



# So You Want To Become Emancipated?



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# EMANCIPATION

## WHAT IS EMANCIPATION?

Emancipation means you are legally separated from your parents or guardian and they are no longer obligated to support you. Some people call this a “divorce” from the parents and, like any divorce, can bring good or bad feelings between you and your folks.

**LEGALLY**, emancipation is the process by which youth who are 14 through 17 years of age may become freed from the custody and control of their parents or guardian. If you do become emancipated, you give up the right to be supported financially by your parents and, at the same time, you gain the right to make most of your own decisions and control of most **BUT NOT ALL** aspects of your life.

## What **CHANGES** Will Happen In Your Life If You Become Emancipated?

Emancipation makes important changes in your relationships with parents, guardians, and public agencies:

- You will lose your right to have financial support – your basic living expenses and health care – paid by your parents or guardian.
- Your parents or guardian will no longer be legally or financially responsible for any injuries you cause to others.
- Becoming an emancipated minor does not automatically make you eligible for public benefits.

- ◆ You will be given the right to handle your own affairs. For example, you will be able to:
  - ☞ Live where you choose
  - ☞ Sign binding contracts
  - ☞ Keep and spend your own earnings
  - ☞ Get a work permit without your parent's consent
  - ☞ Sue someone in your own name
  - ☞ Consent to all of your own medical, dental and psychiatric care
  - ☞ Stay out as late as you want
  - ☞ Sign up for school or college



## What Will Not Change For You If You Become Emancipated?

There are certain laws that always apply to minors, even after they become emancipated:

- ☑ **You Must Go To School.** The compulsory education laws require minors to stay in school until they graduate from high school or reach the age of eighteen.
- ☑ **You Cannot Work As Many Hours As You Want.** You still have to follow all child labor laws and work permit rules.
- ☑ **Statutory Rape Laws Still Apply To You.** If you have sex, your partner could get in trouble with the law, especially if there is a big age difference or the relationship is abusive. (unless you are married to your partner).
- ☑ **You Cannot Legally Drink Alcohol.** Even if emancipated, you may not legally drink alcohol until you turn twenty-one.
- ☑ **You Cannot Vote.** Emancipation does not lower the voting age. You still must be eighteen to vote.

**SOME LEGAL RIGHTS  
YOU MAY NOT REALIZE YOU ALREADY  
HAVE**

***YOU DON'T NEED TO BE EMANCIPATED  
TO GET SOME KINDS OF HEALTH CARE!***

Even if you are living with your parents and are not emancipated, you can get some kinds of health care for free and without anyone telling your parents. This health care program is called "Medi-Cal Minor Consent Services." It covers family planning, birth control, abortion, and pregnancy care, as well as treatment for drug or alcohol problems, mental health problems, sexually transmitted diseases, rape and sexual assault. You can apply for Medi-Cal Minor Consent Services at health clinics, family planning clinics, or county welfare offices.

So, if you are thinking about emancipation just to get health care, you may want to see if you can get the care you need without having to be emancipated.

## **Do I Qualify for Emancipation?**

There are three ways a minor may become emancipated:

1. ***If You Are Married.*** Marriage for any teen under the age of 18 requires written consent by parents or guardian and a court order.
2. ***By Enlisting In The Armed Services.*** Both parental and armed services permission are required if you are under 18.
3. ***By Going To Court And Having The Judge Declare You Emancipated*** ("Judicial Declaration"). To use this method for emancipation, you must first satisfy the following six requirements:
  - a. ***You must be at least 14 years of age*** at the time you begin to

seek legal emancipation.

- b. ***You must NOT be living with your parents or legal guardian.*** The court wants to be sure you have made a living arrangement where you plan to stay indefinitely. In other words, they want to see more than a temporary address. Saying you are “staying with a friend” is not enough.
- c. ***Your parents or legal guardian must have consented or acquiesced to your living away from them.*** Parental consent is generally required for a teen to become emancipated. This can be shown in two ways. One way is to get your parents to sign a form called the Petition for Emancipation. If your parents sign this form, it may be easier for you to become emancipated. If your parents won’t sign this form, you may be able to show the court that your parents have “acquiesced.” If you are living away from home and your parents know all about this but they are not strongly objecting or trying to bring you back home to live, a judge MAY interpret their lack of action as “acquiescence” or agreement to your living arrangement.
- d. ***You must manage your own financial affairs.*** The court needs to be sure you have income earned only by you and that you make the decisions on how that income is spent. You will need to show evidence that you pay your own bills, especially for such necessary things as housing, food and clothing. It is best if you can show that you actually exchange your money for the things you need. Even if you could argue that you trade housework for room and board, it is better if you can arrange to receive money for the work you do and then use that money to pay rent. While there is no set amount a youth must earn, the judge will examine your finances closely to make certain your income meets expenses. Some judges may deny your request to be emancipated if your only source of income is welfare (now called CalWORKs).
- e. ***Your source of income must be legal.*** This means you must not earn your living from criminal activities.
- f. ***The emancipation must be in your best interest.*** This requirement allows the judge a great deal of freedom in deciding

whether to declare you emancipated. Even if you meet the other five requirements, a judge who feels it is not in your best interest to become emancipated can deny your petition. In court, your parents or anyone else may object to your emancipation and try to persuade the judge that it is not in your best interest.

