendar: | CONSENT                                    |
| Recommendation:   | OUGHT TO PASS WITH AMENDMENT<br>2018-0728h |

### STATEMENT OF INTENT

This bill provides for statutory emancipation of minors after marriage pursuant to RSA 457-4. Particularly it enables married minors to enter into consumer contracts such as renting an apartment, buying a car or getting electric service and making their own health care decisions.

Vote 13-0.

Rep. Daniel Itse  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Children and Family Law

**HB 1377**, relative to the emancipation of minors. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Daniel Itse for Children and Family Law. This bill provides for statutory of minors after marriage pursuant to RSA 5=457-4. Particularly, it enables married minors to enter into consumer contract such as renting an apartment, buying a car or getting electric service and making their own health care decisions. **Vote 13-0.**

Original: House Clerk

Cc: Committee Bill File

# COMMITTEE REPORT

COMMITTEE: CFCL

BILL NUMBER: HB 1377

TITLE: Relative to the emancipation of minors

DATE: 2-20-2018 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No.  
2018-0728h

STATEMENT OF INTENT:

## CONSENT CALENDAR

Children and Family Law

**HB 1377**, relative to the emancipation of minors. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Daniel Itse for Children and Family Law. This bill provides for statutory of minors after marriage pursuant to RSA 5=457-4. Particularly, it enables married minors to enter into consumer contract such as renting an apartment, buying a car or getting electric service and making their own health care decisions. **Vote 13-0.**

COMMITTEE VOTE: 13-0.

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. *Daniel Itse*  
For the Committee

*KP*



Rep. Itse, Rock. 10  
Rep. K. Rice, Hills. 37  
Rep. Spencer, Straf. 18  
Rep. Berrien, Rock. 18  
Rep. Walz, Merr. 23  
February 20, 2018  
2018-0728h  
05/04

Amendment to HB 1377

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to emancipation by marriage and establishing a committee to study the  
4 emancipation of minors.  
5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Section; Common Law Rule Abrogated; Emancipation by Marriage. Amend RSA 21-B by  
9 inserting after section 2 the following new section:

10 21-B:3 Emancipation by Marriage. Any person under 18 years of age who is validly married  
11 pursuant to RSA 457:4 shall be considered to be emancipated by marriage solely for the purposes of  
12 making health care decisions and entering into binding consumer contracts, as defined in RSA 382-  
13 A:1-201. In such cases, the certificate of marriage shall provide conclusive evidence of  
14 emancipation.

15 2 Committee Established.

16 I. There is established a committee to study emancipation of minors.

17 II. The members of the committee shall be as follows:

18 (a) Four members of the house of representatives, appointed by the speaker of the house  
19 of representatives.

20 (b) One member of the senate, appointed by the president of the senate.

21 III. Members of the committee shall receive mileage at the legislative rate when attending  
22 to the duties of the committee.

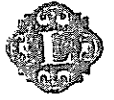
23 IV. The committee shall study the emancipation of minors, including state laws governing  
24 emancipation, the circumstances under which a minor may be emancipated, the procedure for  
25 obtaining emancipation, and the legal consequences of emancipation.

26 V. The members of the study committee shall elect a chairperson from among the members.  
27 The first meeting of the committee shall be called by the first-named house member. The first  
28 meeting of the committee shall be held within 45 days of the effective date of this section. Three  
29 members of the committee shall constitute a quorum.

30 VI. The committee shall report its findings and any recommendations for proposed

Amendment to HB 1377

- Page 2 -



1 legislation to the speaker of the house of representatives, the president of the senate, the house  
2 clerk, the senate clerk, the governor, and the state library on or before November 1, 2018.

3 3 Effective Date.

4 I. Section 1 of this act shall take effect January 1, 2019.

5 II. The remainder of this act shall take effect upon its passage.



2018-0728h

AMENDED ANALYSIS

This bill provides that a minor validly married under state law shall be considered emancipated by marriage for the purposes of making health care decisions and entering into consumer contracts. The bill also establishes a committee to study emancipation of minors.



# Voting Sheets

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

EXECUTIVE SESSION on HB 1377

BILL TITLE: relative to the emancipation of minors.

DATE: February 20, 2018

LOB ROOM: 206

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Itse                                  Seconded by Rep. Weber                                  AM Vote: 13-0

Amendment # 2018-0728h

Moved by Rep. Itse                                  Seconded by Rep. Spencer                                  Vote: 13-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

*Rep. Kind Rice*  
Rep Caroletta Alicea, Clerk

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW



BILL TITLE: EXECUTIVE SESSION on HB 1377  
RELATIVE TO THE EMANCIPATION OF MINORS

DATE: 2-20-2018

LOB ROOM: 206

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # 2018-0728h (if offered)
- Interim Study (2nd year)

Moved by Rep. Itse Seconded by Rep. Weber Vote: 13-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)
- Interim Study (2nd year)

Moved by Rep. Itse Seconded by Rep. Spencer Vote: 13-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)
- Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # \_\_\_\_\_ (if offered)
- Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

CONSENT CALENDAR:  YES  NO

Minority Report? \_\_\_\_\_ Yes \_\_\_\_\_ No If yes, author, Rep: \_\_\_\_\_ Motion \_\_\_\_\_

Respectfully submitted: Rep. Caroletta Alicea  
Rep Caroletta Alicea, Clerk



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

1/5/2018 10:27:10 AM  
Roll Call Committee Registers  
Report

2018 SESSION

CHILD&FAMI

Bill #: HB 1377 Title: Relative to the emancipation of minors.

