



## STANISLAUS COUNTY SUPERIOR COURT

<http://www.stanct.org>

(209) 530-3100

Revised 7/16

# Emancipation of Minor Packet

This packet contains forms required to begin an emancipation proceeding in Stanislaus County Superior Court. Only the minor may petition the Court for emancipation. The petition may be filed in the county in which the minor can provide a verifiable residence address. Once the Petition for Declaration of Emancipation of Minor has been filed, the Clerk's Office will send the file to the Judge. The Judge will then determine **if** a hearing will be required. **If** a hearing is required, **the clerk will set** the hearing date on the Order Prescribing Notice, on the Petition for Emancipation of Minor and the Notice of Hearing.

A copy of the Petition must be served on the parties (designated by the Judge on the Order Prescribing Notice) by personal service or by mail. You must return the **original proof of service and two copies** to the Clerk's Office after you have served all parties. The file marked copies of the proof of service will be mailed back to you in the self-addressed stamped envelope that you must provide.

Judicial Council forms, local forms and information is available in the Clerk's Office, at the Stanislaus County Law Library located at 1101 13<sup>th</sup> Street, Modesto and on the following Websites:

- **Stanislaus County Superior Court: [www.stanct.org](http://www.stanct.org)**
- **Stanislaus County – Local Forms: [www.stanct.org/Forms.aspx?id=3](http://www.stanct.org/Forms.aspx?id=3)**
- **Free Interactive Electronic Forms Program: [www.icandocs.org/ca/california.html](http://www.icandocs.org/ca/california.html)**
- **California's Free Website for Legal Help: [www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)**
- **Law Libraries, Websites, or Self-Help Legal Books: [www.courts.ca.gov/1091.htm](http://www.courts.ca.gov/1091.htm)**

Lawyer Referral Service may be able to assist you in finding an attorney. Their telephone number is (209) 571-5727. There are books available on how to do an Emancipation of Minor at the public library and in bookstores. More information is available in the Stanislaus County Local Rules of Court.

Please refer to the ***Emancipation Pamphlet*** that is enclosed in this packet for basic information.

## **FREQUENTLY ASKED QUESTIONS**

Persons handling their own case, called "in propria persona" or "pro per", are required to prepare and present their court documents in complete and proper form without help from court staff. The staff of the Superior Court is prohibited by law from giving legal advice or assistance pursuant to Sections 24004 and 68082 California Government Code. Questions on legal matters regarding the appropriate form or its proper completion and presentation should be referred to an attorney.

### **PREPARATION**

You are required to bring in one (1) original plus two (2) copies of all documents. Whether typed or hand printed, your papers must be completed in blue or black ink, be legible and dark enough to photocopy. The petitioner's name, address and telephone number must be placed in the space in the upper left hand corner of each form. Pleadings are to be dated and signed before being presented for filing. Each form must have the court name and location in the heading as indicated below:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS  
800 11<sup>th</sup> Street, PO Box 1098  
Modesto, CA 95353-1098

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:  STATE:      ZIP CODE:  FAX NO.:	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS</b> STREET ADDRESS: 1100 I STREET MAILING ADDRESS: P.O. BOX 1098 CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME:		
IN THE MATTER OF (NAME):		
<b>EMANCIPATED MINOR'S APPLICATION TO CALIFORNIA          DEPARTMENT OF MOTOR VEHICLES</b>		CASE NUMBER:

On \_\_\_\_\_ I was declared to be emancipated for the purposes set forth in Family Code  
 (DATE OF EMANCIPATION ORDER)

section 7050 et seq. by order of the Honorable \_\_\_\_\_,  
 (NAME OF JUDICIAL OFFICER)

Judge of the Superior Court of \_\_\_\_\_ County.  
 (NAME OF COUNTY)

I apply to the California Department of Motor Vehicles for entry of identifying information in its law enforcement computer network and for inclusion of the fact of my emancipation on any identification card issued to me by the Department. I have attached a certified copy of the Declaration of Emancipation.

