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1999

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# How Children In Cults May Use Emancipation Laws To Free Themselves

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## Abstract

The author examines how children who are born into cults or brought into them at a young age can use state emancipation laws to gain independence when they are in their mid-teens, so long as they can demonstrate criteria that their states have established. Commonly, states require a showing that the minor has achieved some level of economic self-sufficiency and can live emotionally and physically independently from his or her parents. There are some difficulties for cultic children in demonstrating these criteria, but the obstacles are not insurmountable.

American jurisprudence and shared family values promote harmonious relations within families. However, the reality for many families is that children, before reaching the statutory age of majority in their state, which is 18,<sup>1</sup> either with or without their parents' consent, seek to free themselves of parental control. Frequently, these minors also find means to support themselves. This article focuses more specifically on how emancipation laws<sup>2</sup> may assist children in cults to gain their freedom.<sup>3</sup> Minors<sup>4</sup> who are in cults ("cultic children") were either born or forced into one before the age of majority because one or both parents were members of the cult. In society at large, attempting to leave one's parents could be difficult for most children, but for cultic children, exiting the family brings even more complexities.

Much has been written about what defines an organization as a "cult." Dr. Michael Langone, editor of *Cultic Studies Journal*, has devised a checklist of characteristics of cults (see Appendix).<sup>5</sup> He has suggested that for organizations that meet most of these characteristics, "you might consider examining the group more closely."<sup>6</sup>

Children raised in cults undergo unique experiences that neither adult members nor children in society at large experience. Cultic children are often separated from their biological parents because most cults believe in independently indoctrinating these children to be future members, and because parents are needed to do missionary work that involves travel.<sup>7</sup> Frequently there are no records of cultic children's births or deaths.<sup>8</sup> Cultic children are generally kept out of public schools or structured and traditional sectarian and non-sectarian schools.<sup>9</sup> Having received no formal educational training, cultic children lack educational and social skills.<sup>10</sup> Cultic children often are subjected to emotional and physical abuse, including beatings, incest, rape, starvation, forced prostitution<sup>11</sup> and denial of medical and dental care.<sup>12</sup>

This article addresses how cultic children may use emancipation laws, which are available to minors in society at large, to achieve various degrees of adult status depending upon the laws of their state and their individual circumstances. As this article describes, lack of educational, job, and social skills makes it difficult for cultic children to establish the financial self-sufficiency necessary to achieve emancipation. Cultic children are often "unprepared for freedom."<sup>13</sup> But cultic children do successfully exit cults, and some have done so before the age of majority.

Part I of this article explains our states' laws regarding how minors can achieve emancipation.<sup>14</sup> Part II provides examples of how cultic children have apprised themselves

of emancipation laws and used them to free themselves of their cults. The obstacles for achieving emancipation are discussed in Part III. Differences between complete and partial emancipation are discussed in Part IV. Part V discusses termination of emancipation status. In Part VI, the potential for cult leaders and cultic parents to abuse emancipation laws for purposes other than they are intended is examined. Part VII suggests that legal reform is necessary to improve the emancipation process.

### **I. How Minors can Achieve Emancipation Status**

For minors seeking emancipation, states' laws vary; therefore, minors need undergo different legal processes depending upon the state. States have either court-pronounced rules regarding emancipation, which is called "judicial" emancipation, or they have legislature-pronounced rules, which is called "statutory" emancipation.<sup>15</sup> Judicial emancipation usually arises in the context of a legal case involving a related matter,<sup>16</sup> such as in a case involving whether parents were liable for their child's medical bills. Judicial emancipation can occur across a broad spectrum of lawsuits because parties come to court for many different reasons, and it is in that larger context, that the issue of the child's emancipation arises.<sup>17</sup>

In general, statutory emancipation states provide more guidance than judicial emancipation states. In those states that have emancipation statutes, the laws vary from state to state in both substantive and procedural rules for seeking emancipation.<sup>18</sup> The more complex statutes provide better guidance than the less specific ones, such as specific criteria that courts must consider in deciding whether a minor has been living independently and, therefore, has established grounds for emancipation.<sup>19</sup> The less complex statutes simply define when minority status terminates, usually automatically upon the occurrence of certain events such as marriage or military enlistment.<sup>20</sup> Some states have a minimum age requirement, and some do not.<sup>21</sup> Many emancipation statutes require that the "best interest of the child" be demonstrated.<sup>22</sup>

Emancipation laws generally provide that children can initiate terminating their relationships with their parents before the children reach the age of majority,<sup>23</sup> and some provide specific procedures for minors to follow,<sup>24</sup> but some states permit the parents to petition as well.<sup>25</sup> Other states' laws provide that a minor does not need to petition the state for emancipation and that "self-emancipation" can occur when the minor voluntarily leaves home and supports herself.<sup>26</sup> In such states, if there is no opposition from the minor's parents, the minor does not need to go to court in order to establish emancipation.

Upon receiving emancipation status, the emancipated minor is afforded the rights and privileges of an adult to varying degrees, depending upon the state. For emancipated adolescents seeking to live independently, the status of "minor" can be a hindrance. In society at large, and for cultic children as well, the legal status of a "minor" means she "lacks capacity" and possesses "disabilities"<sup>27</sup> by reason of her age, which, by definition, is below that of "majority." The disabilities of a minor include the inability to enter into contracts with third parties, to establish a residence separate from her parents, to consent to medical care, and to govern her own life.<sup>28</sup> In judicial emancipation, courts have pronounced that minors are emancipated, but have failed to take away the hindrances of the disabilities.<sup>29</sup> The result has been that the minor was unable to function as an adult even though the parents have been relieved of support obligations.<sup>30</sup> Some state statutes address the rights of the emancipated child relative to third parties by permitting emancipation concomitant with extinguishing disabilities and gaining legal rights as adults. These states require a public recording of the emancipation decree to put third parties on notice.<sup>31</sup> This serves to remove disabilities such as the presumption of the minor's incapacity to enter into binding contracts.<sup>32</sup>

Regardless of whether statutory or judicial emancipation is the vehicle, each case is examined based upon the factual circumstances surrounding that particular family. In states with emancipation statutes, the statutes themselves provide guidance; in states without such statutes, courts use prior cases as guideposts.<sup>33</sup> In both judicial and statutory emancipation, courts look back in time at how the child at the center of legal controversy has been surviving during the past year or so. Courts also look forward to estimate whether the child's self-sufficiency will continue. Self-sufficiency is the focus of emancipation laws.

The more common factors in determining emancipation are whether the minor is financially self-supporting, whether she is living at home, and the number of years she is from majority.<sup>34</sup> For example, in a judicial emancipation case, an Idaho court weighed heavily the minors' financial self-sufficiency, which was demonstrated by his full-time employment, financial independence, lack of financial support and parental supervision from either parent, time spent living away from home, and that neither parent claimed him as a dependent on his or her tax return.<sup>35</sup> As a result, the court found that the 16-year old minor was emancipated.<sup>36</sup> Courts will also take into account a multitude of other facts. For instance, a Kentucky court found a live-at-home 20-year old to be emancipated not just because she was financially independent, but also because she exercised independent discretion as to whether she attended church and frequented the movies, bought her own furniture, carried her own life insurance, took vacations independently of her parents, and maintained her own checking account.<sup>37</sup>

States' laws lack uniformity regarding what *source* of income a minor may claim to establish emancipation. For example, in California, a minor is considered indigent and without means of support if she is subsisting totally on public assistance benefits.<sup>38</sup> In contrast, Connecticut's emancipation statute permits the minor to claim any source of income to establish financial independence, as long as it is lawful.<sup>39</sup>

Generally speaking, a cultic child who seeks emancipation, in either a judicial or statutory emancipation state, would need to demonstrate that she was maintaining economic self-sufficiency. The broad factual circumstances existing in her situation would also be taken into account.<sup>40</sup> Emotional and physical independence from parents are also relevant factors.