PH Date: 2 1 6 1 2018 Exec Session Date: 2 1 20 1 2018

Motion: \_\_\_\_\_ Amendment #: 2018-0728h

| MEMBER                        | YEAS      | NAYS     |
|-------------------------------|-----------|----------|
| Rice, Kimberly A. Chariman    | 1         |          |
| Itse, Daniel C. Vice Chairman | 1         |          |
| Cook, Allen W.                | 1         |          |
| Lewicke, John                 | 1         |          |
| O'Connor, John J.             | —         |          |
| Scully, Kevin                 | 1         |          |
| Spencer, Matthew              | 1         |          |
| Willis, Brenda                | 1         |          |
| Alicea, Caroletta C. Clerk    | 1         |          |
| Berrien, Skip                 | 1         |          |
| Walz, Mary Beth               | 1         |          |
| Long, Patrick T.              | 1         |          |
| Weber, Lucy M.                | 1         |          |
| Mulligan, Mary Jane           | 1         |          |
| <b>TOTAL VOTE:</b>            | <b>13</b> | <b>0</b> |



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

1/5/2018 10:27:10 AM  
Roll Call Committee Registers  
Report

2018 SESSION

CHILD&FAMI

Bill #: HB 1377 Title: Relative to the emancipation of minors.  
PH Date: 2 / 6 / 2018 Exec Session Date: 2 / 20 / 2018  
Motion: Adoption of Amendment - Amendment #: 2018-07286

| MEMBER                         | YEAS | NAYS |
|--------------------------------|------|------|
| Rice, Kimberly A. Chariman     | 1    |      |
| Itse, Daniel C. Vice Chairman  | 1    |      |
| Cook, Allen W.                 | 1    |      |
| Lewicke, John                  | 1    |      |
| O'Connor, John J.              | out. |      |
| Scully, Kevin                  | 1    |      |
| Spencer, Matthew               | 1    |      |
| Willis, Brenda <i>Rep Quay</i> | 1    |      |
| Alicea, Caroletta C. Clerk     | 1    |      |
| Berrien, Skip                  | 1    |      |
| Walz, Mary Beth                | 1    |      |
| Long, Patrick T.               | 1    |      |
| Weber, Lucy M.                 | 1    |      |
| Mulligan, Mary Jane            | 1    |      |
| TOTAL VOTE:                    | 13   | 0    |



Rep. Itse, Rock. 10  
Rep. K. Rice, Hills. 37  
Rep. Spencer, Straf. 18  
Rep. Berrien, Rock. 18  
Rep. Walz, Merr. 23  
February 20, 2018  
2018-0728h  
05/04

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Amendment to HB 1377

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2018-0728h

AMENDED ANALYSIS

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# Sub-Committee Minutes

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

**SUBCOMMITTEE WORK SESSION** on HB 1377

**BILL TITLE:** (New Title) relative to emancipation by marriage and establishing a committee to study the emancipation of minors.

**DATE:** February 20, 2018 10:45 a.m.

**Subcommittee Members:** Reps. Alicea, A. Cook, Lewicke, John J. O'Connor, Scully, Willis, P. Long and Mulligan

**Comments and Recommendations:**

Change commercial contract to consumer as defined in UCC 382-a:1-201.

**MOTIONS:** OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)  
(Please circle one)

Moved by Rep. Rice Seconded by Rep. Walz AM Vote: 5-0

Adoption of Amendment

Moved by Rep. Rice Seconded by Rep. Walz Vote: 5-0

\_\_\_\_\_ Amendment Adopted

\_\_\_\_\_ Amendment Failed

**MOTIONS:** OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)  
(Please circle one)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ AM Vote: \_\_\_\_\_

Adoption of Amendment # \_\_\_\_\_

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

\_\_\_\_\_ Amendment Adopted

\_\_\_\_\_ Amendment Failed

Respectfully submitted,

Rep. Kim Rice  
Subcommittee Chairman Rice

Continued

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW



SUBCOMMITTEE WORK SESSION on HB 1377

BILL TITLE: relative to the emancipation of minors.

DATE: 2-20-18 10:45 a.m.

