

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 708

S.P. 225

February 13, 2007

An Act To Amend the Laws Concerning the Emancipation of Minors

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook. (BY REQUEST)

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 15 MRSA §3003, sub-§6**, as enacted by PL 1977, c. 520, §1, is repealed.

3 **Sec. 2. 15 MRSA §3101, sub-§2, ¶E**, as enacted by PL 1981, c. 619, §3, is
4 repealed.

5 **Sec. 3. 15 MRSA §3301, sub-§5, ¶A**, as amended by PL 1999, c. 624, Pt. B, §9,
6 is further amended to read:

7 A. Decide that action requiring ongoing supervision is not required either in the
8 interests of the public or of the juvenile. If the juvenile community corrections officer
9 determines that the facts in the report prepared for the community corrections officer
10 by the referring officer pursuant to section 3203-A, subsection 3 are sufficient to file
11 a petition, but in the community corrections officer's judgment the interest of the
12 juvenile and the public will be served best by providing the juvenile with services
13 voluntarily accepted by the juvenile and the juvenile's parents, guardian or legal
14 custodian ~~if the juvenile is not emancipated~~, the juvenile community corrections
15 officer may refer the juvenile for that care and treatment and not request that a
16 petition be filed;

17 **Sec. 4. 15 MRSA §3301, sub-§5, ¶B**, as amended by PL 1999, c. 624, Pt. B, §9,
18 is further amended to read:

19 B. Make whatever informal adjustment is practicable without a petition. The
20 juvenile community corrections officer may effect whatever informal adjustment is
21 agreed to by the juvenile and the juvenile's parents, guardian or legal custodian ~~if the~~
22 ~~juvenile is not emancipated~~, including a restitution contract with the victim of the
23 crime and the performance of community service. Informal adjustments may extend
24 no longer than 6 months and may not be commenced unless:

25 (1) The juvenile community corrections officer determines that the juvenile and
26 the juvenile's parents, guardian or legal custodian, ~~if the juvenile is not~~
27 ~~emancipated~~, were advised of their constitutional rights, including the right to an
28 adjudicatory hearing, the right to be represented by counsel and the right to have
29 counsel appointed by the court if they are indigent;

30 (2) The facts establish prima facie jurisdiction, except that any admission made
31 in connection with this informal adjustment may not be used in evidence against
32 the juvenile if a petition based on the same facts is later filed; and

33 (3) Written consent to the informal adjustment is obtained from the juvenile and
34 the juvenile's parents, guardian or legal custodian ~~if the juvenile is not~~
35 ~~emancipated~~;

36 **Sec. 5. 15 MRSA §3304, sub-§3**, as amended by PL 1999, c. 624, Pt. B, §15, is
37 further amended to read:

38 **3. Service.** The summons must be directed to and served upon the juvenile and the
39 juvenile's parents, guardian or legal custodian ~~if the juvenile is not emancipated~~. The

1 summons must be served in hand or by leaving it at the juvenile's and parents', guardian's
2 or legal custodian's dwelling house or usual place of abode with a person of suitable age
3 and discretion residing in that house or by mailing it to the last known address of the
4 juvenile. A copy of the summons must be mailed to the juvenile community corrections
5 officer and the attorney for the State.

6 **Sec. 6. 15 MRSA §3316, sub-§2, ¶A**, as repealed and replaced by PL 1999, c.
7 127, Pt. B, §6, is amended to read:

8 A. A commitment of a juvenile to a Department of Corrections juvenile corrections
9 facility pursuant to section 3314 must be for an indeterminate period not to extend
10 beyond the juvenile's 18th birthday unless the court expressly further limits or
11 extends the indeterminate commitment, as long as the court does not limit the
12 commitment to less than one year nor extend the commitment beyond a juvenile's
13 21st birthday and as long as an order does not result in a commitment of less than one
14 year, unless the commitment is for an indeterminate period not to extend beyond the
15 juvenile's 21st birthday. Nothing in this Part may be construed to prohibit the
16 provision to a juvenile following the expiration of the juvenile's term of commitment
17 of services voluntarily accepted by the juvenile and the juvenile's parents, guardian or
18 legal custodian ~~if the juvenile is not emancipated~~; except that these services may not
19 be extended beyond the juvenile's 21st birthday.