Date: \_\_\_\_\_  
 (SIGNATURE OF EMANCIPATED MINOR)

- family counseling or mediation services between you and your parents
- living with another responsible adult (aunt, uncle, grandparent, or family friend)
- seeking assistance from public and private agencies
- an informal agreement with your parents allowing you to live outside your home

# EMANCIPATION PAMPHLET

*This pamphlet provides only basic information  
about emancipation proceedings.  
If you need additional information, you may  
wish to consult an attorney.*

## WHAT IS EMANCIPATION?

Emancipation is a legal procedure that frees children from the custody and control of their parents or guardians before they reach the age of majority. (In California, this is age 18.) If you become emancipated, you will be able to do certain things without your parent's consent, such as:

- consent to medical treatment
- apply for a work permit
- enroll in school or college

*You will also give up your right to be supported by your parents.*

Even if you are emancipated:

- You must still attend school.
- You cannot get married without parental consent.
- You probably will remain under juvenile court jurisdiction, if you commit a crime.

## IF YOU HAVE A LEGAL GUARDIAN:

All references in this pamphlet to parent or parents include legal guardians or guardians.

## HOW DO I BECOME EMANCIPATED?

There are **three** ways you can become emancipated:

1. You can get married (This requires parental consent and permission from the court.)

## WHAT DO I DO IF THE JUDGE GRANTS MY PETITION FOR EMANCIPATION?

If the judge grants your petition for emancipation after a hearing is held or without a hearing, you must take your papers back to the clerk's office and file them. The clerk will file the original declaration of emancipation, and give you copies to keep as proof of emancipation. You may need to show these copies to employers, landlords, doctors, school officials, or others who would otherwise require parental consent.

If you want to notify the Department of Motor Vehicles (DMV) about your emancipation, complete an Emancipated Minor's Application to California Department of Motor Vehicles (EM-140) form and take it to the DMV along with a certified copy of the declaration of emancipation.

## IS EMANCIPATION PERMANENT?

Emancipation is usually permanent. However, if there are statements on your petition that are not true, or if you become unable to support yourself, the court may set aside the declaration of emancipation.

## DO I HAVE CHOICES OTHER THAN EMANCIPATION?

Emancipation is only one of several alternatives available to you if you feel you cannot live with your parents. You may want to consider other options such as:

- set a hearing on your petition to be conducted within 30 days thereafter.

The clerk will provide you with an endorsed filed copy of the judge's order.

### **Declaration of emancipation without hearing**

If the judge finds that all notice and consent requirements have been met or waived, and that emancipation is not contrary to your best interests, the judge may grant your petition without a hearing.

### **Setting a hearing and giving notice**

If the judge wants more information, a hearing will be held within 30 days of the order prescribing notice and setting for hearing. If the judge orders the matter set for hearing, the clerk will notify the district attorney of the time and date of the hearing. The judge may require that you give notice to your parents and other people of the time and place of the hearing. This is very important, because the judge may be very strict about making sure that your parents were given proper notice before granting an emancipation petition.

Notice is provided by giving or mailing a copy of the emancipation petition to each person the judge lists for you. An adult, 18 years or older, must personally give or mail the copies for you as soon as possible after the hearing date is set, and complete a *Proof of Service* form to be filed with the clerk.

2. You can join the armed forces. (This requires parental consent and acceptance by the service.)

3. You can obtain a declaration of emancipation from a judge.

This pamphlet tells you only about how to be declared emancipated by a judge. If you want to be declared emancipated by a judge, you must convince the judge that you meet **ALL of the following requirements:**

1. You are at least 14 years old.
2. You willingly want to live separate and apart from your parents with the consent or acquiescence of your parents. (Your parents do not object to you living apart from them.)
3. You can manage your own finances.
4. You have a source of income that does not come from any illegal activity.
5. Emancipation would not be contrary to your best interests; it is good for you.

