



EMANCIPATION

What is "emancipation"?

Legally, emancipation refers to the "removal of some of the disabilities of minority." What that means is that when a minor becomes emancipated, s/he gets some of the rights of adults. For example, an emancipated minor can sign contracts, choose where s/he wants to live, and enroll him/herself in school.

How do I get emancipated?

There are actually three ways a minor may become emancipated:

- get married
- join the military, **or**
- go to court and have the judge declare you emancipated ("judicial declaration").

Do I need my parents' consent to get emancipated?

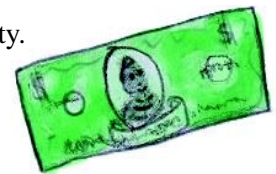
Generally, yes. Minors who are not emancipated need parental consent to get married. In addition, minors who wish to marry must obtain the consent of a judge. Likewise, to join the military, a minor needs parental consent. To get emancipated by a judge, a minor must give his/her parent(s) notice of the court hearing, and the parent(s) may go to court to contest the emancipation.

What are the requirements for a judicial declaration of emancipation?

- You must be at least fourteen years old.
- You must willingly live separate and apart from your parents with the consent or acquiescence of your parents.
- You must be managing your own financial affairs.
- Your income must be from a legal source.
- Emancipation must be in your best interests.
- You should be in school. (The law on emancipation does not require that you be in school, but the compulsory education laws do. The judge usually wants to see that you are either in school or have already graduated or gotten a GED).

What are the new rights that I get if I become emancipated?

- Live where you choose.
- Sign binding contracts.
- Keep your own earnings.
- Buy, sell, lease, or give away any interest you have in real or personal property.
- Get a work permit without parental consent.
- Enroll yourself in school.
- Sue someone in your own name.
- Make a valid will.
- Consent to your own medical, dental, and psychiatric care.
- Stay out as late as you want. (Curfew laws do not apply to emancipated minors.)



What are the new responsibilities I will have if I get emancipated?

- Support yourself financially.
- Get your own medical, dental, and automobile insurance.
- Pay all of your own bills.
- Make sure your income is from a legal source.

What things won't change when I get emancipated?

There are certain laws that apply to minors even after they get emancipated.

- *You must go to school.* The compulsory education laws require that minors stay in school until they graduate or reach the age of eighteen.
- *You cannot work as many hours as you want.* Child labor laws still apply, and work permit rules must be followed.
- *You can't have sex.* The law of unlawful sexual intercourse ("statutory rape") makes it illegal for anyone to have sex with a minor (even another minor). The only time a minor can have legal sex is if s/he is married and s/he has sex with his/her spouse.
- *You may be tried as an adult if you commit a crime.* Emancipated minors are still subject to Juvenile Court jurisdiction, unless the judge orders you to be tried as an adult. Whether or not you are emancipated has no bearing on being tried as an adult.
- *You cannot drink alcohol.* Even if emancipated, you may not legally drink alcohol until you turn twentyone.
- *You cannot vote.* The voting age is eighteen, and emancipation has no effect on this.



I heard that if a girl has a baby, she is automatically emancipated when she gives birth. Is that true?

Absolutely not! Having a baby does not mean you are automatically emancipated. Any minor girl who has a baby must still legally live with her parents. In fact, some of the suggestions for new welfare changes include requiring girls who have babies to live at home with their parents in order to be eligible for benefits.

My parents told me they want to get me emancipated. Can they do that?

No. There are parents who would like to have their child emancipated because it means the parents are no longer responsible for providing for the child, and instead, the minor is responsible for himself/herself. However, emancipation is meant to be a positive step for a minor, not a way for parents to circumvent their parental responsibilities. There are safeguards in place in Santa Clara County to ensure children are not getting emancipated by their parents.



Once I get emancipated, is it forever?

Not always. The District Attorney's office may petition to have your emancipation rescinded (taken away) if your main source of income is welfare (e.g., TANF). It is possible for the judge to rescind your emancipation on the basis that you are not able to support yourself without public benefits. If the emancipation is rescinded, the District Attorney may try to make your parents pay back the welfare money that was paid to you while you were emancipated.



How can I get help to get emancipated?

Emancipation is a major decision and requires careful thought and planning. If you would like to discuss all of your options, including emancipation, you can call **Legal Advocates for Children & Youth** at (408) 280-2416.

Fact Sheets for Teen Parents can be found on-line at: <http://www.teenparents.org>