## **II. Examples Cultic Children Who Used Emancipation Laws to Free Themselves from Their Cults**

Anecdotal evidence reveals that some cultic children have used the emancipation laws to achieve freedom. "Evan" was in a cult and successfully achieved emancipation for a limited purpose.<sup>41</sup> As a minor Evan and his brother were born into a religion-based "church" in the Northeastern United States. His father left the church and his family when Evan was 3 years old. Evan, his brother and his mother remained in the church. They shared houses with as many as forty other church members. His family moved from state to state, but most recently they lived in New York. For most of Evan's early life, he lived under relatively clean and uncrowded conditions, unlike those at other church sites, which, in one case, reportedly housed as many as 170 people in a 2500 square foot loft.<sup>42</sup>

In the ninth through mid-eleventh grades, Evan attended a Christian high school that was not affiliated with his church. When he was not in school, at the urging of the church, Evan attended lengthy church services in the evenings and non-school days. The pastor of the church controlled much of what went on in his life and in the lives of the members. Evan recalled how frequently members were forced to reveal sins publicly to other members and ask for forgiveness. He witnessed adult members being publicly humiliated by other members and young male members being beaten by elder members. Minors were not permitted to date each other. Evan described the level of control by the pastor as, "Everything he said, goes. If he said television is bad -- everyone would throw out his or her TV set."<sup>43</sup>

All members were compelled to work in church businesses. Evan was coerced to do manual labor for the church from the time he was 12 years old, for which he was never paid. He worked mostly on construction projects, and sometimes he did carpet and floor cleaning, upholstery work, woodwork, and painting. According to Evan, the church operated a number of profitable businesses, including carpet cleaning, building construction and renovation, and antique dealing.

When Evan turned 17, and was beginning the third semester of the 11th grade in his Christian high school, his mother took him out of school so that he could spend more time with the church. Evan did not want to leave the school where he had made friends outside of the church and he was excelling in his studies. Furthermore, he discovered that there was no tutoring occurring in the home schooling by the church; rather, the children were sent to a room to read texts, to be tested only by self-administered written exams. Evan felt that the elders were indifferent to the education of the children. In Evan's view, the church leaders felt threatened by the Christian school he attended, because it prepared eleventh-graders for college. According to Evan, if young church members went to college, the church would lose its ongoing membership and some of its labor force.

At the time that Evan was battling with his church over his school choice, the church moved him, his mother and younger brother to another group home where the "conditions were *bad*."<sup>44</sup> Evan found there were roaches and mice in this house, and that no one was cleaning the bathrooms. Frustrated with the poor housing conditions, Evan left and went to a friend's house. A church member followed him, and for the next two days his mother and other members tried to persuade him to return. Evan sought assistance from former church members who understood why Evan wanted to leave the church. AFF<sup>45</sup> gave advice, as did the non-profit agency -- The Door.<sup>46</sup> As a result, Evan began working toward attaining emancipation status.

Because New York does not have an emancipation statute for minors, Evan had to rely on judicial emancipation law. Agencies that counsel adolescents, such as The Door,<sup>47</sup> as well as high school guidance counselors<sup>48</sup> are generally aware that there are three common law criteria used to determine if a minor has been living in an emancipated status. To establish emancipation, a minor needs to demonstrate that she 1) has been living on her own, separate from her parents; 2) has been receiving no financial assistance from parents or guardians, and is self-sufficient; and 3) has been managing her own financial affairs.<sup>49</sup> Because New York does not afford complete emancipation rights<sup>50</sup> to minors, even to those who meet these three criteria, Evan sought to demonstrate that he was emancipated for a limited purpose. Evan's purpose of establishing emancipation was to convince school administrators that he was capable of deciding on his own to attend the school.<sup>51</sup>

Evan was not able to obtain an official court document stating that he had achieved emancipation because there are no court procedures governing emancipation in New York. The Door assisted Evan in providing him with a letter that he presented to his school.<sup>52</sup> The letter stated that based upon factual circumstances, it appeared that Evan would be capable of managing his own affairs independent of his church group.

Evan was able to demonstrate to the high school that he was capable of deciding that he wished to remain in school and that he had achieved a modicum of emancipation. A family outside of the church rented a bedroom to him, and he obtained a job outside of the church to pay rent and other necessary expenses. Exiting the church was emotionally painful for Evan because he loved his mother, but he needed to escape the deplorable living conditions of the church and attend the high school of his choice. Evan has since graduated from the high school of his choice, gone through basic military training, and he is now gainfully employed with the military. He hopes that his brother and mother will soon exit also, so that they can all live together outside the church.

Another example of how emancipation laws have assisted minors in cults is the case of a minor named "John."<sup>53</sup> John was attempting to leave a religious organization reputed to be a destructive cult. His mother, who was in the group, raised him. He had moved from state to state in the southeastern United States with this group for most of his life, until he exited by flying to Denmark where he found the assistance of a non-profit "safe house." Through his friends in the states, John contacted legal counsel in a few of the southern states concerning the laws of emancipation, but decided to pursue legal emancipation in Denmark.

### **III. Difficulties for Cultic Children in Demonstrating Economic Self-Sufficiency**

It may be difficult for a child who has been raised in a cult, or who has spent much of her recent history in one, to demonstrate economic self-sufficiency in her quest for emancipation for several reasons. First, cult members' labor may not easily parlay into mainstream employment skills. Second, cultic children often suffer from deficient social skills necessary to maintain a job in society at large. Third, cult leaders are likely to oppose a cultic child's attempts to excel in school and/or gain outside employment. Fourth, cultic children, such as Evan discussed above, who provide their own labor for the cult often do not receive direct compensation and are not permitted control over their own finances. Finally, cultic children are often raised in group living situations, even if they are separated from their parents, which would make demonstrating a history of self-sufficiency less credible.

#### **A. Obstacles On Account of Deficient Job and Social Skills and Educational Experience**

"Andrew" is a former child cultist who felt limited in terms of technical job skills. As a former member of a psychological/political cult who was brought into the organization by his parents when he was two years old,<sup>54</sup> Andrew found that the group restricted his educational experience and gave him limited employment skills. When he left the group at 23, he had meager carpentry experience, but he was able to parlay these minimal skills into a full-time carpentry job.

Upon entering the workforce, Andrew found that because of the stultifying teachings of the group, he was deficient in social skills that are necessary to get along with coworkers. The group had restricted conversation solely to that of the dogma of its leader. Andrew was trained to feel guilty about conversing with anyone -- inside or outside of the group -- about topics not pertaining to the scriptures of the organization, and had felt guilty when he violated this training. When Andrew came out of the group and began to interact with others at his workplace construction site, he learned to acquire a sense of humor and to talk about subjects other than religion. With the help of exit counselors, Andrew adjusted to mainstream work and society, and eventually attended college and graduated with an engineering degree. He is currently happily employed.

Andrew's mother, "Barbara," had similar recollections of Andrew's childhood -- particularly about his limited education.<sup>55</sup> She had abdicated parental involvement in Andrew's life for the good of the leader and the group. Barbara had believed that the group's leader was Andrew's parent. What she had wanted most from her son was that he be "a good little member" so that the leader would view her, in turn, as a good member.<sup>56</sup> The leader discouraged Andrew from participating in sports, even though there was one sport that he liked to play, and he was forced to abandon it. Andrew attended a high school that was not affiliated with the cult, and his mother recalled how Andrew was discouraged from doing well in his high school studies because excelling in anything was threatening to the leader. Consequently, she never attended a parent-teacher event or any school function. Any kindness or nurturing that Barbara had attempted to direct towards Andrew was ridiculed by the group as "maternal madness."<sup>57</sup>

"Carl" had limiting experiences similar to Andrew's, even though Carl was a member of a different group and lived in a different country.<sup>58</sup> At age 13, Carl's parents brought him into a cult, which he eventually left at age 26. Carl described the group as having been founded in a South American country, and claiming to have branches in 22 countries. The leader and the ideology of the group advocated anti-communism, illegality of divorce, pre-Vatican Catholicism, and anti-agrarian reform. According to the teachings of the group, the world was controlled by one entity, called the "Revolution," which was headed by Jews who were always referred to in derogatory terms. The group viewed itself as spearheading the counter-revolution.

Carl suffered verbal, emotional, and physical abuse from his parents while they were members of this group, as well as humiliation, verbal abuse and strict ideology from the group leaders. Against the wishes of the group, he took classes and trained himself in computer skills. Carl eventually left the group, and he presently runs his own computer consulting business in the United States.

These histories portray some of the difficulties that cultic children may have in achieving emancipation. They often have limited education and few job skills. Emancipation may be denied if the child is financially dependent on her parents or the cult because there is a court-imposed duty for parents to financially support their children.<sup>59</sup> Emancipation may also be denied if the child cannot show a means of supporting herself. But lack of financial independence is not necessarily fatal to the child's emancipation prospects as the histories of Andrew and Carl demonstrate.