20 **Sec. 7. 15 MRSA §3316, sub-§4, ¶A**, as repealed and replaced by PL 1999, c.
21 127, Pt. B, §6, is amended to read:

22 A. This chapter does not prevent a juvenile from receiving services from the
23 Department of Corrections pursuant to a voluntary agreement with the juvenile and
24 the juvenile's parents, guardian or legal custodian ~~if the juvenile is not emancipated~~.

25 **Sec. 8. 15 MRSA §3402, sub-§2, ¶B**, as repealed and replaced by PL 1979, c.
26 512, §9, is amended to read:

27 B. The juvenile's parents, guardian or legal custodian on behalf of the juvenile, if
28 ~~the juvenile is not emancipated and~~ the juvenile does not wish to appeal.

29 **Sec. 9. 15 MRSA §3506-A**, as amended by PL 1989, c. 126, §§1 and 2 and PL
30 2003, c. 689, Pt. B, §6, is repealed.

31 **Sec. 10. 18-A MRSA §5-802, sub-§(a)**, as enacted by PL 1995, c. 378, Pt. A, §1,
32 is amended to read:

33 (a). An adult ~~or emancipated minor~~ with capacity may give an individual
34 instruction. The instruction may be oral or written. The instruction may be limited to
35 take effect only if a specified condition arises. An oral instruction is valid only if made to
36 a health-care provider or to an individual who may serve as a surrogate under section 5-
37 805, subsection (b).

38 **Sec. 11. 18-A MRSA §5-802, sub-§(b)**, as amended by PL 1999, c. 711, §2, is
39 further amended to read:

1 (b). An adult ~~or emancipated minor~~ with capacity may execute a power of attorney
2 for health care, which may authorize the agent to make any health-care decision the
3 principal could have made while having capacity. The power must be in writing and
4 signed by the principal and 2 witnesses. Notwithstanding any law validating electronic or
5 digital signatures, signatures of the principal and witnesses must be made in person and
6 not by electronic means. The power remains in effect notwithstanding the principal's
7 later incapacity and may include individual instructions. Unless related to the principal
8 by blood, marriage or adoption, an agent may not be an owner, operator or employee of a
9 residential long-term health-care institution at which the principal is receiving care.

10 **Sec. 12. 18-A MRSA §5-805, sub-§(a)**, as amended by PL 1999, c. 411, §2, is
11 further amended to read:

12 (a). A surrogate may make a decision to withhold or withdraw life-sustaining
13 treatment for a patient who is an adult ~~or emancipated minor~~ if the patient has been
14 determined by the primary physician to lack capacity, no agent or guardian has been
15 appointed or the agent or guardian is not reasonably available and the patient is in a
16 terminal condition or a persistent vegetative state as determined by the primary physician.

17 A surrogate also is authorized to make any other health care decision for a patient who is
18 an adult ~~or emancipated minor~~ if the patient has been determined by the primary
19 physician to lack capacity and no agent or guardian exists, except that a surrogate may
20 not deny surgery, procedures or other interventions that are lifesaving and medically
21 necessary.

22 A medically necessary procedure is one providing the most patient-appropriate
23 intervention or procedure that can be safely and effectively given.

24 **Sec. 13. 19-A MRSA §1653, sub-§13**, as enacted by PL 1995, c. 694, Pt. B, §2
25 and affected by Pt. E, §2, is amended to read:

26 **13. Automatic adjustments.** The order of the court or hearing officer may include
27 automatic adjustments to the amount of money paid for the support of a child when the
28 child attains 12 or 18 years of age; or when the child graduates, withdraws or is expelled
29 from secondary school; or attains 19 years of age ~~or is otherwise emancipated~~, whichever
30 occurs first.

31 **Sec. 14. 19-A MRSA §1732, sub-§4**, as enacted by PL 1999, c. 486, §3 and
32 affected by §6, is amended to read:

33 **4. Child custody proceeding.** "Child custody proceeding" means a proceeding in
34 which legal custody, physical custody or visitation with respect to a child is an issue. The
35 term includes a proceeding for divorce, separation, neglect, abuse, dependency,
36 guardianship, paternity, termination of parental rights and protection from domestic
37 violence, in which the issue may appear. The term does not include a proceeding
38 involving juvenile delinquency, ~~contractual emancipation~~ or enforcement under
39 subchapter III 3.

