

Legal/Conflict Resolution

EMANCIPATING MINORS

The Family Court and the Probation Department are frequently asked about a procedure for having a minor child declared to be "legally emancipated". In actuality there is no simple such procedure in Family Court, despite common misconceptions to the contrary.

Emancipation usually comes up in a "defensive" or responsive manner. For example, if a parent is petitioned to Family Court for support, the parent, as a defense to the petition, may assert that the child is emancipated. This defensive procedure is discussed in such court decisions as the following, which you may wish to review with a private attorney: Parker v. Stage 43 NY2d 128; Clifton Springs Sanitarium Co. v. Watkins 130 AD2d 944; Knoll v. Kilcher 100 AD2d 686.

Neither the Family Court nor the Probation Department is permitted to provide legal advice. Also, neither the Court nor the Probation Department provides preprinted forms for starting an emancipation proceeding.

One possible way to start an emancipation proceeding would be to bring an action for a declaratory judgment in Chautauqua County Supreme Court, pursuant to Civil Practice Law and Rules. That is a separate court, with broader jurisdiction than the Family Court, but, again the Supreme Court itself does not provide the necessary forms or legal advice. There are state mandated filing fees in Supreme Court, in addition to any attorney's fees involved. The County Clerk's Office can inform you as to the amount of the required filing fees. You should be aware that an action for a declaratory judgment is a complicated, time-consuming, formal court proceeding.

You may wish to note the toll-free New York State Bar Association Lawyer Referral and Information Service (1-800-342-3661), which may be helpful.

To summarize, there is no method for initiating an emancipation proceeding in Family Court.

CHAUTAUQUA COUNTY PROBATION DEPARTMENT

South County Office Building:

110 East Fourth Street

Jamestown NY 14701

Phone: (716) 661-8011

North County Office Building:

319 Central Avenue

Dunkirk, NY 14048

Phone: (716) 363-3640

[PINS - Persons In Need of Supervision](#)

Provides intervention and services for children under sixteen years of age who are habitually engaging in conduct which, while not necessarily criminal, demonstrates that the child is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other lawful authority. This also applies to children under age sixteen who are truant habitually or who possess small amounts of marijuana.

A PINS Petition

May be filed by a parent or guardian of a child, a school attendance officer or administrator, a police officer, a social service caseworker, the Family Court or the County Attorney. Services are confidential. Parents would be filing for the petition.

PROBATION

The term "On Probation" is seen every day in newspapers and television. It is heard frequently on radio news broadcasts. Understanding probation and how it works is important to its success.

"On Probation" What Does It Mean?

When people commit crimes, society has to decide what to do with them. Should they go to jail or should we find some other way to treat them? Some people who have been convicted of crimes may be placed "on probation" instead of being sent to jail.

Probation is a sentence of the court, which is allowed by law for certain crimes. It is generally not available to people who have committed serious violent crimes or who have long criminal records. It gives offenders the opportunity to become law-abiding citizens without going to prison.

How Does Probation Work?

Adults, as well as juveniles who are sentenced to probation agree to obey certain rules called "conditions of probation." This means they may live at home. They must work or attend school. They may not move or leave the County without permission. In addition, they may have to pay damages or restitution to their victims or do community service without pay.

Persons on probation must avoid bad company and places where they might get into trouble. They must attend therapy or receive treatment for drug or alcohol abuse as ordered by the court. And they must report regularly to their probation office.

Understanding The Role Of The Probation Officer

Probation Officers are peace officers, but they are not jailers or prison guards. They have the power to arrest people, but they are also trained to help probationers obey the rules and meet the requirements of their probation sentence.

While it is true that individuals must report to probation officers at regular times, the officers have a much larger role. They help probationers find jobs or job training; or return to school. They are concerned with making sure their clients have proper housing or treatment for psychological, drug or alcohol problems.

Probation officers want their clients to succeed and become responsible, self reliant and law-abiding.

All Probation Officers are required to have a Bachelors Degree and a Masters Degree in Sociology, Psychology, Criminal Justice or a similar course of study. Experience can be substituted for the Masters Degree requirement. In addition, their Bachelors Degree must include a minimum of 30 credit hours in the Behavioral Sciences.