### **B. Obstacles On Account of Group Living Situations-Lack of Economic Self-Sufficiency**

Dr. Margaret Thaler Singer, a clinical psychologist and expert on cults and psychological manipulation, has observed that it is a prevalent phenomenon for parents and children in cults to be separated from one another.<sup>60</sup> Even though they may have been living apart from their parents, however, cultic children who attempt to exit cults and attain emancipation status may encounter difficulties in demonstrating that they have achieved independence. In group living situations, the cultic children most likely would not be managing their own financial affairs.

Carl, discussed above, was separated from his biological family when he was sent abroad.<sup>61</sup> He recalled that the group convinced his parents that a non-Christian revolution was occurring in American schools. According to Carl, in order for him to be properly instructed in the Christian counter-revolution, the group, with the consent of his parents, took him out of school in the United States at the age 15 and sent him to Brazil, the headquarters of the organization, without his parents. He perceived that his parents were happy to relinquish parental rights, which were onerous to them.

In Brazil, Carl's life was controlled by the group. He was introduced to more "bizarre" acts than those he had witnessed by the group in the U.S. The leader mandated that members of the cult attend long-winded meetings that went until late at night or early in the morning. They were called upon arbitrarily to recite from memory the teachings of the leader. If members failed to do a proper reading, they were jeered and forced out of the auditorium. While not in meetings, members were required to study the writings of the leader or the "Bible" of the organization.

Carl was often subjected to other group rituals and "intense ceremonies," which included a "monastic" ceremony where members were expected to take vows of chastity, silence and poverty. In these ceremonies, an accused member who was found to be sinful would be subjected to punishment that could include bread and water for a week, or forced to stand for hours on end with his arms outstretched in the shape of a cross.

The cult discouraged outside employment, yet it had taken out a credit card in his name and may have been planning to renege on paying the debt. Carl chose to get a job as a security officer to pay this bill.

Carl found that there was an "intensity" about living in Brazil with this group, which was overwhelming and "terrifying" for him. While in Brazil, he had attempted to send letters to his parents asking them to take him back, but his letters were intercepted by the group's leaders, and he was subjected to pressure to stay. When communication eventually reached his parents, they told him that he must stay with the group in Brazil. In order to maintain his visa, he had to cross the border several times, and each time was a "bizarre and scary adventure" as he was at the mercy of cult members from various countries.

"Debra" was born into an international religious cult.<sup>62</sup> She, like Carl, experienced separation from her parents while living with the cult, living instead with other members abroad.<sup>63</sup> She was dubbed a "blessed child" (meaning she was born without sin) because she was the first child born of the church in the Western Hemisphere. She was devastated when the church separated her from her parents and sent her to Korea as a young teenager to learn the teachings of the cult leader. She reported that many children were separated from their parents and that this caused great emotional turmoil. She, along with other children in the church, suffered loneliness and depression. They were raised, however, together as a group.

Andrew, described above, also observed separation of families in the cult in which he was raised. He saw his cult destroy families for what it considered to be the greater good of the cult.<sup>64</sup> The family unit was perceived as threatening to the organization. His immediate family stayed intact only because his parents were spiritual leaders, but his parents were cut off from their parents, which eliminated any chance for Andrew to have a relationship with his grandparents. He recalled his grandparents being distraught. While his family stayed together, Andrew rarely saw his parents because they were busy teaching, publishing, and attending classes for the organization. Andrew reported that his childhood cultic friends also were separated from their parents and shuttled from place to place.

These examples show that while it seems that children separated from their parents within their cults could more easily establish their financial independence, the truth is that the cults maintain control over the child. Because financial self-sufficiency is often at the heart of granting emancipation, cultic children may have difficulties demonstrating such.

Furthermore, a cult leader or other cult members may block the child's attempts to exit the organization. A cult leader and other members may also try to assist or force the parent to intervene in the child's legal proceedings to prevent emancipation. In states that provide for statutory emancipation, courts would likely deny emancipation to a minor if her parents opposed.<sup>65</sup> Nevertheless the cultic child may conceivably argue that because she had been living separately from her parents within the cult organization, at least partial emancipation had been achieved. Whether the courts would look beyond the narrow definition of biological parents in the cultic context, and find that the minor was never truly emancipated because she had surrogate parenting in the larger cultic organization, would need to be determined on a case-by-case basis.<sup>66</sup>

#### **IV. Complete Versus Partial Emancipation**

Minors can be declared as having achieved either complete or partial emancipation.<sup>67</sup> Complete emancipation occurs when a court relinquishes the parents of their financial obligations for their child. Partial emancipation starts when the child is given some rights of independence, but the parents retain some obligations, usually child support.<sup>68</sup> Partial emancipation can also be decreed for a limited period of time.<sup>69</sup> Some statutes provide that minors can receive partial emancipation status for specific medical procedures, discussed



*infra* in Part IV.C. For instance, Michigan's statute provides that an incarcerated minor may have partial emancipation status for purposes of consenting to medical treatment, but this status ends upon termination of the services.<sup>70</sup>

### **A. Complete Emancipation - A Double-Edged Sword**

Complete emancipation may result in some or all of the following, depending upon the state: (1) parental consent is no longer needed for medical care; (2) the minor can enter into binding contracts with third parties; (3) the minor can bring a lawsuit in her own name, rather than the name of a parent or guardian; (4) the minor is free of parental control; (5) the minor can live separately and establish residence; and (6) the minor is entitled to her own earnings.<sup>71</sup>

Complete emancipation may be a double-edged sword. The advantage for the minor is that she achieves full adult status upon attaining complete emancipation. (The advantage on the parents' side is that vicarious parental liability is removed, meaning that parents would not continue to be liable to third parties for the torts of their children.<sup>72</sup>) The disadvantage for the minor is that emancipation terminates the minor's right to financial support. Furthermore, just as emancipated minors may bring lawsuits in their own name, they can be defendants in a lawsuit. In many instances, therefore, a middle ground -- partial emancipation -- may be more advantageous from the minor's perspective.<sup>73</sup>

### **B. Partial Emancipation**

The question of whether a child is completely or partially emancipated usually arises in the context of who owes money to whom. In the child support context, for instance, courts are reluctant to find complete emancipation if the child still needs support.<sup>74</sup> For a minor who wishes to leave a cult, her living arrangement options may be to live with a family friend, a foster care family, or some other group home. Possibly, these supportive networks may entitle her to partial emancipation. If she is granted partial emancipation status, she may be free to leave a cult and continue to receive financial support from these outside sources or from her parents who remain in the cult.

### **C. Medical Treatment Cases**

Apart from deciding whether minors are self-sufficient enough to establish emancipation for purposes of carrying on their own financial affairs, courts and legislatures have been deciding the thorny issue of whether minors are completely or partially emancipated for purposes of consenting to or refusing major or nonmajor medical treatment. This issue is of particular relevance for minors who are in cults, or for minors whose parents are in cults, because cults often convince their members to refuse medical treatment.

Generally, it is not problematic for courts to decide whether a minor can give consent to receive medical treatment for a terminal illness. If medical professionals recommended the treatment, then the state's interest in saving the minor's life and the minor's interest in having the treatment would be the same.<sup>75</sup> It is more problematic for courts to decide whether the minor has a right to refuse life-saving treatment.

