

Senate File 2364 - Introduced

SENATE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3209)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the emancipation of a minor.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 5797SV 82
4 jm/rj/14

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1 1 Section 1. NEW SECTION. 232C.1 EMANCIPATION PETITION ==
1 2 HEARING.
1 3 1. A minor who desires to become emancipated may file a
1 4 petition for an order of emancipation in juvenile court if all
1 5 of the following apply:
1 6 a. The minor is sixteen years of age or older.
1 7 b. The minor is a resident of this state.
1 8 c. The minor is financially self-sufficient.
1 9 d. The minor has a valid driver's license.
1 10 e. The minor is not in the care, custody, or control of
1 11 the state.
1 12 2. A petition filed pursuant to this section shall contain
1 13 the following:
1 14 a. The petitioner's name, mailing address, and date of
1 15 birth.
1 16 b. The name, mailing address of the petitioner's parents
1 17 or legal guardian.
1 18 c. Specific facts to support the petition including but
1 19 not limited to the following:
1 20 (1) The minor has demonstrated financial self-sufficiency,
1 21 including proof of employment or other means of support, which
1 22 does not include assistance or subsidies from a federal,
1 23 state, or local governmental agency.
1 24 (2) The minor has demonstrated an ability to manage the
1 25 personal affairs of the minor, including an established
1 26 residence.
1 27 (3) The minor has demonstrated an ability and commitment
1 28 to obtain and maintain education, vocational training, or
1 29 employment.
1 30 (4) Any other information considered necessary to support
1 31 the petition.
1 32 d. Any one of the following:
1 33 (1) Documentation that the minor has been living on the
1 34 minor's own for at three consecutive months.
1 35 (2) A statement explaining the reasons the minor believes
2 1 the home of the minor's parents or legal guardian is not
2 2 healthy or a safe environment.
2 3 (3) A notarized statement that contains written consent to
2 4 emancipation by the minor's parents or legal guardian.
2 5 3. The court shall hold a hearing on the petition within
2 6 ninety days of the filing of the petition. Notice of the
2 7 hearing, with a copy of the petition attached, may be sent by
2 8 certified mail at least sixty days prior to the hearing date;
2 9 otherwise, notice of the hearing shall be as provided by the
2 10 rules of civil procedure for service of an original notice.
2 11 4. The minor's parents or legal guardian may file a
2 12 written response objecting to the emancipation within thirty
2 13 days of receiving notice of the hearing.
2 14 5. The minor may participate in the court proceedings on
2 15 the minor's own behalf, or may be represented by the minor's
2 16 own counsel, or the court may appoint a guardian ad litem on
2 17 behalf of the minor.
2 18 Sec. 2. NEW SECTION. 232C.2 STAY == MEDIATION.
2 19 1. Prior to an emancipation hearing held pursuant to

2 20 section 232C.1, the court, on its own motion, may stay the
2 21 proceedings, and refer the parties to mediation, or request
2 22 that the department of human services investigate any
2 23 allegations of child abuse or neglect contained in the
2 24 petition, and order that a written report be prepared and
2 25 filed by the department.

2 26 2. If a minor's parent or guardian object to the petition
2 27 filed pursuant to section 232C.1, the court shall stay the
2 28 proceedings and refer the parties to mediation unless the
2 29 court finds that mediation would not be in the best interests
2 30 of the minor.

2 31 3. If an agreement is reached through mediation, the
2 32 parties shall file the signed agreement with the court.

2 33 Sec. 3. NEW SECTION. 232C.3 DETERMINATION OF
2 34 EMANCIPATION == BEST INTERESTS OF THE MINOR.

2 35 1. The court shall determine emancipation based on the
3 1 best interests of the minor and shall consider all relevant
3 2 factors including the following:

3 3 a. The potential risks and consequences of emancipation
3 4 and whether the minor understands the risks and consequences
3 5 of emancipation.

3 6 b. The ability of the minor to be financially
3 7 self-sufficient.

3 8 c. The education level of the minor and success achieved
3 9 in school.

3 10 d. The criminal record of the minor.

3 11 e. The desires of the minor.

3 12 f. The recommendations of the parents or guardian of the
3 13 minor.

3 14 2. The minor has the burden of proving by clear and
3 15 convincing evidence that the court shall determine
3 16 emancipation under this section.

