

Lehigh County Law Library Pathfinder

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EMANCIPATION OF MINORS

Black's Law Dictionary (10th ed. 2014), defines “Emancipation” as:

- The act by which one who was under another's power and control is freed. 2. A surrender and renunciation of the correlative rights and duties concerning the care, custody, and earnings of a child; the act by which a parent (historically a father) frees a child and gives the child the right to his or her own earnings. This act also frees the parent from all legal obligations of support.
- **And “Emancipated Minor” as:**
- “A minor who is self-supporting and independent of parental control, usually as a result of a court order.”

In Pennsylvania, there is no formal court process by which a minor may petition to be declared emancipated.

A minor cannot “have themselves declared emancipated by the court” simply because they desire to free themselves from parental control. Much of Pennsylvania’s law about emancipation has come from court cases.

- Emancipation may not arise by the abandonment of the child by the child's parents. Emancipation is a question of fact to be determined by the circumstances presented in each case. See *Trosky v. Mann*, 398 Pa. Super. 369, 581 A.2d 177 (1990).
- Emancipation is not solely dependent on the employment status of the minor or the minor's place of residence. Minors are not automatically emancipated simply because they are financially self-supporting. See *Caddy v. Com., Dept. of Public Welfare*, 14 Pa. Commw. 317, 322 A.2d 140 (1974).
- The fact that the minor has become a parent is **not** a sufficient reason to conclude that the minor is emancipated. See *Marino by Marino v. Marino*, 411 Pa. Super. 424, 601 A.2d 1240, (1992).

More can be learned about emancipation by reading the following sources available in the Law Library.

- Emancipation is discussed in Pennsylvania court cases relating to Child Support in Purdon’s Pennsylvania Consolidated Statutes
 - 23 Pa. C.S.A. § 4323, See Notes of Decisions for case law.
- Summary of Pennsylvania Jurisprudence, 2d Family Law, (KFP 195 .S85)
 - 15 §§ 8:45 – 8:46
 - 15A §§11:22 – 11:26
- Pennsylvania Law Encyclopedia 2nd Ed., (KFP 66 .P4 2nd)
 - Parent and Child, vol. 37 § 21
- Pennsylvania Family Law Practice and Procedure, 7th Ed., West’s Pa. Practice Series. (KFP 80 .W47)
 - Volume 17 § 25:2
- See the reverse of this Pathfinder for a reprint of the April 3, 2006, Morning Call newspaper article, “What Does “Emancipation” Really Mean?”

What Does “Emancipation” Really Mean?

Byline: Mariella Savidge of The Morning Call
Column: THE FAMILY PROJECT

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Q: My 16-year-old daughter has been acting out, challenging limits and not coming home. When I tried to stop her, she threatened to emancipate herself. What does this really mean?

A: Emancipation is a tricky term; say the Family Project panel members and guests. It sounds so liberating, as if they could get rid of you forever. But unless your daughter has the means to support herself -- meaning pay for her own apartment and provide her own food, clothing and medical care -- she could end up with more restrictions placed on her by county officials than you could ever think of.

In Pennsylvania, there is no formal declaration of emancipation processed by a court for which your child can petition, says guest panelist Rob Mayberry. However, as an attorney, he says he has written letters for young people who consider themselves emancipated and want to enter into some kind of legal arrangement usually reserved for adults, such as a contract that would allow her to lease an apartment or buy a car. Other states may have other rules and laws.

"Only a child can invoke emancipation," he says, it's not an agreement between parent and child or child and court. "They do it by merely going out and doing it. It's very blurry," he says. The absence of a more formal emancipation process is "a weakness of our system." A child is emancipated by actions, not words, he says, similar to common law marriages where couples present themselves as husbands and wives but have not actually been married. "It's how you hold yourself out to the public," he says, and it can be reversed at any time. "Parents have to take them back," he says.

Often these situations occur because of a child who is behaving just as you described your daughter. What might be more appropriate would be to have your daughter declared an incorrigible child. That's when the county comes in with an assortment of potential remedies including adjudication of dependency, counseling and in-home services to try to get your family back on an even keel and possibly -- if it's necessary -- lessen violence in the home, according to guest panel member Karen Hallman.

"It's almost a trump card," says panelist Denise Continenza, "You can ask your daughter if she really knows what she's asking for."

She's actually creating more structure for herself, says panel member Bill Vogler. "Unless she can get a job and an apartment without support from you, she's

likely to end up with more controls through adjudication and county programs," he says.

Though it could be too late to assert parental control, Mayberry says, there are some things you can try.

Start with the least intrusive, Hallman says. "You can try therapy, which might not work with your daughter, and then move on to in-home services," she says. After that you can

pursue her truancy through a magistrate who will make sure your child is held accountable for her actions. It may involve some community service, she says, or make it impossible for her to get her drivers license.

"A parent needs to draw a line and call the police if a child is not coming home," says panel member Roberta Zelleke.

Find out where your daughter is spending her time, Hallman says, get into her computer and find out who's on her instant message list and whose numbers are in her cell phone. "You don't need her permission for that. That's your property and you can take it. It's not hers," Hallman says.

Your situation did not happen overnight, Continenza says, and it could be time for you to step up and put a stop to it.

There's obviously a breakdown in your house, Mayberry says, and most kids know just how far to push.

"Sometimes kids want parents to put the brakes on for them," Zelleke says.

But, says panelist Joanne Nigito, there's a rough road ahead for your daughter if she really pushes to become emancipated. "The reality is that it's nice when your parents provide for you," she says.

TIPS WHEN YOUR CHILD THREATENS TO SEEK EMANCIPATION

Remind her to be careful what she asks for. She could end up with even more controls than you impose.

Point out the consequences of her truancy and not coming home. Each action has a consequence that involves a magistrate and the police, respectively. Know where your child spends her time and who her friends are.

THE TOPIC TEAM

Parenting experts and guest panelists who helped with this installment of The Family Project:

Denise Continenza, family living specialist for Penn State University's Lehigh County Cooperative Extension, South Whitehall Township. **Ann Friedenheim**, clinical supervisor for Confront, Allentown. **Karen Hallman**, Lehigh County Office of Children and Youth Services, Allentown. **Marcie Lightwood**, program coordinator for Project Child, a program of Valley Youth House. **Latif Matt**, chemical abuse counselor for Confront, Allentown. **Rob Mayberry**, Lehigh County Family Court master. **Joanne Nigito**, registered play therapist and parenting educator, Bethlehem. **Bill Vogler**, executive director of Family Answers, Allentown. **Roberta Zelleke**, assistant director of Early Head Start, Community Services for Children, Allentown.

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