

# Emancipated Teen Parents and the TANF Living Arrangement Rules

## A Fact Sheet

### **What is emancipation?**

Emancipation is a legal process in which a minor (a person under 18) petitions the court to have herself declared a legal adult. Emancipation laws vary from state to state, but generally emancipation ends the parents' legal duty to support the minor, and also ends the parents' right to make decisions about the minor's residence, education, health care, and to control the minor's conduct. However, it does not mean that the minor is the same as an adult for all purposes (for example, voting and alcohol-purchase age laws are not affected by emancipation). The extent to which an emancipated minor is treated as an adult varies from state to state, but emancipated minors generally can enter into binding contracts, sue and be sued, establish a residence, and consent to medical treatment on the same basis as adults.

### **What are the requirements for emancipation?**

Minors who marry or join the armed forces generally qualify for emancipation. In addition, most states allow emancipation of minors upon proof that they are capable of living as adults. These laws vary from state to state, but they generally require that: (1) the minor is managing her own finances, has a legal source of income, and is not financially dependent on her parents; (2) the minor is living independently from her parents (some states require a separate residence; others allow emancipation of minors who still live in their parents' home but pay rent or otherwise show independence); and (3) emancipation would be in the minor's best interest.

Some states specifically exclude public benefits such as TANF from being considered as a source of income when a minor petitions for emancipation. A few states also allow emancipation to be revoked if a minor later becomes dependent on public benefits. How the TANF rules apply to emancipated minors is still an important question, however, because many states do not restrict emancipation to minors who are not on public assistance, and even in states that do, the need to apply for TANF could arise after a minor is emancipated (e.g., if she loses a job).

Some states also require the consent or acquiescence of the minor's parents. Also, some states require that the minor already be living independently at the time of the emancipation petition; others allow emancipation upon a showing that the minor has an acceptable plan to live independently in the future.

Most states' emancipation laws do not discuss how courts should handle cases where the minor has a child. One state (Connecticut), requires consideration of the best interests of any child of the minor. Several other state laws include criteria that courts could interpret to include the interests of the teen's child, such as whether the minor is able to manage her personal affairs, whether emancipation is in the best interests of the minor's family, etc.

### **What are the teen parent living arrangement rules in the federal welfare law (the Personal Responsibility and Work Opportunity Reconciliation Act, or PRWORA)?**

The federal welfare law passed in 1996 generally prohibits an unmarried minor who is a custodial parent from receiving Temporary Assistance to Needy Families (TANF) assistance for herself, unless she is living with a parent, legal guardian, or other adult relative (42 U.S.C. ' 608(a)(5)(A)). However, a minor can be exempted from this living arrangement rule if:

- 1) the minor has no parent, guardian, or adult relative who is living or whose whereabouts are known;
- 2) the minor has no parent, guardian, or adult relative who will allow her to live in their home;
- 3) the state agency determines that the minor or her child is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the parent, guardian, or adult relative's home;
- 4) the state agency determines that living with a parent, guardian, or adult relative presents a risk of imminent or serious harm to the minor or her child; or
- 5) the state agency determines that it is in the best interest of the minor's child to waive the rule (42 U.S.C. ' 608(a)(5)(B)(ii)).

If a minor parent qualifies for one of these five exemptions, the state agency must provide, or assist her in locating, an alternative adult-supervised supportive living arrangement, unless the state agency determines that her current living arrangement is appropriate. (An adult-supervised supportive living arrangement is defined as one in which teen parents are

required to learn parenting skills, budgeting, and other skills to promote their long-term economic independence and the well-being of their children.)

The state may provide TANF assistance to an exempt minor, on the condition that she and her child continue to reside in an appropriate living arrangement. (42 U.S.C. ' 608(a)(5)(B)(i)).

### **Are emancipated teen parents automatically exempt from the living arrangement rules?**

No. Despite having adult status in some areas, emancipated minors do not have all of the legal rights of adults. They are still subject to legal restrictions phrased in terms of age. The living arrangement rules in the federal welfare reform law apply to any person who is under 18 years old (42 U.S.C. ' 608(a)(5)(A)(ii)(I)). Some emancipated minors, will, of course, fall into one of the five federal exemption criteria. While the federal rules do not specify emancipation as an exemption category, states can develop their own policies concerning emancipated minors as long as those policies are consistent with federal requirements.

### **How can emancipated teen parents qualify for exemptions from the TANF living arrangement rules?**

State agencies may waive the living arrangement rules for emancipated minors on a case-by-case basis by applying the *best interests* exception or another exemption criteria. Or, they may enact laws or regulations, or issue policy guidance to local welfare offices, to take emancipation into account in determining the best interests of the minor's child (exemption 5, above), and/or in determining whether to approve an independent living arrangement for an exempt minor.

**Exemptions:** Some emancipated minors will fall into one of the first four exemption categories, because they have no parent or relative who can provide a safe, appropriate home for them. Other emancipated minors may qualify under the fifth exemption category, which requires a state agency determination that it is in the best interest of the minor's child to waive the living arrangement rules. State agencies can either perform this analysis for emancipated minors on a case by case basis, or can adopt laws or regulations stating that it is generally in the best interest of an emancipated minor's child to waive the living arrangement rules.

**Current Living Arrangement:** For minors who qualify under one of the exemption categories, the state must either help the minor find an adult-supervised supportive living arrangement *or* determine that the minor's current living arrangement is appropriate. Again, the state can make this determination on a case-by-case basis for emancipated

minors, or adopt laws, regulations, or policies stating that the current living arrangements of emancipated minors are presumed to be appropriate.

Either through case-by-case determinations or under special state statutes, regulations, or policies, many emancipated teen parents should qualify for waivers of the living arrangement rules. Emancipated minors have already gone through a court process requiring them to show that they are financially independent from their parents, live independently, and that it would be in their best interests to be emancipated. After a court has found that a teen parent meets these requirements, there would usually be no reason for a state agency to find that it is *not* in an emancipated teen's child's best interests to allow the teen to continue living independently, or that the teen's living arrangement is not appropriate. Although most states' emancipation standards do not explicitly include consideration of the interests of the minor's children, if emancipation is found to be in a minor's best interests, it will generally be in her child's best interests as well.

To achieve fairness and consistency in the application of the TANF living arrangement rules to emancipated teen parents, states should adopt laws, regulations, or policy guidance explicitly addressing how emancipated teens' cases will be handled.

Finally, since many emancipated teens have been living independently for some time, and may be estranged from their parents and relatives, in the rare event that an emancipated teen parent is forced to return to the home of a parent or relative to qualify for TANF benefits, state agencies should provide counseling and other supportive services to minimize any harmful effects of the transition on the teen parent and her child.