

# Emancipation of Minors

Please note: The information in this packet is not intended to be legal advice. It is merely an explanation of the basic procedure that is required to obtain the status of emancipation.

Family Court personnel cannot give you legal advice about your particular situation. The information contained here is the only information Court personnel can give you about this procedure. If you have questions regarding an aspect of the law, you should seek advice of an attorney.

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## EMANCIPATION OF MINORS

The law regarding emancipation in Michigan is found in Michigan Compiled Laws, Section 722.4.

### **What is Emancipation?**

- Emancipation is defined as the freeing of someone from the control of another.
- Emancipation of a minor means the parents losing rights in or authority and control over a minor.
- Emancipation gives the minor some of the rights and responsibilities of an adult.
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- Emancipation does not make a minor into an adult and does not give the minor adult status for all things.

### **How can Legal Emancipation of a Minor occur?**

A. A minor is emancipated automatically (referred to as "by operation of law") in the following circumstances:

- (1) When a minor is legally married.
- (2) When a minor reaches the age of 18 years.
- (3) While on active duty in the Armed Forces of the United States.

(4) For purposes of consenting to medical care a child is considered emancipated while in the custody of law enforcement if the parents cannot be located.

B. A minor can also be emancipated by a Family Court Judge. This court ordered emancipation can only be accomplished by the following procedure:

1. The minor who wants to be emancipated, files a petition in the Juvenile Division of the Circuit Court in the county where the minor resides. The petition must be completely filled out and signed by the minor.

A blank petition is included at the end of this self-help guide and should be completely filled out. The bottom half of the back of the petition is a blank affidavit (written statement under oath). The affidavit part of the petition must be completed by one of the following persons and must be signed before notary. Persons to complete the affidavit: PHYSICIAN, NURSE, MEMBER OF THE CLERGY, PSYCHOLOGIST, FAMILY THERAPIST, CERTIFIED SOCIAL WORKER, SOCIAL WORKER, SOCIAL WORKER TECHNICIAN, SCHOOL ADMINISTRATOR, SCHOOL COUNSELOR, TEACHER, LAW ENFORCEMENT OFFICER OR DULY REGULATED CHILD CARE PROVIDER.

2. A certified copy of the minor's birth certificate must also be filed in, in the Juvenile Division of the Circuit Court along with the petition.

3. A filing fee of a \$ 150.00 is required at the time the petition is filed. The filing is non-refundable. After this fee is paid the Register will schedule the petition for a hearing before the Family Division Judge that is assigned or the Attorney-Referee. Unless you specifically request the Judge, the hearing will be considered in front of the referee.

4. After the petition is filed, the court may assign a court employee to investigate and file a report, may appoint legal counsel for the minor or may appoint legal counsel for a parent if the parent is indigent. (See Section 722.4b)

5. Notice to others: The law requires that a copy of the petition and a summons to appear at the hearing be served on the minor's parents or guardian. A notice of hearing shall also be sent to the person who signed the affidavit portion of the petition unless that person checked the box on the petition stating the waive notice of the hearing. The Court shall send all appropriate paperwork to all parties by first-class mail. (See 5.105)

6. The hearing: At the hearing the Family Court Judge or Referee will order the minor emancipated if he/she determines that to be in the best interest of the minor. For the Judge or Referee to make this determination the minor must be able to show that:

(a) Parents or guardian do not object or if they do object they are not providing support to the minor.

(b) The minor is at least 16 years old.

(c) The minor can manage his/her own finances and has either employment or means of support other than Public Assistance.

(d) The minor is a resident of Livingston County, Michigan.

(e) The minor understands his/her rights and responsibilities under the law. (The minor must read this emancipation law and understand it.)

7. After the minor is done presenting his/her case to the Judge or Referee, he/she will dismiss the petition or order the minor emancipated. The minor can get copies of the order from the court. One copy will be certified at no charge. If additional certified copies are needed, a \$10.00 fee will be charged for each, or \$1.00 for each duplicate copy.

