

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 20: Other Child Support Related Topics</b>	<b>Effective Date: 04/06/2022</b>
	<b>Section 8: Emancipation</b>	<b>Version: 1 Date: 04/06/2022</b>

**BACKGROUND**

Generally, the age of emancipation is the age when the child support obligation is terminated. A child may become emancipated due to other circumstances as outlined below.

**POLICY**

In Indiana, the duty to support a child under a current child support obligation ceases when the child becomes 19 years of age unless any of the following conditions occurs:

1. The child is emancipated by order of the Court before becoming 19 years of age;<sup>1</sup>
2. The child is incapacitated and upon order of the Court the child support obligation is to continue during the child’s incapacity;<sup>2</sup> or
3. The child is a full-time student in a high school and a parent or guardian of the child files notice advising the Court that the child continues to be enrolled in a high school, with the child support obligation continuing and terminating upon the child’s graduation from high school.<sup>3</sup>

A Court may order the child to be emancipated prior to the age of 19 if it finds that the child:

1. Is on active duty in the United States armed services;<sup>4</sup>
2. Has married;<sup>5</sup> or
3. Is not under the care or control of either parent, or an individual approved by the Court.<sup>6</sup>

A Court may also order the child to be emancipated if the child:

1. Is at least 18 years of age;<sup>7</sup>
2. Has not attended or enrolled in a high school for the prior four (4) months;<sup>8</sup> and
3. Is, or is capable of, supporting himself or herself through employment.<sup>9</sup>

**REFERENCES**

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<sup>1</sup> IC 31-16-6-6(a)(1)  
<sup>2</sup> IC 31-16-6-6(a)(2)  
<sup>3</sup> IC 20-18-2-18(a); IC 31-16-6-6(a)(4)  
<sup>4</sup> IC 31-16-6-6(b)(1)  
<sup>5</sup> IC 31-16-6-6(b)(2)  
<sup>6</sup> IC 31-16-6-6(b)(3)  
<sup>7</sup> IC 31-16-6-6(a)(3)(A)  
<sup>8</sup> IC 20-18-2-18(a); IC 31-16-6-6(a)(3)(B)  
<sup>9</sup> IC 31-16-6-6(a)(3)(C)

- [IC 20-18-2-18](#): “Secondary school”
- [IC 31-16-6-2](#): Expenses for child’s education and health care; Title IV-D fees
- [IC 31-16-6-6](#): Termination of child support obligation; exceptions; petition for educational needs
- [IC 31-16-8-1](#): Modification or revocation of child support order or maintenance order
- [IC 31-18.5-6-4](#): Choice of Law
- [IC 31-1.5-6-11](#): Modification of child support order of another state
- [Ind. Child Support Rules and Guidelines](#)
- [28 U.S.C. § 1738B](#): Full faith and credit for child support orders
- [45 C.F.R. § 303.8](#): Review and adjustment of child support orders.
- [Dennison v. Dennison, 696 N.E.2d 88 \(Ind. Ct. App. 1998\)](#)

## PROCEDURE

### 1. Emancipation of Child as a Matter of Law

For current child support orders with only one (1) unemancipated child, the statewide child support system will, upon the child reaching the age of 19, close the current child support account and the current child support obligation will be terminated. Any arrears that accumulated prior to the child’s emancipation will remain payable by the obligor.

If an order established a child support obligation for several children, considered an “in gross” order, the statewide child support system does not close the current child support account to reflect the emancipation of a child until the youngest child for whom the obligation has been established has reached the age of 19. The “in gross” order amount continues until a modification of the child support order has been judicially approved that reflects the remaining unemancipated child(ren).<sup>10</sup>

### 2. Incapacity of a Minor Child

If the Court determines that a child is incapacitated, the Court may order that the current child support obligation continues during the child’s incapacity or until further order of the Court.<sup>11</sup> At the request of a party to an open Title IV-D case, the Title IV-D Prosecutor’s Office is strongly encouraged to petition the Court to extend an obligor’s child support obligation beyond the emancipation age of 19 to reflect a child’s incapacitation, if applicable. Indiana case law holds that a judicial determination to continue support beyond the statutory emancipation age may occur after the statutory emancipation age, for so long as the disability occurred prior to that date.<sup>12</sup>

### 3. Child is a Full-Time Student in High School at Age 19

If a child is a full-time student in high school, a parent or guardian of the child may file a notice with the Court that the child continues to be enrolled in high school. The Court, upon the filing of this notice, may order that the current child support obligation

<sup>10</sup> Ind. Child Support Guideline 4 Commentary

<sup>11</sup> IC 31-16-6-6(a)(2)

<sup>12</sup> *Dennison v. Dennison*, 696 N.E.2d 88 (Ind. Ct. App. 1998)

continue, and terminate upon the child's graduation from high school.<sup>13</sup> The notice filed with the Court must not be filed before the child reaches 17 years of age, but not later than when the child reaches 19 years of age.<sup>14</sup> The notice must include proof of the child's enrollment and the child's expected graduation date.<sup>15</sup>

#### 4. Emancipation Choice of Law in Enforcement of Another State's Order

Pursuant to the Uniform Interstate Family Support Act (UIFSA), as well as the Full Faith and Credit for Child Support Orders Act, a Court shall apply the age of emancipation of the State that initially issued the order.<sup>16</sup> The Title IV-D Prosecutor's Office determines the emancipation laws of the initial issuing State and applies that age of emancipation in determining when the duty to support ceases.

### **FORMS AND TOOLS**

N/A

### **FREQUENTLY ASKED QUESTIONS**

1. Q. Prior to a child's emancipation as a matter of law, may support be established for that child for post-secondary educational expenses?
  - A. Yes, a parent or guardian of the child may file a petition with the Court for an order establishing an educational expense order prior to the age of 19.<sup>17</sup> Petitions to establish orders for post-secondary educational expenses shall not be filed by the Title IV-D Prosecutor's Office. Orders for post-secondary educational expenses shall not be entered into the statewide child support system.

### **RELATED INFORMATION**

1. Chapter 10: Child Support Order Establishment, Section 3: Indiana Child Support Rules and Guidelines
2. Chapter 13: Review and Adjustment - Modification of the Child Support Order, Section 2: Review and Adjustment Procedures
3. Chapter 16: Intergovernmental Processing, Section 9: Determining Continuing, Exclusive Jurisdiction (CEJ) and Modification of Support Orders
4. Chapter 20: Other Child Support Related Topics, Section 3: Post-Secondary Educational Expenses

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<sup>13</sup> IC 31-16-6-6(a)(4)

<sup>14</sup> IC-31-16-6-6(c)(1)

<sup>15</sup> IC 31-16-6-6(c)(2)

<sup>16</sup> IC 31-18.5-6-4(a)(1); IC 31-18.5-6-11(d); 28 U.S.C. § 1738B(h)(2)

<sup>17</sup> IC 31-16-6(f); For more information, see Chapter 20: Other Child Support Topics, Section 3: Post-Secondary Educational Expenses