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# HOUSE BILL No. 1100

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 31-13-4; IC 31-16-6-6.

**Synopsis:** Emancipation of a minor. Establishes a process by which a minor may petition a court for the complete or partial emancipation of the minor. Requires the court to hold a hearing on the petition and make a determination. Allows a court to: (1) appoint a guardian ad litem or court appointed special advocate for the minor; and (2) modify or terminate an order for emancipation of a minor.

**Effective:** July 1, 2009.

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January 8, 2009, read first time and referred to Committee on Judiciary.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1100



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-9-2-7 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) "Adult", for purposes of  
3 IC 31-19-17 through IC 31-19-24, means a person who is at least  
4 twenty-one (21) years of age.

5 (b) "Adult", for purposes of the juvenile law, means a person other  
6 than a child.

7 **(c) "Adult", for purposes of IC 31-13-4, means a person who is**  
8 **at least eighteen (18) years of age.**

9 SECTION 2. IC 31-9-2-49 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 49. "Guardian", for  
11 purposes of the juvenile law **and IC 31-13-4**, means a person  
12 appointed by a court to have the care and custody of a child or the  
13 child's estate, or both.

14 SECTION 3. IC 31-9-2-88 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 88. **(a)** "Parent", for  
16 purposes of the juvenile law, means a biological or an adoptive parent.  
17 Unless otherwise specified, the term includes both parents, regardless



1 of their marital status.

2 (b) "Parent", for purposes of IC 31-13-4, means a biological or  
3 an adoptive parent. Unless otherwise specified, the term includes  
4 both parents, regardless of their marital status. However, the term  
5 does not include a parent whose parental rights have been  
6 terminated.

7 SECTION 4. IC 31-13-4 IS ADDED TO THE INDIANA CODE AS  
8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2009]:

10 Chapter 4. Emancipation of a Minor

11 Sec. 1. A minor is an emancipated minor if one (1) or more of  
12 the following apply:

- 13 (1) The minor has entered into a valid marriage.
- 14 (2) The minor has joined the United States armed services.
- 15 (3) A court has issued an order for emancipation of the minor  
16 under this chapter or any other applicable law.

17 Sec. 2. (a) A minor who is at least sixteen (16) years of age may  
18 petition for complete or partial emancipation of the minor in the  
19 circuit or superior court in the county in which:

- 20 (1) the minor resides or is temporarily domiciled; or
- 21 (2) a court action affecting the interests of the minor is  
22 pending.

23 (b) A petition for emancipation of a minor must:

- 24 (1) be verified; and
- 25 (2) set forth the following:
  - 26 (A) That the minor is at least sixteen (16) years of age.
  - 27 (B) That the minor has lived wholly or partially  
28 independent of the minor's parent or guardian.
  - 29 (C) That the minor has demonstrated the ability and  
30 capacity to manage the minor's own affairs.
  - 31 (D) The reason for which the minor seeks to obtain  
32 complete or partial emancipation.
  - 33 (E) The names and addresses of the parent or guardian of  
34 the minor.

35 (c) A certified copy of the minor's birth certificate must be filed  
36 with the petition for emancipation.

37 Sec. 3. When a petition for emancipation is filed with a court,  
38 the parent or guardian of the minor shall be notified of the hearing  
39 on the petition in the same manner as a summons is served under  
40 the Indiana Rules of Trial Procedure.

41 Sec. 4. The court shall hold a hearing on a petition filed under  
42 section 2 of this chapter and make a determination.

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1           **Sec. 5. (a) The court may appoint a guardian ad litem or court**  
2 **appointed special advocate for the minor.**

3           **(b) The provisions of IC 31-17-6 apply to the appointment of a**  
4 **guardian ad litem or court appointed special advocate under this**  
5 **section.**

6           **(c) The court may order:**  
7               **(1) a parent or guardian; or**  
8               **(2) the minor for whom a guardian ad litem or court**  
9 **appointed special advocate is appointed under this chapter;**  
10 **to pay a user fee for the services provided by the guardian ad litem**  
11 **or court appointed special advocate. The fee shall be collected in**  
12 **accordance with a procedure established by the court under**  
13 **IC 31-17-6-9.**

