



# Emancipation

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## Background

Historically, parents are responsible for their children. They are also required to feed, clothe, educate, and act in their children's best interest until they reach the "age of majority" or the age in which, for most purposes, the children are considered to be adults. State law can allow a minor to ask a state court to determine that the minor is able to assume adult responsibilities before reaching the [AGE OF MAJORITY](#). The term, [EMANCIPATION](#) refers to the point at which a minor becomes self-supporting, assumes adult responsibility for his or her welfare, and is no longer under the care of his or her parents. Upon achieving emancipation, the minor thereby assumes the rights, privileges, and duties of adulthood before actually reaching the "age of majority" (adulthood). At that point, the minor's parents are no longer responsible for that child and, also, have no claim to the minor's earnings. During the court proceedings and before granting emancipation, the court considers, primarily, the best interests and level of maturity of the minor and confirms that the minor is able to financially support him or herself.

However, even when minors achieve emancipation, they cannot take part in any activity such as purchasing and/or drinking alcohol, voting, or getting married which, by [STATUTE](#), may require that the participant have attained an older age.

Close to half of the states, including New York and Pennsylvania, provide no separate [STATUTORY](#) provisions for emancipation. Instead, these states rely on the fact that emancipation is automatically achieved upon a minor getting married, joining the armed forces, or reaching the age of majority which is now lower (usually eighteen years of age) than what was once commonly mandated as twenty-one years of age.

## Age

Generally, the statutory age in which a minor can petition a court for emancipation is at least sixteen years or older but below the age of majority (which among the vast majority of states is eighteen years of age). California allows a minor of the age of fourteen to petition its courts for emancipation.

## Automatic Emancipation

Even though minors may be under the age of majority, certain actions on their part will cause them to be emancipated from their parents' care and control even without seeking a court order. These actions are usually limited to the following:

- Joining the armed forces
- Getting married
- Reaching the actual age of majority (which is usually eighteen years of age)

The state of Michigan also allows for a temporary automatic emancipation when minors are in police [CUSTODY](#) and emergency medical care is required. The minors are considered emancipated and allowed to consent to such care. This emancipation ends when the medical care or treatment is completed.

## Petition to Courts

Minors petitioning their state courts for emancipation from their parents' care and control are normally required to prove their age and that they are residents of the state where the petition is being filed. They must tell the court why they seek emancipation. Parents must be given notice of the proceeding. Also, the minors must show the court that they are of sufficient maturity to care for themselves. This means that they are able to support themselves financially, provide for their own shelter, and make decisions on their own behalf. Some states require that the minors already support themselves and live totally or partially on their own. Most statutes exclude state financial support or "general assistance" when determining minors' ability to support themselves.

The court then looks at all the [EVIDENCE](#) in order to determine whether emancipation is in the minor's best interest. Also, since an order for emancipation must be in the minor's best interest, if the minor's situation changes, such an order may be rescinded by the court and the minor declared to be returned to the parents' care and control. The state of Illinois allows for court decrees of "partial" emancipation, where the court clearly states the limits of emancipation, if such an order is in the best interests of the minor.

States with no statutory provision or procedures for minors to apply for emancipation may still determine or confirm that minors have been emancipated. Minors file a petition with the court and provide the information necessary (such as proof of financial independence, adequate housing arrangements, and sufficient maturity) for the court to determine that such a confirmation of emancipation from parental care and control is in the best interests of the minor.

## Criteria for Emancipation

Criteria for determining whether a [DECREE](#) declaring emancipation is in the minor's best interest vary among the states. However, certain criteria can commonly be found:

- The minors' ability to support themselves financially, either currently or in the future
- The minors are currently living apart from their parents or have made adequate arrangements for future housing
- The minors can adequately make decisions for themselves
- The minors are attending school or have already received a diploma

- The minors exhibit sufficient maturity to function as adults

## Rights, Privileges, and Duties Inherent in Emancipation

Once declared to be emancipated, minors have the same rights, privileges, and duties in society as adults. Although the specific aspects vary among the states, generally, emancipated minors can do the following:

- Enter into contracts and leases
- Be a party to a law suit, either as a plaintiff or a [DEFENDANT](#), in their own name
- Buy or sell real estate or other property
- Write a valid will
- Inherit property
- Enroll in school
- Get married
- Agree to various types of medical treatments

Emancipated minors can also vote and obtain a driver's license but only if they are of sufficient age to do so.