Subcommittee Members: Reps. K. Rice, Itse, Berrien, Spencer, Weber and Walz

Comments and Recommendations:

change commercial contract to consumers as defined in UCC  
382-a:1-201

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)  
(Please circle one)

Moved by Rep. Rice Secoded by Rep. Walz AM Vote: 5-0

Adoption of Amendment # \_\_\_\_\_

Moved by Rep. Rice Secoded by Rep. Walz Vote: 5-0

\_\_\_\_\_ Amendment Adopted \_\_\_\_\_ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)  
(Please circle one)

Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ AM Vote: \_\_\_\_\_

Adoption of Amendment # \_\_\_\_\_

Moved by Rep. \_\_\_\_\_ Secoded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

\_\_\_\_\_ Amendment Adopted \_\_\_\_\_ Amendment Failed

Respectfully submitted,

Rep. \_\_\_\_\_  
Subcommittee Chairman/Clerk

# Hearing Minutes

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 1377

**BILL TITLE:** relative to the emancipation of minors.

**DATE:** January 16, 2018

**LOB ROOM:** 206

**Time Public Hearing Called to Order:** 3:00 p.m.

**Time Adjourned:** 3:32 p.m.

**Committee Members:** Reps. K. Rice, Itse, Lewicke, Scully, Spencer, Willis, Berrien, Walz, P. Long, Mulligan and Alicea

**Bill Sponsors:**  
Rep. McBeath

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**\*Rep. Rebecca McBeath, prime sponsor**

Introduced the bill to the committee. Criteria on becoming emancipated.  
Submitted written testimony.

**Tim Frasier, Department of Health and Human Services, (DHHS), Division of Children Support Services) - information only**

**Keith Keating, Children and Family Services - support**  
Suggestion: set up a subcommittee.

**Rep. Sully:** Q. If this law is passed with our current marriage laws the 13 year old can get married?

**\*Honorable Elizabeth Blanchard, former representative - oppose**

- Came from York, Maine to testify on this bill
- has history - was a legislator and sponsored HB 563 in 2003.
- does not want to reinvent the wheel
- submitted written testimony

**Rep. Barbara Shaw, Manchester, NH - oppose**

States that she will give committee assistant her written testimony papers tomorrow.  
Before they worked on service, we had to emancipate people, but we did not have the money.

**Michelle Wangerin, New Hampshire Legal Assistance**

She would support the idea of a subcommittee. Would like to see something move forward.

**Katy Macdermot, retired executive of Chase Home for Children in Portsmouth**  
Spoke referencing homeless youth and working with them in Portsmouth. (no pink card)

Respectfully submitted,

*Rep. Kim Rice*

Rep. Caroletta Alicea  
Clerk

HOUSE COMMITTEE ON CHILDREN AND FAMILY LAW

PUBLIC HEARING ON HB 1377

BILL TITLE: relative to the emancipation of minors.

DATE: 1-16-2018

ROOM: 206

Time Public Hearing Called to Order: 3pm

Time Adjourned: 3:32

(please circle if present)

Committee Members: Reps. K. Rice, Itse, A. Cook, Lewicke, John J. O'Connor, Scully, Spencer, Willis, Gile, Berrien, Walz, P. Long, Weber and Alicea

Bill Sponsors: Rep. McBeath

Mulligan

Support / Oppose  
11 / 2

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

- #1 Rep. Rebecca McBeath - sponsor - as written criterion becoming emancipated
- Tim Frasier - ~~is~~ RSA 1461A:14 4 - termination of RFS
- Keith Keating - CFS - suggestion, set up a sub committee
- Rep Scully? if this law is passed with our current marriage laws the 13 year old can get married.
- #2 Hon. Elizabeth Blanchard - came from York Maine - has history, was a legislator HB 563, does not want us to reinvent the wheel
- Michelle Wangreen - NH. Legal Assistance - would support the idea of a sub committee, would like to see something move forward
- Rep Barbara Shaw - STATES she will give Nancy papers tomorrow. Before they worked on service we had ~~to~~ to emancipate people but we did not have the money

Katry Mac Dermot spoke referencing homeless youth.  
Retired executive of Chase Home for Children in Portsmouth.  
cell # 978-337-8044

CHAIR Rice stated.

- HB 1377
- HB 1661
- HB 1587
- HB 1566

creating subcommittee  
1586

- Rep Rice
- Rep Spence
- Rep Bienen
- Rep Weber
- Rep Itse
- Rep Walz (Alternate)

Madame Chair stated that if the alternate is not available or vice versa the chair must be notified







# Testimony

HB 1377 - AS INTRODUCED

2018 SESSION

18-2583  
05/06

#1

HOUSE BILL **1377**

AN ACT relative to the emancipation of minors.

SPONSORS: Rep. McBeath, Rock. 26

COMMITTEE: Children and Family Law

ANALYSIS

This bill establishes criteria for emancipation of a minor and establishes a procedure by which a minor who is 16 years of age and older may petition the court to be emancipated.

Explanation: Matter added to current law appears in *bold italics*.  
Matter removed from current law appears [~~in brackets and struckthrough.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

18-2583  
05/06

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT relative to the emancipation of minors.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 New Chapter; Emancipation of Minors. Amend RSA by inserting after chapter 546-B the following new chapter:

CHAPTER 546-C

EMANCIPATION OF MINORS

546-C:1 Definition of Minor. In this chapter, "minor" means a person who is at least 16 years of age but under 18 years of age.

