

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018
COMMITTEE STATEMENT
LB714

Hearing Date: Wednesday January 24, 2018
Committee On: Judiciary
Introducer: Howard
One Liner: Provide a procedure for judicial emancipation of a minor

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Baker, Ebke, Halloran, Hansen, Krist, Morfeld, Pansing Brooks
Nay:		
Absent:	1	Senator Chambers
Present Not Voting:		

Verbal Testimony:

Proponents:

Senator Sarah Howard
Faith Walker
Aimee Melton
Juliet Summers

Representing:

Introducer
self
Reagan, Melton & Delaney LLP
Voices for Children

Opponents:

Representing:

Neutral:

Jerry Stilmock
Bub Windle

Representing:

Nebraska Bankers Association
Nebraska State Bar Association

Summary of purpose and/or changes:

LB 714 provides for a procedure whereby a minor may obtain emancipation from his or her parents or legal guardian.

Under the bill, a minor who is at least 16 years of age, married, or who is living apart from his or her parents or legal guardian may file a petition in district court for a judgment of emancipation.

The petition must include the name, age, and address of the minor, the names of his or her parents if known, the names of any legal guardians of the minor, if known, and the minor's nearest known relative residing in Nebraska if the minor does not know the address of a parent or legal guardian. The petition must also state that the minor is seeking judgment of emancipation and that the minor willingly lives apart from his or her parents or legal guardian.

Notice of the filing of the petition and a copy of it must be served upon the minor's parents or legal guardian, or the nearest known relative in Nebraska if the parents or legal guardian cannot be found. Notice and a copy must also be served upon any legal custodian of the minor or by publication if service is not possible.

Once a petition is filed, the court would, in making its determination, be required by the bill to consider whether the minor is able to support themselves financially, whether they are sufficiently mature to manage their affairs, and whether emancipation is in the minor's best interest. The court must further advise the minor of the consequences of

emancipation and inform him or her of the benefits and services available to an emancipated minor.

If the court enters a judgement of emancipation, the judgment would emancipate the minor "for all purposes" and remove the disability of minority, allowing the minor to enter contracts, incur indebtedness, acquire and convey property, consent to medical treatment, enroll in school, and establish a residence. The order would further terminate any obligation owed to the minor by his or her parents or legal guardian.

The bill would note that emancipation does not impact the minor's status for purposes of the Nebraska Juvenile Code.

Finally, the bill would allow for a person or public agency to petition the court to void a judgment of emancipation on the grounds that the minor has become indigent and has insufficient means for support or if the judgment of emancipation was obtained by fraud, misrepresentation, or withholding of material information.

Explanation of amendments:

AM 1754 to LB 714 makes the following changes to the bill to provide further guidance with respect to emancipation proceedings and procedural timelines.

First, the amendment adds filing requirements to Section 3 of the bill and outlines the information that must be included in the petition for emancipation.

Next, it provides court hearing timelines to Section 5 of the bill.

Amendments to Section 6 of the bill provides a process by which a parent or legal guardian may object to the petition for emancipation.

It further provides that the burden of proof in an emancipation petition is on the minor to establish by clear and convincing evidence that emancipation is warranted as outlined in Section 7 of the Amendment. Section 7 also includes required notices that the Court must provide to a minor seeking emancipation regarding how such an order will affect them.

Section 9 of the Amendment clarifies that an emancipated minor is not considered an adult for purposes of criminal prosecution.

Section 10 of the Amendment provides for a motion for rescission of an order of emancipation and outlines the process and requirements for receiving such a rescission.

Laura Ebke, Chairperson