

Berrien County Probate Court

Hon. Brian S. Berger, Presiding Judge

811 Port Street, Saint Joseph, Michigan 49085

Phone: (269) 983-7111 X8365

EMANCIPATION OF MINORS

The information in this pamphlet is not intended to be legal advice. It is a brief explanation of the basic procedure that is required for emancipation of a minor. Probate Court personnel cannot give you legal advice about this procedure. Documents needed to file are:

- Petition for Emancipation
- Certified Copy of Birth Certificate
- Notice of Hearing
- Summons
- Proof of Service

TERMS AND DEFINITIONS

Some terms and definitions used in this pamphlet may be unfamiliar to you. The following terms and phrases are often used in emancipation matters knowing them will help you understand the information in this pamphlet.

PETITION: The form filed with the Probate Court that tells the court who is seeking emancipation, who the parents or guardians are, how the minor is able to care for him/herself, and the name of an adult who knows the minor personally and believes emancipation is in his/her best interest.

PETITIONER: The person (minor) who signed the petition and is asking the court for an emancipation order.

MINOR: A person at least 16 but less than 18 years of age.

EMANCIPATED MINOR: A minor who has the legal right to live in a place of his/her choice, to make decisions by him or herself and to provide his or her own support.

AFFIDAVIT: A notarized document signed by a person swearing that the information or statement given is true.

THE PETITION

A minor seeking court-ordered emancipation must file a petition in the probate court in the county where he/she lives. The petition must be signed by the minor and he/she must declare that the information in the petition is true.

The petition **MUST** include the following information:

- The minor's name, birth date, and county and state of birth.

- A certified copy of the minor's birth certificate.
- The name and last known address of the minor's parents, guardian, or custodian.
- The minor's present address and how long he/she has lived at that address.
- A statement by the minor showing how he/she has demonstrated the ability to manage his/her financial affairs.
- A statement by the minor showing that he/she has the ability to manage his/her personal and social affairs.
- The petition MUST also include an affidavit by someone who knows the minor personally and believes emancipation is in the minor's interests. The notarized affidavit must be from one of the following people:
 - Physician/Nurse
 - Member of clergy
 - Psychologist/family therapist
 - Certified social worker
 - Social work technician
 - School administrator or counselor
 - Teacher
 - Law enforcement officer
 - Licensed child care provider

NOTICE

The minor's parents or guardian must receive a copy of the petition and a Summons to appear at the hearing at least 14 days prior to the hearing.

A Notice of Hearing must be sent to the person who signed the affidavit in support of the minor's petition for emancipation, unless notice is waived.

****NOTE: Service of Notice and Summons must be completed by an adult 18 years of age or older that is not a party to the case.****

THE HEARING

After the petition is filed the court may have an investigator look into the matter and file a report. In some cases, if the parents do not want the minor to be emancipated, the court may appoint an attorney for the minor or parents, if they cannot afford one. At the hearing the judge will decide if emancipation of the minor is in his/her best interests.

The minor is responsible for proving all of the following:

- The minor is at least 16 years old
- The minor is a resident of Michigan
- The minor's parent or guardian does not object, or is not providing support for the minor.
- The minor has demonstrated the ability to manage his/her financial affairs (He/she must have proof of Employment or other means of support; DHHS financial support does not count).
- The minor has the ability to manage his/her personal and social affairs (He/she MUST include proof of housing).
- The minor understands his/her rights and responsibilities as an emancipated minor.

MINOR'S RIGHTS AND RESPONSIBILITIES

The emancipated minor's rights and responsibilities are almost the same as an adult. Some of the minor's rights include being able to:

- Sign contracts, including apartment leases.
- Sue or be sued in his or her own name.
- Keep income from a job or other source.
- Live in a place separate from his/her parents/guardian.
- Act on his/her own in almost all business matters.
- Make decisions regarding health, dental and medical care.
- Apply for a driver's license and other licenses for which he/she is eligible.
- Register for school.
- Get married.
- Apply for medical assistance programs.
- Apply for welfare assistance.
- Make decisions and give authorization for the care of his/her own child.
- Make a Will.

APPEAL

The minor or a parent or guardian of the minor may appeal the court's decision to grant or deny an emancipation petition. An appeal must be filed with the Court of Appeals, not the Probate Court.

CONTINUING RESPONSIBILITY OF PARENT/GUARDIAN

Parents of emancipated minors are not liable for debts of the minor that arose during the time the minor was emancipated. However, **parents/guardians of emancipated minors are still legally responsible for support of the minor.**

RESCINDING AN EMANCIPATION

The parent/guardian or minor who has been emancipated by a court order may petition the Probate court to rescind (cancel) the order if circumstances change. As in a Petition for Emancipation, the petitioner must serve a copy of the Petition to Rescind, and a Summons on the minor or parent/guardian.

The emancipation will be rescinded if the Court finds that the minor has not been able to care for him/herself, and has no means of support. The order may also be rescinded if both the minor and the parent/guardian takes responsibility for care and support of the minor, the emancipation order may also be rescinded.

If a minor entered into a contract while he/she was emancipated, his/her rights AND responsibilities regarding that contract will remain, even if the emancipation order is later rescinded.

If you need help completing the forms, contact the Berrien County Self-Help Legal Resource Center to make an appointment at: (269) 983-7111 ext. 8790