

# Hearing on Petition for Emancipation Checklist

Emancipation may occur by operation of law or by a minor filing a petition for emancipation with the court. [MCL 722.4\(1\)](#). See [MCL 722.4\(2\)](#) for situations where emancipation occurs by operation of law. This checklist focuses on the hearing on a petition. If a minor files a petition for emancipation with the court, the court should review the petition and supporting materials before the hearing, and hold a hearing.

## Procedural Review Before Hearing

### Verify venue.

- Minor resides in the county on the date of filing. [MCL 722.4a\(1\)](#).<sup>1</sup>

### Verify proper filing.

- Petition signed by minor and verified, and includes all of the following:
  - Minor's full name/date of birth, and the county and state where he/she was born.
  - The name and last known address of minor's parents, guardian, or custodian.
  - Minor's present address and length of residency at that address.
  - Minor's declaration that he/she is able to manage his/her financial affairs (including any supporting information). See [MCL 722.4a\(1\)](#).

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<sup>1</sup>Minor must establish Michigan residency under [MCL 722.4c\(2\)](#).

- Petition accompanied by a certified copy of minor's birth certificate.
- Petition includes at least one affidavit by an individual listed in [MCL 722.4a\(2\)](#).<sup>2</sup> It must declare both personal knowledge of minor's circumstances and a belief that emancipation is in minor's best interests. See [MCL 722.4a\(2\)](#).
- Ensure summons and petition:
  - was properly served on all interested persons<sup>3</sup> at least 14 days before hearing date. See [MCL 722.4a\(3\)](#); [MCR 3.618\(B\)\(1\)](#); [MCR 3.618\(C\)\(1\)](#); [MCR 3.618\(D\)\(1\)](#).
- OR
- was NOT served on an interested person because:
  - the interested person waived their right to service. See [MCR 3.618\(B\)\(1\)](#).
  - the interested person cannot be located and the petitioner has filed proof of the efforts made to identify or locate the interested person in a statement verified under [MCR 1.109\(D\)\(3\)](#). [MCR 3.618\(C\)\(2\)](#).
  - may issue an ex parte order directing alternative service if a review of the verified statement showed that a reasonable attempt was made to identify or locate the interested person.<sup>4</sup> See [MCR 3.618\(C\)\(2\)](#).
- Determine whether to assign an investigation.**

- Assign a court employee to investigate the allegations of the petition and to file a report containing the investigation's results with the court.
- If the petition includes a request to enforce child support under [MCL 722.3\(2\)](#), the court may direct a court employee to investigate and make a recommendation, e.g., the Friend of the Court (FOC) under [MCL 552.505\(1\)\(h\)](#). See [MCL 722.4b\(a\)](#).

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<sup>2</sup>Individuals listed in [MCL 722.4a\(2\)](#) are: physician, nurse, member of the clergy, psychologist, family therapist, certified social worker, social worker, social work technician, school administrator, school counselor, teacher, law enforcement officer, and duly regulated child care provider.

<sup>3</sup> For a list of interested persons, see [MCL 722.4a\(3\)](#) and [MCR 3.618\(A\)](#).

<sup>4</sup> Alternative service may be by publication as set out under [MCR 3.618\(C\)\(3\)](#). [MCR 3.618\(C\)\(2\)](#).

- Determine whether to appoint legal counsel for minor.** [MCL 722.4b\(b\)](#).
- Determine whether to appoint legal counsel for minor's parents or guardian.**
  - If parent or guardian opposes petition, and is indigent. [MCL 722.4b\(c\)](#).
- Hearing by judge or referee; no jury. Hearing must be held before a judge, if minor requests. [MCL 722.4c\(1\)](#). Ensure hearing date is after minor reaches 16 years of age.