14           **Sec. 6. (a) A court may order a minor to be completely or**  
15 **partially emancipated.**

16           **(b) The court may enter an order for complete emancipation of**  
17 **a minor if the court determines that the minor:**

- 18               **(1) is at least sixteen (16) years of age;**
- 19               **(2) wishes to be free from parental control and protection and**
- 20 **no longer needs that control and protection;**
- 21               **(3) understands the consequences of being free from parental**
- 22 **control and protection;**
- 23               **(4) has sufficient money for the child's own support; and**
- 24               **(5) has an acceptable plan for independent living.**

25           **(c) In making a determination under this section, the court shall**  
26 **consider the best interests of the minor and the minor's parent or**  
27 **guardian.**

28           **Sec. 7. (a) Except as provided in subsection (b), a minor who is**  
29 **completely emancipated under this chapter shall have the same**  
30 **right to make contracts and conveyances, to sue and to be sued,**  
31 **and to transact business as if the minor were an adult.**

32           **(b) A minor who is completely emancipated under this chapter**  
33 **shall not have rights that are inconsistent with the specific age**  
34 **requirements of a state or federal law.**

35           **(c) If a minor is completely emancipated under this chapter, the**  
36 **parent or guardian is:**

- 37               **(1) relieved of all legal duties and obligations owed to the**
- 38 **minor; and**
- 39               **(2) divested of all rights with respect to the minor that the**
- 40 **parent or guardian had prior to the emancipation of the**
- 41 **minor because of the minor's age.**

42           **Sec. 8. A minor who is partially emancipated under this chapter**

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1 shall have only the rights and responsibilities specified in the order  
2 of the court.

3 **Sec. 9. An emancipated minor remains subject to the following:**  
4 **(1) IC 20-33-2 concerning compulsory school attendance.**  
5 **(2) The continuing jurisdiction of the court.**

6 **Sec. 10. (a) The court may modify or terminate a previous**  
7 **emancipation order by the court.**

8 **(b) A subsequent modification or termination of an**  
9 **emancipation order under this section shall be effective only**  
10 **prospectively and shall not affect any rights, duties, obligations, or**  
11 **causes of action existing prior to the modification or termination**  
12 **of an emancipation order under this chapter.**

13 **Sec. 11. A final order granting or denying complete or partial**  
14 **emancipation under this chapter may be appealed.**

15 SECTION 5. IC 31-16-6-6, AS AMENDED BY P.L.2-2007,  
16 SECTION 362, IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The duty to support a child  
18 under this chapter ceases when the child becomes twenty-one (21)  
19 years of age unless any of the following conditions occurs:

20 (1) The child is emancipated before becoming twenty-one (21)  
21 years of age. In this case the child support, except for the  
22 educational needs outlined in section 2(a)(1) of this chapter,  
23 terminates at the time of emancipation, although an order for  
24 educational needs may continue in effect until further order of the  
25 court.

26 (2) The child is incapacitated. In this case the child support  
27 continues during the incapacity or until further order of the court.

28 (3) The child:  
29 (A) is at least eighteen (18) years of age;  
30 (B) has not attended a secondary school or postsecondary  
31 educational institution for the prior four (4) months and is not  
32 enrolled in a secondary school or postsecondary educational  
33 institution; and  
34 (C) is or is capable of supporting himself or herself through  
35 employment.

36 In this case the child support terminates upon the court's finding  
37 that the conditions prescribed in this subdivision exist. However,  
38 if the court finds that the conditions set forth in clauses (A)  
39 through (C) are met but that the child is only partially supporting  
40 or is capable of only partially supporting himself or herself, the  
41 court may order that support be modified instead of terminated.

42 (b) For purposes of determining if a child is emancipated under

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1 subsection (a)(1), if the court finds that the child:  
2 (1) has joined the United States armed services;  
3 (2) has married; **or**  
4 (3) is not under the care or control of:  
5 (A) either parent; or  
6 (B) an individual or agency approved by the court; **or**  
7 **(4) is an emancipated minor under IC 31-13-4-1.**  
8 the court shall find the child emancipated and terminate the child  
9 support.

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