

Emancipation & Rescission of Emancipation

Authority O.C.G.A. 15-11-200 et. seq. (effective July 1, 2006)

Definitions *Minor, at least 16 but less than 18.*

Purpose establish procedure for a minor to be emancipated by law
(minor is validly married, 18 years of age, or on active duty
In the armed forces)
And
Emancipation through Petition filed by minor

Jurisdiction Juvenile Court

Venue Petition for Emancipation filed in Juvenile court where minor resides

- Court shall seek and affidavit from each party named in the petition, Stating why they feel emancipation is proper.
- Parents or guardian (or any person who gave an affidavit) served with A summons and copy of pet.; have 30 days to answer (if desired) after being served.
- Hearing

Pleading Petition for Emancipation

- Signed & verified by the minor.
- **Petition shall include (O.C.G.A. 15-11-202)**
 1. Minors full name and birth date
 2. Certified copy of minor's birth certificate.
 3. Name and last known address of minor's parents or guardians. If No parent: the name and address of the minors nearest living relative residing in the state.
 4. A declaration that the minor indicating that he or she can manage his or her financial affairs.
 5. A declaration that the minor indicating that he or she can manage
 6. his or her personal or social affairs
 7. The names of adults who know the child and believe that emancipation is in the child's best interest. **Adults may include:** physician, osteopath, nurse, psychologist, counselor, social worker School psych., school admin., principal, teacher, member of clergy, law enforcement officer, or attorney.

- **Answers** A person served with a petition for emancipation may file and answer within 30 days of being served.

Parties Minors & Parents (Guardian)

Notice Upon filing the petition for emancipation, a copy of the petition for emancipation and summons to appear at the hearing shall be served on the minor's parents or guardians (and any other person who provided an affidavit or was named in the petition). O.C.G.A 15-11-203(a).

Std Proof Minor has the burden by a **preponderance of this evidence** that emancipation is in their best interest.

Rt to an Atty Yes, Child & parents

Decision Points

- The hearing shall take place in front of a Judge (not associate).
 - **An order for emancipation should be granted only if the court feels that emancipation is in the best interest of the child and the minor establishes:**
 1. That the minor parent or guardian does not object to the petition; or if a parent or guardian objects to the petition, that the best interest of the child is served by allowing the emancipation to occur by court order.
 2. That the minor is a resident of the state.
 3. Minor has demonstrated the ability to manage financial affairs, including proof of employment or other means of support (other means of support **does not include** general assistance or aid received from means-tested public assistance programs such as Temporary Assistance for Needy Families or similar programs under Title IV-A of the federal Social Security Act.)
 4. Minor has the ability to manage personal and social affairs, including (but not limited to) proof of housing.
 5. Minor understands his or her rights as an emancipated minor.
- (O.C.G.A. 15-11-205(a)-(b)):**
- If the court orders emancipation, the court shall retain the order until the minor turns 25.
 - A minor or parent or guardian may appeal the court's granting or denial of the emancipation petition to the state court of appeals.

Practice Points

- After a petition for emancipation is filed, the court may:
 1. Assign an employee of the court or appoint a GAL to investigate the allegations of the petition and to file a report containing the results of the investigation with the court, **including a recommendation as to whether it is in the best interest of the child that the petition for emancipation be granted.**
 2. Appoint an attorney for the minor.
 3. Appoint an attorney for the minor's parents or guardian if they are indigent and if they oppose the petition.
- After a petition for emancipation is filed, the court shall seek an affidavit from each individual identified in the petition, which describes why the individual feels the minor should be emancipated.
(O.C.G.A. 15-11-204(a)-(b)).

RESCISSION OF EMANCIPATION

- A minor emancipated by the Juvenile court may petition the juvenile court that issued the emancipation order to rescind such order.
- **The court shall granted the petition to rescind if:**
 1. The minor is indigent and has not means of support.
 2. That the minor and minor's parents or guardian agrees that the order should be rescinded; or
 3. That there is a resumption of family relations inconsistent with the existing emancipation order.
(O.C.G.A. 15-11-206(a)-(c)).