

STATUS OF MINORS AND CHILD SUPPORT
Act 293 of 1968

AN ACT to establish the status of minors; to define the rights and duties of parents; to establish rights and duties to provide support for a child after the child reaches the age of majority under certain circumstances; and to establish the conditions for emancipation of minors.

History: 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1990, Act 238, Imd. Eff. Oct. 10, 1990.

Popular name: Emancipation of Minors Act

The People of the State of Michigan enact:

722.1 Definitions.

Sec. 1. As used in this act:

(a) “Minor” means a person under the age of 18 years.

(b) “Parents” means natural parents, if married prior or subsequent to the minor's birth; adopting parents, if the minor has been legally adopted; or the mother, if the minor is illegitimate.

(c) “Emancipation” means termination of the rights of the parents to the custody, control, services and earnings of a minor.

History: 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1972, Act 16, Imd. Eff. Feb. 19, 1972.

Popular name: Emancipation of Minors Act

722.2 Unemancipated minors; parental rights.

Sec. 2. Unless otherwise ordered by a court order, the parents of an unemancipated minor are equally entitled to the custody, control, services and earnings of the minor, but if 1 parent provides, to the exclusion of the other parent, for the maintenance and support of the minor, that parent has the paramount right to control the services and earnings of the minor.

History: 1968, Act 293, Eff. Nov. 15, 1968.

Popular name: Emancipation of Minors Act

722.3 Obligation of parents; exceptions; enforcement of duty to support; child support formula as guideline; enforcement of judgment.

Sec. 3. (1) The parents are jointly and severally obligated to support a minor as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, unless a court of competent jurisdiction modifies or terminates the obligation or the minor is emancipated by operation of law, except as otherwise ordered by a court of competent jurisdiction. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, a court of competent jurisdiction may order support as provided in this section for a child after he or she reaches 18 years of age.

(2) The duty of support may be enforced by the minor or the child who has reached 18 years of age, his or her guardian, any relative within the third degree, an authorized government agency, or if the minor or the child who has reached 18 years of age is being supported in whole or in part by public assistance under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, by the director of the family independence agency or his or her designated representative, or by the director of the county family independence agency or his or her designated representative of the county where an action under this act is brought. An action for enforcement shall be brought in the circuit court in the county where the minor or the child who has reached 18 years of age resides. If a designated official of either the state or a county family independence agency brings an action under this act on behalf of the minor or the child who has reached 18 years of age, then the prosecuting attorney or an attorney employed by the county under section 1 of 1941 PA 15, MCL 49.71, shall represent the official in initiating and conducting the proceedings under this act. The prosecuting attorney shall utilize the child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, as a guideline in petitioning for child support.

(3) A judgment entered under this section providing for support is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

History: 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1971, Act 173, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 213, Eff. Mar. 1, 1986;—

Am. 1989, Act 278, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 238, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 295, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 17, Eff. June 1, 1996;—Am. 2001, Act 110, Eff. Sept. 30, 2001.

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722.3a Repealed. 2001, Act 110, Eff. Sept. 30, 2001.

Compiler's note: The repealed section pertained to child support after child reaches 18 years of age.

Popular name: Emancipation of Minors Act

722.4 Emancipation by operation of law or pursuant to petition filed by minor with family division of circuit court.

Sec. 4. (1) Emancipation may occur by operation of law or pursuant to a petition filed by a minor with the family division of circuit court as provided in this act.

(2) An emancipation occurs by operation of law under any of the following circumstances:

- (a) When a minor is validly married.
- (b) When a person reaches the age of 18 years.
- (c) During the period when the minor is on active duty with the armed forces of the United States.

(d) For the purposes of consenting to routine, nonsurgical medical care or emergency medical treatment to a minor, when the minor is in the custody of a law enforcement agency and the minor's parent or guardian cannot be promptly located. The minor or the minor's parent shall remain responsible for the cost of any medical care or treatment rendered pursuant to this subdivision. An emancipation pursuant to this subdivision shall end upon the termination of medical care or treatment or upon the minor's release from custody, whichever occurs first.