## Examination of Certain State Provisions on Emancipation

Of the states with specific emancipation provisions, some of the more significant state requirements include the following:

**ALABAMA:** In Alabama, the age of majority is nineteen. The Alabama code describing the emancipation procedure is designed to expand the rights of minors over the age of 18 but under the age of majority. Parents can file an emancipation petition with the court or the minor seeking emancipation can file the petition if that minor has no parents or if a living parent is insane or has abandoned the minor. The court will then decide if a decree of emancipation is in the "interest of such minor."

**CALIFORNIA:** In California, the age of majority is eighteen. Minors are considered emancipated without court intervention if they are married, are a member of the armed forces, or have previously been declared emancipated by a California court. Otherwise, in order to seek court mandated emancipation, the minors must be no younger than fourteen years old, be already living apart from their parents, be able to demonstrate the ability to take adequate care of themselves financially, and not receive any income from illegal or criminal activity.

If the court grants the order of emancipation, the minor then has the privilege and right to: sign contracts; approve medical care; buy, [LEASE](#), and sell real property; be the plaintiff or defendant in a law suit; write a will; live in their own home; go to school and get a work permit. If the minor's situation changes, the court has the ability to end the emancipation and advise the minor's parents that they are once again responsible for the minor.

**FLORIDA:** The age of majority in Florida is eighteen. In order to seek a court mandated emancipation, minors must submit a statement of "character, habits, income, and mental capacity for business, and an explanation of how the needs of the minor with respect to food, shelter, clothing, medical care, and other necessities will be met." In addition, minors must state whether they are party to any court action taking place in Florida or another state. Minors must also submit a statement explaining why they seek an order of emancipation. Parents must be notified of any such proceeding.

## Encyclopedia of Everyday Law: Emancipation

The court then asks for any additional evidence to determine if the decree of emancipation is in the minors' best interest. If the order of emancipation is granted, the minor will have all of the rights, responsibilities, and privileges of anyone who has reached the age of majority (eighteen years of age).

**ILLINOIS:** The age of majority in Illinois is eighteen. The Illinois statute allows the court to give an order of emancipation to a "mature minor who has demonstrated the ability and capacity to manage his (or her) own affairs and to live wholly or partially independent of his (or her) parents." The Illinois statute also seeks to tailor the content of the emancipation order to fit the needs of the minor seeking the order.

The statute states that for an order of emancipation from the court to be valid, neither the parents nor the minor can offer any objections. Also, the court will examine the situation and determine whether a full or partial order of emancipation will be given. Also, once the emancipation order is entered, the court will determine what adult privileges and rights, in addition to the right to enter into contracts, will be given the minor. Only those rights listed in the order will be in effect for that minor.

In order to seek a court mandated emancipation order, the minor must be at least sixteen years old but under eighteen years old. The minor must confirm that he or she lives in Illinois, explain why he or she wants a complete or partial order of emancipation, demonstrate that he or she is a "mature minor," and show that he or she has lived on their own.

**MICHIGAN:** The age of majority in Michigan is eighteen. The Michigan statute defines emancipation as the "termination of the rights of the parents to the custody, control, services and earnings of a minor." Absent an order of emancipation, the statute confirms that parents are responsible for supporting their minor children. In fact, one or both parents can object to the emancipation proceedings. In that case, the court may decide to dismiss the proceedings.

The Michigan statute states the four ways that a minor can be emancipated without a court order as being by marriage, reaching the age of majority (eighteen years of age), joining the armed forces, and temporarily while in police custody in order to consent to needed medical treatment.