### **Myths About Emancipation**

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

**ABSOLUTELY NOT!** Having a baby does not mean you are automatically emancipated. Any teen under 18 who has a baby must still legally live with her parents or guardian. Also, if you need cash aid, the law says you must live with a parent or relative, or in an adult-supervised program such as a group home. But this rule does not apply to Medi-Cal or Food Stamps and there are exceptions. For example, if you or your child's health or safety would be at risk if you lived with a parent, or you have already lived apart from your parents for 12 months. If you need cash aid and don't live with a parent or relative, ask the CalWORKs eligibility worker to refer you to a **MINOR PARENT SERVICES** caseworker to see if you qualify for one of the exceptions.

**My parents say they want me to be emancipated.  
Can they do that?**

**NO.** There are some parents who would like their child to be emancipated because it means the parents are no longer legally responsible for providing financially for their child. However, emancipation is meant to be an improved step in the youth's life, not a way for parents to get out of their responsibilities.

**Maybe, You Aren't Really Sure You Want  
To Make Such a Big Change in Your Life.**

***SOME THINGS TO THINK ABOUT***

- ☞ Be sure you really can support yourself without financial help from your parents (including health insurance) as emancipation means giving up your rights to parental support.
- ☞ When considering emancipation, you should think about worst case scenarios such as job loss or illness that might prevent you from working or taking care of yourself.
- ☞ There is a way of undoing emancipation after it has been granted. However, you should think of emancipation as a permanent situation when you are deciding whether or not to file a petition.
- ☞ Have you given up on trying to make your relationship with your parents work? Are you willing to risk having a complete break with them, that could be permanent, and perhaps upsetting other family members as well?
- ☞ **Keep this in mind: All teenagers become “emancipated” on their 18<sup>th</sup> birthday** without filing a petition or going through this process.
- ☞ **So take your time in making this decision.**

If you will be 18 in six months or less, there isn't time to complete the court process which takes four to six months.

## How to become Emancipated In Court

If you decide emancipation is the right option for you, you must go through some specific court procedures. If you (1) meet all the requirements outlined above and (2) have lived in Los Angeles County for at least 6 months, you can file for emancipation at the Juvenile Division of the Superior Court of Los Angeles. The emancipation forms and procedures are clear and simple enough to prepare on your own. You do not need a lawyer.

This section of the brochure will walk you through some of the necessary steps for filing an emancipation petition. The court materials will also provide explanations for you to follow.

1. **Obtain the necessary forms.** For 57¢ You can get emancipation forms at the Children's Court Clerk's Office at 201 Centre Plaza Drive, 2<sup>nd</sup> Floor, Monterey Park, Los Angeles, California 91754; telephone (323)-526-6600.

2. **Complete the forms.** The court packet will contain the forms you need, along with detailed instructions on how to complete them. Be prepared to explain why you want to be emancipated.

You must complete the following forms:

- "Petition for Declaration of Emancipation of Minor, Order Prescribing Notice, Declaration of Emancipation, and Order Denying Petition (MC-300)"
- "Emancipation of Minor – Income and Expense Declaration (MC – 306)"
- "Notice of Hearing—Emancipation of Minor (MC – 305)"
- "Declaration of Emancipation of Minor After Hearing (MC – 310)"
- When you file these forms, you will be charged a \$229.00 filing fee. If you are unable to pay this fee, you can apply for a waiver of court fees and cost. If you need to do this, complete both the "Application for Waiver of Court Fees and Costs" and the "Order on Application for Waiver of Court Fees and Costs."