(e) For the purposes of consenting to his or her own preventive health care or medical care including surgery, dental care, or mental health care, except vasectomies or any procedure related to reproduction, during the period when the minor is a prisoner committed to the jurisdiction of the department of corrections and is housed in a state correctional facility operated by the department of corrections or in a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g; or the period when the minor is a probationer residing in a special alternative incarceration unit established under the special alternative incarceration act, 1988 PA 287, MCL 798.11 to 798.18. This subdivision applies only if a parent or guardian of the minor cannot promptly be located by the department of corrections or, in the case of a youth correctional facility operated by a private vendor, by the responsible official of the youth correctional facility.

(3) An emancipation occurs by court order pursuant to a petition filed by a minor with the family division of circuit court as provided in sections 4a to 4e.

History: 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1972, Act 16, Imd. Eff. Feb. 19, 1972;—Am. 1986, Act 164, Imd. Eff. July 7, 1986;—Am. 1988, Act 403, Eff. Mar. 30, 1989;—Am. 1993, Act 257, Eff. Apr. 1, 1994;—Am. 1996, Act 412, Eff. Jan. 1, 1998;—Am. 1998, Act 509, Imd. Eff. Jan. 8, 1999.

Popular name: Emancipation of Minors Act

722.4a Petition; filing; signature; verification; contents; affidavit; service on parents or guardian; notice of hearing.

Sec. 4a. (1) A minor seeking emancipation shall file a petition for emancipation in the family division of circuit court in the county where the minor resides. The petition shall be signed and verified by the minor, and shall include all of the following information:

- (a) The minor's full name and birth date, and the county and state where the minor was born.
- (b) A certified copy of the minor's birth certificate.
- (c) The name and last known address of the minor's parents, guardian, or custodian.
- (d) The minor's present address, and length of residency at that address.

(e) A declaration by the minor indicating that he or she has demonstrated the ability to manage his or her financial affairs. The minor may include any information he or she considers necessary to support the declaration.

(f) A declaration by the minor indicating that he or she has the ability to manage his or her personal and social affairs. The minor may include in this section any information he or she considers necessary to support the declaration.

(2) The petition shall include an affidavit by any of the following individuals declaring that the individual has personal knowledge of the minor's circumstances and believes that under those circumstances emancipation is in the best interests of the minor:

- (a) Physician.
- (b) Nurse.
- (c) Member of the clergy.
- (d) Psychologist.
- (e) Family therapist.
- (f) Certified social worker.
- (g) Social worker.
- (h) Social work technician.
- (i) School administrator.
- (j) School counselor.
- (k) Teacher.
- (l) Law enforcement officer.
- (m) Duly regulated child care provider.

(3) A copy of the petition and a summons to appear at the hearing shall be served on the minor's parents or guardian. A notice of hearing shall be sent to the individual who provided the affidavit required under subsection (2).

History: Add. 1988, Act 403, Eff. Mar. 30, 1989;—Am. 1996, Act 412, Eff. Jan. 1, 1998.

Popular name: Emancipation of Minors Act

722.4b Powers of court.

Sec. 4b. After a petition is filed, the court may do 1 or more of the following:

- (a) Assign an employee of the court to investigate the allegations of the petition and to file a report containing the results of the investigation with the court.
- (b) Appoint legal counsel for the minor.
- (c) Appoint legal counsel for the minor's parents or guardian if they are indigent and if they oppose the petition.
- (d) Dismiss the petition if the minor's custodial parent does not consent and is providing support.

History: Add. 1988, Act 403, Eff. Mar. 30, 1989.

Popular name: Emancipation of Minors Act

722.4c Hearing; issuance of emancipation order; burden of proof; retaining copy of order; emancipation obtained by fraud voidable; appeal.

Sec. 4c. (1) The hearing shall be before a judge or referee sitting without a jury. If the minor requests that the hearing be before a judge, the hearing shall be before a judge and not before a referee.

(2) The court shall issue an emancipation order if it determines that emancipation is in the best interest of the minor and the minor establishes all of the following:

- (a) That the minor's parent or guardian does not object to the petition; or if a parent or guardian objects to the petition, that the objecting parent or guardian is not providing the minor with support.
- (b) That the minor is at least 16 years of age.
- (c) That the minor is a resident of the state.
- (d) That the minor has demonstrated the ability to manage his or her financial affairs, including proof of employment or other means of support. "Other means of support" does not include general assistance or aid to families with dependent children administered under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

(e) That the minor has the ability to manage his or her personal and social affairs, including, but not limited to, proof of housing.

(f) That the minor understands his or her rights and responsibilities under this act as an emancipated minor.