546-C:2 Emancipated Minor. Emancipation may occur by operation of law or pursuant to a petition for emancipation filed by a minor pursuant to this chapter.

546-C:3 Emancipation by Operation of Law. Emancipation occurs by operation of law under any of the following circumstances:

I. When the minor is validly married.

II. When the person reaches the age of 18 years.

III. During the period when the minor is on active duty with the armed forces of the United States.

546-C:4 Petition for Emancipation. A minor may file a petition for emancipation in the family division of the circuit court in which the minor resides. The petition for emancipation shall be verified and shall set forth:

I. The minor's name, age, and date of birth.

P.1

II. That the minor is a resident of New Hampshire at the time of the filing of the petition, owns real estate in New Hampshire, or has an interest or is a party in any case pending in New Hampshire.

III. The cause for which the minor seeks to obtain partial or complete emancipation.

IV. The name and address of the minor's parents, if living.

V. The name and address of any guardians or custodians appointed for the minor.

VI. That the minor is (i) a mature minor who has demonstrated the ability and capacity to manage his or her own affairs; or (ii) a homeless minor who is located in this state.

VII. That the minor has lived wholly or partially independent of his or her parents or guardian for a specified period of time.

2 Effective Dates. This act shall take effect January 1, 2019.

years or the female is under the age of eighteen years, the name of the custodial parent or guardian consenting to such marriage.

**Recent Legislation:**

2017 HB 270 (Pending): Changes the minimum age to receive a marriage license from 15 to 17 years of age.

Montana

**Age of Majority:**

**Mont. Code § 41-1-101**

(1) Minors are:

- (a) males under 18 years of age;
- (b) females under 18 years of age.

(2) All other persons are adults.

**Emancipation:**

**Mont. Code § 40-6-234**

The authority of the parent ceases:

- (1) upon the appointment, by a court, of a guardian of the person of a child;
- (2) upon the marriage of a child; or
- (3) upon its attaining majority.

**Mont. Code § 41-1-501**

(1) A youth who is 16 years of age or older, the youth's parent, or the department of public health and human services may petition the court for an order granting limited emancipation to the youth.

(2) The petition for limited emancipation must be in writing and must set forth:

(a) the name, age, and address of the youth;

(b) the names and addresses of:

(i) the parents of the youth;

(ii) any legal guardian of the youth; or

(iii) if no parent or guardian can be found, the last-known address of the youth's parent or guardian and the name and address of the youth's nearest known relative residing in the state;

(c) that limited emancipation is in the youth's best interests;

(d) that the youth desires limited emancipation;

(e) that there exists no public interest compelling denial of limited emancipation;

(f) that the youth has, or will reasonably obtain, money sufficient to pay for financial obligations incurred as a result of limited emancipation;

(g) that the youth, as shown by prior conduct and preparation, understands and may be expected to responsibly exercise those rights and responsibilities incurred as a result of limited emancipation;

(h) that the youth has graduated or will continue to diligently pursue graduation from high school, unless circumstances clearly compel deferral of education; and

(i) that, if it is considered necessary by the court, the youth will undergo periodic counseling with an appropriate advisor.

**Marriage:**

**Mont. Code Ann. § 40-1-202**

Except as provided in 40-1-301, when a marriage application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the clerk of the district court and paid the marriage license fee of \$53, the clerk of the district

Emancipation



P3

*Utah*

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) If the male or female is 15 years of age, the minor and the parent or guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

(3)(a) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best interests of the minor under the circumstances.

(b) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling. This requirement may be waived if premarital counseling is not reasonably available.

(c) The judge or court commissioner may require:

(i) that the person continue to attend school, unless excused under Section 53A-11-102; and

(ii) any other conditions that the court deems reasonable under the circumstances.

(4) The determination required in Subsection (3) shall be made on the record. Any inquiry conducted by the judge or commissioner may be conducted in chambers.

**Utah Code § 30-1-30**

It is the policy of the state of Utah to enhance the possibility of couples to achieve more stable, satisfying and enduring marital and family relationships by providing opportunities for and encouraging the use of premarital counseling prior to securing a marriage license by persons under 19 years of age and by persons who have been previously divorced.

*Vermont*

*★*

*Emancipation*

*hid*

**Age of Majority:**

**Vt. Stat. tit. 1, § 173**

Persons of the age of 18 years shall be considered of age and until they attain that age, shall be minors. Whenever referred to in the laws of this State, a person who is an adult or who has attained majority shall be a resident or nonresident person of 18 years of age or more.

**Emancipation:**

**Vt. Stat. tit. 12, § 7151 et.seq.**

(1) "Emancipated minor" means a minor who:

(A) has entered into a valid civil marriage; whether or not such civil marriage was terminated by dissolution;

(B) is on active duty with any of the Armed Forces of the United States of America; or

(C) has been ordered emancipated pursuant to section 7155 of this title.