### **HOW DO I GET DECLARED EMANCIPATED BY A JUDGE?**

You will need to complete certain forms and file them with the court. You can get blank forms to fill out from the court clerk's office. The forms you *must* fill out are:

- *Petition for Declaration of Emancipation of Minor, Order Prescribing Notice, Declaration of Emancipation, and Order Denying Petition* (EM-100)
- *Emancipation of Minor—Income and Expense Declaration* (EM-115)

- *Notice of Hearing* (EM-109)
- *Declaration of Emancipation of Minor After Hearing* (EM-130)

### **Emancipation petition**

You must file a *Petition for Declaration of Emancipation of Minor* form (EM-100) in the county in which you live. (Check with your local clerk's office to find out which division of the court handles emancipations. If you are a dependent or ward of the juvenile court, the petition must be filed in juvenile court.) Only you may petition the court for emancipation. You will be asked to provide a verifiable residence address. You must also complete and attach to the petition an *Emancipation of Minor—Income and Expense Declaration* form (EM-115).

### **Filing fee or waiver**

You may be required to pay a fee to file your emancipation petition. Ask the clerk if a fee is required. If you cannot afford to pay the fee, you can file an application to have the fees waived, including an *Application for Waiver of Court Fees and Costs* form and an *Order on Application of Court Fees and Costs* form. Unless waived, the petitioner shall pay the filing fee as specified. The ability or inability to pay the filing fee is not in and of itself evidence of the financial responsibility of the minor as required for emancipation.

### **Filling out the forms**

- Print or type ALL information requested on the forms.
- Sign and date the petition.
- Include a statement explaining your living situation,

why you want to be emancipated, and how you are supporting yourself. If you have children, tell how you are supporting them. You could also include letters from your employer and your landlord.

- If you do not know where your parents or guardians live, you must tell the court when you last saw your parents and what efforts you have made to find out where your parents live.
- If you know where your parents live, but they refuse to sign the consent, you must get a hearing date from the clerk, and give notice of the hearing to your parents.
- If you know where your parents live, but you do not wish to notify one or both of them about this petition, you must state ALL your reasons and request the court to waive notification to your parents.

### **Filing the petition and the other forms**

After you have completed the forms and all necessary attachments, and obtained your parents' signatures (if possible), take the forms and the attachments to the clerk's office for filing. (When you pick up the blank forms, ask the clerk how many copies of each form you will need to bring with you. Be sure to keep a copy for yourself.) When you get to the court, tell the clerk that you are filing a petition for emancipation and show the clerk your papers. The clerk will keep at least one copy of your petition. The clerk will either give or direct you to give the petition to the judge. Within 30 days from the filing of the petition, the judge will either

- grant your petition; or
- deny your petition; or

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS</b> STREET ADDRESS: 1100 I STREET MAILING ADDRESS: P.O. BOX 1098 CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME:	
IN THE MATTER OF (NAME):  <div style="text-align: right;">Petitioner, a minor</div>	
<b>PETITION FOR DECLARATION OF EMANCIPATION OF MINOR</b> <input type="checkbox"/> ORDER PRESCRIBING NOTICE <input type="checkbox"/> ORDER DENYING PETITION <input type="checkbox"/> DECLARATION OF EMANCIPATION	CASE NUMBER:

1. My name:  
My address:  
I am a resident of or temporarily domiciled in this county.
2. I request that the court declare me to be emancipated.
3. a. I am at least 14 years of age and my date of birth is:  
b. I am willingly living separate and apart from my parents or legal guardian, with the consent of my parents or legal guardian. I have been living apart from them since (date):  
c. I am managing my own financial affairs. I have completed my declaration of income and expenses on form EM-115 and attached it to this petition.  
d. No part of my income comes from any activity that is a crime under the laws of the State of California or of the United States.
4. My mother's name is:  
Her address is:  
 Her consent to my emancipation is attached.  
 Notice to her should not be required because (state reasons):
5. My father's name is:  
His address is:  
 His consent to my emancipation is attached.  
 Notice to him should not be required because (state reasons):
6.  I have a legal guardian.  
My guardian's name is:  
My guardian's address is:  
 My guardian's consent to my emancipation is attached.  
 Notice to my guardian should not be required because (state reasons):
7.  Other person entitled to notice.  
This person's name is:  
This person's address is:  
 This person's consent to my emancipation is attached.  
 Notice to this person should not be required because (state reasons):
8.  I am a  dependent child  [probation] ward of the Juvenile Court of \_\_\_\_\_ County.  
Case number (if known):  
My  social worker  probation officer is (name):  
His/her consent is attached.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed at (place): \_\_\_\_\_, California.

