

GUIDELINES FOR CIVIL EMANCIPATION OF A MINOR

AUTHORITY:	Family Code 7000, et. seq.	
RESCINDS:	Procedure Manual Item 2-6-007, dated 12/04/18	
FORMS:	Petition for Declaration of Emancipation of a Minor, Consent and Waiver of Notice, Order Prescribing Notice, Declaration of Emancipation, and Order Denying Petition	(Court Form MC-300)
	Notice of Hearing-Emancipation of Minor, Consent and Waiver of Notice	(Court Form M-305)
	Emancipation of Minor Income and Expense Declaration	(Court Form MC-306)
	Declaration of Emancipation of Minor After Hearing	(Court Form MC-310)
	Modification Petition Termination of Wardship	(Electronic Format)
PURPOSE:	To describe the process available to departmental staff for civil emancipation of juvenile clients.	

I. GENERAL INFORMATION

- A. It is suggested the youth contact the **Probate/Mental Health Unit** at (657) 622-8452 or via **www.OCCourts.org** to obtain general information prior to attempting this process as it is very difficult to become an emancipated youth.
- B. Probate Court Requirements:
1. The youth **is** at least 14 years of age, but under 18 years of age.
 2. The youth **is** managing **their** own financial affairs.
 3. No part of the youth's income may be derived from any criminal activities.
 4. The youth willingly lives separate from his or her parent or legal guardians with the consent of their parent or legal guardian.
 5. The parents or legal guardian are entitled to notice of hearing, but may give up the right to notice and may give their consent to a Declaration of Emancipation without being present at the hearing.
 6. The Deputy Probation Officer (DPO) is entitled to notice of hearing, but may give up the right to notice and may give consent to the Declaration of Emancipation without being present at the hearing.
- C. The following are general guidelines for staff considering a recommendation in favor of a youth's emancipation.

1. The youth should be complying with all Juvenile Court orders, rules of probation and have no pending matters.
2. The youth should have earned a high school diploma, completed the HiSET – High School Equivalency Test or be within 24 credits of graduation.
3. The youth should have been employed for at least four months with the present employer.
4. The youth should have at least \$1,000 in a savings account at the time of the hearing.
5. The youth must have a permanent and stable address.
6. It is suggested that the youth acquire a Social Security card, driver's license or California ID card and automobile insurance if the youth has a motor vehicle.
7. The case should be staffed with the unit supervisor.

II. PROCEDURE

- A. The youth must file a petition with the Probate Court.
 1. **The following forms need to be filled out and submitted to the Probate Clerk's Office (Download the forms from www.OCCourts.org).**
 - a. **MC-300 Petition for Declaration of Minor.**
 - b. **MC-305 Notice of Hearing-Emancipation of Minor.**
 - c. **MC-306 Emancipation of Minor Income and Expense Declaration.**
 - d. **MC-310 Declaration of Emancipation of Minor After Hearing.**
 2. The Probate Court is located at the Central Justice Center, 700 Civic Center Drive, Santa Ana, California 92701.
 3. The filing fee is \$435.
 4. The hearing will take place in approximately twenty weeks.
 5. The parent or guardian may appear with the youth at the hearing or waive the right to appear and grant consent by signing the notice **(MC-305)**.
 6. The DPO may appear at the hearing or waive the right to appear and grant consent by signing the **notice (MC-305)**.
- B. Questions regarding the court hearing
 1. Is a lawyer needed?

The Probate Court does not require a youth to have an attorney; however, it is the youth's right to have counsel if **they** desire

2. What happens at the hearing?

The judge will thoroughly question the youth to verify compliance with the legal requirements of the **family** code. Further, if present, the parents, legal guardian and DPO will be asked if they concur with the Declaration. Based upon the information received, the judge will grant, deny, or continue for further information the petition to emancipate the youth.

C. DPO's responsibility upon emancipation of the youth:

1. Obtain two copies of the Declaration of Emancipation from the youth.
2. If termination of wardship is appropriate, prepare a Modification Petition- **Termination of Wardship (Electronic Format)** for submission to the Juvenile Court.
 - a. Attach a copy of the Declaration of Emancipation for the Juvenile Court's information.
 - b. Include second copy in the youth's juvenile file for our records.
3. Maintain the youth on probation if appropriate.

REFERENCES:

Procedures:	None	
Policies:	A-1	Policy, Procedure and the Law
	A-2	Upholding Departmental Philosophy and Principle

<https://www.occourts.org/>

G. Garcia

APPROVED BY: