

The Emancipation must be in your best interest.

This allows the Judge a lot of freedom in deciding if you should be emancipated. Even if you meet the other requirements, a Judge who feels it is not in your best interest to be emancipated can deny your request. 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.

The Process for Emancipation

In Kansas, the emancipation process is governed by the following statutes: K.S.A. 38-108; K.S.A. 38-109 and K.S. A. 38-110.

If you decide emancipation is the right decision for you, the legal process is briefly, as follows:

- Obtain the forms from the Clerk of the District Court at your county courthouse, if available.
- Complete all of the forms/File a Petition with the Court requesting the Court confer the rights of majority upon you as the Petitioner.
- File the forms with the Court. There is a filing fee that will be required when you file the initial petition. You may be able to get a waiver of the fees, but your payment of fees may look better to the Judge. You will also have to pay a publication fee to notify all potential creditors of the action and publish notification of the petition in the legal record in the county in which the petition is filed. The publication fee can range from \$80 to \$200.
- The petition goes to the Court for review, following which the time and date for the hearing will be set. At the hearing the Court will decide who to notify so they can appear at the hearing, in addition to SRS or Probation Department, if applicable and if they are supervising you.
- If your parents or guardians have signed consents, this will accelerate the process.
- The hearing will be set in about four to six weeks from the date that you file the petition. You will have to pay for the publication and arrange for that process to be started at least three weeks before the final hearing.
- At the hearing, the Judge will listen to you, look at the forms you filled out and listen to anyone who objects to your emancipation. It is very important to be absolutely truthful in your statements.

If the Judge feels you have met all the requirements and it is in your best interest, he or she will approve your Petition for Emancipation and enter an Order or Decree, conferring upon you the rights of majority.

If You Become Emancipated

If your emancipation is approved by the Court, you can get a certified copy of the final order or decree from the Clerk for a fee. Take it to the Department of Motor Vehicles to get a new ID card to show you are emancipated. You will need this card to prove to a landlord and any future employers that you are an emancipated minor.

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Childrens Advocacy Resource Center

"Providing legal and support services for Kansas children."

Foster Care Questions?

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**Call the Foster Care Helpline for free
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foster care questions
you may have.**

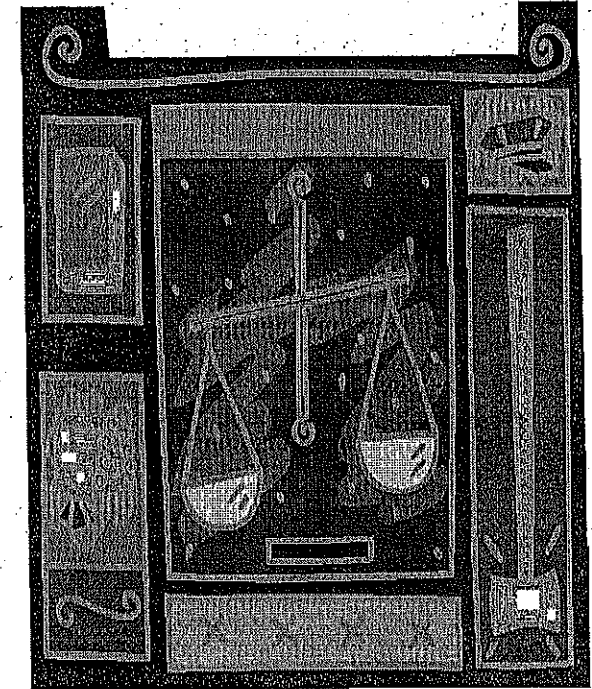
Kansas Legal Services

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V.

EMANCIPATION OF MINORS



Prepared by the Children's
Advocacy Resource Center

*As the fifth in a series on foster care rights and
resources*

What is Emancipation?

Emancipation means that you are legally separated from your parents or guardian and do not live with them. In Kansas, you are legally considered a minor until you are 18. Your parents have the obligation to support you until you reach this age. Your parents cannot "emancipate" you to end their obligation of support.

It is possible to become an emancipated minor prior to 18. Emancipations are filed for various reasons. Some are initiated by minors so they can have control of their earnings. Emancipations are also filed for health and education reasons.

There are several ways to become an emancipated minor, including going to court and having the Judge rule that you are emancipated.

1. **Any person sixteen years and older who is married or has been married** is considered the age of majority in all matters relating to contracts, property rights, liabilities and the capacity to sue or be sued. However, you must have permission from both of your parents or guardian to be married prior to 18.

2. **You are considered emancipated if you are under 18 but in the military service.** However, you must have your parents or guardian's permission and the consent of the military to enlist if you are under 18.

3. **You can go to Court and have the Judge declare you emancipated.**

This process takes a while, so if you will be 18 within the next six months, your case may not be completed before you turn 18 and are automatically emancipated.

Basically, emancipation gives you adult status prior to the age you would become an adult by law. With emancipation comes all of the rights and benefits of an adult, as well as the responsibilities.

What Changes After Emancipation?

Emancipation means you are self-supporting, free from parental control and you have the rights that come with adulthood. These rights include being able to:

- Handle your own affairs.
- Live where & with whom you choose
- Sign and be responsible for contracts
- Keep and spend your money
- Consent to all of your own medical care.

Emancipation won't change:

•**Your School Attendance** - State law requires that you attend school until you are 18, have graduated high school, or obtained a General Equivalency Diploma (GED), or enrolled in a program to complete a GED. If you do not complete one of these tasks, you may be considered truant, unless your parents have signed an accepted consent that allows you to leave school at age 16.

•**Your Work Hours** - You will still have to follow Federal and State child labor laws - you may not be able to work as many hours as you want.

•**You Can't Vote** until you are 18.

•**You Can't Legally Drink** until you are 21.

•**Statutory Rape Laws** still apply to you. If you are unmarried and under 16 and have sex with someone, your partner can still get in trouble with the law.

When you are Emancipated

•You lose the right to have financial support - you are no longer entitled your basic living expenses and health care that may have been previously paid by your parents or guardian.

•Your parents or guardian will no longer be legally or financially responsible if you injure someone.

•Being emancipated does not automatically make you eligible for public benefits.

Requirements to Become an Emancipated Minor

If you want to go to court and have a Judge declare you emancipated, you must first satisfy all the following requirements:

You must be at least 14 years of age and someone over 21 (this person will be considered your "next friend" by the Court), must file the case for you, because minors do not have the right to sue, or file action in Court.

You must have lived in the county where you bring the action for at least one year consecutively.

You cannot be living with your parents or your guardian. The Court wants to be sure that you have made living arrangements where you plan to stay for a long time. Saying you are staying with a friend is not good enough.

Your parents or legal guardian must have consented/agreed to your living away from them.

One way to do this is if they sign a form called a Consent to Emancipation. If they sign this form, it will be much easier for you to become emancipated. If your parents or legal guardian don't sign the form, you may be able to show the court that they have "acquiesced". If you are living away from home and your parents/guardian know about this, but they have not strongly objected or are not trying to bring you back home to live, the Judge MAY interpret their lack of action as an agreement to your living arrangements. In order to prove this, your parents/guardian must know where you live - so this will not work if you are a runaway.

You must manage your own financial affairs.

The Court needs to be sure that 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 necessary things like housing, food and clothing. Even if you trade housework for room and board, it is best if you get paid and show that you are actually paying rent. There is no set amount you must earn, but the Judge will look at your income closely to make certain you can meet your expenses.

Your source of income must be legal.