

Introduced by

1 A BILL for an Act to create and enact seven new sections to chapter 14-10 of the North Dakota
2 Century Code, relating to the emancipation of a minor.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 14-10 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Emancipation of a minor - Definitions.**

7 As used in this Act:

8 1. "Emancipated minor" means a minor who:

9 a. Has entered a valid civil marriage, even if the marriage is later terminated by
10 dissolution;

11 b. Is on active duty with any of the armed forces of the United States; or

12 c. Has been ordered emancipated under section 4 of this Act.

13 2. "Risk of harm" means a significant danger that a minor will suffer serious harm other
14 than by accidental means, which would be likely to cause physical injury, neglect,
15 emotional maltreatment, or sexual abuse.

16 **SECTION 2.** A new section to chapter 14-10 of the North Dakota Century Code is created
17 and enacted as follows:

18 **Emancipation of a minor - Petition - Requirements.**

19 1. To be ordered an emancipated minor under section 4 of this Act, the minor must at the
20 time the order is entered:

21 a. Be at least sixteen years of age but under eighteen years of age;

22 b. Be a resident of this state;

23 c. Be living separate from the minor's parent or guardian with the consent or
24 acquiescence of the minor's parent or guardian;

- 1 d. Demonstrate the ability to manage the minor's financial affairs, including proof of
- 2 employment or other means of support;
- 3 e. Hold a high school diploma or its equivalent or be enrolled in an educational
- 4 program directed toward earning a high school diploma or its equivalent;
- 5 f. Be unlikely to return to the minor's parent's or guardian's home; and
- 6 g. Understand the minor's rights and responsibilities as an emancipated minor.
- 7 2. A minor, state agency, or other agency or private organization licensed or otherwise
- 8 authorized by law to provide care for a minor may petition the juvenile court for a
- 9 declaration of emancipation. The petition must include:
- 10 a. The minor's name, date of birth, and address;
- 11 b. The names and addresses of the minor's parents, if known;
- 12 c. The name and address of a guardian or custodian appointed for the minor, if
- 13 applicable;
- 14 d. Specific facts in support of the emancipation criteria under subsection 1;
- 15 e. The reasons the emancipation is sought; and
- 16 f. Letters from at least three of the following individuals who have personal
- 17 knowledge of the circumstances of the minor and who believe emancipation is in
- 18 the minor's best interests:
- 19 (1) Physician;
- 20 (2) Therapist;
- 21 (3) School administrator or teacher;
- 22 (4) Social worker;
- 23 (5) School counselor;
- 24 (6) Member of the clergy;
- 25 (7) Psychologist; or
- 26 (8) An adult with a connection to the minor.

27 **SECTION 3.** A new section to chapter 14-10 of the North Dakota Century Code is created
28 and enacted as follows:

1 **Emancipation of a minor - Hearing - Parties - Notice.**

- 2 1. Upon the filing of a petition for emancipation, the juvenile court shall schedule a
3 hearing. The juvenile court has exclusive jurisdiction over all proceedings concerning
4 emancipation of minors.
- 5 2. The minor's parents, guardian, or other person charged with the custody of the minor
6 must be made a party to the proceeding and must be given an opportunity to be
7 heard. If the minor has been committed to the custody or guardianship of a human
8 services zone director, the director must be made a party to the proceeding.
- 9 3. The petitioner shall provide notice of the hearing to each party at least thirty days
10 before the hearing, unless the court determines there are valid reasons why notice
11 cannot be provided.
- 12 4. In a proceeding under this section, the petitioner has the burden of proving by a
13 preponderance of the evidence the facts necessary to sustain the petition.

14 **SECTION 4.** A new section to chapter 14-10 of the North Dakota Century Code is created
15 and enacted as follows:

16 **Findings - Order of emancipation.**

- 17 1. Following the hearing, the juvenile court shall make findings and issue its order. If the
18 court finds the minor meets the criteria in section 2 of this Act and emancipation would
19 be in the best interests of the minor, the court shall issue an order of emancipation.
- 20 2. When determining the best interests of the minor, the court shall consider:
- 21 a. Whether emancipation will create a risk of harm to the minor;
- 22 b. The likelihood the minor will be able to assume adult responsibilities;
- 23 c. The minor's ability to adjust to living separate and apart from the minor's parents,
24 guardian, or custodian; and
- 25 d. The opinion and recommendations of the minor's parents, guardian, or custodian.
- 26 3. In determining the best interests of the minor under this section, the court may
27 consider appointing a guardian ad litem or requiring additional support services.
- 28 4. An order of emancipation issued under this section terminates a:
- 29 a. Guardianship or custody order pertaining to the minor; and

1 b. Child support order relating to the support of the minor. A termination of the child
2 support obligation under this section does not relieve a parent of the duty to pay
3 any unpaid child support.

4 5. The juvenile court may:

5 a. Require an emancipated minor to report periodically to the court or to another
6 person regarding the minor's compliance with the order of emancipation; and

7 b. Limit the effect of the order of emancipation.

8 6. An order of emancipation is conclusive evidence the minor is emancipated.

9 7. The juvenile court may terminate an order of emancipation if the minor does not
10 comply with the order requirements.

11 **SECTION 5.** A new section to chapter 14-10 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Effect of emancipation.**

14 1. An order of emancipation recognizes the minor as an adult for all purposes that result
15 from reaching the age of majority, including:

16 a. Entering a binding contract;

17 b. Litigation and settlement of controversies, including the ability to sue and be
18 sued;

19 c. Buying and selling real property;

20 d. Establishing a residence;

21 e. Being prosecuted as an adult under the criminal laws of the state;

22 f. Terminating parental control of the minor and parental rights to the minor's
23 income;

24 g. Terminating parental tort liability for the minor; and

25 h. Indicating the minor's emancipated status on an operator's license or
26 identification card issued by the state.

27 2. An order of emancipation does not affect the status of a minor in the applicability of
28 any provision of law which requires specific age requirements, including laws
29 prohibiting the sale, purchase, or consumption of intoxicating liquor to or by an
30 individual under twenty-one years of age or which prohibit the purchase, possession,

1 smoking, or usage of tobacco products by an individual under twenty-one years of
2 age.

3 **SECTION 6.** A new section to chapter 14-10 of the North Dakota Century Code is created
4 and enacted as follows:

5 **Recognition of order of emancipation of another state.**

6 1. A minor who is properly emancipated under the lawful procedure of another state or
7 Indian nation or tribe is entitled to retain that status in this state.

8 2. A court shall recognize, and enforce as appropriate, the order of emancipation of
9 another state or Indian nation or tribe in the same manner as if the order had been
10 issued by a court in this state.

11 **SECTION 7.** A new section to chapter 14-10 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Order of emancipation obtained by fraud or withholding material information.**

14 1. An order of emancipation obtained by fraud or by the withholding of material
15 information is voidable upon order of the juvenile court.

16 2. Unless otherwise ordered by the court, an order of emancipation declared void under
17 this section does not alter any contractual obligation or right or any property right or
18 interest that arose while the order was in effect.

19 3. A proceeding under this section may be commenced by any person. Notice of the
20 commencement of the proceeding must be consistent with the notice requirements
21 under section 3 of this Act.