Date: \_\_\_\_\_



(SIGNATURE)



NAME OF MINOR	CASE NUMBER:
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**ORDER PRESCRIBING NOTICE**

9. The court finds that
- a.  All persons entitled to notice of this proceeding have consented to the emancipation and waived notice of hearing.
  - b.  The addresses of the following are unknown.
    - (1)  Father
    - (2)  Mother
    - (3)  Legal guardian
  - c.  Notice to the following persons cannot or should not be given:
  - d.  Other (*specify*):

**10. IT IS ORDERED that notice of this proceeding**

- a.  is not required. The declaration of emancipation may proceed without hearing.
- b.  is required to the following persons:
  - (1)  Father
  - (2)  Mother
  - (3)  Legal guardian
  - (4)  Juvenile Court of \_\_\_\_\_ County  
for service on social worker or probation officer
  - (5)  District attorney
- c.  This matter is set for hearing on (*date*): \_\_\_\_\_ at (*time*): \_\_\_\_\_ in (*dept*): \_\_\_\_\_

Date: \_\_\_\_\_  
(JUDGE OF THE SUPERIOR COURT)

**DECLARATION OF EMANCIPATION WITHOUT HEARING**

(Only if the court has ordered item 10a above.)

The court finds that the petitioner is a person described by Family Code section 7120. All notice requirements have been met or waived by the court. Emancipation is not contrary to the best interests of the child.

**THE PETITION IS GRANTED. THE PETITIONER IS DECLARED TO BE EMANCIPATED FOR PURPOSES SET FORTH IN FAMILY CODE SECTION 7050 ET SEQ.**

Date: \_\_\_\_\_  
(JUDGE OF THE SUPERIOR COURT)

**ORDER DENYING PETITION**

The court finds that the petition on its face fails to establish that the petitioner is a person described by Family Code section 7120.

**THE PETITION IS DENIED.**

Date: \_\_\_\_\_  
(JUDGE OF THE SUPERIOR COURT)

[SEAL]

**CLERK'S CERTIFICATE  
(Of Declaration of Emancipation)**

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<i>FOR COURT USE ONLY</i>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS</b> STREET ADDRESS: 1100 I STREET MAILING ADDRESS: P.O. BOX 1098 CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME:	
IN THE MATTER OF (NAME):  <div style="text-align: right;">Petitioner, a minor</div>	
<b>NOTICE OF HEARING-EMANCIPATION OF MINOR</b> <input type="checkbox"/> <b>CONSENT AND WAIVER OF NOTICE</b>	
CASE NUMBER:	

1. The minor (name): \_\_\_\_\_ has filed a petition asking the court to declare the minor an **EMANCIPATED MINOR**. If the petition is granted, the minor will be considered to be over the age of majority for purposes set forth in California Family Code section 7050.
2. A HEARING for the court to consider the petition will be held:  
 on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**TO PARENTS:**

**IF THE PETITION IS GRANTED, THE MINOR, THE MINOR'S REPRESENTATIVE, OR THE DISTRICT ATTORNEY MAY LATER PETITION THE COURT TO RESCIND THE DECLARATION OF EMANCIPATION AND YOU MAY BE LIABLE FOR SUPPORT AND MEDICAL COVERAGE FOR THE MINOR.**

Date: \_\_\_\_\_

\_\_\_\_\_ \_\_\_\_\_

(TYPE OR PRINT NAME)  PETITIONER  CLERK

**CONSENT AND WAIVER OF NOTICE**

The undersigned give up the right to notice of a hearing on the Petition for Declaration of Emancipation, and consent to a declaration of emancipation without a hearing.