### **Procedures to follow during the emancipation hearing**

- Call the case and state name of minor seeking emancipation.
- State date of hearing.
- If counsel was appointed for either minor or parent(s)/guardian, ask them to identify themselves. See [MCL 722.4b\(b\)-\(c\)](#).
- If a court employee was assigned to investigate the allegations of the petition and file a report on the results, ask the court employee to testify or read aloud from the investigation report. See [MCL 722.4b\(a\)](#).
- Review the petition and evidence presented, and make specific findings on all of the following:
  - whether minor's parent or guardian objected to the petition
    - if one *objected* to the petition, whether that individual is presently providing adequate support for minor.
  - minor is at least 16 years of age.
  - minor is a Michigan resident.
  - minor has demonstrated the ability to manage his/her financial affairs, including employment or other means of support (by means other than public assistance, see [MCL 722.4c\(2\)\(d\)](#)).
  - minor has the ability to manage his/her personal and social affairs, including, but not limited to, proof of housing.
  - minor understands his/her rights and responsibilities as an emancipated minor stated in [MCL 722.4e](#). [MCL 722.4c\(2\)](#)-[MCL 722.4c\(3\)](#).

- Determine amount of child support that each parent must pay to minor upon emancipation.
  - Using the [Michigan Child Support Formula Manual \(MCSF\)](#), make findings regarding:
    - both parent's incomes, determine the number of overnights that each parent will likely provide care for the child(ren), which parent to order to provide health care insurance.
    - Using the net incomes and number of overnights, apply the MCSF to calculate the base support obligation, figure payments for medical support obligations and child care expenses, and which parent to order to provide health care insurance coverage for the children.
    - If it is determined that based on the particular facts in this case that the result of applying the MCSF has an unjust or inappropriate result, or if the parties agree to deviate from those results, deviation is permissible:
      - Set out in writing or on the record: (1) the amount determined by the MCSF; (2) how the support ordered deviates from the MCSF; (3) if applicable, the value of property or other support awarded in lieu of the MCSF amounts; and (4) clearly articulate the reasons that explain why the MCSF would produce an unjust or inappropriate result. [MCL 552.452\(1\)](#); [MCL 552.605\(2\)-\(3\)](#).
      - When ordering support that deviates, the Uniform Child Support Order must indicate that deviation occurred and include a completed deviation addendum that records the statutorily required findings. [MCR 3.211\(D\)](#).
- Determine whether to order child support after the child reaches 18 years of age, and set date certain for support to end. [MCL 552.605b](#).
- ISSUE** emancipation order **IF** minor has established by a preponderance of the evidence that emancipation is in his/her best interest and has established all of the following:
  - minor's parent/guardian *did not object* to the petition; OR if parent/guardian *objected* to the petition, that objecting parent/guardian is not providing minor with support.
  - minor is at least 16 years of age.

- minor is a Michigan resident.
- minor has demonstrated the ability to manage his/her financial affairs, including proof of employment or other means of support, not including general assistance or aid to families with dependent children under the Social Welfare Act, [MCL 400.1 et seq.](#)
- minor has the ability to manage his/her personal and social affairs, including, but not limited to, proof of housing.
- minor understands his/her rights and responsibilities under the Emancipation of Minors Act, [MCL 722.1 et seq.](#), as an emancipated minor. [MCL 722.4c\(2\)-\(3\).](#)

**DISMISS petition for emancipation IF:**

- petitioner failed to meet all of the conditions under [MCL 722.4c\(2\).](#)

**IF emancipation order is ISSUED:**

**Fulfill requirements of the Social Security Administration:**

- provide minor with a copy of the emancipation order that includes minor's full social security number if minor has one. [MCR 3.618\(G\).](#)
  - minor shows social security card at the hearing.
  - enter minor's social security number on minor's copy of the emancipation order.
  - if minor does not bring social security card to the hearing, minor can present his/her card to the court clerk at a later date, at which time clerk must verify minor's identity and enter minor's social security number on a copy of the emancipation order to be given to minor. [MCR 3.618\(G\)\(1\).](#)
- minor's social security number must **not** be included on the order of emancipation kept in court's file. [MCR 3.618\(G\)\(2\).](#)
- two-part order must be entered on form approved by the State Court Administrative Office:
  - place first part in the case file; first part must **not** contain minor's social security number.
  - second part **must** contain minor's social security number and a statement indicating that the order is a certified copy of the order in the court's file except

that minor's social security number appears **only** on minor's copy of the emancipation order.

- there is no fee for minor's certified copy; certified copy must be signed by court clerk. [MCR 3.618\(G\)\(2\)](#).

**Retain a copy of the order until emancipated minor reaches the age of 25.** [MCL 722.4c\(4\)](#).

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).