(3) A minor who petitions the court for emancipation shall have the burden of showing by a preponderance of evidence that emancipation should be ordered.

(4) If the court issues an emancipation order, the court shall retain a copy of the order until the emancipated minor becomes 25 years of age.

(5) An emancipation obtained by fraud is voidable. Voiding such an order does not affect an obligation, responsibility, right, or interest that arose during the period of time the order was in effect.

(6) The minor or a parent or guardian of the minor may file an appeal from the court's grant or denial of an emancipation petition. The appeal shall be filed in the court of appeals.

History: Add. 1988, Act 403, Eff. Mar. 30, 1989.

Popular name: Emancipation of Minors Act

722.4d Petition for rescission; service of copy and summons; determinations; order; effect of rescission on obligations, rights, or interests; appeal.

Sec. 4d. (1) A parent of a minor emancipated by court order or a minor emancipated by court order may petition the family division of circuit court that issued the order to rescind the order. If the order of emancipation is entered by the probate court before January 1, 1998, the parent or minor may petition the family division of the circuit court in the county in which the order was entered to rescind the order.

(2) A copy of the petition for rescission and a summons shall be served on the minor or the minor's parents.

(3) The court shall grant the petition and rescind the order of emancipation if it determines 1 or more of the following:

(a) That the minor is indigent and has no means of support.

(b) That the minor and the minor's parents agree that the order should be rescinded.

(c) That there is a resumption of family relations inconsistent with the existing emancipation order.

(4) If a petition for rescission is granted, the court shall issue an order rescinding the emancipation order and retain a copy of the order until the minor becomes 25 years of age.

(5) Rescission of an emancipation order does not alter any contractual obligations or rights or any property rights or interests that arose during the period of time that the emancipation order was in effect.

(6) The minor or a parent of the minor may file an appeal from the court's grant or denial of a petition for rescission of an emancipation order. The appeal shall be filed in the court of appeals.

History: Add. 1988, Act 403, Eff. Mar. 30, 1989;—Am. 1996, Act 412, Eff. Jan. 1, 1998.

Popular name: Emancipation of Minors Act

722.4e Rights and responsibilities of emancipated minor; obligation and liability of parents.

Sec. 4e. (1) A minor emancipated by operation of law or by court order shall be considered to have the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, and other health and safety regulations relevant to him or her because of his or her age. A minor shall be considered emancipated for the purposes of, but not limited to, all of the following:

(a) The right to enter into enforceable contracts, including apartment leases.

(b) The right to sue or be sued in his or her own name.

(c) The right to retain his or her own earnings.

(d) The right to establish a separate domicile.

(e) The right to act autonomously, and with the rights and responsibilities of an adult, in all business relationships, including, but not limited to, property transactions and obtaining accounts for utilities, except for those estate or property matters that the court determines may require a conservator or guardian ad litem.

(f) The right to earn a living, subject only to the health and safety regulations designed to protect those under the age of majority regardless of their legal status.

(g) The right to authorize his or her own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability.

(h) The right to apply for a driver's license or other state licenses for which he or she might be eligible.

(i) The right to register for school.

(j) The right to marry.

(k) The right to apply to the medical assistance program administered under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws, if needed.

(l) The right to apply for other welfare assistance, including general assistance and aid to families with dependent children administered under Act No. 280 of the Public Acts of 1939, if needed.

(m) The right, if a parent, to make decisions and give authority in caring for his or her own minor child.

(n) The right to make a will.

(2) The parents of a minor emancipated by court order are jointly and severally obligated to support the minor. However, the parents of a minor emancipated by court order are not liable for any debts incurred by the minor during the period of emancipation.

History: Add. 1988, Act 403, Eff. Mar. 30, 1989.

Popular name: Emancipation of Minors Act

722.5 Earnings of unemancipated minor.

Sec. 5. The earnings of an employed unemancipated minor may be paid directly to him unless his parents or his guardian give notice to the employer that future payments should be made to the parents or guardian.

History: 1968, Act 293, Eff. Nov. 15, 1968.

Popular name: Emancipation of Minors Act

722.6 Obligation to support not affected.

Sec. 6. This act does not affect obligations of support imposed under other laws of this state.

History: 1968, Act 293, Eff. Nov. 15, 1968.

Popular name: Emancipation of Minors Act