

ARTICLE 11
EMANCIPATION

15-11-1101. Conditions under which emancipation may occur

- (a) Emancipation may occur by operation of law or pursuant to a petition filed with the court as provided in this article by a child who is at least 16 years of age.
- (b) An emancipation occurs by operation of law:
 - (1) When a child is validly married;
 - (2) When a child reaches the age of 18 years; or
 - (3) During the period when the child is on active duty with the armed forces of the United States.
- (c) An emancipation occurs by court order pursuant to a petition filed by a child with the juvenile court.

Comments

Georgia’s emancipation statute is current O.C.G.A. §§ 15-11-200 through 15-11-208. These provisions are now in article 11 of the proposed model code. The provisions of the current emancipation statute remain substantively unchanged. The revisions made reflect stylistic and structural changes in keeping with the rest of the proposed model code. To further ensure consistency with the rest of the proposed model code, the term “minor” was revised to “child” and the term “legal custodian” was included along with parent and guardian.

15-11-1102. Petition

A child seeking emancipation shall file a petition for emancipation in the juvenile court in the county where the child resides. The petition shall be signed and verified by the child, and shall include:

- (1) The child's full name and birth date, and the county and state where the child was born;
- (2) A certified copy of the child's birth certificate;
- (3) The name and last known address of the child's parent, guardian, or legal custodian and if no parent, guardian, or legal custodian can be found, the name and address of the child's nearest living relative residing within this state;
- (4) The child's present address and length of residency at that address;
- (5) A declaration by the child demonstrating the ability to manage his or her financial affairs together with any information necessary to support the declaration;
- (6) A declaration by the child demonstrating the ability to manage his or her personal and social affairs together with any information necessary to support the declaration; and
- (7) The names of individuals who have personal knowledge of the child's circumstances and believe that under those circumstances emancipation is in the best interests of the child. Such individuals may include any of the following:
 - (A) Licensed physician or osteopath;
 - (B) Registered professional nurse or licensed practical nurse;
 - (C) Licensed psychologist;
 - (D) Licensed professional counselor, social worker, or marriage and family therapist;
 - (E) School guidance counselor, school social worker, or school psychologist;
 - (F) School administrator, school principal, or school teacher;
 - (G) Member of the clergy;

(H) Law enforcement officer; or

(I) Attorney.

15-11-1103. Summons and time for answer

- (a) Upon filing the petition, a copy of the petition for emancipation and a summons to appear at the hearing shall be served on all persons named in the petition and, upon any individual who provided an affidavit for the emancipation.
- (b) A person served with a petition may file an answer in the juvenile court in which the petition was filed within 30 days of being served.

15-11-1104. Appointment of counsel and guardian ad litem; affidavits of adults supporting emancipation

- (a) After a petition for emancipation is filed, the court may:
 - (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file a report with the court, including a recommendation as to whether it is in the best interests of the child that the petition for emancipation be granted;
 - (2) Appoint an attorney for the child; and
 - (3) Appoint an attorney for the child's parent, guardian, or legal custodian if they are indigent and if they oppose the petition.
- (b) After a petition for emancipation is filed, the court shall seek an affidavit from each person identified in the petition pursuant to paragraph (7) of Code section 15-11-1102 which describes why that person believes the child should be emancipated.

15-11-1105. Standard of proof

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

Comments

This new provision is current O.C.G.A. § 15-11-205(b) and remains substantively unchanged. This revision was made in keeping with the organizational structure of other articles that contain separate provisions governing the standard of proof.

15-11-1106. Emancipation hearing; findings

- (a) The court shall issue an emancipation order if, after a hearing, it determines that emancipation is in the best interests of the child and the child has established:
 - (1) That the child's parent, guardian, or legal custodian does not object to the petition; or if a parent, guardian, or legal custodian objects to the petition, that the best interests of the child are served by allowing the emancipation to occur by court order;
 - (2) That the child is a resident of this state;
 - (3) That the child 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 received from means-tested public assistance programs such as Temporary Assistance for Needy Families or similar programs under Title IV-A of the federal Social Security Act;
 - (4) That the child has the ability to manage his or her personal and social affairs, including, but not limited to, proof of housing; and
 - (5) That the child understands his or her rights and responsibilities under this article as an emancipated child.
- (b) If the court issues an emancipation order, the court shall retain a copy of the order until the emancipated child becomes 25 years of age.
- (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order does not affect an obligation, responsibility, right, or interest that arose during the period of time the order was in effect.
- (d) The child or the child's parent, guardian, or legal custodian may appeal the court's grant or denial of an emancipation petition. The appeal shall be filed in the Court of Appeals.

Comments

The original language from current O.C.G.A. § 15-11-205(b) was stricken and moved to its own provision. It is now P.M.C. § 15-11-1105.

15-11-1107. Rescission of emancipation order

- (a) A child emancipated by court order may petition the juvenile court that issued the emancipation order to rescind such order.
- (b) A copy of the petition for rescission and a summons shall be served on the child's parent, guardian, or legal custodian.
- (c) The court shall grant the petition and rescind the order of emancipation if it finds:
 - (1) That the child is indigent and has no means of support;
 - (2) That the child and the child's parent, guardian, or legal custodian agree that the order should be rescinded; or
 - (3) That there is a resumption of family relations inconsistent with the existing emancipation order.
- (d) 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 child becomes 25 years of age.
- (e) 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.
- (f) The child or a parent, guardian, or legal custodian of the child may appeal 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.

15-11-1108. Rights of emancipated child; limitations

- (a) A child 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 the child because of his or her age. The rights of a child to receive any transfer of property or money pursuant to "The Georgia Transfers to Minors Act"; under the Uniform Transfers to Minors Act, the Uniform Gift to Minors Act, or other substantially similar act of another state; or pursuant to a trust agreement shall not be affected by a declaration of an emancipation under this article.

- (b) A child shall be considered emancipated for the purposes of, but not limited to:
 - (1) The right to enter into enforceable contracts, including apartment leases;
 - (2) The right to sue or be sued in his or her own name;
 - (3) The right to retain his or her own earnings;
 - (4) The right to establish a separate domicile;
 - (5) 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;
 - (6) The right to earn a living, subject only to the health and safety regulations designed to protect those under the age of 18 regardless of their legal status;
 - (7) The right to authorize his or her own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability;
 - (8) The right to apply for a driver's license or other state licenses for which he or she might be eligible;
 - (9) The right to register for school;
 - (10) The right to apply for medical assistance programs and for other welfare assistance, if needed;
 - (11) The right, if a parent, to make decisions and give authority in caring for his or her own minor child; and

- (12) The right to make a will.
- (c) The parent, guardian, or legal custodian of a child emancipated by court order is not liable for any debts incurred by the child during the period of emancipation.

15-11-1109. Duty to support; emancipated child not a deprived child; ability to marry

- (a) The duty to provide support for a child shall continue until an emancipation order is granted.
- (b) A child emancipated under this article shall not be considered a "deprived child."
- (c) The provisions set forth in Code section 19-3-2 regarding age limitations to contract for marriage shall apply to a child who has become emancipated under this article.