40 **Sec. 15. 19-A MRSA §2006, sub-§8, ¶G**, as enacted by PL 2005, c. 352, §5, is
41 amended to read:

1 G. With regard to any initial or modified child support order that affects more than
2 one child and that was entered before January 18, 2005, unless that order states the
3 manner in which the order must be modified upon the events listed in subparagraphs
4 (1) to (4), that the order be automatically modified pursuant to this paragraph to
5 address any of the following events:

- 6 (1) Any child reaches 18 years of age and has graduated from secondary school;
- 7 (2) Any child reaches 19 years of age without having graduated from secondary
8 school; or
- 9 ~~(3) Any child obtains an order of emancipation; or~~
- 10 (4) Any child dies.

11 As of the date of an event listed in subparagraphs (1) to (4), the total child support
12 amount stated in the order must be decreased by the child support amount assigned to
13 that child in the worksheets accompanying the child support order or as set forth in
14 the order.

15 **Sec. 16. 19-A MRSA §2101, sub-§4**, as enacted by PL 1995, c. 694, Pt. B, §2
16 and affected by Pt. E, §2, is amended to read:

17 **4. Dependent child.** "Dependent child" means any minor child ~~who is not~~
18 ~~emancipated.~~

19 **Sec. 17. 19-A MRSA §2306, sub-§4, ¶E**, as enacted by PL 1995, c. 694, Pt. B,
20 §2 and affected by Pt. E, §2, is amended to read:

21 E. The child is ~~emancipated or~~ adopted.

22 **Sec. 18. 19-A MRSA §2359, sub-§6, ¶C**, as enacted by PL 1995, c. 694, Pt. B,
23 §2 and affected by Pt. E, §2, is amended to read:

24 C. The child has reached majority ~~or has otherwise been emancipated;~~ or

25 **Sec. 19. 19-A MRSA §4002, sub-§2**, as enacted by PL 1995, c. 694, Pt. B, §2
26 and affected by Pt. E, §2, is amended to read:

27 **2. Adult.** "Adult" means a person 18 years of age or older ~~or a person under 18~~
28 ~~years of age who is emancipated pursuant to Title 15, section 3506-A.~~

29 **Sec. 20. 20-A MRSA §3251**, as amended by PL 2001, c. 454, §11, is further
30 amended to read:

31 **§3251. School privileges in the unorganized territories**

32 Subject to such reasonable rules as the commissioner may adopt, all persons who
33 have attained the age of 5 years on October 15th and have not reached 20 years of age
34 before the start of the school year and who reside with a parent in the unorganized
35 territory or who are ~~resident emancipated minors or~~ residents at least 18 years old are
36 eligible to attend elementary and secondary schools and to receive appropriate special
37 education and related services without charge to themselves or their parents. Education

1 must be provided in alignment with the system of learning results as established in
2 section 6209 under the direction of the commissioner and must meet the general
3 standards for elementary and secondary schooling and special education established
4 pursuant to this Title.

5 **Sec. 21. 20-A MRSA §5202, sub-§2**, as amended by PL 1985, c. 789, §§3 and 9,
6 is further amended to read:

7 **2. General rule.** A person is eligible to attend schools in the school administrative
8 unit where the person's parent resides; or where the person resides upon reaching the age
9 of 18 years ~~or upon becoming an emancipated minor~~. A federal installation ~~shall be~~ is
10 considered part of the school administrative unit in which it is located.

11 **Sec. 22. 20-A MRSA §8301-A, sub-§7**, as corrected by RR 2003, c. 2, §42, is
12 amended to read:

13 **7. Residence.** "Residence" means, with reference to a person's eligibility to receive
14 career and technical education, the school administrative unit in which is located the legal
15 residence of the person's parent if the person has not reached 18 years of age; or the legal
16 residence of the person after the person reaches 18 years of age ~~or the legal residence of~~
17 ~~the person after the person becomes an emancipated minor~~. A federal reservation is
18 considered part of the school administrative unit in which it is located.

