

PART V. EMANCIPATION

Rule 501. Emancipation Generally

- (a) **Scope.** These rules and A.R.S. §§ 12-2451 through 12-2456 govern procedures for the emancipation of minors.
- (b) **Definitions.** In emancipation proceedings the following definitions apply:
- (1) ***“Petitioner”*** means the minor seeking emancipation.
 - (2) ***“Respondent”*** means any parent or guardian of the petitioner.
 - (3) ***“Parent”*** means the child’s biological, adoptive, or legal mother or father whose rights have not been terminated. “Parent” does not include a person whose paternity has not been established pursuant to A.R.S. § 25-812 or § 25-814.
 - (4) ***“Guardian”*** means a legally appointed guardian.
- (c) **Allegations of Abuse or Neglect.** If at any time during emancipation proceedings there is an allegation of child abuse or neglect, the court may stay the proceedings under A.R.S. § 12-2452(A) and require DCS to investigate the allegation and submit a written report to the court.
- (d) **Appointment of a GAL.** The court may appoint a GAL for the petitioner at any time during an emancipation proceeding. The court may assess the parent or guardian for the cost of the GAL.
- (e) **Public Access to Records and Hearings.**
- (1) ***Emancipation Record.*** The court must maintain the record of an emancipation case as a public record, but for good cause, the court may order the record closed pursuant to Supreme Court Rule 123.
 - (2) ***Hearings.*** Emancipation hearings must be open to the public, unless the court makes a written finding that closing the hearing is necessary to protect a party or there is a clear public interest in confidentiality.
- (f) **Fee Reduction or Waiver.** At any time before or at the hearing the court, based on financial hardship, may reduce or waive the fee prescribed in A.R.S. § 12-284 for filing an emancipation petition.

Rule 502. Petition and Documentation Requirements

(a) Requirements. A minor may file a petition for emancipation with the clerk of the court in the county in which the minor resides if all the following apply:

- (1)** the petitioner is at least 16 years of age;
- (2)** the petitioner is an Arizona resident;
- (3)** the petitioner is financially self-sufficient; and
- (4)** the petitioner files with the court an acknowledgment that the petitioner has read and understands the information provided by the court that explains the rights and obligations of an emancipated minor and the potential risks and consequences of emancipation.

(b) Content of Petition. A petition for emancipation must be under oath and captioned: “In re the Emancipation of A.B., a minor.” It must state:

- (1)** the petitioner’s name, mailing address, date of birth, and the last four digits (only) of the petitioner’s social security number;
- (2)** the name and mailing address of the petitioner’s parent or guardian if known, and if the address is unknown, a description of the efforts taken to obtain the address;
- (3)** whether the petitioner is a ward of the court or is in the care, custody, or control of a state agency; and
- (4)** specific facts that warrant emancipation and that address the following:
 - (A)** the petitioner’s demonstrated ability to manage the petitioner’s financial affairs, including proof of employment or other means of support;
 - (B)** the petitioner’s demonstrated ability to manage the petitioner’s personal and social affairs, including proof of housing;
 - (C)** the petitioner’s demonstrated ability to live wholly independent of the petitioner’s parent or guardian;
 - (D)** the petitioner’s demonstrated ability and commitment to obtain or maintain education, vocational training, or employment;
 - (E)** whether the petitioner is employed or has obtained an offer of employment;
 - (F)** how the petitioner will obtain or maintain health care; and
 - (G)** any other information considered necessary to support the petition.

(c) Supporting Documentation. The petitioner must provide at least one of the following to support the petition:

- (1) documentation that the petitioner has been living on petitioner's own for at least three consecutive months;
- (2) a statement explaining why the petitioner believes the home of the petitioner's parent or guardian is not a healthy or safe environment; or
- (3) a notarized statement from the petitioner's parent or guardian that contains the parent's or guardian's written consent to the emancipation, with an explanation of the reason for giving consent.

(d) Lack of Information. If a petition fails to include the information required by sections (b) and (c), the court may:

- (1) dismiss the petition without prejudice, or
- (2) require the petitioner to file supplemental information. If the court requires supplemental information, it must give written notice to the petitioner and specify a date for filing the required supplement. The court may dismiss the petition without prejudice if the petitioner fails to file the supplement by that date.

Rule 503. Time for Hearing, Notice of Hearing

- (a) Time for Hearing.** The court must conduct a hearing no later than 90 days after the filing of the petition. The court for good cause may extend the time for conducting the hearing. The following intervals are excluded from the 90-day period:
- (1)** for the petitioner to file supplemental information under Rule 502(d);
 - (2)** for the court to gather correct address information under Rule 503(c);
 - (3)** for the DCS investigation and report under Rule 501(c); and
 - (4)** the time from the court's referral of the matter to mediation or alternative dispute resolution until the filing of a notice of agreement or non-agreement under Rule 504(f).
- (b) Notice of Hearing.**
- (1)** The court must notify the petitioner and the petitioner's parents or guardian, and the appropriate state agency if the petitioner is a ward of the state, of the date, time, and place of the hearing by certified mail no later than 60 days before the hearing date. Notice is effective upon mailing.
 - (2)** The court must provide the petitioner, parents, or guardian, and the appropriate state agency if the petitioner is a ward of the state, a copy of the petition with the notice.
 - (3)** The notice must advise the parents or guardian that if they fail to appear at the emancipation hearing, the court may proceed in the parent's or guardian's absence.
- (c) Incorrect or Unknown Address.** If the notice of hearing and petition are returned to the court as undelivered due to an incorrect address, or if the petition fails to provide an address for a necessary party, the court may make further inquiry of the petitioner, or it may require the petitioner to provide a full explanation concerning efforts to locate the necessary party or the circumstances why the necessary party cannot be located and served with notice.

Rule 504. Proceedings after Service of the Petition

(a) Responses and Objections. The petitioner's parent or guardian may file a written response or objection to the petition for emancipation. An objection to the petition for emancipation must state specifically why the petition for emancipation is inaccurate or should be denied. The parent or guardian must mail or deliver a copy of the response or objection to the petitioner.

(b) Disclosure.

(1) *Duty to Disclose Witnesses and Exhibits.* Unless otherwise ordered by the court, each party must disclose in writing to other parties and the court no later than 20 days before the emancipation hearing the following information:

(A) a list of witnesses the party intends to call at the emancipation hearing, including the names, addresses, and telephone numbers of each witness, and a description of the substance of the witness's expected testimony. The disclosure must identify witnesses whose testimony will be in the form of a deposition, and

(B) a list and copies of all exhibits the party intends to use at the emancipation hearing.

(2) *Exclusion.* The court may exclude witness testimony or an exhibit if the witness or exhibit was not timely disclosed, except in rebuttal or for good cause.

(c) *Objection.* A party who objects to the admission of an exhibit must file a notice of objection that states the specific grounds for each objection, and provide a copy of the notice to all parties and the court no later than 10 days after receipt of the disclosure statement. The court may rule on objections at any time before the emancipation hearing.

(d) *Discovery.* The court may permit discovery only for good cause.

(e) Attendance.

(1) *Petitioner.* The petitioner must personally appear in court for all proceedings unless the court directs otherwise. If the petitioner had notice of the date, time, and place of a hearing, the petitioner's absence may be deemed voluntary and the court may proceed and make findings or enter further orders, including dismissal of the petition.

(2) *Parent or Guardian.* The petitioner's parent or guardian may attend any hearing, but if the parent or guardian has filed an objection to the emancipation they must appear personally or through counsel for all court proceedings, unless

the court directs otherwise. If a parent or guardian had notice of the date, time, and place of a hearing, a parent or guardian's absence may be deemed voluntary and the court may proceed to make findings or enter further orders.

(f) Alternative Dispute Resolution.

- (1) At any time before the emancipation hearing, the court may stay the proceedings and refer the parties to mediation or other alternative dispute resolution.
- (2) If the petitioner's parent or guardian objects to the petition for emancipation, the court must stay further proceedings and refer the matter to mediation or alternative dispute resolution, unless the court reasonably believes that mediation would not be in the petitioner's best interests. The court may consider:
 - (A) whether the petitioner's parent or guardian has been found to have committed abuse, neglect, or abandonment;
 - (B) whether the petitioner's parent or guardian is named as a perpetrator of abuse, neglect, or abandonment in the DCS central registry; and
 - (C) any other relevant information.
- (3) If an agreement is reached through mediation or alternative dispute resolution, the agreement must be signed by all parties and submitted to the court for approval.
- (4) If an agreement is not reached through mediation or alternative dispute resolution, the court must reset and conduct the emancipation hearing.

Rule 505. Determination and Order of Emancipation

- (a) **Burden of Proof.** The petitioner must prove by clear and convincing evidence that emancipation is in the petitioner's best interests.
- (b) **Determination of Emancipation.** The court must determine emancipation based on the petitioner's best interests. The court must consider the following:
- (1) the potential risks and consequences of emancipation and whether the petitioner understands these risks and consequences;
 - (2) the wishes of the petitioner;
 - (3) the opinions and recommendations of the petitioner's parent or guardian;
 - (4) the financial resources of the petitioner, including any employment history and whether the petitioner is employed or has obtained an offer of employment;
 - (5) the petitioner's ability to be financially self-sufficient;
 - (6) the petitioner's education level and success in school;
 - (7) whether the petitioner has any criminal record; and
 - (8) any other factor the court deems relevant.
- (c) **Order of Emancipation.** If the court finds emancipation is in the petitioner's best interests, the court must:
- (1) make the following findings on the record:
 - (A) the petitioner is at least 16 years of age;
 - (B) the petitioner is a resident of this state;
 - (C) the petitioner is financially self-sufficient; and
 - (D) the petitioner has acknowledged in writing that the petitioner has read and understands the information provided by the court that explains the rights and obligations of an emancipated minor and the potential risks and consequences of emancipation;
 - (2) file an order of emancipation with the clerk;
 - (3) provide a copy of the order to the petitioner and any party entitled to notice of the proceeding; and
 - (4) provide a copy of the order to the Department of Economic Security, DCS, or the department's agent if the petitioner is a child in a Title IV-D case.

(d) Appeal. A party may appeal from an order granting or denying the emancipation petition as provided in Rule 601.