

GUIDELINES FOR CIVIL EMANCIPATION OF A MINOR

- AUTHORITY:** Civil Code Section 64-70; Family Code 7000, et. seq.
- RESCINDS:** Procedure Manual Item 2-6-007, dated 07/07/2016
- FORMS:** Petition for Declaration of Emancipation of a Minor, Consent and Waiver of Notice, Order Prescribing Notice and Declaration of Emancipation (Court Form MC-300)
Declaration of Emancipation of Minor After Hearing (Court Form F0182-547)
Modification Petition-Nonappearance (F057-5120AF)
- PURPOSE:** To describe the process available to departmental staff for civil emancipation of juvenile clients.

I. GENERAL INFORMATION

- A. It is suggested that the **youth** contact the Probate Clerk's Office at **(657) 622-7845** prior to attempting this process as it is very difficult to become an emancipated **youth**.
- B. Probate Court Requirements:
1. The **youth** must be at least 14 years of age, but under 18 years of age.
 2. The **youth** must be managing his or her 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 Probate Court is located at the **Central Justice Center, 700 Civic Center Drive, Santa Ana, California 92701**.
2. The filing fee is \$435.
3. The hearing will take place in approximately **twenty** weeks.
4. The parent or guardian may appear with the **youth** at the hearing or waive the right to appear and grant consent by signing the petition (**MC-300**).
5. The DPO may appear at the hearing or waive the right to appear and grant consent by signing the petition (**MC-300**).

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 he or she desires.

2. What happens at the hearing?

The Judge will thoroughly question the **youth** to verify compliance with the legal requirements of the civil 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- Nonappearance (F057-5120AF) 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

J. Burgett

APPROVED BY: