



Becoming an Emancipated Minor

Note: Use these instructions and forms to get emancipated.

These instructions and forms may not be right for your case. They can not take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

Do not change these forms. If you change the forms, you might lose language you need.

What Forms Will I Need to Get Emancipated?

If you are 16 years old or older, you will need to fill out and file the following forms to get emancipated:

- Petition for Limited Emancipation of a Minor
- Order Setting Hearing
- Notice of Hearing on Limited Emancipation of a Minor
- Consent to Limited Emancipation of a Minor (optional)
- Order for Limited Emancipation of a Minor
- Affidavit of Inability to Pay (only if you cannot afford filing fees)

The **Petition** asks the court to emancipate you and give you specific rights.

The **Order Setting Hearing** will be filled out by the judge and will tell you when and where your hearing will be held.

The **Notice of Hearing on Limited Emancipation of a Minor** will be filled out by the judge or the clerk of district court. A copy will also be sent to your parents or legal guardian.

The **Consent to Limited Emancipation of a Minor** is an optional document that your parent or legal guardian may choose to sign but does not have to. If they sign it, the document tells the court they agree to your emancipation.

The **Order for Limited Emancipation of a Minor** will be filled out by the judge. The Order will grant you certain adult privileges.

The **Affidavit of Inability to Pay** asks the court to waive filing fees in your case. If you can not afford to pay the filing fees, ask your clerk of district court for an affidavit of inability to pay. This form may be called something else in your district.

What Words Do I Need to Know?



Emancipation- Emancipation is a legal term to describe your release from the custody and control of your parents or guardian. Emancipation automatically occurs when you turn 18, but the Court can grant a limited emancipation order if you are between ages 16 and 18.

Limited Emancipation- If you are emancipated you will be legally considered an adult for most, but not all, things. Limited emancipation means some laws dependent on age will still apply to you. For example, you still can't vote until you are 18 and you will still not be able to drink or buy alcohol until you are 21.

Petitioner- A Petitioner is someone who files an action in court. If you are asking the Court to emancipate you, you are the Petitioner.

Who Can Use the Form?

You can use these forms if you:

- Are at least 16 years old or older, but not yet 18;
- Want to be legally considered an adult for some purposes.

What Do I Do with the Forms?

1 Fill out the Forms

- Fill out all the blanks on the Petition for Limited Emancipation of a Minor.
- Sign and date your Petition for Limited Emancipation of a Minor.
- Fill out the judicial district, county, and caption on all of the other forms. The caption looks like this:

Montana _____ Judicial District Court <i>Number of the judicial district where you are filing</i> _____ County <i>Name of the county where you are filing</i>	
In the Matter of the Emancipation of _____ <i>Your name</i> Petitioner.	Cause No.: _____ Dept No.: _____ <i>Filled out by Clerk of District Court</i> Name of Form

2 Have Your Parents and/or Legal Guardians Fill Out a Consent to Limited Emancipation of Minor (*optional*)

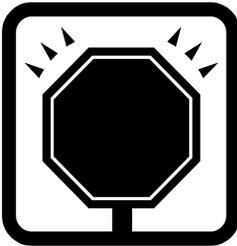
- If your parents and/or legal guardian agree to your emancipation, have each of them fill out a consent form and sign it in front of a Notary Public.

3 Make Copies

- Make one copy of each form after you have filled them out.

3 File Forms at the Courthouse

- Go to the Clerk of District Court's office in your county courthouse. Give the Clerk of District Court the original Petition for Limited Emancipation of a Minor. If your parents and/or legal guardian have filled out a Consent form, file each of the original Consent forms. Give the Clerk your Order Setting Hearing and the Notice of Hearing.
- If you can't afford the filing fees, ask the Clerk of District Court for an Affidavit of Inability to Pay. This form may be called something different in your county.
- Give the Clerk of Court a self-addressed stamped envelope. Be sure to ask the Clerk of Court to mail two conformed copies of the Order Setting Hearing and Notice of Hearing to you after the judge signs it. If you do not have an Order of Inability to Pay from the judge, you may be charged a fee for these copies.
- Give your copies to the Clerk of District Court and ask her to stamp them as "Filed". Keep the copies in a safe place.



Note: Montana law says that your parents and/or legal guardians need to be served with a copy of the Petition and the Notice of Hearing at least 10 days before the hearing. They should also be served with the Consent to Limited Emancipation of Minor form.