19 **Sec. 23. 20-A MRSA §8601-A, sub-§9**, as enacted by PL 1991, c. 518, §33, is
20 amended to read:

21 **9. Residence.** "Residence" means, with reference to a person's eligibility to receive
22 adult education, the school administrative unit in which is located the legal residence of
23 the person's parent if the person has not reached 18 years of age; or the legal residence of
24 the person after the person reaches 18 years of age; ~~or the legal residence of the person~~
25 ~~after the person becomes an emancipated minor~~. A federal reservation is considered part
26 of the school administrative unit in which it is located.

27 **Sec. 24. 20-A MRSA §8605, sub-§3, ¶A**, as enacted by PL 2005, c. 151, §2, is
28 amended to read:

29 A. The transferor superintendent and the transferee superintendent may approve the
30 transfer of a student from one school administrative unit to another if they find that
31 the transfer is in the student's best interest and the student is in agreement with that
32 finding. If the student has not attained 18 years of age ~~and is not an emancipated~~
33 ~~minor~~, the student's parent must approve of the transfer.

34 **Sec. 25. 22 MRSA §1503**, as enacted by PL 1995, c. 694, Pt. C, §8 and affected
35 by Pt. E, §2, is amended to read:

36 **§1503. Authority**

37 A minor may give consent to all medical, mental, dental and other health counseling
38 and services if the minor:

1 **1. Living separately; independent of parental support.** Has been living separately
2 from parents or legal guardians for at least 60 days and is independent of parental
3 support;

4 **2. Married.** Is or was legally married; or

5 **3. Armed Forces.** Is or was a member of the Armed Forces of the United States; ~~or,~~

6 ~~**4. Emancipated.** Has been emancipated by the court pursuant to Title 15, section~~
7 ~~3506-A.~~

8 **Sec. 26. 22 MRSA §3472, sub-§2,** as amended by PL 2003, c. 653, §2, is further
9 amended to read:

10 **2. Adult.** "Adult" means any person who has attained 18 years of age ~~or who is a~~
11 ~~legally emancipated minor.~~

12 **Sec. 27. 22 MRSA §4036, sub-§1, ¶E,** as amended by PL 1983, c. 480, Pt. B,
13 §27, is repealed.

14 **Sec. 28. 22 MRSA §4038, sub-§1,** as amended by PL 1997, c. 715, Pt. B, §7, is
15 further amended to read:

16 **1. Mandated review.** If a court has made a jeopardy order, it shall review the case
17 at least once every 6 months, unless the child has been ~~emancipated or~~ adopted.

18 **Sec. 29. 22 MRSA §5104, sub-§1-A,** as enacted by PL 1989, c. 329, §7, is
19 amended to read:

20 **1-A. Adult.** "Adult" means any person who has attained the age of 18 years ~~or who~~
21 ~~is a legally emancipated minor.~~

22 **Sec. 30. 24-A MRSA §2407, sub-§2,** as enacted by PL 1969, c. 132, §1, is
23 amended to read:

24 **2.** Any minor not less than 15 years of age, ~~nearest birthday,~~ may, notwithstanding
25 ~~his~~ the minor's minority, contract for or own annuities, or insurance, or affirm by
26 novation or otherwise preexisting contracts for annuities or insurance upon ~~his~~ the minor's
27 own life, body, health, property, liabilities or other interests, or on the persons of another
28 in whom the minor has an insurable interest. Such a minor ~~shall,~~ notwithstanding such
29 minority, ~~be is~~ deemed competent to exercise all rights and powers with respect to or
30 under any contract for annuity or for insurance upon ~~his~~ the minor's own life, body or
31 health, or any contract ~~such~~ the minor effected upon ~~his~~ the minor's own property,
32 liabilities or other interests, or any contract effected or owned by the minor on the person
33 of another, as might be exercised by a person of full legal age, and may at any time
34 surrender ~~his~~ the minor's interest in any ~~such~~ contracts and give valid discharge for any
35 benefit accruing or money payable ~~thereunder~~ under the contract. Such a minor ~~shall is~~
36 not, by reason of ~~his~~ minority, ~~be~~ entitled to rescind, avoid or repudiate the contract, nor
37 to rescind, avoid or repudiate any exercise of a right or privilege ~~thereunder~~ under the
38 contract, except that such a minor ~~not otherwise emancipated shall is~~ not be bound by any

1 unperformed agreement to pay by promissory note or otherwise, any premium on any
2 such annuity or insurance contract.