Traditionally, common law gave parents responsibility for deciding whether their child should undergo major and nonmajor medical treatment.<sup>76</sup> Courts and some state legislatures<sup>77</sup> have carved-out exceptions to the common law rule, among which are situations involving minors seeking emergency treatment, mature minors, minors with financial emancipation status, and minors seeking a specific medical purpose. Most states provide that in emergency situations, health care workers can provide medical treatment to minors without parental consent if the parents are unavailable.<sup>78</sup>

In an often-cited case, an Illinois court recognized the "mature minor" exception for a minor who was a few months away from her 18th birthday and who refused life-sustaining medical

treatment.<sup>79</sup> The Illinois court found that the minor was emotionally mature enough to make that decision, and her parents were in agreement with their daughter's decision. Tennessee and West Virginia also recognized the mature minor exception. Their courts adopted the mature minor exception in cases where the minor was emotionally mature and was capable of refusing or consenting to medical treatment without parents' consent.<sup>80</sup>

A few states have upheld an exception to the rule that parents' consent is needed for minors' medical treatment based upon whether the minor has achieved financial emancipation status. But this exception usually arises when the medical provider is seeking payment from the minor's parents for services rendered to the minor. Florida and Virginia courts have held that the minors at issue had been financially on their own and independent from their parents' control before receiving medical care, and thereby the courts released the parents of financial responsibility to pay the medical bills for the treatment of these minors.<sup>81</sup> In a case involving whether the minor had the right to consent, a Washington court recognized that the particular minor at issue was independent of parental control and was supporting himself, his wife, and child, and therefore was emancipated for the purpose of giving consent to surgery if he understood the consequences.<sup>82</sup> The appellate court agreed with the trial court that it is a jury question as to whether the minor was "sufficiently intelligent, educated and knowledgeable to make a legally binding decision."<sup>83</sup> In that case, the minor had consented to having a vasectomy and then later sued his doctor for negligence in having performed it.<sup>84</sup>

Whether minors can consent to a one-time medical treatment has been hotly contested in the courts and the legislatures. Minors generally have rights, subject in some states to certain conditions, to purchase contraception, have abortions, and to consent to a continuous course of treatment for a specific condition or disease, such as alcoholism, drug abuse, and mental health disorders.<sup>85</sup> The legal issues surrounding contraception and abortion have received perhaps the most judicial attention from the United States Supreme Court. The High Court has declared void a number of state statutes that gave parents the ultimate authority over whether their child could have an abortion. In balancing the rights of the child with those of the parents, and in considering the states' interests, the Court advised states to adopt judicial bypass options whereby minors seeking an abortion were given the alternative of seeking consent from a court rather than from their parents.<sup>86</sup>

Children's rights advocates<sup>87</sup> have argued in favor of the rights of mature minors to be able to refuse treatment and have asked courts and legislatures for better clarification of the laws.<sup>88</sup> Currently, the law enables minors to refuse medical treatment, usually in the context of nonmajor medical decisions.<sup>89</sup> A science and medical journalist has additionally observed that hospitals are less likely to intervene in decision-making when the medical procedure is a simple one, but they are more likely to intervene if the procedure is a complex one—such as open-heart surgery.<sup>90</sup>

As controversies regarding medical services and free exercise of religion continue to evolve, cultic children will continue to be at the center of these disputes. For example, courts will be deciding who has the right to decide about medical treatment for a child when her parents, and perhaps the child, have religious views that are contrary to traditional American medicine.<sup>91</sup>

For cultic children, even nonterminal illnesses can bring consternation from the group's leader. Barbara described how her son, Andrew, had been diagnosed as having an ulcer.<sup>92</sup> The group then engaged in a study into the causes of ulcers and eventually concluded that Andrew developed his ulcer because he harbored resentment towards the group. The group excoriated him for his condition.

In some cases, parents have been charged with neglect of their child when they have failed to seek medical treatment for their child on account of religious beliefs.<sup>93</sup> However,

prosecutors and state agencies have not automatically done so because, by 1983, almost every state had adopted religious exemptions to state child abuse and neglect statutes.<sup>94</sup> The law continues to evolve on the issue of who decides about necessary medical treatment for children.

### **V. Termination of Emancipation Status**

Emancipation is not necessarily permanent. For instance, a court may terminate emancipation if there has been a change in circumstances, and given the age of the children involved, their circumstances often change. Some statutes provide for revocation of emancipation status if, for instance, the marriage, which once entitled the child to emancipation, was annulled.<sup>95</sup> Not all states have statutes that specifically provide a mechanism to undo emancipation, and judicial emancipation generally does not provide for such a mechanism.<sup>96</sup> An example of a state that does have such a statute is California, which provides that one may present a "petition to void a declaration of emancipation" on the grounds that the declaration was obtained by fraud or the withholding of material information.<sup>97</sup> It further provides that one may "petition to rescind a declaration of emancipation" on grounds that the minor is indigent.<sup>98</sup>

### **VI. The Potential for Abuse of Emancipation Laws**

Emancipation statutes provide relief to minors who wish to leave abusive and neglectful family situations. However, there have been reported misuses of the system. One study revealed that families have abused the purpose of statutory laws by creating the false impression of emancipation, such as having the minor establish a separate residence immediately prior to the court hearing.<sup>99</sup> The same study also indicated that in many situations, parents used statutory procedures to "end [their] responsibility for more ordinary teenagers who lacked the experience, resources, or desire to live independently."<sup>100</sup>

Emancipation laws limit parents' power to control their children.<sup>101</sup> Hypothetically, this may fit the designs of cult leaders who aggressively recruit young, new members. Cult leaders apprised of emancipation laws may potentially encourage minors to emancipate themselves from their families before joining cults.

Conversely, parents who are cult members might abuse emancipation laws for the purpose of freeing themselves from the onerous financial burdens of supporting their children. Parents have done this in society at large. For instance, in child support cases, parents responsible for paying child support have argued that payments to the custodial parent were unnecessary because the minor has been self-supporting and, therefore, was emancipated and causing no additional expense to the custodial parent.<sup>102</sup> In such disputes, parents, usually fathers, use emancipation laws as a defense. When fathers have challenged their responsibility to continue child support obligations for their daughters who gave birth to out-of-wedlock children, courts have been divided over whether the minor became emancipated by virtue of giving birth.<sup>103</sup> It is conceivable that cultic parents could also use emancipation laws as a defense in similar ways.

Parents who are cult members may also abuse emancipation laws for purposes of releasing themselves from liability to third parties. In society at large, creditors have sought payment from parents for debts of their children, and parents have argued that their minors were emancipated, relieving the parents of responsibility for necessities.<sup>104</sup> Lawmakers and courts should be cautious of granting emancipation status to minors when the motivation comes from someone other than the minor.

### **VII. Suggestions for Legal Reform**

In doing legal research for John, discussed *supra* Part II, who asked for legal advice regarding the emancipation laws in various states, it became apparent that the states with

statutory schemes provided more guidance than those without. Furthermore, the statutory emancipation states with the more specific guidelines outlining the processes of emancipation were the most helpful. Judicial emancipation states should consider adopting statutes that outline the process of attaining emancipation. On the other hand, statutory states should provide for thorough court hearings before granting emancipation status.

Cultic children encounter circumstances that children in society at large do not, and for these reasons emancipation laws could better address the broader range of problems that these children endure. Currently, emancipation laws, whether judicial or statutory, focus primarily on granting majority status to those who have already been self-sufficient. This is understandable given that our states do not want to encourage an abundance of minors on public assistance. As discussed in this article, many cultic children would have difficulty demonstrating past economic self-sufficiency.

Future emancipation statutes could provide for having a sufficiently mature minor (either by virtue of age or a finding of emotional maturity) submit a plan to the court establishing a means for future self-sufficiency. The viability for such a plan would be determined on a factual case-by-case basis, and could conceivably include living arrangements with other adults or emancipated minors, having secured at least a modest level of employment, and/or encompassing future educational arrangements.

Partial emancipation has been found appropriate in certain circumstances. Future statutes could include provisions for partial emancipation status upon showing that one or both parents are financially able to support the minor, but that the living situation was unsound and therefore, in the best interests of the child, living separately is preferable. One or both parents would be responsible for continuing to provide financially for the partially emancipated minor who otherwise would live separately and manage her own affairs.

Such statutes could also permit an exception to the requirement that the minor must demonstrate a past history of self-sufficiency. Such an exception could permit the minor to provide reasons for feeling compelled to leave the "home" such as having lived in unsound and unsatisfactory physical conditions, having been physically, emotionally or mentally abused, and/or having been denied educational opportunities. The proposed statute could also relax the requirement that parents' consent is necessary for the minor's emancipation if this exception is met, which would greatly aid the cultic child.

Furthermore, such statutes could require that the emancipation petition be one of the minor's choosing. This requirement would help to reduce the frequency of petitions that are brought by parents wishing to unload their financial support burdens by relinquishing responsibility for minors who are not prepared for independence. This requirement would also hinder cult leaders who might potentially abuse the emancipation laws in their recruitment or retaining of minor cult members.

Living circumstances for adolescents do change over time, which is why some statutes provide for termination of emancipation status. To provide future monitoring of an emancipated minor's ability to survive independently, the proposed statute could include a requirement that if the minor is granted emancipation status, that she return to court annually until reaching age 18 for review of the status.

Such statutes would better meet the needs of minors who live in cults and who would have difficulty showing a past history of self-sufficiency. It would also reach those minors in society at large who have been living in abusive homes.