If you try very hard to find their address or where to send them notice and their address cannot be located, you can ask the Court to waive the notice. Be ready to explain the steps you took to locate the address.

Talk to a lawyer if you have any questions.

5 Fill out Your Order for Limited Emancipation.

- Fill in all of the blanks that you can on the Order for Limited Emancipation of a Minor. If the judge emancipates you, s/he will sign the Order after your hearing
- Make one copy of your filled in Order for Limited Emancipation of a Minor.

6 Go to Your Hearing

- Bring your stamped copies of the documents you filed with the court. Also bring your original and copy of your Order for Limited Emancipation of a Minor.
- Arrive at the courthouse at least 15 minutes before your scheduled hearing. Dress like you were going to an important job interview.
- Check with the Clerk of Court's office to find the right courtroom for your hearing. Go to that courtroom and wait for the judge to call your name and case number. Remember to address the judge as "Your Honor."
- Be prepared to tell the judge why you want to become an emancipated minor.
- Important:** Immediately after your hearing, take your signed Order for Limited Emancipation of a Minor to the Clerk of District Court. You may want to ask the Clerk for several **certified copies** of the order. You may need the certified copies in order to sign rental agreement, get credit, or enter other contracts.



Where Can I Get More Information?

The Montana Code Annotated (M.C.A.) contains the law on becoming an emancipated minor. The law related to becoming emancipated can be found in Title 41, Chapter 1, Part 5. The M.C.A. can be found at your local library or on the Montana State Law Library website at www.lawlibrary.mt.gov. Click on the “State Laws” option near the top of the page and select “MCA” from the list.



Where Can I Get Legal Help?

These organizations may be able to help you:

- **Montana Legal Services Association (MLSA)** gives free legal help to low and moderate-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899.
- **The State Bar Lawyer Referral and Information Service (LRIS)** refers people to Montana lawyers who might be able to help. The referral is free. Call LRIS at 1-406-449-6577.
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at www.lawlibrary.mt.gov. Or you can contact a Reference Librarian at 1-800-710-9827 or by email at mtlawlibrary@mt.gov.

Please take a short survey about these forms.

When you are done with the forms, please take our online survey at this address:

http://www.surveymonkey.com/s.aspx?sm=fCBhbJj4MdOWw_2fjsCjlg_3d_3d



Or you can access the survey on the “Forms” page of the State Law Library website, at www.lawlibrary.mt.gov. Your answers will help make the forms better. Thank you!

Your name

Your mailing address

City State Zip

Your phone number

Petitioner Pro Se

Montana _____ Judicial District Court

Number of the judicial district where you are filing

County

Name of the county where you are filing

In the Matter of the Emancipation of:

_____,
Your full legal name

Petitioner.

Cause No.: _____

Dept. No.: _____

Filled out by Clerk of District Court

**Petition for
Limited
Emancipation of
a Minor**

I respectfully ask this Court to emancipate me. (*Montana Code Annotated 41-1-501*) In support of this request, I state the following facts:

1 Information about Me

Name: _____
First Middle Last

Address: _____
Street Address

City State

Choose One:

I am currently living with a parent or guardian.

or

I am not currently living with a parent or guardian. I have been living separately from my parents or guardians since (date:) _____.
mm/dd/yyyy

2 Information about My Mother

(Check all that apply):

Mother's Name: _____

Address: _____
Street Address

City *State*

My mother has agreed to my emancipation. A Consent to Limited Emancipation, filled out by my mother, will be filed with this Petition.

My mother is not alive.

My mother's parental rights have been legally terminated.

I do not know where my Mother lives. I last saw her on (date): _____. Please waive my duty to give her notice. I have done the following things to find out where she lives: _____

3 Information about My Father

(Check all that apply):

Father's Name: _____

Address: _____
Street Address

City *State*

- My father has agreed to my emancipation. A Consent to Limited Emancipation, filled out by my father, will be filed with this Petition.
- My father is not alive.
- My father's parental rights have been legally terminated.
- I do not know where my Father lives. I last saw him on (date): _____. Please waive my duty to give him notice. I have done the following things to find out where he lives: _____

3 Information about any Legal Guardians

(Check all that apply):

- I do not have any legal guardians. (Skip to Paragraph Number 4.)
- Guardian's Name: _____
Address: _____
Street Address

City *State*
- My guardian has agreed to my emancipation. A Consent to Limited Emancipation, filled out by my guardian, will be filed with this Petition.
- I do not know where my Guardian lives. I last saw him/her on (date): _____. Please waive my duty to give him/her notice. I have done the following things to find out where he/she lives: _____