3 **Sec. 31. 26 MRSA §774, sub-§5**, as enacted by PL 1991, c. 713, §4, is amended
4 to read:

5 **5. Application.** This section does not apply to a person who holds a high school
6 diploma or a high school equivalency certificate issued pursuant to Title 20-A, section
7 257 ~~or to a minor emancipated pursuant to Title 15, section 3506-A.~~

8 **Sec. 32. 29-A MRSA §352, sub-§1**, as repealed and replaced by PL 1995, c. 482,
9 Pt. B, §2, is amended to read:

10 **1. Application for registration.** The Secretary of State may not approve the
11 application of a minor for registration of a vehicle unless the minor is at least 15 years old
12 and the application is signed by:

13 A. A parent or guardian who has the custody of the minor; or

14 B. If the minor has no parent or guardian, the minor's employer; ~~or~~

15 ~~C. If the minor is emancipated, the minor. In this case, the application must be~~
16 ~~accompanied by an attested copy of the court order of emancipation.~~

17 **Sec. 33. 29-A MRSA §1302, sub-§1**, as enacted by PL 1993, c. 683, Pt. A, §2
18 and affected by Pt. B, §5, is amended to read:

19 **1. Authorization.** The Secretary of State may not accept the application for a
20 license of a minor unless the application is:

21 A. Signed by a parent or guardian;

22 B. Signed by the spouse of the minor, provided the spouse is 18 years of age or
23 older; or

24 C. When the minor has no parent, guardian or spouse who has attained ~~the age of~~
25 18 years of age, signed by the employer of the minor if that employer is 18 years of
26 age or older; ~~or~~

27 ~~D. Accompanied by an attested copy of a court order of emancipation under Title~~
28 ~~15, section 3506-A.~~

29 **Sec. 34. 32 MRSA §4321, sub-§5**, as enacted by PL 1997, c. 206, §1, is amended
30 to read:

31 **5. Minor.** "Minor" means an individual under 18 years of age ~~who is not~~
32 ~~emancipated as defined by Title 15, section 3003, subsection 6.~~

33 **Sec. 35. 34-A MRSA §9004, sub-§1**, as enacted by PL 1983, c. 459, §6, is
34 repealed and the following enacted in its place:

35 **1. Requisition for return of juvenile.** The parent, guardian, person or agency
36 entitled to legal custody of a juvenile who has not been adjudged delinquent, but who has

1 run away without the consent of the parent, guardian, person or agency, may petition the
2 appropriate court in the demanding state for the issuance of a requisition for the juvenile's
3 return. The petition must state the name and age of the juvenile, the name of the
4 petitioner and the basis of entitlement to the juvenile's custody, the circumstances of the
5 juvenile's running away, the location of the juvenile if known at the time application is
6 made and any other facts that may show that the juvenile who has run away is
7 endangering the juvenile's own welfare or the welfare of others. The petition must be
8 verified by affidavit, must be executed in duplicate and must be accompanied by 2
9 certified copies of the document or documents on which the petitioner's entitlement to the
10 juvenile's custody is based, such as birth certificates, letters of guardianship or custody
11 decrees. Further affidavits and other documents that are determined proper may be
12 submitted with the petition. The judge of the court to which this application is made may
13 hold a hearing on the petition to determine whether for the purposes of this compact the
14 petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the
15 juvenile has in fact run away without consent and whether or not it is in the best interest
16 of the juvenile to compel the juvenile's return to the demanding state. If the judge
17 determines, either with or without a hearing, that the juvenile should be returned, the
18 judge shall present to the appropriate court or to the executive authority of the state where
19 the juvenile is alleged to be located a written requisition for the return of the juvenile.
20 The requisition must include the name and age of the juvenile, the determination of the
21 court that the juvenile has run away without the consent of a parent, guardian, person or
22 agency entitled to the juvenile's legal custody, and that it is in the best interest and for the
23 protection of the juvenile that the juvenile be returned. If a proceeding for the
24 adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in
25 the court at the time the juvenile runs away, the court may issue a requisition for the
26 return of the juvenile upon its own motion, regardless of the consent of the parent,
27 guardian, person or agency entitled to legal custody, reciting in the requisition the nature
28 and circumstances of the pending proceeding. The requisition must in every case be
29 executed in duplicate and must be signed by the judge. One copy of the requisition must
30 be filed with the compact administrator of the demanding state, there to remain on file
31 subject to the law governing records of the court. Upon the receipt of a requisition
32 demanding the return of a juvenile who has run away, the court or the executive authority
33 to whom the requisition is addressed shall issue an order to any peace officer or other
34 appropriate person directing the peace officer to take into custody and detain the juvenile.
35 The detention order must substantially recite the facts necessary to the validity of its
36 issuance under this section. A juvenile detained upon such an order must be delivered
37 over to the officer whom the court demanding the juvenile has appointed to receive the
38 juvenile, unless the juvenile is first taken before a judge of a court in the state in which
39 the juvenile is detained, who shall inform the juvenile of the demand made for the
40 juvenile's return and who may appoint counsel or a guardian ad litem for the juvenile. If
41 the judge of the court finds that the requisition is in order, the judge shall deliver the
42 juvenile over to the officer whom the court demanding the juvenile has appointed to
43 receive the juvenile. The judge may fix a reasonable time to be allowed for the purpose
44 of testing the legality of the proceeding.