A Probation Officer's job is a difficult one. They must ensure community protection as well as assist their probationers towards a law-abiding lifestyle. Probation Officers deal with juveniles as well as adults who have been convicted of Felonies and Misdemeanors. They are responsible for conducting breath and urine screenings to monitor their probationers use of abused substances. Officers are also required to make evening home visits and curfew checks, often times only equipped with a police radio.

Probation And Parole - What's the Difference?

A probation sentence is instead of jail or prison. It is an alternative to incarceration. Parole is release from prison before the maximum term has been served. Both probation and parole mean community supervision rather than jail.

Many probationers are sentenced to "Shock Probation" which requires that they serve up to six months in the County Jail as part of their Probation Sentence.

Probation Is A Community-Based Correctional System

It means living in the community rather than in confinement. This is the most important feature of the probation sentence. It is "supervised" living, with the probation officer guiding the offender to law-abiding behavior.

The term of probation varies between one and five years and may include various other "conditions," such as community service or alcoholism treatment.

Probationers may be discharged early if they show progress in rehabilitation. Violation of probation may mean the probationer is sent to jail.

Most People Do Well On Probation...and successfully return to normal lives.

In human and economic terms probation is an important alternative in our judicial system. The cost of probation is less than \$1000 a year; the cost of imprisonment is as high as \$30,000 a year. Based upon crimes involved and the background of individuals,

probation can be a good choice for both the community and the offenders.

OTHER FUNCTIONS OF THE OFFICE OF PROBATION INCLUDE:

PINS Diversion...is a program for Persons in Need of Supervision (juveniles less than 16 years of age) who are at risk of being removed from their homes. The program is designed to provide immediate family intervention with the hope of avoiding formal Court action.

A similar program is provided for **Juvenile Delinquents** (JDs) who are juveniles age 7 to 15 years of age who commit acts that would be a crime.

Detention Services...are provided for area Police Agencies in the event that a juvenile presents a serious threat to himself/herself or to the community which would require their being locked in a Secure or Non-Secure Detention Facility.

Presentence Investigations...are completed for every Court in the County including the Town and Village Justice Courts. These investigations are thorough background investigations into defendant's employment, social family and criminal histories. The Courts as the basis of their dispositions use presentence investigations.

Misdemeanor Diversion...is a program designed for first time offenders. Its intent is to assist the offender and divert the mater from the Criminal Justice process. These cases usually involve the payment of restitution and community service.

C.A.G.E. PROGRAM (Community Approach to Gang Elimination)

- **Jamestown Police Department**
- 201 E. 2nd Street
- Jamestown NY 14701
- **Phone:** (716) 483-7536
- **Contact:** Lt. Lee C. Davies

A two hour educational program / presentation for teenage students that describes the myths and realities of gang involvement. Teaches students the reasons kids join gangs and positive alternatives. Provides an open forum for discussion and regionally applicable, up-to-date information about gang activity.

CHILD SUPPORT ENFORCEMENT UNIT (Chautauqua County Department of Social Services)

Jamestown

South County Office Bdg, 3rd Floor 335 Central Avenue

Dunkirk

Mayville

7 North Erie Street

Jamestown NY 14701

Dunkirk, NY 14048

Mayville, NY 14757

Phone: (716) 661-7395, 661-7602 **Phone:** (716) 363-4395, 363-4602 **Phone:** (716) 753-4395

- **Student Hotline:**(716) 661-8319

The child support unit does Location Investigations, Paternity Establishments, Establishment and Enforcement of Child Support Orders, including cash support, medical support and child care.

[DSS WEB PAGE](#)

COMMUNITY DISPUTE RESOLUTION PROGRAM (Center for Resolution and Justice) Serving all of Chautauqua County

- Municipal Building
- 200 E. Third Street, Fourth Floor
- Jamestown NY 14701
- **Phone:** (716) 483-7774
- **Toll Free:**1-800-339-8539
mediate@cfsbyn.org

[CENTER FOR RESOLUTION AND JUSTICE WEBSITE](#)

Mediation services for parties involved in community disputes involving neighbors, family friends, landlords and others. No fee.

CUSTODY AND VISITATION MEDIATION (Center for Resolution and Justice)

- Municipal Building
- 200 E. Third Street, Fourth Floor
- Jamestown NY 14701
- **Phone:** (716) 483-7774
- **Toll Free:**1-800-339-8539
mediate@cfsbny.org

[CENTER FOR RESOLUTION AND JUSTICE WEBSITE](#)

Parents and Guardians who have disputes about custody or visitation meet with a trained mediator. The mediator works with the parties to try and resolve the dispute, while focusing on the best interests of the children. Agreements can be presented to the court, with a request for a court order. No fees.

