

# EMANCIPATION OF MINORS IN WISCONSIN

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## I. What is “emancipation” of a minor?

- A. Emancipation of a minor is when a child becomes legally independent from their parent(s) or guardian(s). In Wisconsin, when a child turns 18 years old, they are legally emancipated from their parents.
- B. Wisconsin law relies on the philosophy that parents are responsible for their minor children and minor children are subject to their parents. Emancipation is one means of legally limiting or breaking that parent-child relationship.
- C. Some states have a formal process allowing a child to request emancipation from their parents before they turn 18.

## II. Summary of emancipation in Wisconsin

- A. There is no formal process for a minor to request emancipation from their parents in Wisconsin.
  - i. But courts may grant emancipation, on a case-by-case basis, for a variety of reasons. See *Niesen v. Niesen*, 38 Wis.2d 599 (1968) (sons changing their surname did not emancipate themselves from their father).
- B. A child can become emancipated if they are a legally married minor over the age of 16. Wis. Stats. §§ [54.46\(6\)](#), [765.02\(2\)](#).
- C. A minor may have independence as if they were emancipated in certain situations. Examples:
  - i. A minor’s earnings are their sole property if their parent neglects or refuses to provide for the minor’s support or for the minor’s education. [Wis. Stat. § 48.987](#).
  - ii. Definition of emancipation solely for purposes of parental consent to abortion and judicial waiver. [Wis. Stat. § 48.375\(2\)\(e\)](#).
- D. Even if a minor is emancipated, the parent may still be responsible for some duties.

## III. Wisconsin does not have a formal process for a minor to become

**emancipated.** But certain laws nevertheless address emancipation or provide for certain levels of independence from a minor’s parent(s):

- A. A minor’s earnings are their sole property if their parent neglects or refuses to provide for the minor’s support or for the minor’s education. [Wis. Stat. § 48.987](#).
- B. Minors who have been married, previously given birth, or freed from the care custody, and control of their parents do not require parental consent to obtain an abortion. [Wis. Stat. § 48.375\(2\)\(e\)](#).
- C. Guardianship of a competent minor ward terminates upon marriage. [Wis. Stat. 54.64\(3\)\(d\)](#).
- D. If a party to an action or proceeding is a minor, the party shall appear by attorney, by the general guardian of the party’s property or by a guardian ad litem. The law does not carve out an explicit exception for emancipated

minors, so a court may still appoint a guardian ad litem to represent the best interests of an emancipated minor. [Wis. Stat. § 803.01\(3\)](#).