

What is a minor?

A minor is anyone who is:

- under 18 years old;
- has never been married; and
- has not been emancipated by the court.

What is the law on treatment of minors?

A minor must have a parent or legal guardian to make sure they are taken care of and take responsibility for the minor's property and all legal actions on behalf of the minor. The parent or guardian is required to provide housing, clothing, and meals. The parent or guardian has the right to set rules for the minor, make decisions on their behalf, and control the minor's earnings. A minor has the right to protection and care from their parent or guardian. A minor cannot be held responsible for most contracts or bring legal action on their own behalf. A minor may consent to some medical decisions and may contract to borrow money for college.

This brochure was prepared by the Juvenile Assessment Center of Lee County. It is provided as a general overview of the emancipation process in the state of Florida. It does not apply to other states. It is not intended as a substitute for legal advice. It is always best to consult with an attorney about your legal rights and responsibilities in your particular case. If you proceed with an emancipation petition, acting on your own behalf without an attorney, you should be aware that the Clerk of Courts who files your petition does not provide legal advice as to how to prosecute your case. You will be responsible for completing each step in the process. Also, be aware that the laws of Florida are subject to change. This brochure was prepared based on 2007 Florida Statutes. It can be downloaded from the internet at www.swfljac.org/emancipation.pdf.

Juvenile Assessment Center of Lee County
2117 Dr. Martin Luther King Boulevard
Fort Myers, FL 33901
Phone: (239) 344-5100
www.swfljac.org

Know the Law Emancipation



Information for teens and parents on
the emancipation of minors in Florida

What is emancipation?

Emancipation is a process in which a minor gains all the rights and responsibilities of an adult. In Florida Statute 743.015 it is called “removal of disabilities of nonage.” Emancipation automatically happens in Florida when a teenager turns 18 or when they marry. However, a minor cannot get married without parental consent. Minors under 16 years of age cannot get married even with their parents’ consent (except in certain cases when it is approved by the court). Minors who are at least 16 years old may be emancipated early by a court’s order. An emancipated minor is given the status of an adult for the purposes of all criminal and civil laws of the state and has all rights and responsibilities of someone 18 years old. They are free of the legal control and custody of their parents and may manage their own affairs. However, their parents are no longer required to provide for them and they are no longer protected by state laws on child abuse and neglect. Emancipation does not effect laws that restrict behaviors requiring a minimum age, such as, drinking alcohol and voting.

How does a minor become emancipated?

The process for obtaining a court order to emancipate a minor includes the following:

- The youth must be at least 16 years of age and be a resident of Florida.
- A petition must be filed by the minor’s parents or guardians to the Clerk of Courts. There is a \$255.00 non-refundable filing fee due to the Clerk’s office when the petition is filed. If there is no parent or guardian, the petition can be filed by a guardian ad litem. The petition must show the court that the minor is independent, is able to support himself/herself, and is not dependent on public benefits. The petition must demonstrate that emancipation is in the best interest of the minor.
- If the petition is not signed by both parents or is filed by a guardian ad litem, the non-petitioning parent(s) must be served by a summons, along with a copy of the petition, through the sheriff’s office in the county where the parent(s) lives or works. A separate fee is generally charged to the Petitioner by the sheriff’s office for this service. The non-petitioning parent(s) will have 20 days from the date they are served the summons to file a written answer to the summons. If the parent does not respond to the petition, the Petitioner may file a Motion for Default with the Clerk of Courts.
- If the parent(s) cannot be located and diligent efforts have been made to find them, they may be served by publication (published notices in the newspaper). However, there are very specific legal requirements for using this form of notification.
- If the petition is filed by the parent or legal guardian, the court will appoint an attorney ad litem to represent the minor child. The Petitioner will be responsible for paying for the attorney ad litem’s fees.
- After both parents and the minor consent to the petition, or if the non-petitioning parent(s) has been served with a summons, has failed to file a written response, and a default has been entered against him/her, it is up to the Petitioner to file a Motion for Hearing. The court will then schedule a hearing to consider the petition for emancipation. The minor, the Petitioner(s), and the attorney ad litem must attend the hearing.
- If the judge agrees that emancipation is in the minor’s best interest, the judge will enter an order removing the disabilities of nonage. The minor should obtain certified copies of the order to show proof of his/her emancipation.