(b) In order to become an emancipated minor by court order under this chapter, a minor at the time of the order must be a person who:

(1) Is 16 years of age or older but under the age of majority.

(2) Has lived separate and apart from his or her parents, custodian, or legal guardian for three months or longer.

(3) Is managing his or her own financial affairs.

(4) Has demonstrated the ability to be self-sufficient in his or her financial and personal affairs, including proof of employment or his or her other means of support. "Other means of support" does not include general assistance, Reach Up financial assistance, or relying on the financial resources of another person who is receiving such assistance or aid.

(5) Holds a high school diploma or its equivalent or is earning passing grades in an educational program approved by the court and directed toward the earning of a high school diploma or its equivalent.

Emancipation  
Vermont cont

3 \*

- (6) Is not under a legal guardianship or in the custody of the Commissioner for Children and Families.
- (7) Is not under the supervision or in the custody of the Commissioner of Corrections.

**Marriage:**

*Vt. Stat. tit. 18, § 5142*

A Clerk shall not issue a civil marriage license when either party to the intended marriage is:

- (1) a person who has not attained majority without the consent in writing of one of the parents if there is one competent to act; or the guardian of such minor;
- (2) nor with such consent when either party is under 16 years of age;
- (3) nor when either of the parties to the intended marriage is not mentally capable of entering into marriage;
- (4) nor to a person under guardianship without the written consent of such guardian.

Virginia

**Age of Majority:**

*Va. Code § 1-204*

For the purposes of all laws of the Commonwealth including common law, case law, and the acts of the General Assembly, unless an exception is specifically provided in this Code, a person shall be an adult, shall be of full age, and shall reach the age of majority when he becomes 18 years of age.

**Emancipation:**

*Va. Code § 16.1-331 to § 16.1-334.1*

§ 16.1-331: Any minor who has reached his sixteenth birthday and is residing in this Commonwealth, or any parent or guardian of such minor, may petition the juvenile and domestic relations district court for the county or city in which either the minor or his parents or guardian resides for a determination that the minor named in the petition be emancipated. The petition shall contain, in addition to the information required by § 16.1-262, the gender of the minor and, if the petitioner is not the minor, the name of the petitioner and the relationship of the petitioner to the minor. If the petition is based on the minor's desire to enter into a valid marriage, the petition shall also include the name, age, date of birth, if known, and residence of the intended spouse. The petitioner shall also attach copies of any criminal records of each individual intending to be married. The petitioner shall also attach copies of any protective order issued between the individuals to be married

§ 16.1-333: The court may enter an order declaring the minor emancipated if, after a hearing, it is found that: (i) the minor has entered into a valid marriage, whether or not that marriage has been terminated by dissolution; (ii) the minor is on active duty with any of the armed forces of the United States of America; (iii) the minor willingly lives separate and apart from his parents or guardian, with the consent or acquiescence of the parents or guardian, and that the minor is or is capable of supporting himself and competently managing his own financial affairs; or (iv) the minor desires to enter into a valid marriage and the requirements of § 16.1-333.1 are met.

**Marriage:**

*Va. Code § 20-48*

The minimum age at which persons may marry shall be 18, unless a minor has been emancipated by court order. Upon application for a marriage license, an emancipated minor shall provide a certified copy of the order of emancipation.

**Recent Legislation:**

2016 SB 415 (Enacted): Relates to legal age for marriage; relates emancipation; relates to the consent of the parent or guardian of a person younger than a specific age; relates to pregnancy and consent of the parent or guardian; provides that marriages entered into in violation of this law are voidable.

2016 HB 703 (Enacted): Relates to legal age for marriage and emancipation petitions for minors intending to marry; provides the factors to

P5

NH Page 3 of 4 on Petition for Adult Guardianship

Case Name: \_\_\_\_\_  
Case Number: \_\_\_\_\_

PETITION FOR GUARDIAN OF INCAPACITATED PERSON

15. The petitioner requests that the court find the ward incapable of exercising the following rights, namely the right to: (check all appropriate boxes)

- Travel or decide where to live
- Refuse or consent to medical or other professional care, counseling, treatment or service, including the right to admit or discharge the ward from any hospital or other medical institution providing such at the lawful direction of the guardian of the person
- Marry or Divorce
- Make a will or waive the provisions of a will
- Hold or obtain a motor vehicle operator's license
- Testify in any judicial or administrative proceedings
- Have access to, grant release of, withhold, deny, or refuse authorization for the guardian of the person to obtain access to and release the ward's confidential records and papers insofar as the same may be reasonably needed by the guardian of the person to ensure that the ward's mental, emotional and physical health concerns are properly addressed and treated
- Possess or manage real or personal property or income from any source
- Make gifts
- Lend or borrow money
- Pay or collect debts
- Manage or run a business
- Convey or hold property
- Cancel, reject or oppose any authority or power granted to the guardian of the estate and/or person
- Continue to act as a member of a partnership
- Initiate, defend or settle lawsuits
- Make contracts or grant power of attorney or other authorizations
- Make decisions concerning educational matters and training
- Other (please specify) \_\_\_\_\_

NOTE: THE COURT MAY IMPOSE ADDITIONAL ORDERS AS A RESULT OF THE HEARING.