IMPACT PROGRAM

(Center for Resolution and Justice)

- Municipal Building
- 200 E. Third Street, Fourth Floor
- Jamestown NY 14701
- **Phone:** (716) 483-7774
- **Toll Free:**1-800-339-8539

[CENTER FOR RESOLUTION AND JUSTICE WEBSITE](#)

The Impact program offers mediation for problems between young people and their parents, relatives, friends, school officials and other community members. Some examples of problems that can be discussed are curfew, school related problems and family miss-communications. Ages 12 and up. There is no cost to participants.

JUVENILE SERVICES TEAM (Chautauqua County)

Dunkirk

319 Central Avenue

Dunkirk, NY 14048

Phone: (716) 363-3775

Jamestown

Chadakoin Center, West 3rd Street

Jamestown, NY 14701

Phone: (716) 484-6960

The Juvenile Services Team is a collaborative effort utilizing Social Services, Probation, Mental Health and Youth Bureau staff to assist families. Youth are referred to the JST as a result of their delinquent behavior or PINS behavior. PINS (persons in need of supervision) are youth who exhibit incorrigible or truant behaviors. Services are provided to families based on their or the youths assessed needs. The JST links families with the other community resources available. No Fee. Ages <19. Serve youth in school.

PINS DIVERSION MEDIATION (Center for Resolution and Justice)

- Municipal Building
- 200 E. Third Street, Fourth Floor
- Jamestown NY 14701
- **Phone:** (716) 483-7774
- **Toll Free:**1-800-339-8539

[CENTER FOR RESOLUTION AND JUSTICE WEBSITE](#)

This program is for young people who are involved in, or may become involved in PINS

(person in need of supervision) cases. Through mediation with school representatives, parents, counselors, and / or peers: the young person can help others to understand their position. The goal of the mediation is to resolve the PINS issue so that no further action is needed. Ages 7 and up.

S.A.F.E. PROGRAM (Schools are for Education)

- **Jamestown Police Department**
- 201 E. 2nd Street
- Jamestown NY 14701
- **Phone:** (716) 483-7536
- **Contact:** Lt. Lee C. Davies

School Safety Program, including a School Safety Tip Hotline 484-SAFE for students to report suspicious activity or threats made by others to bring a weapon to school, etc. SAFE Program also addresses Emergency Response Planning for all Jamestown schools in conjunction with school administration and other Emergency Services. School Resource Officers also maintain a library of safety lesson plans under the SAFE program to provide presentations on topics such as babysitter safety, bike safety, gang and drug awareness.

SCHOOL RESOURCE OFFICER PROGRAM

- **Jamestown Police Department**
- 201 E. 2nd Street
- Jamestown NY 14701
- **Phone:** (716) 483-7536
- **Contact:** Lt. Lee C. Davies

Police Officers are assigned full time to each of Jamestown's Middle Schools and High School. Officers serve as mentors, role models, counselors, and educators in addition to handling police matters and school safety issues.

S.O.S PROGRAM (Jamestown Community Learning Council)

- 525 Falconer Street
- Jamestown NY 14701
- **Phone:** (716) 483-1881

A violence prevention and intervention program for grades 5 - 8 that includes student mentoring, parent education and service referrals and home visits. Located at Washington Middle School in Jamestown.

Chautauqua County Law Enforcement Agencies

CHAUTAUQUA COUNTY SHERIFF DEPARTMENT

- 15 E. Chautauqua Street
- Mayville, NY 14757
- **Phone:**(716) 753-2131
- **Sheriff: Joseph A. Gerace**

SHERIFF DEPARTMENT WEBSITE

Phone Numbers:

- Sheriff's Office Non-Emergency:.....(716) 753-4231
- Civil Division:.....(716) 753-4371
- Family Court Enforcement:.....(716) 753-4668
- Fire Investigation:.....(716) 753-4914
- Juvenile Aide Bureau:.....(716) 753-4910
- Pistol Permit:.....(716) 753-4374
- Records Division:.....(716) 753-4442
- Identification Division:.....(716) 753-4932
- County Jail:.....(716) 753-4935