### **Conclusion**

When the parent-child relationship has broken down and jeopardizes the well being of the child, the mature child should be treated as an autonomous individual. The United States

Supreme Court eloquently framed the polemical issue of children and cults in *Prince v. Massachusetts*: "Parents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves."<sup>105</sup> Those words are particularly relevant for an ex-cultist like Carl, who claimed that his childhood was "so brutally robbed" from him by the cult that took over his family.<sup>106</sup> Minors who live in cults and wish to exit may be able to make use of the emancipation laws provided in various states.

There is no registry documenting cases of cultic children having used emancipation laws. Anecdotal evidence indicates that few have used the legal system, although many have left their cultic families before the age of majority and have attempted to establish financial independence and separate residence.

Cults often aggressively try to get the child to return to the cult. Cults also use parents to try to win children back to the cult. This harassment makes it that much more difficult for school and judicial authorities to permit the child to make choices for herself. Exiting minors are nonetheless encouraged to seek legal advice from lawyers or nonprofit agencies that counsel adolescents.

Oftentimes children who are in cultic groups attend public schools or community private schools that are not affiliated with cults. Public and private school guidance counselors, administrators, and teachers should become familiar with emancipation laws of their state in order to provide information to children who may need it.

### **Appendix**

Reprinted from: Michael Langone, *Mind-Manipulating Groups: Are you or a Family member a Victim? in CULTS AND PSYCHOLOGICAL ABUSE: A RESOURCE GUIDE* (American Family Foundation, May 1998).

Dr. Langone suggests: "If you check many of these items, and particularly if you check most of them, you might consider examining the group more closely. Keep in mind that this checklist is meant to stimulate thought, not 'diagnose' groups."

- The group is focused on a living charismatic leader to whom members seem to display excessively zealous, unquestioning commitment.
- The group is preoccupied with bringing in new members.
- The group is preoccupied with making money.
- Questioning, doubt, and dissent are discouraged or even punished.
- Mind-numbing techniques (for example: meditation, chanting, speaking in tongues, debilitating work routines) are used to suppress doubts about the group or its leader(s).
- The group's leadership dictates -- sometimes in great detail -- how members should think, act and feel.
- The group is elitist, claiming a special, exalted status for itself, its leader(s), and members (for example: the leader is considered the Messiah or an avatar; the group and/or the leader has a special mission to save humanity).
- The group has a polarized, "we-they" mentality that causes conflict with the wider society.
- The group's leader is not accountable to any authorities (as are, for example, clergy with mainstream denominations).
- The group teaches or implies that its supposedly exalted ends justify means (for example: collecting money for bogus charities) that members would have considered unethical before joining.
- The group's leadership induces guilt feelings in members in order to control them.

- Members' subservience to the group causes them to cut ties with family, friends, and personal pre-group goals and interests.
- Members are expected to devote inordinate amounts of time to the group.
- Members are encouraged or required to live and/or socialize only with other group members.

### Notes

- 1 See Jessica A. Penkower, Comment, *The Potential Right of Chronically Ill Adolescents to Refuse Life-Saving Medical Treatment – Fatal Misuse of the Mature Minor Doctrine*, 45 DE PAUL L. REV. 1165, 1166 n.6 (Summer, 1996) ("The age of majority in all states is now 18.").
- 2 An example of how emancipation has been defined is Michigan's statute, which defines "emancipation" as: "termination of the rights of the parents to the custody, control, services and earnings of a minor." MICH. COMP. LAWS ANN. § 722.1 (West 1993 & Supp. 1998).
- 3 Individuals have contributed their personal stories to the article about organizations that they have described as "cults" because they meet many of the characteristics of "cults." This author has provided no further analysis, nor offers an opinion, as to whether the organizations referenced in this piece meet the definition of "cults" or destructive organizations, but has instead related the stories of the former members as they have conveyed them publicly to others.
- 4 The term "minor" used in the article means anyone under the age of majority in his or her state, which is 18.
- 5 Michael Langone, *Mind-Manipulating Groups: Are you or a Family Member a Victim?* in CULTS AND PSYCHOLOGICAL ABUSE: A RESOURCE GUIDE 103 (AFF May 1998) [hereinafter Langone, *Mind Manipulation*]. Other selected essays also provide further useful definitions of "cult." See, e.g., Herbert L. Rosedale & Michael D. Langone, *On Using the Term "Cult,"* in CULTS AND PSYCHOLOGICAL ABUSE: A RESOURCE GUIDE 67 (AFF May 1998). An additional article that is useful on the topic has been reprinted and is available from AFF is Michael D. Langone, *Cults: Questions & Answers* (AFF 1988) (originally published as *Destructive Cultism: Questions and Answers*, 1982).
- 6 Langone, *Mind Manipulation*, *supra* note 5, at 103.
- 7 See Shirley Landa, *Warning Signs: The Effects of Authoritarianism on Children in Cults*, AREOPAGUS TRINITY 16, 16 (1989) reprinted in CHILD ABUSE IN CULTS (AFF undated) [hereinafter Landa, *Warning Signs*] ("Most cults believe that children, being the adults of tomorrow, must be removed from the influence of the biological parents at an early age for indoctrination according to the leader's beliefs."); Melinda Henneberger, *At the Whim of Leader: Childhood in a Cult*, N.Y. TIMES, March 7, 1993, at E6, reprinted in CHILD ABUSE IN CULTS (AFF undated) ("Sometimes, leaders demand that parents abandon their children in order to devote their energies to full-time missionary work.").
- 8 See Landa, *Warning Signs*, *supra* note 7, at 16 ("In many cults no records are kept of children's births or deaths."); Henneberger, *supra* note 7, at E6 (describing standoff with authorities at Waco, Texas and describing how births are not recorded in many cults).
- 9 See Landa, *Warning Signs*, *supra* note 7, at 16; Henneberger, *supra* note 7, at E6 (describing schooling as "in-house" for cultic children).
- 10 See Landa, *Warning Signs*, *supra* note 7, at 16 ("Because children in cults are generally not permitted to attend regular schools, they also lack social graces and ability to communicate and deal with everyday situations.")
- 11 See Shirley Landa, *Hidden Terror: Child Abuse in "Religious Sects and Cults,"* (original source unknown) reprinted in CHILD ABUSE IN CULTS (AFF undated) [hereinafter Landa, *Hidden Terror*]; Henneberger, *supra* note 7, at E6 ("Isolation only increases the incidence of physical and sexual abuse because the children are not monitored by outsiders."). This author previously discussed how cultic members can use the legal