16. As required by RSA 464-A:4, III, a statement must be provided containing facts showing the necessity for the appointment of the guardian of the person and estate, or the person, or the estate of the proposed ward, including specific factual allegations as to the proposed ward's financial transactions, personal actions or actual occurrences which are claimed to demonstrate his/her inability to manage an estate, or to provide for personal needs for health care, food, clothing, shelter or safety. All evidence of inability must be within 6 months and one incident must have occurred within 20 days of the filing of this petition. (Please use additional sheets, if necessary.)

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NH Petition for Guardianship of Adult P. 3 of 4  
P12

# Docket of HB1377

Docket Abbreviations

**Bill Title:** relative to the emancipation of minors.

*Official Docket of HB1377:*

| <b>Date</b> | <b>Body</b> | <b>Description</b>   |
|-------------|-------------|--|
| 11/6/2017   | H           | To Be <b>Introduced</b> 01/03/2018 and referred to Children and Family Law |
| 1/3/2018    | H           | Public Hearing: 01/16/2018 03:00 PM LOB 206                                |

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NH House

NH Senate

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HC

N.H. Legislature Children and Family Law Committee January 16, 2018

Hearings on two Emancipation Bills HB 1587 sponsored by Rep, Jackie Cilley and HB 1377 sponsored by Rep McBeath

Testimony by Elizabeth Blanchard

During the N.H. Legislative session of 2003 I sponsored HB 563, An Act relative to the emancipation of minors. Backing up a bit FYI I served 3 terms in the N.H. House from 2002 to 2008. During 2 of those I was a Republican and in 2006 I changed parties and was re-elected as a Democrat. I have never regretted that decision. I served on the Children and Family Law Committee the whole time.

I sponsored HB 563 at the request of a constituent, Peter Brigham. Although he lives in Penacook he was and still is a Social Worker in Hillsborough, working with at-risk teens. In his work he had come across a few teens 16/17 years old who he felt were candidates for emancipation if it were available to them. I have provided you with a copy of HB 563, the outline/draft of the Emancipation statute as well as Peter Brigham's letter. As you can see he did quite a bit of research before he made his request. As the committee we did our own research and discussed the Bill at length. We ultimately voted the Bill ITL because at the time there were no services available to minors on their own. They couldn't sign a lease on an apt. or any other legal contract, they were not eligible for food stamps, and they wouldn't be able to get health care. This Bill morphed into my Homeless Teen Task Force Bill, which Rep. Barbara Shaw will fill you in on the history of.

I felt compelled to testify today because I think it's important not to need to reinvent the wheel. It's unfortunate that HB 563 didn't pop up when these new Bills were written. I retrieved it by calling the committee researcher and I had it in my e-mail within minutes.

Before I sign-off I will give you another little tidbit about me. Some of you know I have moved to York Beach, Maine. Having vacationed there for 60 years and living several summers before moving permanently, I made the decision and moved in April 2016. In May 2017 I was elected Selectwoman for the Town of York. So I haven't slowed down a heck of a lot in my advanced age!

Liz B

## Outline/Draft of Emancipation Statute

- I. Definition/Purpose**
  - A. How Emancipation can come about
    - 1. Marriage
    - 2. Military
    - 3. A Declaration of Emancipation
- II. Eligibility/Requirements**
  - A. Residency
  - B. Parents/Guardian permission
  - C. Age
  - D. Can not be a ward of state or in foster care
  - E. Other determining criteria
    - 1. Plan to live independently
    - 2. Ability to manage affairs
    - 3. Source of income/Employment
    - 4. Educational status
    - 5. Best interest of Minor
- III. Procedures**
  - A. Requirements of petition
    - 1. Name
    - 2. Address
      - a. Proof of residency
    - 3. Age
    - 4. Parties
      - a. Parents/Guardians
    - 5. Facts/reasons why emancipation is sought
    - ★ 6. Parental Permission
    - 7. Educational Background/Plan
    - ★ 8. Has Minor lived independently from parents/guardians
    - 9. Employment/Source of income
    - 10. Plan to live independently
  - B. Court Jurisdiction
    - 1. County
    - 2. Probate Court
    - 3. Appeal
      - a. Superior Court
  - C. Burden of Proof/Preponderance of the evidence
  - D. Fees
  - E. Notification of parties
  - F. Rescission
    - 1. Fraud
    - 2. Withholding information
  - G. Time frames
  - H. Open and advertised to the public
- IV. Restrictions/Responsibilities**
  - A. Define Perimeters of Emancipation
    - 1. Can be held criminally liable for crimes committed
    - 2. All Child support orders nullified

#2  
Liz Blanchard  
House Bill  
Emancipation

3. May enter into legal contracts
4. Can purchase or own real property
5. Can sue or be sued
6. Termination of parental support and control