The statute requires the petition to the court to be brought by the minor. The minors must submit information showing that they can take care of themselves financially, without seeking assistance from the state of Michigan. Minors must also show the court that they can take care of their other personal needs as well. The petition to the court must include a statement from an adult sufficiently familiar with the minor that the individual can offer information that explains to the court why emancipation is "in the best interest of the minor."

At this point, the court may seek additional information and may ask someone from the court staff to investigate the situation further and report back to the court. The court then determines if an order of emancipation is in the minor's best interests.

If the minor is emancipated, the adult rights and responsibilities applicable to the minor do not include those limited by age and by law such as using and purchasing alcohol and voting. However, they do include signing contracts, being a plaintiff or defendant to a law suit, keeping whatever money the minor earns, living away from the parents, approving health care and medical procedures, getting married, writing a will, and enrolling in school.

If the minor's circumstances change, the emancipation order can be rescinded by the court. If that happens, the parents "are not liable for any debts incurred by the minor during the period of emancipation."

## Encyclopedia of Everyday Law: Emancipation

**NORTH CAROLINA:** The age of majority in North Carolina is eighteen. A minor must be at least sixteen years of age in order to seek an order of emancipation from the court. The court will consider several factors—including the parents' need for the minor's earnings as well as the minor's ability to accept adult responsibilities—in determining the best interests of the minor.

If the emancipation is granted, the minor will have the adult rights to sign contracts, take part in law suits, and conduct other adult-related business. The parents' duties of support to the minor are thereby ended.

**OREGON:** The age of majority in Oregon is eighteen. A minor must be sixteen years of age to seek an order of emancipation from the court. The minor must show that they can support him or herself and otherwise assume adult responsibilities. If the court determines that an order of emancipation is in the best interests of the minor, then the minor "has all of the rights and is subject to all liabilities of a citizen of full age."

### ***Vermont***

A minor must be at least sixteen years old in order to seek an order of emancipation from the court. Minors are considered to be emancipated without a court order if they are married or have entered the armed forces. In order for the court to consider making an order of emancipation, the minors must have already lived separately from their parents, successfully taken care of their own finances, shown that they can take care of other personal business, either have received a high school diploma or are working toward one, and not be a ward of the social services or corrections department.

**WEST VIRGINIA:** A minor must be at least sixteen years old in order to seek an order of emancipation from the court. Minors must also show the court that they can provide for themselves and their "physical and financial well-being and has the ability to make decisions" for themselves. If an emancipation order is entered, minors have the rights and privileges of adults.

## **Additional Resources**

[http://www.law.cornell.edu/topics/Table\\_Emanicipation.htm](http://www.law.cornell.edu/topics/Table_Emanicipation.htm). "Laws of the Fifty States, District of Columbia and Puerto Rico Governing the Emancipation of Minors," Legal Information Institute, January 9, 2002. Available at: [http://www.law.cornell.edu/topics/Table\\_Emanicipation.htm](http://www.law.cornell.edu/topics/Table_Emanicipation.htm)

*West's Encyclopedia of American Law*. West Group, 1998.

## **Organizations**

### ***Focus Adolescent Services***

113 Woodland Road, Suite 1000  
Salisbury, MD 21801 USA  
Phone: (877) 362-8727  
URL: <http://www.focusac.com>  
Primary Contact: Linda Lebelle, Director

### ***Legal Information Institute***

Myron Taylor Hall  
Ithaca, NY 14853 USA  
E-Mail: [lii@lii.law.cornell.edu](mailto:lii@lii.law.cornell.edu)

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URL: [http://www.law.cornell.edu/topics/Table\\_Emanicipation.htm](http://www.law.cornell.edu/topics/Table_Emanicipation.htm)

### ***Northwest Justice Project (NJP)***

401 Second Avenue South, Ste. 407

Seattle, WA 98104 USA

Phone: (888) 201-9737

URL: <http://www.nwjustice.org/>

Primary Contact: Scott E. Collins, Board of Directors

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