3 17 3. The court shall carefully consider the best interests
3 18 of the minor and after hearing and consideration of the
3 19 factors enumerated in this section, the court may order the
3 20 minor emancipated or deny the petition for emancipation.

3 21 Sec. 4. NEW SECTION. 232C.4 EFFECT OF EMANCIPATION
3 22 ORDER.

3 23 1. An emancipation order issued pursuant to section 232C.3
3 24 shall be conclusive evidence the minor is emancipated under
3 25 the following circumstances:

3 26 a. The power to sue and be sued in the minor's own name.

3 27 b. The obligation to pay child support.

3 28 c. The right to enter into a binding contract.

3 29 d. The right to buy or sell real property.

3 30 e. The right to establish a legal residence.

3 31 f. The right to incur debts.

3 32 g. The right to make medical decisions.

3 33 2. An emancipated minor shall remain subject to alcohol,
3 34 tobacco, and gambling restrictions as provided by law.

3 35 3. An emancipated minor shall be required to attend school
4 1 as provided in chapter 299.

4 2 4. An emancipated minor shall be prosecuted in juvenile or
4 3 district court as provided in section 232.8.

4 4 5. If an emancipation order is entered, the parents or
4 5 legal guardian are exempt from the following:

4 6 a. Making future child support payments from the date of
4 7 the emancipation order.

4 8 b. Providing medical support.

4 9 c. Controlling an emancipated minor's income or property.

4 10 d. Tort liability for actions of the minor after
4 11 emancipation.

4 12 EXPLANATION

4 13 This bill relates to a petition for the emancipation of a
4 14 minor.

4 15 The bill provides that a minor 16 years of age or older may
4 16 file a petition for an order of emancipation in juvenile court
4 17 provided the minor is a resident of the state, financially
4 18 self-sufficient, and has a valid driver's license, and is not
4 19 in the care, custody, or control of a state agency.

4 20 The bill requires the petition for emancipation to include
4 21 facts supporting the financial self-sufficiency of the minor
4 22 which shall not include assistance or subsidies from a
4 23 governmental agency, and shall include the ability and
4 24 commitment of the minor to manage the personal affairs of the
4 25 minor, the ability and commitment of the minor to obtain
4 26 educational training or employment, and any other information
4 27 considered relevant to support the petition.

4 28 Under the bill, the petition shall also include
4 29 documentation that the minor has an established residence away
4 30 from the minor's parents or guardian for at least three

4 31 months, a statement explaining the reasons the minor believes
4 32 the home of the minor's parents or guardian is not a healthy
4 33 or safe environment, or a notarized statement that contains
4 34 written consent to emancipation by the minor's parents or
4 35 guardian.

5 1 The bill provides that the juvenile court shall hold a
5 2 hearing on the petition within 90 days of the filing of the
5 3 petition.

5 4 The bill provides that prior to any hearing on
5 5 emancipation, the juvenile court may stay the proceedings, and
5 6 refer the minor and the minor's parents to mediation, or
5 7 request the department of human services to investigate any
5 8 allegations of the minor and file a report with the court.

5 9 The bill requires the juvenile court to determine
5 10 emancipation based upon the best interests of the minor.
5 11 Under the bill, the juvenile court shall consider all relevant
5 12 factors including the potential risks and consequences of
5 13 emancipation, the ability of the minor to be self-sufficient,
5 14 the education level of the minor, the minor's criminal record,
5 15 and the desires of the minor and the minor's parents or
5 16 guardian.

5 17 If the court orders emancipation of the child, the effect
5 18 of the order shall be conclusive evidence that the minor has
5 19 the power to sue or be sued, pay child support obligations,
5 20 enter into binding contracts, buy or sell real property,
5 21 establish a legal residence, incur debts, and make medical
5 22 decisions.

5 23 An emancipated minor under the bill remains subject to
5 24 alcohol, gambling, and tobacco restrictions as provided by
5 25 law. An emancipated minor is also required to attend school
5 26 as provided in Code chapter 299.

5 27 If the court orders emancipation of the child, the parents
5 28 or guardian of the child are exempt from making future child
5 29 support obligations, providing medical support, controlling
5 30 the income or property of the minor, or being liable for a
5 31 minor's tortious conduct.

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