- B. Not eligible for Welfare/TANF
- C. Can not be a ward of the State or in foster care

V. **Other**

- A. Reciprocity
- B. Emancipated Status noted on Drivers license or ID

## Juvenile Emancipation

Peter D. Brigham

In doing research on statutory emancipation of juveniles I found that as of 1998, 29 states had statutory emancipation procedures. It would have been time prohibitive to look at all of the 29 states so I picked 5 to look at more closely before beginning to draft an emancipation statute for New Hampshire. Two of the 5 states I looked at were the neighboring New England states of Maine and Vermont. In addition to being sandwiched in between these two states; all 3 of these rural states share similar populations, low crime rates, and have many other things in common. While New Hampshire has no statutory emancipation it does recognize out of state emancipation degrees. Since New Hampshire already has common law, which essentially recognizes juveniles as being emancipated, I feel that these circumstances should be incorporated into the new law. The two primary conditions that are the most common among the other states and where there is existing case law in New Hampshire is when a person has entered into a valid marriage or is on active duty in the United States Military.

There are many things to consider when one is in the early stages of drafting an emancipation statute. I feel a good starting point is looking at a minimum age. West Virginia, Illinois, Maine and Vermont all have a minimum age of 16 at which time a minor may petition the court for emancipation. California has one of the lowest minimum ages at 14. I feel that 16 years of age represents a reasonable age when a young adult has reached a level of maturity and capacity to be able to manage their own affairs and live independently of their parents or guardians. 19 of the 29 states that have

statutory emancipation have set the minimum age for application at 16. In further thinking about eligibility criteria, one needs to think about residency and how long one must have lived in the state, city, or town before they can petition the court. My opinion on residency is that the juvenile, parent, and/or guardian must have lived in New Hampshire for at least 6 months and be able to show proof of this. In some states the minor must have already lived separately from their parents or guardians for a certain period of time before they are eligible to apply for emancipation. While this may be part of the criteria that a judge uses to determine whether a minor should be emancipated I don't believe that it should be a requirement in New Hampshire. If a minor is already living independently from their parents or guardians why do they need to be emancipated? Since emancipation in New Hampshire is not legal many teens choose to live independently of their parents with or without their consent, which is one of the reasons I strongly support a statutory solution.

Beyond the age requirement the other criteria that the court should look closely at when considering an emancipation petition should include:

1. What is the minor's plan to live independently?
2. Is the minor able to manage his/her own affairs including financial?
3. Does the minor have a **legal** source of income?
4. Does the minor have a HS diploma, it's equivalent or are they earning passing grades in an educational program recognized or approved by the court?
5. Is emancipation in the best interest of the minor?

What an emancipated minor can and can't do legally varies from state to state. Most states where minors have been emancipated are given the power to enter into binding contracts, can buy or sell real estate, are subject to adult prosecution for criminal offenses, and can sue or be sued. Once a minor is emancipated, parents or guardians are no longer responsible for financial support and are not liable for civil actions that may involve their child. Regardless of what state a minor is emancipated he/she is still subject to certain federal and state constitutions and their respective laws. Such restrictions include the purchase alcohol or the right to vote. Most states also make a provision in their statute excluding emancipated minors from receiving public benefits such as welfare or TANF. The majority of states do not address minors who are seeking emancipation that are pregnant or already have a minor child. This can be a very complex issue and one that eventually will confront lawmakers if an emancipation law is enacted in New Hampshire. Decisions around how to handle a case where a minor has a child or is pregnant will most likely hinge on what's in the best interest of the child.

The level and type of court that handles emancipation petitions can vary from state to state but most seem to give this responsibility to local probate courts. Since underage marriages in New Hampshire are already handled at the probate court level, this seems like a logical jurisdiction to consider emancipation petitions. Application procedures, fees and time frames for emancipation hearings also vary widely among the states.

Whether these proceedings should be advertised or open to the public is also something that should be considered. I feel that such proceedings should be open and advertised to the public since minors are seeking to be treated as adults. I also believe that making these proceedings public would reduce the chances that a minor could achieve an

emancipated status fraudulently. The burden of proof among most states required to convince a court that a petition should be granted is generally a preponderance of the evidence.

There are other important issues to be considered or resolved when a state is contemplating an emancipation statute. Many states with statutory emancipation have some provision for rescission if the declaration was obtained by fraud or by withholding material information. Some states (California) also leave the door open for rescission at a later date if the minor becomes indigent or later has no means of support. In addition to be able to rescind an emancipation decree some states allow for a partial emancipation. I don't feel that partial emancipation would be too well received in New Hampshire; I suspect that legislators are more likely to go for an all or nothing statute.

