

EMANCIPATION OF MINORS

PLEASE READ BEFORE PROCEEDING

This information is the only information court personnel can give you about this procedure. This information is not intended to be legal advice, but a brief explanation of the basic procedure that is required.

Probate court personnel cannot give legal advice about your particular situation or complete your forms for you. You are not required to have an attorney; however, the court cannot act as your attorney. If you do not understand these instructions or the process, you will need to obtain other assistance.

TERMS AND DEFINITIONS

Some terms and definitions used in this packet 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 packet.

PETITION:	The form filed with the court that tells who is seeking emancipation, who the parents or guardians are, how the minor is able to care for him/herself, and the name of the 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 less than 18 years old.
EMANCIPATED MINOR:	A minor who has the legal right to live in a place of his/her choice , to make decisions by him/herself and to provide his/her own support
AFFIDAVIT:	A document signed by a person swearing that the information or statement given is true.

INTRODUCTION

The law defines EMANCIPATION as the termination of rights of the parents to the custody, control, services, and earnings of a minor. Parents have these rights unless they are terminated by operation of law or by action of a court through a court order.

HOW EMANCIPATION OCCURS

Emancipation by OPERATION OF LAW occurs when:

- A minor reaches 18 years of age.
- A minor is validly married.
- A minor is on active duty with the armed forces.
- A minor is in police custody or in need of medical care and parent's consent is not available.

Emancipation by COURT ORDER occurs when:

- The Probate Court has held a hearing on a minor's petition and the minor has met all legal requirements for emancipation and has shown that emancipation is in his/her best interest and the court enters the Order of Emancipation.

THE PETITION

A minor seeking court-ordered emancipation must file a petition in the county where he/she lives. The minor must sign the petition 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, county and state of birth.
- A certified copy of the minor's birth certificate must be attached.
- 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 the 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.
- An affidavit by someone who knows the minor personally and believes emancipation is in the minor's best interest. The affidavit must be from one of the following people:
 - Physician
 - Nurse
 - Member of the clergy
 - Psychologist
 - Family therapist
 - Certified social worker
 - Social worker
 - Social work technician
 - School administrator
 - School counselor
 - Teacher
 - Law enforcement officer
 - Licensed childcare provider

When a minor files a Petition for Emancipation, he/she must pay the filing fee. This fee is \$150.00.

NOTICE OF HEARING and PROOF OF SERVICE

A Notice of Hearing must be served on the person signing the affidavit. A copy of the Petition and the Summons must be served on the minor's parents or guardian. A proof of Service must be filed with the court.

THE HEARING

At the hearing, the minor must prove that he/she is 16 years of age or older, is a Michigan Resident, that he/she has demonstrated the ability to manage his/her financial affairs (including proof of employment or other support), that he/she has the ability to manage his/her social affairs (including proof of housing), and that he/she understands the rights and responsibilities of an emancipated minor.

Receiving General Assistance or ADC-F is not considered “other means of support” for emancipation purposes and cannot be presented to the court as proof of self-support.

The minor must further prove that the parent or guardian either does not object to the emancipation or, even if objecting, does not support the minor.

If the court determines emancipation is in the minor’s best interest, the court will issue an emancipation order.

APPEALS

Appeals of decisions in emancipation cases are to be filed with the Michigan Court of Appeals.

RESCINDING AN EMANCIPATION

When a minor has been emancipated by court order, a parent or the minor may request the order be rescinded. This request is by petition. This petition to rescind the emancipation order must be served on the minor or parents with a summons.

At a hearing, the petitioner must prove one or more of the following:

1. The minor is indigent and has no means of support;
2. The minor and the minor’s parents agree that the order should be rescinded;
3. A family relationship has resumed which is inconsistent with the existing emancipation order.

RIGHTS AND RESPONSIBILITIES OF EMANCIPATED MINORS

Except for constitutional and statutory age requirements, and health and safety regulations based on age, emancipated minors have the following rights and responsibilities:

1. To enter into enforceable contracts, including apartment leases.
2. To sue and be sued.
3. To retain earnings.
4. To establish a separate domicile.
5. To act autonomously and as an adult in all business relationships, including obtaining accounts for utilities, except for certain estate or property matters where there is a court determination that a conservator or Guardian Ad Litem is required.
6. To earn a living.
7. To authorize his/her own preventive, medical, dental, and mental health care without parental knowledge or liability.
8. To apply for driver's license and other state licenses, as eligible.
9. To register for school.
10. To marry.
11. To apply for medical assistance under Medicaid.
12. To apply for other welfare assistance.
13. To make decisions and give authority in caring for his/her minor child.
14. To make a will.

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.

WHAT MUST BE FILED

- Petition for Emancipation ([PC 100](#))
- Summons ([PC 79](#))
- \$150.00 file fee
- File/Mail to: Eaton County Probate Court
1045 Independence Blvd.
Charlotte, MI 48813

A certified copy of the Order may be obtained after the Hearing for \$11.00.