NEW YORK STATE POLICE

Fredonia

10274 Route 60

Fredonia, NY 14063

Phone: (716) 679-1521

Jamestown

3081 N. Main Street

Jamestown, NY 14701

Phone: (716) 665-3113

Collins

13670 Rt. 62

Perrysburg, NY 14129

Phone: (716) 532-2666

Sherman

119 Osbourn Street

Sherman, NY 14781

Phone: (716) 761-6712

[NY State Police Website](#)

Requests for speaking assignments and/or a trooper to attend a function must be sent in writing to:

Major McManus

Troop A NYSP

4525 West Saile Drive

Batavia, NY 14020-1095

BUSTI-LAKEWOOD POLICE DEPARTMENT

- 20 West Summit Avenue
- Lakewood, NY 14750
- **Phone:**(716) 763-9563
- **Police Chief: John Bentley**

CARROLL POLICE DEPARTMENT

- 5 West Main Street
- PO Box 9250
- Frewsburg, NY 14738
- **Phone:**(716) 595-5365
- **Police Chief: Daryl L. Dutchess**

DUNKIRK POLICE DEPARTMENT

- 342 Central Avenue
- City Hall
- Dunkirk, NY 14048
- **Phone:**(716) 366-2266
- **Police Chief: David Ortolano**

ELLCOTT POLICE DEPARTMENT

- 215 S. Work Street
- Falconer, NY 14733
- **Phone:**(716) 665-7083
- **Police Chief: William L. Ohnmeiss, Jr.**

[ELLCOTT POLICE DEPARTMENT WEBSITE](#)

FREDONIA POLICE DEPARTMENT

- 9-11 Church Street
- Fredonia, NY 14063
- **Phone:**(716) 679-1531
- **Police Chief: Bradley C. Meyers**

JAMESTOWN POLICE DEPARTMENT

- 201 E. Second Street
- Jamestown, NY 14701
- **Phone:**(716) 483-7536
- **Police Chief: William R. MacLaughlin**

[JAMESTOWN POLICE DEPARTMENT WEBSITE](#)

SILVER CREEK POLICE DEPARTMENT

- 172 Central Avenue
- Silver Creek, NY 14136
- **Phone:**(716) 934-2112
- **Police Chief: Louis Pelletter**

WESTFIELD POLICE DEPARTMENT

- 23 Elm Street
- Westfield, NY 14787
- **Phone:**(716) 326-3375
- **Police Chief: Kenneth E. Machermer**

THE LAW AND YOU

Each state has particular laws that deal with acts committed by youth and adults. Just because someone is under a certain age (16 in New York State) and considered a juvenile does not mean that laws do not apply to them. A criminal record can affect you later in life. If you have a record, some schools or employers may not accept you. What you might think is a harmless prank or “no big deal”, could hurt your future.

Pranks

A simple prank, such as removing hubcaps or spraying graffiti, can bring a serious charge of theft or vandalism against you. You may be arrested. Penalties can include a fine, restitution (paying for damages), probation or jail time.

Theft

Taking things that do not belong to you without the permission of the owner is theft. Theft is also referred to as the crime of “stealing”.

When items stolen are taken from a store, it is often called “shoplifting”. There is no difference between shoplifting and theft.

Drug Laws

The possession or use of marijuana is against the law and penalties include fine, probation or jail. The penalties for offenses involving hard drugs, such as cocaine, speed and crack or large amounts of marijuana can be very serious, especially when a federal law is broken. The selling of any illegal drug is a very serious offense.

Alcohol Laws

It is against the law to serve or permit liquor to be served to minors (under 21) anywhere, including in the home. It is against the law for minors to have alcohol in their possession in a public place or in a car at any time. Anyone over the age of 16 who helps a minor obtain alcohol can be charged with a felony crime punishable by imprisonment and/or fine.

Alcohol, Drugs, and Driving

In New York State the penalty for the first offense conviction of driving while intoxicated may include jail time, a fine, loss of driving privileges and a requirement to participate in a drug or alcohol treatment program. In addition to the criminal penalties, it is likely that insurance rates of the convicted driver will be higher for a period of up to ten years. Depending on the situation, your parents may be responsible for any penalties, fines or damages.

Vehicular (Car) Injury or Manslaughter

If you are driving while intoxicated and injure or cause the death of another person (manslaughter), you may be charged with a felony crime. If convicted, you may be fined and/or imprisoned.

