

Article 35.

Emancipation.

§ 7B-3500. Who may petition.

Any juvenile who is 16 years of age or older and who has resided in the same county in North Carolina or on federal territory within the boundaries of North Carolina for six months next preceding the filing of the petition may petition the court in that county for a judicial decree of emancipation. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3501. Petition.

The petition shall be signed and verified by the petitioner and shall contain the following information:

- (1) The full name of the petitioner and the petitioner's birth date, and state and county of birth;
- (2) A certified copy of the petitioner's birth certificate;
- (3) The name and last known address of the parent, guardian, or custodian;
- (4) The petitioner's address and length of residence at that address;
- (5) The petitioner's reasons for requesting emancipation; and
- (6) The petitioner's plan for meeting the petitioner's needs and living expenses which plan may include a statement of employment and wages earned that is verified by the petitioner's employer. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3502. Summons.

A copy of the filed petition along with a summons shall be served upon the petitioner's parent, guardian, or custodian who shall be named as respondents. The summons shall include the time and place of the hearing and shall notify the respondents to file written answer within 30 days after service of the summons and petition. In the event that personal service cannot be obtained, service shall be in accordance with G.S. 1A-1, Rule 4(j). (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3503. Hearing.

The court, sitting without a jury, shall permit all parties to present evidence and to cross-examine witnesses. The petitioner has the burden of showing by a preponderance of the evidence that emancipation is in the petitioner's best interests. Upon finding that reasonable cause exists, the court may order the juvenile to be examined by a psychiatrist, a licensed clinical psychologist, a physician, or any other expert to evaluate the juvenile's mental or physical condition. The court may continue the hearing and order investigation by a juvenile court counselor or by the county department of social services to substantiate allegations of the petitioner or respondents.

No husband-wife or physician-patient privilege shall be grounds for excluding any evidence in the hearing. (1979, c. 815, s. 1; 1998-202, s. 6; 2001-490, s. 2.34.)

§ 7B-3504. Considerations for emancipation.

In determining the best interests of the petitioner and the need for emancipation, the court shall review the following considerations:

- (1) The parental need for the earnings of the petitioner;

- (2) The petitioner's ability to function as an adult;
- (3) The petitioner's need to contract as an adult or to marry;
- (4) The employment status of the petitioner and the stability of the petitioner's living arrangements;
- (5) The extent of family discord which may threaten reconciliation of the petitioner with the petitioner's family;
- (6) The petitioner's rejection of parental supervision or support; and
- (7) The quality of parental supervision or support. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3505. Final decree of emancipation.

After reviewing the considerations for emancipation, the court may enter a decree of emancipation if the court determines:

- (1) That all parties are properly before the court or were duly served and failed to appear and that time for filing an answer has expired;
- (2) That the petitioner has shown a proper and lawful plan for adequately providing for the petitioner's needs and living expenses;
- (3) That the petitioner is knowingly seeking emancipation and fully understands the ramifications of the act; and
- (4) That emancipation is in the best interests of the petitioner.

The decree shall set out the court's findings.

If the court determines that the criteria in subdivisions (1) through (4) are not met, the court shall order the proceeding dismissed. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3506. Costs of court.

The court may tax the costs of the proceeding to any party or may, for good cause, order the costs remitted.

The clerk may collect costs for furnishing to the petitioner a certificate of emancipation which shall recite the name of the petitioner and the fact of the petitioner's emancipation by court decree and shall have the seal of the clerk affixed thereon. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3507. Legal effect of final decree.

As of entry of the final decree of emancipation:

- (1) The petitioner has the same right to make contracts and conveyances, to sue and to be sued, and to transact business as if the petitioner were an adult.
- (2) The parent, guardian, or custodian is relieved of all legal duties and obligations owed to the petitioner and is divested of all rights with respect to the petitioner.
- (3) The decree is irrevocable.

Notwithstanding any other provision of this section, a decree of emancipation shall not alter the application of G.S. 14-326.1 or the petitioner's right to inherit property by intestate succession. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-3508. Appeals.

Any petitioner, parent, guardian, or custodian who is a party to a proceeding under this Article may appeal from any order of disposition to the Court of Appeals provided that notice of appeal is given in open court at the time of the hearing or in writing within 10 days after entry of the order.

Entry of an order shall be treated in the same manner as entry of a judgment under G.S. 1A-1, Rule 58 of the North Carolina Rules of Civil Procedure. Pending disposition of an appeal, the court may enter a temporary order affecting the custody or placement of the petitioner as the court finds to be in the best interests of the petitioner or the State. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-309, s. 3.)

§ 7B-3509. Application of common law.

A married juvenile is emancipated by this Article. All other common-law provisions for emancipation are superseded by this Article. (1979, c. 815, s. 1; 1998-202, s. 6.)