- system to address abuse. See Robin A. Boyle, *Women, the Law, and Cults: Three Avenues of Legal Recourse-New Rape Laws, Violence Against Women Act, and Antistalking Laws*, 15 (1) CULTIC STUD. J. 1 (1998).
- 12 See Landa, *Hidden Terror*, *supra* note 11; *Hearing Before United States Advisory Board on Child Abuse and Neglect*, 1 (May 26, 1993) (testimony by The American Academy of Pediatrics), *reprinted in* CHILD ABUSE IN CULTS (AFF undated) (voicing concern about religious exemptions in state child abuse and neglect statutes and reporting that children have died of bacterial infections and surgically correctable conditions which could have been prevented with medical treatment); Henneberger, *supra* note 7, at E6 (describing how in cults, children's "ailments are attended by the laying-on of hands" and how treatment is not sought by the ill because "illness is seen as the work of the devil" such that "sick people often deny their symptoms to escape punishment.").
  - 13 Henneberger, *supra* note 7, at E6 (pointing out that children who leave cults suffer from "depression, eating and sleep disorders, and severe digestive and bowel problems").
  - 14 Many legal, psychological, and social issues arise during custody battles when one parent remains in a cult. See Videotape: Child Custody Issues -- Tom Keiser -- Moderator (American Family Foundation Annual Conference, May 1998) [hereinafter *AFF 1998 Conference*] (available through AFF); Videotape: Effects of Abusive Experience on Families -- Address by Alexandra Stein (American Family Foundation Annual Conference, May 1997) [hereinafter *AFF 1997 Conference*] (available through AFF). Grandparents have also been seeking court assistance for visitation and custodial rights to their grandchildren who remain in cults. Custody and divorce are topics beyond the scope of this article.
  - 15 See Dana F. Castle, *Early Emancipation Statutes: Should They Protect Parents as Well as Children?* 20 FAM. L.Q. 343, 356-63 (1986).
  - 16 See *generally id.* at 356-57 ("The issue of judicial emancipation usually arises as a threshold matter which must be decided because the primary right being sued on is dependent on the presence or absence of the parent-child relation.").
  - 17 For example, a larger context may be child support. See *generally* Oatey v. Oatey, Nos. 67809 & 67973, 1996 Ohio App. LEXIS 1685, at \*72 (Ohio Ct. App. Apr. 25, 1996) ("The question as to whether a child is emancipated so as to relieve a parent from the obligation of child support depends upon the facts and circumstances of each particular case.").
  - 18 See Castle, *supra* note 15, at 358-63; William E. Dean, Note, *Ireland v. Ireland: Judicial Emancipation of Minors in Idaho: Protecting the Best Interests of the Child or Conferring a Windfall Upon the Parent?* 31 IDAHO L. REV. 205, 215-16 (1994) (explaining the distinction between judicial and statutory emancipation).
  - 19 For example, California provides what the petition must contain -- including that the minor be a minimum age requirement of 14, who willingly lives separate and apart from parents or guardians with the consent or acquiescence of the minor's parents or guardians, and that the minor is managing his or her own financial affairs. See CAL. FAM. CODE § 7120 (Deering 1996).
  - 20 See, e.g., KAN. STAT. ANN. § 38-101 (1993); LA. CIV. CODE ANN. art. 365 (West 1993); MICH. COMP. LAWS ANN. § 722.4 (West 1993 & Supp. 1998).
  - 21 Compare CONN. GEN. STAT. ANN. § 46b-150 (West 1995) (requiring, among other things, "[a]ny minor who has reached his sixteenth birthday"), with CAL. FAM. CODE § 7002 (Deering 1996) (permitting any "person under the age of 18 years" to petition for emancipated status if she meets certain conditions).
  - 22 See Dean, *supra* note 18, at 220-21 ("[T]he best interests of the child test is a prerequisite to a decree of emancipation in virtually all of those states which have emancipation statutes."); see, e.g., CONN. GEN. STAT. ANN. § 46b-150b (West 1995).

- 23 See, e.g., CAL. FAM. CODE § 7120 (Deering 1996) ("A minor may petition the superior court of the county in which the minor resides or is temporarily domiciled for a declaration of emancipation.").
- 24 The California statute further provides procedures for notice and a judicial hearing. *Id.* § 7121.
- 25 See, e.g., CONN. GEN. STAT. ANN. § 46b-150 (West 1995) (providing: "Any minor . . . or any parent or guardian of such minor, may petition . . . that the minor named in the petition be emancipated.") Parents' petitions are not automatically granted. Courts, in reviewing parents' petitions, have declined to grant them when the familial circumstances do not indicate that the minor has been living independently and is economically self-sufficient. See *In re Thomas C.*, 691 A.2d 1140, 1143 (Conn. Super. Ct. 1996) (rejecting parents' petition and finding that the learning disabled and emotionally immature minor was "totally dependent on them for food, shelter and necessities, and lack[ed] the educational, emotional and financial wherewithal and stability to live independently"); *In re Addison A.*, No. 91-234, 1992 Conn. Super. LEXIS 1080, at \*4 (Conn. Super. Ct. Apr. 10, 1992) (rejecting parents' petition for son's emancipation on grounds that son had no income, was not willingly living separate and apart from his parents, nor was he managing his own financial affairs); *In re Wayne, J. M.*, No. 101509-01, 1991 Conn. Super. LEXIS 1672 (Conn. Super. Ct. July 15, 1991). In *Wayne*, the court rejected the parents' petition for their son's emancipation. Although it appeared that the son was not receiving support money from his parents, and that the son agreed to the petition, nevertheless his father was assuming financial responsibility for the son's hospital psychiatric services. The court held, "Parents may be disappointed with their children. The public policy of Connecticut is to strengthen the family. Emancipation should not be freely granted." *Id.* At \*2.
- 26 See, e.g., *Proctor Hospital v. Taylor*, 665 N.E.2d 872, 876 (Ill. App. Ct. 1996) (recognizing that there are three ways in Illinois for a minor to become emancipated -- by a statutory procedure; by reaching the age of majority, marriage or draft; or by self-emancipation whereby the minor supports herself voluntarily after leaving her parents' home).
- 27 See generally Catherine J. Ross, *From Vulnerability to Voice: Appointing Counsel for Children in Civil Litigation*, 64 FORDHAM L. REV. 1571, 1571 (1996) (pointing out that "disabilities" at an early point in history meant "perceived differences in skills and judgment" between a child and an adult).
- 28 See Ilse Nehring, Comment, "*Throwaway Rights*": *Empowering a Forgotten Minority*, 18 WHITTIER L. REV. 767, 806 (1997).
- 29 See Dean, *supra* note 18, at 215-16 ("The impact of the doctrine of judicial emancipation is commonly held to extinguish only parental rights and duties and not affect the rights and duties of the minor as to third parties. A few cases have, however, suggested that an emancipation can affect the rights and duties of the minor as to third parties as well.").
- 30 See *id.* at 216.
- 31 See, e.g., CAL. FAM. CODE § 7122 (Deering 1996) (providing that upon a court's sustaining the emancipation petition, it "shall be filed by the county clerk").
- 32 See generally John C. Polifka, *The Status of Emancipated Minors in Iowa: The Case for a Clearly Drafted Statute*, 44 DRAKE L. REV. 39, 44 (1995) (arguing that one of the many problems of judicial emancipation as opposed to statutory emancipation is that the former lacks a procedure for public recording of the emancipation decree); Francis C. Cady, *Emancipation of Minors*, 12 CONN. L. REV. 62, 64 (1979) (advocating in favor of the enactment of a "comprehensive" emancipation statute primarily for the purpose of publicly recording emancipation decrees giving notice to others).



- 33 See generally Polifka, *supra* note 32, at 43-44 (arguing that Iowa, a common law jurisdiction, suffers from a lack of predetermined criteria, which would be remedied by statute).
- 34 See Dean, *supra* note 18, at 219. California's statute, for example, provides that the minor's petition must set forth that (1) she is at least 14 years of age, (2) willingly lives separately from her parents or guardian and with the consent of the parents or guardian, (3) she has been managing her own financial affairs, and (4) her income is not derived from any criminal activity. CAL. FAM. CODE § 7120 (Deering 1996).
- 35 See Ireland, 855 P.2d at 43 (holding that natural father no longer needed to pay child support to ex-wife for their emancipated son of 16 years of age). For a thorough discussion of the Ireland case, see Dean, *supra* note 18.
- 36 See Ireland, 855 P.2d at 43.
- 37 See Carricato v. Carricato, 384 S.W.2d 85 (Ky. 1964) (holding that minor was emancipated and therefore the mother who was injured in automobile accident caused solely by negligence of the daughter was entitled to recover from the daughter).
- 38 CAL. FAM. CODE § 7132 (Deering 1996).
- 39 CONN. GEN. STAT. ANN. § 46b-150b (West 1995) (providing that a court may find a minor to be emancipated upon specified criteria including, "the minor willingly lives separate and apart from his parents or guardian, with or without the consent of the parents or guardian, and that the minor is managing his own financial affairs, regardless of the source of any lawful income . . .")
- 40 Our laws recognize that parents have responsibilities to their children. Parents have a duty to financially support, maintain, educate and assert "parental control over the acts of their children." Castle, *supra* note 15, at 350. When parents cease living up to these responsibilities, all fifty states have asserted the authority to terminate parental rights, temporarily or permanently, such as by sending children to foster care. See *id.* Termination of parental rights is a different kind of proceeding than one for emancipation because states generally do not initiate emancipation proceedings.
- 41 "Evan" is a pseudonym. Interview with Emancipated Minor Ex-cultist, in New York, N.Y. (July 17, 1998) [hereinafter *Evan*].
- 42 Telephone Interview with Adult Ex-cultist (June 23, 1998) [hereinafter *Adult Ex-cultist*].
- 43 *Evan*, *supra* note 41.
- 44 *Id.*
- 45 See *Adult Ex-cultist*, *supra* note 42.
- 46 See *Evan*, *supra* note 41.
- 47 Telephone Interview with Jill Chaifetz, Legal Director of The Door (Aug. 3, 1998). The Door protected the confidentiality of individual matters concerning its clients, such as Evan, but did provide useful information as to legal advice it generally provides to adolescents. This was particularly helpful for the writing of this article because there are no statutory guidelines and few reported cases in New York.
- 48 Interview with Verna Boyle, former Director of Guidance, Massapequa High School, New York, and former chairperson of Long Island Counselors Association, New York, N.Y. (August 5, 1998).
- 49 See *Rights & Responsibilities of Young People: A Guide for Educators & Human Service Providers*, 17 Law, Youth and Citizenship Program, N.Y.S. Bar Ass'n & N.Y.S. Educ. Dep't (James M. Morrissey ed., 3d ed. 1997).
- 50 See discussion, *infra* Part IV on complete and partial emancipation. Telephone Interview with Michael Williams, Legal Counsel of The Door (Nov. 3, 1998) (confirming that New York does not provide for complete emancipation rights).
- 51 The criteria are more frequently used by high school guidance counselors in providing advice to college-bound students as to whether prospective colleges may provide financial aid. See Interview with V. Boyle, *supra* note 48.
- 52 See *Evan*, *supra* note 41.