Weapon Laws

Unlawful use of a weapon is a possible felony under New York State law. Using a dangerous weapon in committing a crime can lead to life in prison. The law's definition of a "weapon" includes guns, (all types), switchblades, gravity knives, sticks, cane swords, and concealed blades (for example, a razor blade). An item such as a nail file can be viewed by police and the courts, as a weapon, depending upon how it is used. A person who is stopped by the police and found to have a gun or other weapon can be arrested and charged with possession of a concealed weapon. It is always against the law to have possession of a concealed weapon without the proper permit.

Arrest

If you, or someone you're with, is stopped or picked up by the police, here are things you need to know.

- Do not resist arrest. The most important thing to do is cooperate. Your attitude and cooperation will have a direct effect on how you are treated.

- You do not need to say anything to the police in answer to their questions without your parent present (if under 16) and/or advice from an attorney. You will be asked to give the police your name, address, telephone number, date of birth, parents or guardian's name and how to reach them. Beyond this, you do not have to volunteer anything.
- You do not need to sign anything without the advice from your parents (if under 16) or an attorney.
- If you give permission to any search, you are allowing the police to fully search you.
- You have a right to a lawyer. If you cannot afford one, the court will appoint one for you.
- Ask the police to call your parents or other adult.

Jamestown Department of Youth Services Youth Court

- 145 Steele Street
- Jamestown NY 14701
- **Phone:** (716) 483-7516
- **Fax:** (716) 483-7671

What is the Jamestown Youth Court?

Youth Court is a delinquency prevention and community diversion program patterned after the Family Court process. Youth Court's primary goal is to prevent juvenile offenders from being sent to Family Court.

Who Operates Youth Court?

Youths between the ages of 12 and 19. They serve as judges, law guardians (public defenders), facts attorneys (prosecutors), bailiffs and clerks in court cases of their peers. Youth Court derives its jurisdiction from local legal authorities who have given their support to this program.

What Kind of Offenders are Handled in Youth Court?

Offenders between the ages of 7 and 15, who have allegedly committed an offense no greater than a misdemeanor, can be referred to Youth Court.

Who Are The Referral Sources?

Referrals are made to the court by police agencies.

Youth Court Was Established To:

- Make Jamestown youth aware of the laws and their responsibility to comply with them.
- Prevent potential delinquents from becoming juvenile delinquents or persons in need of supervision (PINS).
- Develop a respect for the juvenile justice system rather than a resentment towards it.

- Allow the offender a way to pay for his/her offense in a constructive manner without having a finding of juvenile delinquency.

What Kind Of Offenses Are Handled In Youth Court?

No felony charges are handled in Youth Court. Offenses include misdemeanors, violations and infractions. Primary offenses tried in Youth Court are petit larceny, criminal trespass, criminal mischief, along with other violations and infractions. In certain circumstances, the arresting officer has a great deal of latitude in determining whether a particular offense will be tried in Youth Court or Family Court. A youth caught inside a building could conceivably be charged with burglary (a felony) or criminal trespass (a misdemeanor). If the charge is burglary, the youth automatically goes to Family Court.

If, however, the charge is criminal trespass, the officer has the option of requiring the youth to appear in Family Court, or if he feels the youth should be given a second chance, he offers the youth and his parents the option of Youth Court.

Most cases are first-time offenders for minor violations which without Youth Court would be handled through Probation or Family Court.

Are Parents Involved In Youth Court?

In the event the parents and the offenders choose to go to Youth Court, they are given a court date. At least one of the parents must appear in court with the offender. The requirement that at least one parent be present in the court at the time of the trial is both for the protection of the youth and for the enlightenment of the parents.

What Happens Next?

The case is referred to a juvenile aid officer to insure that the offender meets the eligibility requirements for Youth Court handling. At the court appearance, the offender is asked to plead guilty or not guilty before his peers. If the plea is guilty, the offender is questioned by the fact-finding attorney in an effort to determine circumstances surrounding his act. The judge can also ask questions if s/he desires. After hearing the facts, the court has several options. The disposition of the case can be:

5. Dismissal of the charge.
 6. A letter of apology to the victim.
 7. A sentence of community work hours.
 8. Essay papers to be returned to the Youth Court.

What Kind Of Training Is Offered For Youth Serving On The Court?

- At least six training sessions including mock trials
- Discussions including vocabulary and terminology
- Each teen is given a manual to study

How Often Are Youth Trained?

Usually once a year. Names are accumulated until training is set, then youth are contacted.