



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 26, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 366, an Act relating to the emancipation of a minor and family in need of assistance proceedings.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Culver", written over the printed name.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 366

AN ACT

RELATING TO THE EMANCIPATION OF A MINOR AND FAMILY IN NEED OF ASSISTANCE PROCEEDINGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.125, subsection 2, Code 2009, is amended to read as follows:

2. Such a petition may be filed by the child's parent, guardian or custodian, ~~or~~ by the child, or on the court's own motion as provided in section 232C.2. The judge, county attorney, or juvenile court officer may authorize such parent, guardian, custodian, or child to file a petition with the clerk of the court without the payment of a filing fee.

Sec. 2. Section 232.127, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If after hearing pursuant to this section, the court finds, by clear and convincing evidence, that no remedy is available that would result in strengthening or maintaining the familial relationship, the court may order the minor emancipated pursuant to section 232C.3, subsection 4.

Sec. 3. NEW SECTION. 232C.1 EMANCIPATION PETITION -- HEARING.

1. A minor who desires to become emancipated may file a petition for an order of emancipation in juvenile court if all of the following apply:

- a. The minor is sixteen years of age or older.
- b. The minor is a resident of this state.
- c. The minor is not in the care, custody, or control of the state.

2. A petition filed pursuant to this section shall contain the following:

a. The petitioner's name, mailing address, and date of birth.

b. The name, mailing address of the petitioner's parents or legal guardian.

c. Specific facts to support the petition including but not limited to the following:

(1) The minor has demonstrated financial self-sufficiency, including proof of employment or other means of support, which does not include assistance or subsidies from a federal, state, or local governmental agency.

(2) The minor has demonstrated an ability to manage the personal affairs of the minor.

(3) The minor has demonstrated an ability and commitment to obtain and maintain education, vocational training, or employment.

(4) Any other information considered necessary to support the petition.

d. Any one of the following:

(1) Documentation that the minor has been living on the minor's own for at least three consecutive months.

(2) A statement explaining the reasons the minor believes the home of the minor's parents or legal guardian is not a healthy or safe environment.

(3) A notarized statement that contains written consent to emancipation by the minor's parents or legal guardian.

3. The court shall hold a hearing on the petition within ninety days of the filing of the petition. Notice of the hearing, with a copy of the petition attached, shall be served by personal service on the minor's parent or legal guardian at least thirty days prior to the hearing date. Any other parties shall be notified as provided by the rules of civil procedure for service of an original notice.

4. The minor may participate in the court proceedings on the minor's own behalf, or may be represented by the minor's own counsel, or the court may appoint a guardian ad litem on behalf of the minor.

Sec. 4. NEW SECTION. 232C.2 STAY -- MEDIATION -- REFERRAL TO FAMILY IN NEED OF ASSISTANCE.

1. Prior to an emancipation hearing held pursuant to section 232C.1, the court, on its own motion, may stay the proceedings, and refer the parties to mediation, or request that the department of human services investigate any allegations of child abuse or neglect contained in the petition, and order that a written report be prepared and filed by the department.

2. If a minor's parent or guardian objects to the petition filed pursuant to section 232C.1, the juvenile court shall stay the proceedings and refer the parties to mediation unless the juvenile court finds that mediation would not be in the best interests of the minor.

3. If an agreement is reached through mediation, the parties shall file the signed agreement with the juvenile court.

4. Notwithstanding subsections 1 through 3, the juvenile court, on its own motion, may discontinue emancipation proceedings pursuant to this chapter and interpret the petition as a petition to initiate family in need of assistance proceedings and consider the petition under sections 232.122 through 232.127.

Sec. 5. NEW SECTION. 232C.3 DETERMINATION OF EMANCIPATION -- BEST INTERESTS OF THE MINOR.

1. The juvenile court shall determine emancipation based on the best interests of the minor and shall consider all relevant factors including the following:

a. The potential risks and consequences of emancipation and whether the minor understands the risks and consequences of emancipation.

b. The ability of the minor to be financially self-sufficient.

c. The education level of the minor and success achieved in school.

d. The criminal record of the minor.

e. The desires of the minor.

f. The recommendations of the parents or guardian of the minor.

2. The minor has the burden of proving by clear and convincing evidence that the requirements for ordering emancipation under this section have been met.

3. The juvenile court shall carefully consider the best interests of the minor and after hearing and consideration of the factors enumerated in this section, the juvenile court may order the minor emancipated or deny the petition for emancipation.

4. If after referral of a petition for the initiation of family in need of assistance proceedings pursuant to section 232C.2, the juvenile court finds, by clear and convincing evidence, that no remedy is available that would result in strengthening or maintaining the familial relationship under the family in need of assistance proceedings pursuant to sections 232.122 through 232.127, the juvenile court may order the minor emancipated as provided in this section.

Sec. 6. NEW SECTION. 232C.4 EFFECT OF EMANCIPATION ORDER.

1. An emancipation order shall have the same effect as a child reaching the age of majority with respect to but not limited to the following:

- a. The ability to sue or be sued in the child's own name.
- b. The right to enter into a binding contract.
- c. The right to establish a legal residence.
- d. The right to incur debts.
- e. The right to consent to medical, dental, or psychiatric care.

2. An emancipation order shall have the same effect as the child reaching the age of majority and the parents are exempt from the following:


- a. Future child support obligations for the emancipated child.
- b. An obligation to provide medical support for the emancipated child, unless deemed necessary by the court.
- c. A right to the income or property of the emancipated child.
- d. A responsibility for the debts of the emancipated child.


3. An emancipated minor shall remain subject to voting restrictions under chapter 48A, gambling restrictions under chapter 99B, 99D, 99F, 99G, or 725, alcohol restrictions under chapter 123, compulsory attendance requirements under chapter 299, and cigarette tobacco restrictions under chapter 453A.

4. An emancipated child shall not be considered an adult for prosecution except as provided in section 232.8.


5. Notwithstanding sections 232.147 through 232.151, the emancipation order shall be released by the juvenile court subject to rules prescribed by the supreme court.

6. A parent who is absolved of child support obligations pursuant to an emancipation order shall notify the child support recovery unit of the department of human services of the emancipation.

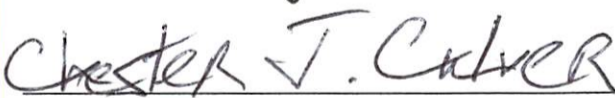

JOHN P. KIBBIE
President of the Senate


PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 366, Eighty-third General Assembly.


MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 26th, 2009


CHESTER J. CULVER
Governor