

# Senate Study Bill 1216

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON KREIMAN)

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 and family in need  
2 of assistance proceedings.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 2058SC 83  
5 jm/rj/14

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1 1 Section 1. Section 232.125, subsection 2, Code 2009, is  
1 2 amended to read as follows:  
1 3 2. Such a petition may be filed by the child's parent,  
1 4 guardian or custodian, ~~or by the child, or on the court's own~~  
1 5 ~~motion as provided in section 232C.2.~~ The judge, county  
1 6 attorney, or juvenile court officer may authorize such parent,  
1 7 guardian, custodian, or child to file a petition with the  
1 8 clerk of the court without the payment of a filing fee.  
1 9 Sec. 2. Section 232.127, Code 2009, is amended by adding  
1 10 the following new subsection:  
1 11 NEW SUBSECTION. 11. If after hearing pursuant to this  
1 12 section, the court finds, by clear and convincing evidence,  
1 13 that no remedy is available that would result in strengthening  
1 14 or maintaining the familial relationship, the court may order  
1 15 the minor emancipated pursuant to section 232C.3, subsection  
1 16 4.  
1 17 Sec. 3. NEW SECTION. 232C.1 EMANCIPATION PETITION ==  
1 18 HEARING.  
1 19 1. A minor who desires to become emancipated may file a  
1 20 petition for an order of emancipation in juvenile court if all  
1 21 of the following apply:  
1 22 a. The minor is sixteen years of age or older.  
1 23 b. The minor is a resident of this state.  
1 24 c. The minor is not in the care, custody, or control of  
1 25 the state.  
1 26 2. A petition filed pursuant to this section shall contain  
1 27 the following:  
1 28 a. The petitioner's name, mailing address, and date of  
1 29 birth.  
1 30 b. The name, mailing address of the petitioner's parents  
1 31 or legal guardian.  
1 32 c. Specific facts to support the petition including but  
1 33 not limited to the following:  
1 34 (1) The minor has demonstrated financial self-sufficiency,  
1 35 including proof of employment or other means of support, which  
2 1 does not include assistance or subsidies from a federal,  
2 2 state, or local governmental agency.  
2 3 (2) The minor has demonstrated an ability to manage the  
2 4 personal affairs of the minor.  
2 5 (3) The minor has demonstrated an ability and commitment  
2 6 to obtain and maintain education, vocational training, or  
2 7 employment.  
2 8 (4) Any other information considered necessary to support  
2 9 the petition.  
2 10 d. Any one of the following:  
2 11 (1) Documentation that the minor has been living on the  
2 12 minor's own for at three consecutive months.  
2 13 (2) A statement explaining the reasons the minor believes  
2 14 the home of the minor's parents or legal guardian is not a  
2 15 healthy or safe environment.  
2 16 (3) A notarized statement that contains written consent to  
2 17 emancipation by the minor's parents or legal guardian.  
2 18 3. The court shall hold a hearing on the petition within

2 19 ninety days of the filing of the petition. Notice of the  
2 20 hearing, with a copy of the petition attached, may be sent by  
2 21 certified mail at least sixty days prior to the hearing date;  
2 22 otherwise, notice of the hearing shall be as provided by the  
2 23 rules of civil procedure for service of an original notice.

2 24 4. The minor's parents or legal guardian may file a  
2 25 written response objecting to the emancipation within thirty  
2 26 days of receiving notice of the hearing.

2 27 5. The minor may participate in the court proceedings on  
2 28 the minor's own behalf, or may be represented by the minor's  
2 29 own counsel, or the court may appoint a guardian ad litem on  
2 30 behalf of the minor.

2 31 Sec. 4. NEW SECTION. 232C.2 STAY == MEDIATION ==  
2 32 REFERRAL TO FAMILY IN NEED OF ASSISTANCE.

2 33 1. Prior to an emancipation hearing held pursuant to  
2 34 section 232C.1, the court, on its own motion, may stay the  
2 35 proceedings, and refer the parties to mediation, or request  
3 1 that the department of human services investigate any  
3 2 allegations of child abuse or neglect contained in the  
3 3 petition, and order that a written report be prepared and  
3 4 filed by the department.

