

Emancipation

With an increasing number of children being home schooled or doing online schooling, it is placing DCS in a position to determine if the alternative instruction meets the definition of full-time student. Majority of the online programs are self-paced. Often, the payor of support feels if the child is not attending “school”, then the child should be considered emancipated. This puts DCS staff in the middle of disagreements on emancipation and places tension between parents.

25-5-18.1. Parental duty to support child.

The parents of any child are under a legal duty to support their child in accordance with the provisions of § [25-7-6.1](#), until the child attains the age of eighteen, or until the child attains the age of nineteen if the child is a full-time student in a secondary school. If it is determined by the court that the child support obligation survives the death of the parent, the amount due may be modified, revoked, or commuted to a lump sum payment by the court, taking into consideration all factors deemed relevant, including the financial resources of the child and the other parent and the needs of the decedent's family.

Source: SL 1986, ch 218, § 68; SL 1989, ch 220, §§ 1, 19; SL 2001, ch 133, § 6.

According to Department of Education’s website, 10,558 children were in alternative schools or alternative instruction programs for the 2023-2024 school year. This is a 13.5% increase from the 2022-2023 school year.

The other issue is parents often mistake “secondary school” as meaning college.

Emancipation by State

Age 18	Alaska, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Maryland, Oregon, Texas, Washington, Wyoming
Age 19	Alabama, Indiana, Nebraska, New Jersey
Age 21	Massachusetts, Mississippi, New York
Age 18, 19 if still in secondary school whichever occurs first	Arizona, Arkansas, California, Delaware, Florida, Illinois, Iowa, Kentucky, Maine, Michigan, Montana, Nevada, New Mexico, North Dakota, Ohio, Rhode Island, South Dakota, Virginia, West Virginia, Wisconsin
Age 18, or has graduated from high school during the child’s normal and expected year of graduation, whichever occurs later.	Utah
Age 18, 19 if still in secondary school – Support order does not automatically terminate. An order must be filed to terminate support.	South Carolina
Age 18, up to age 20 if still in secondary school	Georgia, Minnesota, North Carolina, Oklahoma

Age 18, up to age 21, if full time school (includes post-secondary)	Missouri
Age 18 unless still full time in secondary school (no end date)	New Hampshire, Pennsylvania, Vermont
Age 18 or the class of which the child is a member when the child reached 18 has graduated from high school	Tennessee
Age 19, or graduates from high school but not beyond the age of 21	Colorado

Considerations

1. Amend statute to one specific age.
2. Amend statute to clarify/include alternative education
3. Amend statute to remove full-time.