- **Caution!** You should realize that applying for a fee waiver may influence your chances of becoming emancipated. Some judges might feel you aren't really able to manage your financial affairs if you can't pay the court fees, while other judges may see the same situation as a worthwhile plan you made to use your money for daily necessities. A possible compromise is for you to apply to waive only a part of the fees and pay the rest yourself. You can call the Children's Rights Project at Public Counsel for help.
3. ***File these forms with the Court.*** Take the completed forms to file at the Clerk's Office of the Children's Court, Juvenile Court Services, at 201 Centre Plaza Drive, Monterey Park, Room 2800 on the second floor. Unless you are applying for a waiver of court costs and fees, you must pay the \$229.00 filing fee by check, cash or money order.
  4. ***Hearing on the Order Prescribing Notice.*** After the clerk has filed your petition (the form you fill out and sign for the court), the petition goes to the court for review. The court will then decide whether to have a hearing. If the court decides not to have a hearing you will be notified by mail. If there is to be a hearing, the court will decide who must be officially notified that you filed a Petition for Emancipation so they can appear at the court hearing on your Petition and state their opinions as to whether or not you should be emancipated.

Your parent(s) or legal guardian will have a right to receive official notice of the proceedings, as will the Department of Children and Family Services or the Probation Department if they are supervising you.

**BEFORE YOU FILE YOUR PETITION WITH THE CLERK,** your parent (s) or legal guardians may give up (waive) their rights to be given notice of the proceedings by signing certain forms. If your parents give up their right to be notified, the court can declare you emancipated, if the court also is satisfied that it is in your best interest to be emancipated. **So, you can see that getting the waiver signed can really speed up the emancipation process.**

If you did not get waivers of notification signed, the court will set another hearing date in about four to six weeks. This gives you time to notify people through the mail and to plan on appearing at the hearing if they want their opinions heard in court.

5. ***Hearing on Emancipation.*** You must appear at the time and place set by the court for the emancipation hearing. Be on time. The judge may ask you questions about your situation and your ability to be emancipated. You should bring pay stubs or other proof of your earnings or income as well as a listing of your expenses, so the judge can evaluate your financial situation. Bring proof that you are in school. This is the time when your parent(s) or legal guardian may appear in court and express their opinions about your being emancipated.

You can also bring such witnesses as landlords, employers, teachers and other responsible adults to testify in your favor. If you are under the supervision of the juvenile court, your Probation Officer or social worker will submit a report and recommendation to the court. After hearing the evidence, the judge will either grant or deny your Petition for Emancipation.

6. ***After the hearing.*** Once the hearing has taken place and your petition has been approved or denied, both you and your parents will have an opportunity to challenge the decision.
  - *If the petition is approved,* you may obtain a certified copy of the Declaration of Emancipation at the Clerk's Office on the second floor for \$6.60. You may then take the certified copy of the Declaration of Emancipation to the Department of Motor Vehicles (DMV) where you can get a new I.D. card to show you are emancipated. You must complete an emancipated minor's application to California Department of Motor Vehicles (Form MC-315). You will be able to present this I.D. card to future landlords and employers or others to prove that you are an emancipated minor.
  - *If the emancipation petition is denied:* The law gives you the right to file a different petition (an official written request) for what is called a writ of mandate. This means a

different judge must be allowed to review the decision who, perhaps, will overturn it.

- *Your parents also have the right to petition for a writ of mandate if the emancipation was approved.* If they oppose approval of your petition, their application for a writ of mandate will also result in your petition's review by a new judge with, possibly, a new decision. However, they can only petition for this review if they did appear at the court hearing and did state they were against your being emancipated.

## **The Bottom Line!**

As you can see, emancipation is a fairly complicated process. There are lots of things to think about and requirements to fulfill before a court decision can be made. It is a natural and common experience if you are considering emancipation, to have mixed feelings about it and to go back and forth many times while trying to decide whether to bring up the subject with your family and whether to start the emancipation process.

## **Assistance**

If you have any questions about the emancipation process in Los Angeles or would like assistance, you can call the Children's Rights Project at Public Counsel, 213/385-2977 or 800/870-8090 ext. 500. For emancipation forms and instructions visit the California courts self-help center at:  
[www.courtinfo.ca.gov/selfhelp/family/emancip](http://www.courtinfo.ca.gov/selfhelp/family/emancip).

## **Additional Resources**

- ◆ **Teen Line:**  
**(800) TLC-TEEN**  
**(800) 852-8336**
  
- ◆ **Youth crisis line (24 hours):**  
**(800) 843-5200**
  
- ◆ **211 LA County:**  
**Dial 211**  
**For shelter and counseling information.**


## NOTES

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While this publication is designed to provide accurate and current information about the law, readers should contact an attorney or other expert for advice in particular cases, and should also consult the relevant statutes and court decisions when relying on cited materials.

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You may find this booklet and other Public Counsel booklets at [www.publiccounsel.org](http://www.publiccounsel.org) (First click on “Resources”; second, click on “Publications”, third click on “Children’s Rights Project.”)



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