45 Upon reasonable information that a person is a juvenile who has run away from another
46 state party to this compact without the consent of a parent, guardian, person or agency
47 entitled to the juvenile's legal custody, the officer whom the court demanding the juvenile

1 has appointed to receive the juvenile may take the juvenile into custody without a
2 requisition and bring the juvenile before a judge of the appropriate court who may
3 appoint counsel or a guardian ad litem. The judge shall determine after a hearing whether
4 sufficient cause exists to hold the the juvenile, subject to the order of the court, for the
5 juvenile's own protection and welfare, for a time not exceeding 90 days to enable the
6 juvenile's return to another state party to this compact pursuant to a requisition for the
7 juvenile's return from a court of that state. If, at the time when a state seeks the return of
8 a juvenile who has run away, there is pending in the state where the juvenile is found any
9 criminal charge, or any proceeding to have the juvenile adjudicated a delinquent juvenile
10 for an act committed in the state, or if the juvenile is suspected of having committed
11 within the state a criminal offense or an act of juvenile delinquency, the juvenile may not
12 be returned without the consent of the state until discharged from prosecution or other
13 form of proceeding, imprisonment, detention or supervision for the offense or juvenile
14 delinquency. The duly accredited officers of any state party to this compact, upon the
15 establishment of their authority and the identity of the juvenile being returned, must be
16 permitted to transport the juvenile through any and all states party to this compact without
17 interference. Upon the juvenile's return to the state from which the juvenile ran away, the
18 juvenile is subject to such further proceedings as may be appropriate under the laws of
19 that state.

20 **Sec. 36. 34-B MRSA §7004, sub-§2, ¶A**, as enacted by PL 1983, c. 459, §7, is
21 amended to read:

22 A. Persons under age 18 years and not married ~~or otherwise emancipated~~;

23 **Sec. 37. 36 MRSA §2551, sub-§1-A**, as enacted by PL 2005, c. 12, Pt. VV, §1, is
24 amended to read:

25 **1-A. Community support services.** "Community support services" means
26 rehabilitative services provided to adults at least 18 years of age ~~or to emancipated~~
27 ~~children~~ that are provided in the context of a supportive relationship pursuant to an
28 individual support plan that promotes a person's recovery and integration of the person
29 into the community and that sustain the person in that person's current living situation or
30 another living situation of that person's choice. "Community support services" ~~include~~
31 includes only those services provided by a designated community support services
32 provider licensed by and operating under a contract with the Department of Health and
33 Human Services for such services, whether the provider is reimbursed through
34 participation in the MaineCare program or with state grant funds.

35

SUMMARY

36 The bill repeals the laws that allow a minor 16 years of age or older to petition the
37 court to be emancipated.