4 Required Emancipation Information

a. I am at least 16 years old. (*You must be at least 16 to be emancipated in Montana.*) I turned 16 in *mm/yyyy*):_____.

b. I want to be emancipated.

c. Limited emancipation is in my best interests because (*List the reasons why you want or need to be emancipated.*): _____

d. There is no reason why I should not be emancipated. My emancipation is not against the public interest.

e. I have, or will have, enough money to pay for any costs resulting from my limited emancipation. *Check one:*

I have attached a budget of my income and expenses.

or

Explain how you will pay for your expenses:

f. I have shown that I understand and will be able to exercise my rights and responsibilities after I am emancipated. I have done the following things to prepare for my emancipation. (*List the things you have done to prepare for your emancipation like getting a job, opening a bank account, or renting an apartment. Also list things that show you are responsible enough to take care of yourself.*)

g. *Choose one:*

- I graduated from high school.
- I am currently in school at _____. I will continue to go to high school until I graduate.
- I am postponing my high school education for the following reasons. (*You must give very good reasons for putting off your education if you want the court to emancipate you.*)

h. If the Court thinks I should, I will go to counseling with an advisor.

4 Rights and Responsibilities

I would like the court to give me the following rights and responsibilities

(*Choose all that apply:*)

- The right to live by myself, without supervision;
- The right to live where I choose;
- The right to directly receive and spend money owed to me and handle my own finances
- The right to enter contracts and take on debts;
- The right and authority to ask for my own medical treatment and records;
- The right to get a license to operate equipment or perform services;

Other (*List any other specific rights or responsibilities you are asking for*): _____

_____.

I respectfully ask this Court to:

1. Grant me limited emancipation;
2. Schedule a hearing to decide this matter;
3. Order any other relief the Court decides is just and proper.

Note: *You must sign and date this Petition. By signing, you are telling the Court that:*

- *You have read the Petition;*
- *The information in the Petition is true to the best of your knowledge;*
and
- *You are not using this Petition for an improper reason.*

Date: _____
mm/dd/yyyy

Petitioner's signature: _____
Sign here

Print name: _____

Montana _____ Judicial District Court

Number of the judicial district where you are filing

_____ **County**

Name of the county where you are filing

In the Matter of the Emancipation of:

_____,
Your name

Petitioner.

Cause No.: _____

Dept. No.: _____

Filled out by Clerk of District Court

**Order Setting
Hearing**

The hearing on the Petition for Limited Emancipation of a Minor filed in this case is set for:

- Date: _____
mm/dd/yyyy
- Time: _____
- Place: _____ County Courthouse
County name

Notice of Hearing

1. Written notice of the hearing on this Petition for Emancipation is required and must be given to the following parent(s)/guardian(s):

Check all that apply:

Mother's Name: _____
Address: _____
Street Address

_____ *City* _____ *State*

Father's Name: _____
Address: _____
Street Address

_____ *City* _____ *State*

Guardian's Name: _____
Address: _____
Street Address

_____ *City* _____ *State*

OR

2. Written notice of the hearing on this Petition for Emancipation is not required because:

Check one if applicable

The parent(s)/guardian(s) have filed written consent to this emancipation.

or

The parent(s)/guardian(s) are not legally required to receive notice of the hearing because proof can be made to the court that the address of the parents or legal guardian is unavailable or unascertainable.

Date: _____

DISTRICT COURT JUDGE

Montana _____ Judicial District Court

Number of the judicial district where you are filing

_____ County

Name of the county where you are filing

In the Matter of the Emancipation of:

_____,
Child's full name

Petitioner.

Cause No.: _____

Dept. No.: _____

Filled out by Clerk of District Court

**Notice of Hearing
on Limited
Emancipation of
a Minor**

Notice of Hearing Was Mailed To:

Check all that apply

Mother's Name: _____

Address: _____

Street Address

City

State

Father's Name: _____

Address: _____

Street Address

City

State

Guardian's Name: _____

Address: _____

Street Address

City

State

Notice

A hearing on the Petition for Limited Emancipation of a Minor is set for:

- Date: _____
(mm/dd/yyyy)
- Time: _____ a.m./ p.m
- Location: _____ Courthouse
(county)

Note: If you do not attend the hearing, you may lose your right to be heard in this case. Failure to appear at the hearing could result in the Court granting the limited emancipation.

