

EMANCIPATION PACKET

GENERAL INFORMATION ABOUT EMANCIPATION

What is emancipation?

Emancipation is a legal act that separates a young person from the care and custody of his or her parent or guardian. In a practical sense, emancipation gives a minor the right to earn and keep his or her money and to make certain life decisions that parents or guardians usually have the right and responsibility to make. Emancipation is usually dependent on the ability of the minor to support himself without his parents contributing any support including food, clothing or living space. The minor would move out of his or her parents' or guardians' home and live somewhere else with the intent and ability to live independently from then on.

An emancipated minor would be able to keep his own earnings and make his own decisions about things like where to live and work, but still be bound by Georgia laws that apply to all people under the age of 18. An emancipated minor is still subject to the laws about school attendance, the legal age for consensual sex, a driver's license, and possibly other things.

How does a minor become emancipated?

In the State of Georgia, a young person can be emancipated in two ways:

1. By operation of law
 - After a legal marriage, or
 - Upon joining the United States military¹, or
 - Upon reaching the age of 18 years; or
2. By filing a petition in the juvenile court in the county where the minor resides and securing a Declaration of Emancipation.

(Note: Both marriage and military enrollment before the age of 18 require permission from your parent(s) or guardian(s).)

How would a minor get a declaration of emancipation from the court?

If a minor wants to get a court order declaring emancipation, it is best to speak with an attorney who can help evaluate the situation, prepare the necessary petition and other necessary paperwork, and represent the minor in a court hearing.

In order to request a Declaration of Emancipation, the minor would have to file a petition in the Juvenile Court in the County where the minor resides and request a Declaration of

Emancipation signed by a judge. The minor must prove by a preponderance of the evidence that emancipation is in his or her best interests.

How will the judge decide if the minor should be declared emancipated?

The judge will consider evidence and factors based on “the best interest of the child,” and will follow the procedures set forth in O.C.G.A. § 15-11-205. The judge can only grant emancipation for certain specific reasons, also set forth in O.C.G.A. § 15-11-205:

- Emancipation is in the best interests of the minor; and
- The parent(s) or guardian(s) do not object to emancipation (or emancipation is in the best interests of the minor despite the parent(s) objection; and
- The minor is a resident of Georgia; and
- The minor has demonstrated the ability to manage his or her financial affairs, including proof of employment or other means of support (not including income from public assistance programs); and
- The minor understands his or her rights and responsibilities as an emancipated minor; and
- The minor has carried his or her burden of proving by a preponderance of the evidence that emancipation should be ordered.

Can an order of emancipation be reversed?

A minor can petition the Juvenile Court to rescind the order. The Court will grant the order if it finds that:

- The minor is indigent and has no means of support;
- The minor and his or her parent(s) or guardian(s) agree that the emancipation should be rescinded;
- There is a resumption of family relations inconsistent with the emancipation order.

Additionally, an order of emancipation can be voided if it was obtained by fraud. Finally, the minor or his parent(s) or guardian(s) can appeal the court’s grant or denial of an emancipation petition in the Georgia Court of Appeals.

What options does a minor have besides emancipation?

If a minor is having problems with his parent or guardian, emancipation is only one option available to him. He should consider family counseling, mediation or guardianship. Also, some teenagers work out informal arrangements with their parents that allow them to live outside the home. There is also the option of foster care or a group home, if necessary. Remember that if a minor is emancipated, the parents no longer have the legal obligation to support him in any way, including food and lodging.

There are two major risks in emancipation to think about: criminal and financial. The criminal justice system is much more likely to treat an emancipated minor as an adult instead of a juvenile. Also, once emancipated, the minor is totally responsible for taking

care of himself. If someone is considering emancipation, he should speak first with a trusted adult friend, a counselor, a teacher, or an attorney.

What is family counseling or mediation?

In family counseling, a licensed counselor or psychologist works with the family as a whole to resolve problems. In mediation, a neutral third party helps the family find creative solutions to resolving conflict.

There are many available family counselors and mediators. A school counselor or family doctor may be able to help find someone.

What is guardianship?

Another option for young people who cannot live with their parents is a legal guardianship. In a legal guardianship, another responsible adult, not necessarily related, is responsible for the child until the age of 18. Parents can consent to a guardianship or the court may order a guardianship. Guardianships are done through the Probate Court. Find more information about guardianship by visiting www.gaprobate.org or by speaking with an attorney.

Where can I find more information on emancipation?

Official Code of Georgia Annotated, §§ 15-11-200 through 15-11-208

5.

My parent(s) or guardian(s)

_____do not object to this petition

[OR]

_____do object to this petition.

[OR]

_____ they are divided on whether to object to this petition. _____
does not object; while _____ does object.

6.

My present address is _____

I have lived at this address for _____(length of time).

7.

I have demonstrated the ability to manage my financial affairs by:

In support of this assertion, I attach the following documents as evidence:

8.

I have demonstrated the ability to manage my personal and social affairs by:

In support of this assertion, I attach the following documents as evidence:

9.

The following adult(s) have personal knowledge of my circumstances and believe that emancipation is in my best interests. He/She/They has/have issued an affidavit in support of this petition as required by O.C.G.A. §15-11-202, and will be served with a copy of this petition and a summons to appear at the hearing, and must file an answer within 30 days of service.:

Licensed Physician or Osteopath: _____

Registered Nurse or Licensed Practical Nurse: _____

Licensed Psychologist: _____

Professional counselor, licensed social worker, or licensed marriage and family therapist: _____

School guidance counselor, school social worker, or school psychologist: _____

School administrator, school principal, or teacher: _____

Member of the clergy: _____

Law enforcement officer: _____

Attorney: _____

10.

I seek to obtain a Declaration of Emancipation for the following reason(s):

_____ a. My parent(s) or guardian(s) failed to provide me with basic necessities.

_____ b. My parent(s) or guardian(s) abandoned me.

_____ c. My parent(s) or guardian(s) have allowed me to work and keep my wages.

_____ d. My parent(s) or guardian(s) have treated me cruelly.

[Here explain more fully the reason(s) you seek Emancipation]

WHEREFORE I pray that this Court will declare me emancipated from my parent(s) or guardian(s) and such other relief as the Court will deem just and proper.

Petitioner pro se