8. The emancipated minor (if hearing was successful shows the order to whomever necessary to prove that he/she is emancipated and that he/she has the rights and responsibilities listed in Section 4e of the Law. (Copy of the Emancipated Law is attached.)

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**722.4. Emancipation**

Section 4.

(1) Emancipation may occur by operation of law pursuant to a petition filed by a minor with the probate court as provided in this act.

(2) An emancipation occurs by operation of law.

(a) When a minor is validly married.

(b) When a person reaches the age of 18 years

(c) During the period when the minor is on active duty with the armed forces of the United States.

(d) For the purposes of consenting to routine, non surgical medical care or emergency treatment to a minor, when the minor is in the custody of a law enforcement agency and the minor's parent or guardian cannot be promptly located. The minor or the minor's parent shall remain responsible for the cost of any medical care or treatment rendered pursuant to this subdivision. An emancipation pursuant to this subdivision shall end upon the termination of medical care or treatment or upon the minor's release from custody, whichever occurs first.

(3) An emancipation occurs by court order pursuant to a petition with the probate court as provided in sections 4a to 4e

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**722.4a - CHILDREN**

(c) The name and last known address of the minor's parents or custodian.

(d) The minor's present address and length of residency at that address.

(e) A declaration by the minor indicating that he or she has demonstrated the ability to manage his or her financial affairs. The minor may include any information he or she considers necessary to support the declaration.

(f) A declaration by the minor indicating that he or she has the ability to manage his or her personal and social affairs. The minor may include any information he or she considers necessary to support the declaration.

(2) The petition shall include an affidavit by any of the following individuals declaring that the individual has personal knowledge of the minor's circumstances and believes that under those circumstances emancipation is in the best interests of the minor:

- (a) Physician.
- (b) Nurse.
- (c) Member of the clergy.
- (d) Psychologist.
- (e) Family therapist.
- (f) Certified social worker.
- (g) Social worker.
- (h) Social work technician.
- (i) School administrator.
- (j) School counselor.
- (k) Teacher.
- (l) Law enforcement officer
- (m) Duly regulated childcare provider

(3) A copy of the petition and a summons to appear at the hearing shall be served on the minor's parents or guardian. A notice of hearing shall be sent to the individual who provided the affidavit required under the subsection.

#### 722.4b Powers of the court

sec 4b. After a petition is filed the court may do 1 or more of the following:

- (a) Assign an employee of the court to investigate the allegations of the petition and to file a report containing the results of the investigation with the court.
- (b) Appoint legal counsel for the minor

(c) Appoint legal counsel for the minor's parents or guardian if they are indigent and if they oppose the petition

(d) Dismiss the petition if the minor's custodial parent

## **722.6 STATUS OF MINORS; PARENTAL RIGHTS**

(g) The right to authorize his or her own preventive health care, medical care and mental health care without parental knowledge or liability.

(h) The right to apply for a driver's license or other state licenses for which he or she might be eligible.

(i) The right to register for school.

(j) The right to marry.

(k) The right to apply to the medical assistance program administered under the social welfare act, Act No. 280 of the Public Acts of 1939 being sections 400.1 to 400.121 of the Michigan Compiled Laws, if needed.

(l) The right to apply for other welfare assistance, including general assistance and aid to families with dependent children administered under Act No. 280 of the Public Acts of 1939, if needed.

(m) The right, if a parent, to make decisions and give authority in caring for his or her own minor child.

(n) The right to make a will.

(2) The parents of a minor emancipated by court order are jointly and severally obligated to support the minor. However, the parents of a minor emancipated by court order are not liable for any debts incurred by the minor during the period of emancipation.

## **722.5. Payment of earnings of unemancipated minor**

Sec 5. The earnings of an employed unemancipated minor may be paid directly to him unless his parents or his guardian give notice to the employer that future payments should be made to the parents or guardian

## **722.6. Effect of act, obligations of support**

Sec. 6. This act does not affect obligations of support imposed under other laws of this state.