3 5 2. If a minor's parent or guardian objects to the petition  
3 6 filed pursuant to section 232C.1, the juvenile court shall  
3 7 stay the proceedings and refer the parties to mediation unless  
3 8 the juvenile court finds that mediation would not be in the  
3 9 best interests of the minor.

3 10 3. If an agreement is reached through mediation, the  
3 11 parties shall file the signed agreement with the juvenile  
3 12 court.

3 13 4. Notwithstanding subsections 1 through 3, the juvenile  
3 14 court, on its own motion, may discontinue emancipation  
3 15 proceedings pursuant to this chapter and interpret the  
3 16 petition as a petition to initiate family in need of  
3 17 assistance proceedings and consider the petition under  
3 18 sections 232.122 through 232.127.

3 19 Sec. 5. NEW SECTION. 232C.3 DETERMINATION OF  
3 20 EMANCIPATION == BEST INTERESTS OF THE MINOR.

3 21 1. The juvenile court shall determine emancipation based  
3 22 on the best interests of the minor and shall consider all  
3 23 relevant factors including the following:

3 24 a. The potential risks and consequences of emancipation  
3 25 and whether the minor understands the risks and consequences  
3 26 of emancipation.

3 27 b. The ability of the minor to be financially  
3 28 self-sufficient.

3 29 c. The education level of the minor and success achieved  
3 30 in school.

3 31 d. The criminal record of the minor.

3 32 e. The desires of the minor.

3 33 f. The recommendations of the parents or guardian of the  
3 34 minor.

3 35 2. The minor has the burden of proving by clear and  
4 1 convincing evidence that the requirements for ordering  
4 2 emancipation under this section have been met.

4 3 3. The juvenile court shall carefully consider the best  
4 4 interests of the minor and after hearing and consideration of  
4 5 the factors enumerated in this section, the juvenile court may  
4 6 order the minor emancipated or deny the petition for  
4 7 emancipation.

4 8 4. If after referral of a petition for the initiation of  
4 9 family in need of assistance proceedings pursuant to section  
4 10 232C.2, the juvenile court finds, by clear and convincing  
4 11 evidence, that no remedy is available that would result in  
4 12 strengthening or maintaining the familial relationship under  
4 13 the family in need of assistance proceedings pursuant to  
4 14 sections 232.122 through 232.127, the juvenile court may order  
4 15 the minor emancipated as provided in this section.

4 16 Sec. 6. NEW SECTION. 232C.4 EFFECT OF EMANCIPATION  
4 17 ORDER.

4 18 1. An emancipation order shall have the same effect as a  
4 19 child reaching the age of majority with respect to but not  
4 20 limited to the following:

4 21 a. The ability to sue or be sued in the child's own name.

4 22 b. The right to enter into a binding contract.

4 23 c. The right to establish a legal residence.

4 24 d. The right to incur debts.

4 25 e. The right to consent to medical, dental, or psychiatric  
4 26 care.

4 27 2. An emancipation order shall have the same effect as the  
4 28 child reaching the age of majority and the parents are exempt  
4 29 from the following:

4 30 a. Future child support obligations for the emancipated  
4 31 child.  
4 32 b. An obligation to provide medical support for the  
4 33 emancipated child, unless deemed necessary by the court.  
4 34 c. Tort liability for the actions of the child after  
4 35 emancipation.  
5 1 d. A right to the income or property of the emancipated  
5 2 child.  
5 3 e. A responsibility for the debts of the emancipated  
5 4 child.  
5 5 3. An emancipated minor shall remain subject to voting  
5 6 restrictions under chapter 48A, gambling restrictions under  
5 7 chapter 99B, 99D, 99F, 99G, or 725, alcohol restrictions under  
5 8 chapter 123, compulsory attendance requirements under chapter  
5 9 299, and cigarette tobacco restrictions under chapter 453A.  
5 10 4. An emancipated child shall not be considered an adult  
5 11 for prosecution except as provided in section 232.8.  
5 12 5. Notwithstanding sections 232.147 through 232.151, the  
5 13 emancipation order shall be released by the juvenile court  
5 14 subject to rules prescribed by the supreme court.