- 53 Telephone Interviews with friend of "John" (June-July 1998).
- 54 "Andrew" is a pseudonym used for purposes of this article. For more information, see Videotape: Growing Up In Cultic Groups (*AFF 1998 Conference*) (available through AFF) [hereinafter *Andrew*].
- 55 "Barbara" is a pseudonym used for purposes of this article. For more information, see Videotape: Effects of Abusive Experiences on Families (*AFF 1997 Conference*) (available through AFF) [hereinafter *Barbara*].
- 56 *See id.*
- 57 *Id.*
- 58 "Carl" is a pseudonym used for purposes of this article. For more information, see Videotape: Growing Up In Cultic Groups (*AFF 1998 Conference*) (available through AFF) [hereinafter *Carl*].
- 59 *See generally* Chadwick N. Gardner, Note, *Don't Come Cryin' to Daddy! Emancipation of Minors: When is a Parent 'Free at Last' From the Obligation of Child Support?* 33 U. LOUISVILLE J. FAM. L. 927, 929, 935 (1995) ("Dependency is a central factor in most emancipation decisions. Contrary to some of the 1970s decisions, several recent cases preclude emancipation if the child depends on parental support – even if the parents disapprove of the actions or conduct of their child.").
- 60 *See* Videotape: An Evening With Margaret Singer -- Hana Whitfield -- Moderator (*AFF 1998 Conference*) (available through AFF).
- 61 *See Carl, supra* note 58 & accompanying text.
- 62 Debra eventually left on her own at age 25.
- 63 "Debra" is a pseudonym used for purposes of this article. For more information see Videotape: Growing Up In Cultic Groups (*AFF 1998 Conference*) (available through AFF).
- 64 *See Andrew, supra* note 54 & accompanying text.
- 65 *See, e.g.,* In re Dupuy, 199 So. 384 (La. 1940) (petitioning minor's mother refused to consent to his emancipation and the court declined to grant emancipation without her consent). Research revealed few reported cases where parents opposed minors' petitions for statutory emancipation.
- 66 For a more thorough discussion of the expanding definition of "family," see R. Boyle, *supra* note 11.
- 67 *See Dean, supra* note 18, at 217-18.
- 68 *See Nehring, supra* note 28, at 805-07; Polifka, *supra* note 32, at 41 (1995) (arguing "no rational basis" exists for courts to determine which disabilities end upon judicial emancipation and which survive).
- 69 *See Nehring, supra* note 28, at 805.
- 70 MICH. COMP. LAWS ANN. § 722.4 Sec.4 (2) (d) & (e) (West 1993 & Supp. 1998).
- 71 *See, e.g.,* CONN. GEN. STAT. ANN. § 46b-150d (West 1995); CAL. FAM. CODE § 7050 (Deering 1996).
- 72 For example, California's statute provides: "An emancipated minor shall be considered as being an adult for the following purposes: ... (d) Ending all vicarious or imputed liability of the minor's parents or guardian for the minor's torts. . . ." § 7050. Note that the states are divided on whether a child may sue her parents for a tort committed against her. *Compare* *Dubay v. Irish*, 542 A.2d 711, 714 (Conn. 1988) (holding that parental immunity doctrine bars an unemancipated minor from suing his or her parent for injuries caused by the negligence of that parent), *overruled in part by* *Gladwell v. Gladwell*, No. CV95319853S., 1995 WL 22548J, at \*1 (Conn. Super. Ct. April 10, 1995) (acknowledging exception to parental immunity doctrine for lawsuits brought by children against parents for sexual abuse) *with* *Nocktonick v. Nocktonick*, 611 P.2d 135 (Kan. 1980) (holding unemancipated minor may recover damages in an action brought against a parent for personal injuries caused by the negligence of the parent in operation of a motor vehicle). *See generally* Jay C. Laubscher, Note, *A Minor of "Sufficient Age and Understanding" Should Have the Right to Petition for the Termination of Parental*

- Relationship*, 40 N.Y.L. SCH. L. REV. 565, 578-79 (1996) (discussing how children can sue their parents for torts committed by their parents in some jurisdictions, whereas parents are immune from suits by their children in other jurisdictions).
- 73 See Nehring, *supra* note 28, at 805-07.
- 74 See, e.g., *In re Sonnenberg*, 99 N.W.2d 444, 448 (Minn. 1959) (holding that child who was given up for adoption was partially emancipated for purposes of terminating the natural parent's rights and control of the child, but that the child was entitled to support from other sources).
- 75 See Jennifer L. Rosato, *The Ultimate Test of Autonomy: Should Minors Have a Right to Make Decisions Regarding Life Sustaining Treatment?* 49 RUTGERS L. REV. 1, 7-8 (Fall 1996).
- 76 See *id.* at 17.
- 77 See, e.g., ALA. CODE § 22-8-4 (1990) (providing that at a certain age, 14, or circumstance, such as marriage, a minor is mature enough to consent to medical care); ARK. CODE ANN. § 20-9-602(7) (Michie Supp. 1997) (providing that an unemancipated minor can consent to surgical or medical treatment if he or she is "of sufficient intelligence to understand and appreciate the consequences of the proposed surgical or medical treatment or procedures, for himself"). Rosato argues that most of the statutes do not go far enough in permitting minors to decide about life sustaining treatments. Rosato, *supra* note 75, at 25.
- 78 See Rosato, *supra* note 75, at 19.
- 79 See, e.g., *In Interest of E.G.*, 549 N.E.2d 322 (Ill. 1989) (holding that minor was emotionally mature enough to be partially emancipated for purposes of deciding to withhold blood transfusion on account of the minor's and parents' religious views as Jehovah's Witnesses).
- 80 See *Cardwell v. Bechtol*, 724 S.W.2d 739 (Tenn. 1987) (holding that doctor was not liable for treating 17 year-old for back pain because the mature minor exception to the common law rule of parental consent applied in this case, dismissing parent's lawsuit for complications that arose as a result of treatment); *Belcher v. Charleston Area Med. Center*, 422 S.E.2d 827 (W. Va. 1992) (holding the mature minor exception to the common law rule of parental consent should apply when the minor is mature, and remanded this case back to the trial court to determine whether the 17-year-old decedent, who had been permanently ill, was mature for purposes of providing consent to a Do Not Resuscitate order that was imposed.)
- 81 See *Ison v. Florida Sanitarium & Benevolent Ass'n*, 302 So.2d 200 (Fla. Dist. Ct. App. 1974) (holding that minor was emancipated because she had left home and had been completely self-supporting and finding that parent was not responsible for her medical bill); *Buxton v. Bishop*, 37 S.E.2d 755, 757 (Va. 1946) (holding that hospitalized minor was emancipated because he had supported himself for three years and finding that father was not responsible for paying son's hospital bills).
- 82 See *Smith v. Seibly*, 431 P.2d 719, 723 (Wash. 1967) ("Thus, age, intelligence, maturity, training, experience, economic independence or lack thereof, general conduct as an adult and freedom from the control of parents are all factors to be considered in such a case.").
- 83 *Id.* (affirming trial court's decision).
- 84 See *id.* at 720.
- 85 See Rosato, *supra* note 75, at 29-30 & nn.106-13.
- 86 See, e.g., *Hodgson v. Minnesota*, 497 U.S. 417, 444-45 (1990) (emphasizing that the state has a strong interest in its young citizens, which extends to the minor's decision to terminate her pregnancy, and holding that the two-parent notice requirement of a state statute without judicial bypass option was unconstitutional); *Ohio v. Akron Ctr. For Reprod. Health*, 497 U.S. 502 (1990) (upholding state statute that required notice to one parent and permitted minors a judicial bypass alternative); *Bellotti v. Baird*, 443

