



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 11, 1993

Honorable Talmadge Heflin  
House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

Letter Opinion No. 93-61

Re: Whether the word *emancipation* is used in the Family Code and whether an unemancipated minor may register a car in her name (ID# 16558)

Dear Representative Heflin:

Your request letter asks first whether the word *emancipation* is used in the Family Code and, if so, what it means as used in the code. We have found no use of *emancipation* in the code. Rather, chapter 31 of the code regulates the removal of disabilities of minority, which is referred to sometimes as "emancipation." Chapter 31 sets forth the formal procedures in court for the removal of a minor's disabilities. Section 31.07 of the code provides generally that "a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including the capacity to contract."

*Emancipation of a minor* more appropriately refers to the surrender by a minor's parents of their "parental rights to control the minor and to the minor's services and earnings." *Pioneer Casualty Co. v. Bush*, 457 S.W.2d 165, 168 (Tex. Civ. App.--Tyler 1970, writ ref'd n.r.e.); *Furrh v. McKnight*, 26 S.W. 95 (Tex. Civ. App. 1894, no writ). Property acquired by a minor after emancipation by her parents is not subject to the claims of the parents' creditors because such property belongs to the emancipated minor and not to her parents. *Turner v. Brown*, 200 S.W. 1161, 1162 (Tex. Civ. App.--Texarkana 1918, no writ); *Furrh v. McKnight*, 26 S.W. 95 (property purchased by minor son whose father had relinquished all rights to his services and earnings cannot be attached to satisfy debt of father). *Emancipation* in this sense does not affect a minor's contractual incapacity; unlike a minor whose disabilities have been removed, see Fam. Code § 31.07 (after general removal of disabilities, minor child has capacity to contract), a minor who only has been emancipated by her parents retains the power to repudiate her contracts with others, *Mast v. Strahan*, 225 S.W. 790, 791 (Tex. Civ. App.--Beaumont 1920, no writ); see 14 TEX. JUR. 3d *Contracts* § 15 (1981) (regarding contractual capacity, minor is person less than 18 years old, who has not been married, and whose disabilities have not been removed by court order).

You also ask "whether a 17-year-old, alone, can register a car in his/her name." We understand your concern to be with the capacity of an unmarried<sup>1</sup> minor<sup>2</sup> (whose disabilities have not been removed by court order) to purchase a car rather than her right to hold title to the car.<sup>3</sup> (There is no prohibition against a minor's ownership of an automobile.)

A minor generally may repudiate her contract for purchase of personal property and is entitled to the return of the money she paid under contract. *E.g., James v. Barnett*, 404 S.W.2d 886, 888 (Tex. Civ. App.--Dallas 1966, writ ref'd n.r.e.) (this is rule "even when the minor cannot tender return of the property because he has squandered or dissipated it"). Thus, a minor who has purchased an automobile and has made part payment therefor on a note is entitled on repudiation of the contract to cancellation of the note and recovery of the full amount paid. *E.g., McKnight Chevrolet Co. v. Strahan*, 11 S.W.2d 259, 260 (Tex. Civ. App.--Beaumont 1928, no writ). Further, where a minor disaffirms such a contract, the seller is not entitled even to an offset for any use or depreciation of the vehicle, because "[t]he minor is no more liable for the use or depreciation in value of the property purchased by him and while in his possession than he would be for the original purchase, in the absence of some tortious act of the minor in relation to the property." *E.g., Standard Motor Co. v. Stillians*, 1 S.W.2d 332, 333 (Tex. Civ. App.--Beaumont 1927, writ dism'd).

## S U M M A R Y

The word *emancipation* is not used in the Family Code. Rather, chapter 31 of the code provides for a formal court proceeding for the removal of disabilities of minority.

The effect of a removal of disabilities for general purposes is to make the minor an adult in the eyes of the law, with capacity to contract. Parental emancipation of a minor, on the other hand, does not remove the minor's contractual incapacity. Emancipation does, however, shield from the parents' creditors' claims any property acquired thereafter by the minor.

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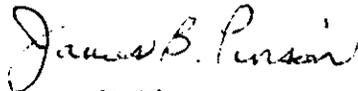
<sup>1</sup>Section 4.03 of the Family Code provides generally that "every person who has been married in accordance with the law of this state, regardless of age, has the power and capacity of an adult, including the capacity to contract."

<sup>2</sup>"The age of majority in this state is 18 years." Civ. Prac. & Rem. Code § 129.001.

<sup>3</sup>Article 6675a, V.T.C.S., requires motor vehicles used on the public highways of Texas to be registered by their owners. Therefore, the 17-year-old would have to own the car in order to register it in his or her name.

A minor whose disabilities have not been removed by court order or marriage generally may repudiate her contract for purchase of personal property, such as an automobile, and is entitled upon such repudiation to the return of the money she paid under contract.

Yours very truly,

A handwritten signature in cursive script that reads "James B. Pinson".

James B. Pinson  
Assistant Attorney General  
Opinion Committee