5 15 EXPLANATION

5 16 This bill relates to a petition for the emancipation of a  
5 17 minor and family in need of assistance proceedings.  
5 18 The bill provides that a minor 16 years of age or older may  
5 19 file a petition for an order of emancipation in juvenile court  
5 20 provided the minor is a resident of the state, and is not in  
5 21 the care, custody, or control of a state agency.  
5 22 The bill requires the petition for emancipation to include  
5 23 facts supporting the financial self-sufficiency of the minor  
5 24 which shall not include assistance or subsidies from a  
5 25 governmental agency, and shall include the ability and  
5 26 commitment of the minor to manage the personal affairs of the  
5 27 minor, the ability and commitment of the minor to obtain  
5 28 educational training or employment, and any other information  
5 29 considered relevant to support the petition.  
5 30 Under the bill, the petition shall also include  
5 31 documentation of the minor living on the minor's own for at  
5 32 least three months, a statement explaining the reasons the  
5 33 minor believes the home of the minor's parents or guardian is  
5 34 not a healthy or safe environment, or a notarized statement  
5 35 that contains written consent to emancipation by the minor's  
6 1 parents or guardian.  
6 2 The bill provides that the juvenile court shall hold a  
6 3 hearing on the petition within 90 days of the filing of the  
6 4 petition.  
6 5 The bill provides that prior to any hearing on  
6 6 emancipation, the juvenile court may stay the proceedings, and  
6 7 refer the minor and the minor's parents or guardian to  
6 8 mediation, or request the department of human services to  
6 9 investigate any abuse or neglect allegations of the minor and  
6 10 file a report with the court.  
6 11 The bill allows the court, on its own motion, to  
6 12 discontinue emancipation proceedings and interpret the  
6 13 emancipation petition as a petition to initiate family in need  
6 14 of assistance proceedings and to consider the petition under  
6 15 Code sections 232.122 through 232.127. If after referral of a  
6 16 petition for the initiation of family in need of assistance  
6 17 proceedings, the court finds, by clear and convincing  
6 18 evidence, that no remedy is available that would result in  
6 19 strengthening or maintaining the familial relationship under  
6 20 the family in need of assistance proceedings, the court may  
6 21 order the minor emancipated under the bill.  
6 22 The bill requires the juvenile court to determine  
6 23 emancipation based upon the best interests of the minor.  
6 24 Under the bill, the juvenile court shall consider all relevant  
6 25 factors including the potential risks and consequences of  
6 26 emancipation, the ability of the minor to be self-sufficient,  
6 27 the education level of the minor, the minor's criminal record,  
6 28 and the desires of the minor and the minor's parents or  
6 29 guardian.  
6 30 If the court orders emancipation of the child, the effect  
6 31 of the order shall be that the minor has the power to sue or  
6 32 be sued, enter into binding contracts, establish a legal  
6 33 residence, incur debts, and make medical decisions.  
6 34 An emancipated minor under the bill remains subject to  
6 35 voting, alcohol, gambling, and tobacco restrictions as  
7 1 provided by law. An emancipated minor is also required to  
7 2 attend school as provided in Code chapter 299.  
7 3 If the court orders emancipation of the child, the parents  
7 4 or guardian of the child are exempt from making future child  
7 5 support payments, providing medical support, unless deemed

7 6 necessary by the court, tort liability for actions after  
7 7 emancipation, rights to the income or property of the  
7 8 emancipated child, and from the responsibility of any debts  
7 9 incurred after emancipation.  
7 10 The bill provides that an emancipated child shall not be  
7 11 considered an adult for prosecution except as provided in  
7 12 section 232.8.  
7 13 LSB 2058SC 83  
7 14 jm/rj/14