- U.S. 622, 643, 647 (1979) (striking state statute requiring parental consent and suggesting judicial bypass alternative as well as an improved definition of "maturity"); *Carey v. Population Serv. Int'l*, 431 U.S. 678 (1977) (striking a state statute that prohibited the sale of contraceptive devices to minors under age 16); *Planned Parenthood v. Danforth*, 428 U.S. 52 (1976) (striking state statute for, among other things, requiring parental consent for unmarried minors' abortions).
- 87 Children's rights advocates are not always in agreement with each other and have argued for 1) more autonomy for children in making decisions that affect them; and 2) expanded state involvement to protect children against their parents and third parties. See Walter Wadlington, *Medical Decision Making for and by Children: Tensions Between Parent, State, and Child*, 1994 U. ILL. L. REV. 311, 335 (1994).
- 88 See Susan D. Hawkins, Note, *Protecting the Rights and Interests of Competent Minors in Litigated Medical Treatment Disputes*, 64 FORDHAM L. REV. 2075, 2077 (1996) (arguing that since children receive greater protection under the Constitution for privacy, they should also receive a competent minor's right to make certain medical decisions for themselves); Rosato, *supra* note 75, at 10, 18-19 (arguing that the common law fails to "recognize the importance of these decisions and the capacity of some minors to make them"). Cf. Penkower, *supra* note 1, at 1167, 1169 (arguing that the mature minor doctrine is "more an instrument of paternalism than a conduit of liberty for adolescents" and that it is "inappropriate to legally sanction a minor's refusal of necessary medical treatment under the current formulation of the law").
- 89 See Rosato, *supra* note 75, at 5, 28-29, 33 (arguing that laws have inadequately protected mature minors in making life-sustaining treatment decisions).
- 90 See Andrew Skolnick's Address On Religiously Motivated Medical Neglect (AFF 1998 Conference).
- 91 *Compare* *In Interest of E.G.*, 549 N.E.2d 322 (Ill. 1989) (holding that minor, who was a few months before her 18th birthday, was emotionally mature enough to be partially emancipated for purposes of deciding to withhold blood transfusion on account of her religious views as a Jehovah's Witness, and her parents had concurred with the minor's decision), *with* *In re Long Island Jewish Med'l Center*, 557 N.Y.S.2d 239, 243-44 (N.Y. App. Div. 1990) (declining to recognize mature minor doctrine for terminally ill adolescent, who was a few months before his 18th birthday, when he and parents refused to consent to blood transfusion necessary for chemotherapy on grounds that treatment was contrary to their faith as Jehovah's Witnesses, and finding that this particular minor was not mature in his understanding of his own religious beliefs or the fatal consequences to himself).
- 92 See *Barbara*, *supra* note 55 & accompanying text.
- 93 See *Walker v. Superior Court*, 253 Cal. Rptr. 1 (Cal. 1988) (holding that mother who was a Christian Scientist could be prosecuted for involuntary manslaughter of her 4-year-old daughter who died of meningitis for having treated her illness with prayer in lieu of medical attention).
- 94 See Memoranda from Rita Swann, President, CHILD Inc., to U.S. Advisory Board on Child Abuse and Neglect, 1 (undated), reprinted in CHILD ABUSE IN CULTS (AFF undated).<sup>1</sup> See Gardner, *supra* note 59, at 941-44. California statutes provide exceptional detail as to the procedures for voiding or rescinding emancipation decrees. CAL. FAM. CODE § § 7130 - 7135 (Deering 1996).
- 95 See Polifka, *supra* note 32, at 44.
- 96 CAL. FAM. CODE § 7131 (Deering 1996).
- 97 *Id.* § 7132. See, e.g., MICH. COMP. LAWS. ANN. § 722.4d (West 1993 & Supp. 1998) (providing for a rescission order if minor is indigent, her parents agree, and when there is a "resumption of family relations inconsistent with the existing emancipation order").
- 98 See Carol Sanger & Eleanor Willemssen, *Minor Changes: Emancipating Children in Modern Times*, 25 U. MICH. J. L. REFORM 239, 247 (1992) (suggesting that "courts and

legislatures have assumed a unity of interests between the parents and teenage children who seek emancipation," but the data revealed that emancipation petitions did not "always accurately portray the status or desires of many" of the minors).

99 *Id.* at 242.

100 See generally Polifka, *supra* note 32, at 47 (describing how California Department of Social Services providers advocated for emancipation statutes to resolve problems of mature adolescents who were living on their own but were unable to conduct personal business because of their lack of legal status as a minor); see also Sanger & Willemsen, *supra* note 99, at 251 (providing detailed history of the origins of California's Emancipation of Minors Act).

101 Compare Maurer v. Maurer, 555 A.2d 1294 (Pa. Super. Ct. 1989) (holding that noncustodial parent must pay child support for 19-year old son to attend vocational program because son was not emancipated despite that son worked), with Ireland v. Ireland, 855 P.2d 40 (Idaho 1993) (holding that noncustodial parent was not required to continue child support payments for 16-year old son because he had been financially self-sufficient and custodial parent had no expenses in that regard).

102 See Gardner, *supra* note 59, at 933-41 (discussing case law trends). Compare Hicks v. Fulton County Dep't of Family & Children Serv., 270 S.E.2d 254 (Ga. Ct. App. 1980) (holding that giving birth to out-of-wedlock child did not emancipate the daughter and based its decision upon daughter's lack of income), and Wulff v. Wulff, 500 N.W.2d 845 (Neb. 1993) (holding that giving birth may be merely a factor in determining parental control, but it is not the sole factor, and deciding in this case that minor was not emancipated), and Griffin v. Griffin, 558 A.2d 75 (Pa. Super. Ct. 1989) (holding that attending college and bearing a child were not grounds for emancipation and that 21-year-old in such circumstances was entitled to continued child support), with New Jersey Division of Youth and Family Services v. V., 381 A.2d 1241 (N.J. Juv. & Dom. Rel. Ct. 1977) (holding that 17-year-old was emancipated based upon her having lived away from mother in a foster home for three years and declaring that minor can make her own decisions as to where to raise her out-of-wedlock daughter), and Nuckols v. Nuckols, 467 N.E.2d 259 (Ohio Ct. App. 1983) (holding that child who was 18, the state's age of majority, became emancipated upon giving birth and that her father was no longer obligated to pay medical expenses under his divorce decree that formerly ran until she was 21). Generally, when a noncustodial parent is responsible for making child support payments, courts have imposed this duty until the child reaches the age of 21. Therefore, when the noncustodial parent has later sought a modification of the support obligation, courts have examined whether the child has become emancipated before turning 21. See Hicks, 270 S.E.2d at 255; Wulff, 500 N.W.2d at 848; Nuckols, 467 N.E.2d at 260; Griffen, 558 A.2d at 76.

103 See, e.g., Buxton v. Bishop, 37 S.E.2d 755 (Va. 1946) (holding that 20-year-old had been working since he was 17 and living away from home for one year before his death, and therefore had been emancipated, releasing parents of liability for hospital bills).

104 321 U.S. 158, 170 (1944).

105 Carl, *supra* note 58.

### **Acknowledgements**

Herbert Rosedale, Esq., President of American Family Foundation, anticipated the importance of emancipation of cultic children and inspired the author to write this article. Paul Skip Laisure, Esq., provided valuable ongoing reviews and comments. St. John's Associate Dean, Susan J. Stabile, and law student, Deitrich King, also provided helpful suggestions. Personal histories of former cult members contributed to making this piece richer, and the author thanks them for their courage in sharing their struggles. The basis for this article was a speech given by the author as a luncheon speaker at the annual

conference of the American Family Foundation on the topic of "Children and Cults," held May 29-31, 1998 in Philadelphia, PA.

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This article is an electronic version of an article originally published in *Cultic Studies Journal*, 1999, Volume 16, Number 1, pages 1-32. Please keep in mind that the pagination of this electronic reprint differs from that of the bound volume. This fact could affect how you enter bibliographic information in papers that you may write.