**References:**

California Family Code Section 7000-7002

Illinois State Law, Chapter 750, ILCS 30

Maine State Law, Title 15, Part 6, Chapter 511, 3506-A

Vermont State Law, Title 12, Part 10, Chapter 217

West Virginia State Law, Chapter 49, Article 7-27

Szymanski, L (1999) Statutory Emancipation of Juveniles. NCJJ Snapshot, 4(8), Pittsburgh, PA: National Center for Juvenile Justice

"Emancipated Teen Parents and TANF Living Arrangement Rules" A fact sheet, Center for Law and Social Policy (1999)

HB 563 - AS INTRODUCED

2003 SESSION

03-1094

05/01

HOUSE BILL **563**

AN ACT relative to the emancipation of minors.

SPONSORS: Rep. E. Blanchard, Merr 38

COMMITTEE: Children and Family Law

ANALYSIS

This bill establishes the criteria and procedure by which a minor who is 16 years of age and older may be emancipated.

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Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03-1094

05/01

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Three*

AN ACT relative to the emancipation of minors.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 New Chapter; Emancipation of Minors. Amend RSA by inserting after chapter 546-B the following new chapter:

CHAPTER 546-C

EMANCIPATION OF MINORS

546-C:1 Definitions:

I. "Emancipated minor" means a minor who:

- (a) Has entered into a valid marriage, whether or not such marriage was terminated by dissolution;
- (b) Is on active duty with any of the armed forces of the United States of America; or
- (c) Has been ordered emancipated pursuant to RSA 546-C:6.



I. After completion of the hearing and consideration of the record, the court shall make findings and issue its order. If the court finds that the minor meets the criteria in RSA 546-C:2 and that emancipation would be in the best interests of the minor, the court shall issue an order of emancipation.

II. At the time of the hearing under this section the court shall consider the best interest of the minor in accordance with the following criteria:

- (a) Emancipation will not create a risk of harm to the minor.
- (b) The likelihood the minor will be able to assume adult responsibilities.
- (c) The minor's adjustment to living separate and apart from his or her parents, guardian, or custodian.
- (d) The opinion and recommendations of the minor's parents, guardian or custodian.

III. In ascertaining the best interests of the minor under this section, the court shall consider the appointment of a guardian ad litem.

IV. Any order of guardianship or custody shall be vacated before the court may issue an order of emancipation. Other orders of the family or probate court may be vacated, modified, or continued in this proceeding if such action is necessary to effectuate the order of emancipation. Child support orders relating to the support of the minor shall be vacated, except for the duty to make past-due payments for child support, which, under all circumstances, shall remain enforceable.

V. The court may require an emancipated minor to report periodically to the court or to another person specified by the court, regarding the minor's compliance with the provisions of RSA 546-C:2, III-V. Failure to report as required may result in the emancipation order being vacated upon notice to the parties.

VI. An order of emancipation shall be conclusive evidence that the minor is emancipated.

#### 546-C:7 Effect of Emancipation.

I. The order of emancipation shall recognize the minor as an adult for all purposes that result from reaching the age of majority, including:

- (a) Entering into a binding contract.
- (b) Litigation and settlement of controversies including the ability to sue and be sued.
- (c) Buying or selling real property.
- (d) Establishing a residence, except that an emancipation order may not be used for the purpose of obtaining residency and in-state tuition or benefits at the university system of New Hampshire or the regional community technical colleges.



- (e) Being prosecuted as an adult under the criminal laws of the state.
- (f) Terminating parental support and control of the minor and their rights to the minor's income.
- (g) Terminating parental tort liability for the minor.
- (h) Indicating the minor's emancipated status on a driver's license or identification card issued by the state.

II. The order of emancipation shall not affect the status of the minor in the applicability of any provision of law which requires specific age requirements under the state or federal constitution or any state or federal law including laws that prohibit the sale, purchase or consumption of intoxicating liquor to or by a person under 21 years of age.

## TESTIMONY ON HB 1377

As the former chair of the Task Force on Homeless Teens (Unaccompanied Youth) following former Rep. Liz Blanchard, I support a Statutory Legislative Study Committee for this complex issue. For two years we met as a committee and reported out to the General Court. Over five years we continued to meet on our own and are still meeting. We have now joined with the Bureau of Housing & Homelessness Youth Subcommittee to continue our work. During that time we gathered and discussed much info bringing together stakeholders to see what resources we have, what is still needed, what are the needs, etc. We are all moving in a positive direction, but in regards to emancipation there are many unintended legal consequences that must be addressed. I would hope that this committee would seek assistance from the legal community and the other committees on homelessness as a Study Committee to make the best decision on HB 1377 regarding our youth.

Rep. Barbara Shaw

# Bill as Introduced

HB 1377 - AS INTRODUCED

2018 SESSION

18-2583  
05/06

HOUSE BILL            **1377**  
AN ACT                relative to the emancipation of minors.  
SPONSORS:            Rep. McBeath, Rock. 26  
COMMITTEE:          Children and Family Law

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ANALYSIS

This bill establishes criteria for emancipation of a minor and establishes a procedure by which a minor who is 16 years of age and older may petition the court to be emancipated.

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Explanation:        Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears [~~in brackets and struck through~~]  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