Date: _____

Clerk of District Court

By: _____
Deputy Clerk of Court

Parent/Guardian name

Parent/Guardian mailing address

City State Zip

Parent/Guardian phone number

Montana _____ Judicial District Court

Number of the judicial district where you are filing

County

Name of the county where you are filing

In the Matter of the Emancipation of:

Child's full name

Petitioner.

Cause No.: _____

Dept. No.: _____

Filled out by Clerk of District Court

**(Optional)
Consent to
Limited
Emancipation of
a Minor**

Information from Parent or Legal Guardian

1 Information about Me

I am the (*choose one*): Mother or Father or Legal Guardian of the
Petitioner.

Name: _____
First Middle Last

Address: _____
Street Address

City State

2 Reasons for my support

I have read the **Petition for Limited Emancipation of a Minor** and consent to the emancipation. I believe it is in the best interest of my child to be emancipated.

3 Waiver of Notice

I waive any right to notice I may have relating to the emancipation of my child, the Petitioner, including any right to notice about the hearing to determine if my child should be emancipated.

Oath or Affirmation of Parent or Legal Guardian

STATE OF MONTANA)
)ss
COUNTY OF _____)

I have read, understood, and completed the above statements concerning the Petition of Limited Emancipation of the above-named minor. By signing this document I am stating to the Court that the information I have provided is true and correct to the best of my knowledge, information and belief, under penalty of perjury.

Date: _____
mm/dd/yyyy

Signature of Parent or Legal Guardian

Print name

SIGNED AND SWORN to before me this _____ day of _____, 2____.

(Seal)

Name (*printed*): _____
Notary Public for the State of Montana.
Residing at _____
My Commission Expires _____

Montana _____ Judicial District Court

Number of the judicial district where you are filing

_____ County

Name of the county where you are filing

In the Matter of the Emancipation of:

Your name

Petitioner.

Cause No.: _____

Dept. No.: _____

Filled out by Clerk of District Court

**Order for Limited
Emancipation of
a Minor**

A Petition for Limited Emancipation of a Minor was filed in this case. A hearing was held on (date:) _____. Based on the evidence, the Court finds:
mm/dd/yyyy

Findings of Fact

1 Petitioner's Information

Name: _____
First Middle Last

Address: _____
Street Address

City State

2 Information Required for Emancipation

- a. Petitioner is 16 years old or older. Petitioner was born in (mm/yyyy): _____
- b. Limited emancipation is in the Petitioner's best interest.
- c. Petitioner wants to be emancipated.

- d. Emancipation of the Petitioner would not be against the public interest.
- e. Petitioner has, or will have, enough money to pay for any costs resulting from limited emancipation.
- f. The Petitioner has shown that s/he understands and will be able to exercise the rights and responsibilities after s/he is emancipated.

Choose One:

- The Petitioner graduated from high school on (date):_____.
- or**
- The Petitioner will continue to go to high school until s/he graduates.
- or**
- The Petitioner has presented circumstances that clearly compel deferral of education.

3 Information about Parent/s or Guardians

Mother's Name: _____

Mother's Address: _____
Street Address

_____ *City* *State*

Father's Name: _____

Father's Address: _____
Street Address

_____ *City* *State*

Legal Guardian's Name: _____

Legal Guardian's Address: _____
Street Address

_____ *City* *State*

Conclusions of Law

The Petitioner's emancipation is allowed under Montana law. Montana Code Annotated 41-1-501.

Order

This Court Orders that:

1 Emancipation

A Limited Order for Emancipation is granted to:

First

Middle

Last

2 Rights and Responsibilities

Petitioner is granted the following rights and responsibilities: (Choose all that apply:)

- The right to live alone, without supervision.
- The right to live in housing of Petitioner's choosing.
- The right to directly receive and spend money that is owed to Petitioner.
- The right to handle his or her own finances.
- The right to enter into contracts and to incur debts.
- The right and authority to ask for his/her medical treatment and own medical records.
- The right to obtain a license to operate equipment and/or perform services.
- Other: _____

3 Counseling

- The Petitioner is not required to undergo periodic counseling.

or

- The Petitioner will undergo periodic counseling with an appropriate advisor.
The advisor is: _____

4 Periodic Reports

The Petitioner will make period reports to this Court. *Please describe how and how often the Petitioner should provide reports to the Court, according to M.C.A. 41-1-501(4).* _____

_____.

Date: _____

DISTRICT COURT JUDGE