- a.  Mother: Signature: \_\_\_\_\_ Dated: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_
- b.  Father: Signature: \_\_\_\_\_ Dated: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_
- c.  Legal guardian: Signature: \_\_\_\_\_ Dated: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_
- d.  Social worker: Signature: \_\_\_\_\_ Dated: \_\_\_\_\_  
 Probation officer: Address: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_
- e.  District attorney: Signature: \_\_\_\_\_ Dated: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):	STATE BAR NUMBER:  STATE:      ZIP CODE: FAX NO.:	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS</b> STREET ADDRESS: 1100 I STREET MAILING ADDRESS: P.O. BOX 1098 CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME:		
IN THE MATTER OF ( <i>NAME</i> ):  <div style="text-align: right;">Petitioner, a minor</div>		
<b>EMANCIPATION OF MINOR INCOME AND EXPENSE DECLARATION</b>		CASE NUMBER:

1. My name and address are:

My telephone number is:

I have been living at this address since:

I live there with (*name and relationship of all persons, including children*):

2. My date of birth is:

3. a.  I am attending school (*name of school and grade*):

b.  I am not attending school. The highest year of education I have completed is:

4. My occupation is:

5. a.  I am employed. My place of employment is (*name and address*):

I started work there on (*date*):

b.  I am not employed at the present time. I last worked from (*starting month and year*):  
to (*ending month and year*):

My gross monthly earnings were: \$

6. a.  I am not receiving welfare or AFDC and I do not intend to apply for welfare or AFDC.

b.  I am receiving welfare or AFDC. Monthly amount received: \$

c.  I have applied for welfare or AFDC.

d.  I intend to apply for welfare or AFDC.

IN THE MATTER OF ( <i>name</i> ):	CASE NUMBER:
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7. The average of my gross monthly earnings is: Amount
- a.  Salary and wages, including bonuses and overtime \$
- b.  Money received from parents or other adults assisting me \$  
(*name and relationship*):
- c.  Other (*specify source and amount*): \$
8. I have the following assets: Value
- a.  Cash \$
- b.  Checking account \$
- c.  Savings account \$
- d.  Stocks, bonds \$
- e.  Vehicle (*year, make, model*): \$
- f.  Other (*specify*): \$
9. My monthly expenses are: Amount
- a.  Rent or  Mortgage \$
- b.  Food \$
- c.  Clothing \$
- d.  Phone and utilities \$
- e.  Vehicle \$
- (1) Loan payments \$
- (2) Maintenance \$

I declare under penalty of perjury that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS</b> STREET ADDRESS: 1100 I STREET MAILING ADDRESS: P.O. BOX 1098 CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME:	
IN THE MATTER OF (NAME):  <div style="text-align: right;">Petitioner, a minor</div>	
<div style="display: flex; justify-content: space-between;"> <span><b>DECLARATION OF EMANCIPATION OF MINOR AFTER HEARING</b></span> <span>CASE NUMBER:</span> </div>	

1. This proceeding came on for hearing as follows:

- a. Date: \_\_\_\_\_ Time: \_\_\_\_\_  Dept.: \_\_\_\_\_  Room: \_\_\_\_\_
- b. Judge (name): \_\_\_\_\_
- c. Present in court:
 

<input type="checkbox"/> Petitioner	<input type="checkbox"/> Attorney (name): _____
<input type="checkbox"/> Father	<input type="checkbox"/> Attorney (name): _____
<input type="checkbox"/> Mother	<input type="checkbox"/> Attorney (name): _____
<input type="checkbox"/> Probation officer (name): _____	
<input type="checkbox"/> Social worker (name): _____	
<input type="checkbox"/> County counsel (name): _____	
<input type="checkbox"/> District attorney (name): _____	
<input type="checkbox"/> Other (name and relationship to minor): _____	

2. THE COURT FINDS THAT:

- a.  Notice was given as prescribed by the court.
- b.  Warning has been given to the petitioner's  Mother  Father that a court may rescind the declaration of emancipation and the parents may become liable for the minor's support and medical coverage.
- c. The petitioner is a person described by Family Code section 7120.
- d. Emancipation is not contrary to the best interests of the petitioner.

3. THE PETITION IS GRANTED. THE PETITIONER IS DECLARED TO BE EMANCIPATED FOR THE PURPOSES SET FORTH IN FAMILY CODE SECTION 7050 ET SEQ.

Date: \_\_\_\_\_ \_\_\_\_\_  
 (JUDGE OF THE SUPERIOR COURT)

(SEAL)

**CLERK'S CERTIFICATE**

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy