KIDS & THE LAW

AN A-TO-Z GUIDE FOR PARENTS

Gangs
Parents' Rights
Smoking
Graffiti
Working
Age of Majority
Truancy

School Rules
Driving
Juvenile Court
Fighting
Alcohol
Online Predators

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Your 14-year-old daughter is working long hours at her part-time job. Your 16-year-old son was caught drinking beer at a party. Your youngest child is in trouble for marking up a school wall with graffiti. Do you know how the law addresses such situations? Do you even know what is—and is not—against the law when it comes to your children?

**Kids and the Law: An A-to-Z Guide for Parents** is designed to give you a basic overview of some of the laws that apply to children—laws created, in many instances, to help safeguard your youngsters at school, in part-time jobs and at play. This updated version of the guide can also help you understand your rights and responsibilities as a parent and assist you in answering your children’s questions about the law. And it may be useful to others as well—to teachers and social workers, for example, who work with young people in California.

The subjects are set out in a dictionary-type format with cross-references to other subject areas when appropriate. In some instances, we have noted the specific law for those interested in seeking more detailed information. (See the key to the code abbreviations below.) In addition, we have included a glossary to help demystify some of the legal terms that you might come across when dealing with the law.

Keep in mind, however, that this guide is intended to provide you with general information—not legal advice. Laws are constantly subject to change. If you have a specific legal problem, you may want to consult an attorney.


### The Age of Majority

The age of majority is a term used by lawyers to describe that point in a person’s life when he or she is legally no longer considered a child. In essence, it is an arbitrary time when a child becomes an adult in the eyes of the law. Until fairly recently, the age of majority was set at 21 in most states. After the 26th Amendment gave 18-year-olds the right to vote in federal elections, most states, including California, lowered their age of majority to 18. (FC § 3802)

At the age of majority, teenagers acquire the right to:

- Enter into binding contracts.
- Buy or sell property, including real estate and stock.
- Marry without the written consent of a parent or guardian and a judge.
- Sue or be sued in their own names.
- Compromise, settle or arbitrate a claim.
- Make or revoke a will.
- Inherit property outright.
- Vote in national, state and local elections.
- Consent to all types of medical treatment.
- Join the military without parental consent.

This does not mean that once your child reaches the age of majority, he or she gains all of the rights and privileges available to adults. Some rights and responsibilities come earlier, while others come later. For example, a California resident can obtain a provisional driver’s license at age 16 (see Cars, Kids and Traffic Laws), but cannot purchase alcoholic beverages until age 21. What the age of majority has come to mean is that point when an individual is treated as an adult for most purposes.

### Alcohol and Kids

In a 2009 survey, one in three eighth-graders admitted they had tried alcohol. Even more 12th-graders—nearly three out of four—reported drinking alcohol at some point. And of the high school seniors participating in the national survey, more than half reported they had been drunk at least once. One in four admitted binge drinking (at least five drinks in a row) within the previous two weeks.

The legal age for drinking alcohol in California, however, is 21. This means that providing alcoholic beverages to anyone under that age is prohibited. In California, an alcoholic beverage is any beverage that contains at least one-half of 1 percent of alcohol. (86PC §§ 23804, 25658, 25659)

Those under 21 are not even permitted to possess alcohol in public places, including state highways or in and around schools. (86PC § 25662(a)) Minors also must abide by city and county ordinances that prohibit everyone from drinking alcohol in public parks or recreation areas. Anyone, adult or minor, who possesses an open container of alcohol in a prohibited area is guilty of an infraction. (86PC § 25620)

Also, with some exceptions, young people under age 21 are prohibited from being in bars or other establishments where liquor is served. It is also illegal to possess false identification or use a fake ID to buy (or attempt to buy) alcohol or to enter an establishment where alcohol is being served. (86PC § 25661) While it is legal for those under 21 to be in a home where adults over 21 are drinking alcohol, it is illegal to provide alcohol to anyone under 21. Parents and others providing the alcohol can be held criminally liable for contributing to the delinquency of a minor. (PC § 272)

If you allow your child, or your child’s underage companion, to have a controlled substance or drink alcohol that results in a blood alcohol concentration of 0.05 percent or more then you are aiding and abetting that person. (PC § 273)

Driving under the influence of alcohol (DUI) is a very serious crime that often requires the payment of a large fine, a mandatory jail sentence, five years probation and the suspension or revocation of a driver’s license, particularly if the young person has been convicted of the same offense in the past. (See Cars, Kids and Traffic Laws.)

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Are there laws that address underage drinking at parties? Yes. A police officer (who lawfully enters the gathering) can seize alcoholic beverages from anyone under 21 at an unsupervised gathering. Under California law, an unsupervised social gathering is a public party or event that is attended by 10 or more people under age 21, and is not supervised by a parent or guardian of any of the participants. (Btn & PC § 25622(b)) The punishment for violation of these laws varies. The offender may be found guilty of an infraction or a misdemeanor. In addition, young people under age 21 who violate the law may have their driver’s license suspended (or even revoked) for up to one year, or up to three years if related to the possession, consumption or purchase of alcohol. Or, if the minor (age 13 or older) does not yet have a license, he or she would be delayed in receiving one. This is true even if the offense does not involve an automobile. Also, for their first offense, young people may be required to pay up to $250 in fines or perform community service. A young person convicted of a second subsequent offense will be fined up to $500 or required to perform more community service. (Bi & PC § 13202.5)

State legislators and many communities around the state have taken steps in recent years to help curb underage drinking. For example, a 2010 law now allows social hosts (age 21 and over) to be sued by alcohol suppliers if an underage individual becomes drunk and then causes an injury or death. (VC § 17746(h)) In addition, a growing number of cities and counties have enacted Social Host Accountabilities ordinances as well. While such ordinances vary, they generally hold the hosts of underage drinking parties (or the residential property owners who allowed the party to take place) accountable for any drinking and loud, unruly behavior that takes place. The consequences may be fines that increase with each violation, the obligation to pay the costs of responding to the party or breaking it up, and community service.

Can bar operators also be held liable if they sell alcohol to someone under age 21? Yes, under certain circumstances. If a bar operator serves alcohol to an underage, obviously intoxicated patron who later causes a car accident, for example, that operator would be civilly liable for the resulting injuries (except for those sustained by the drunkender under drive if he or she is over 18). If the intoxicated youth is under 18, the operator could be sued for his or her injuries or death as well. (Bi & PC § 25602.1)

Liability and auto insurance: Many parents simply add their child to their own insurance. Many parents are required to have the following minimum auto insurance coverage. (VC § 16430)

- Provide his or her Social Security number.
- Verify birth date and legal presence.
- Have his or her picture taken.
- Pay an application fee.
- Pass a written examination on traffic laws and signs.

Once all of these steps have been completed, the DMV will issue your child a learner’s permit. If the minor is over 17-1/2 years of age, he or she can obtain such a permit without the education or training requirements. It is illegal for a permit holder to drive alone. A parent, guardian, spouse or adult (age 25 or older) with a valid license may be required to give the child a ride. The minor must be able to take control of the vehicle if necessary. To get a provisional license, your child must:

- Be at least 16 years old.
- Finish both driver education and six hours of professional driver training and receive the proper certification. (DMV form DL 388 or DL 337, 230) Or, complete an integrated driver education/training program of 30 hours of instruction and six hours behind the wheel.
- Have a parent’s permit for at least six months.
- Provide a parent’s signature (or other acceptable signature) on his or her learner’s permit stating that all of the driving practices outlined in the Parent-Teen Teaching Guide have been completed. You can get this booklet at local DMV field offices or by visiting dmv.ca.gov (go to More DMV Publications).

Complete 50 hours of supervised driving with an adult (age 25 or older) who has a valid California driver’s license. Ten of the 50 hours must be done at night. The adult must certify the 50 hours of driving practice.

Pass the behind-the-wheel driving test and a written exam. (The teenager must bring proof of insurance for the car in which the driving test is taken.)

Once your child has a provisional license, he or she can drive alone. However, the law does impose certain restrictions on drivers under the age of 18:

- For the first 12 months, the minor may not drive with anyone under the age of 20 in the car and may not drive between the hours of 11 p.m. and 5 a.m., unless accompanied by a driver who is 25 or older. In certain circumstances (the minor’s sibling, for example, has no other transportation to and from school), an exception may be made if the minor meets certain criteria.
- Teenagers under 18 may not be employed as drivers. (VC § 12521) When a minor reaches age 18, the provisional part of the license ends. The license is still valid as a driver’s license until the next period for renewal, which would be the driver’s fifth birthday after initially applying for the provisional license.

Minors over the age of 14 can get a junior permit under certain circumstances, such as when there is inadequate school transportation or transportation due to an illness in the family. Or, such a permit might be allowed if the minor needs it for transportation to and from a job and the minor’s income is essential to the support of his or her family. (VC § 12521) In addition, a student driver’s license may be obtained by a student who is over 15 and is taking driver training in a public, parochial or private secondary school with the consent of the school principal and parents. (VC § 12650)

Liability and auto insurance: For parents, children and driving means dealing with additional car insurance. Many parents simply add their child to their own policy, but this can be expensive. In California, minors who get their own policies are required to have the following minimum auto insurance coverage. (VC § 16430)

- $15,000 for the injury or death of one person per accident.
- $30,000 for the injury or death of two or more people per accident (still subject to the $15,000 maximum per person).
- $5,000 for property damage per accident.

Note: In signing the form for their teenager’s provisional driver’s license, parents (or the sole parent or legal guardian) agree to accept financial responsibility for their child. However, in most cases, parents can’t be held liable for more than the amounts listed above. (VC § 17709)

Keep in mind that such insurance is intended to protect your child from losses as a result of an accident that he or she has caused. Since youthful drivers often get into accidents during their first few years of driving, it might be wise to obtain more than the minimum amount of auto insurance required on a car that will be driven by your child. In addition, the liability limits do not apply when a parent has negligently entrusted his or her vehicle to the child. For example, the parents could be found liable if they knew (or should have known) of their child’s poor driving record, past accidents or drinking problem—and still permitted the child to drive his or her vehicle.
her own car or a family car. In that case, the parents could be held liable for up to the full amount of damages if the child causes an accident. (VC § 17708)

All drivers must carry liability insurance to insure against injuries the driver causes to others in a collision or other accident. Those bosses and poops, a health threat to children in particular. (H&SC §§ 118947 et seq.; VC § 12814.6)

Reckless driving: California law prohibits driving a vehicle on a highway or in an off-street parking facility in willful or wanton disregard for the safety of others or property. It also provides for more severe punishment for reckless drivers who cause others to be injured, including the revocation of the driver’s driving privilege after the third conviction in 12 months. (VC §§ 13351(a)(2), 23103-23105)

Speed contests: Speed contests are against the law. If you participate in one, the responding police officer can arrest you and seize your car (which can be impounded for 30 days). In addition, a judge can suspend a first-time offender’s driver’s license for 60 days and a minor’s license for 90 days or subse-
quently offenses, as well as impose community service and fines of up to $1,000. If someone is injured, you could face even stiffer penalties, including jail or state prison. (VC §§ 23109; 23109.1; 23109.2)

Passengers in the trunk: Riding in the trunk of a car is illegal. In recent years, dozens of teens have been hurt and, in some cases, killed while riding in trunks. If a driver allows someone to ride in the trunk, he or she has broken the law as well. (VC § 27112)

Cell phones and driving: It is against the law to use a cell phone while driving unless you are at least 18 and your cell phone is set up for hands-free use, or you are making an emergency call to law enforcement, for example. Drivers under age 18 are prohibited from talking on cell phones, “texting” messages or using any mobile service device while driving—except to place an emergency call. (VC §§ 23110.1, 23124)

Littering and throwing objects at or from a vehicle: California law makes it a misdemeanor to throw anything at or from a moving vehicle, and a felony to do so with the intent to cause great bodily harm. The law also prohibits litter-
ing or throwing lighted cigarettes from a motor vehicle; the penalties range from a $100 fine to a $1,000 fine and probation. And the offender would be ordered to pick up litter or clean up graffiti. (VC §§ 23110-12, 42001.7)

Unlicensed minors and the purchase of vehicles: A minor who does not possess a valid driver’s license may not purchase or lease a car. The law also prohibits a minor from using a false driver’s license to purchase or lease a vehicle. (VC §§ 15500-15501)

Hit and run: In California, you must stop after any accident in which someone is injured or someone else’s property is damaged. You also must exchange names, addresses, driver’s license numbers, vehicle license numbers and other relevant information with the other driver. In the collision, the accident must be reported to the California Highway Patrol (CHP) or a police officer immediately. When only property damage is involved, the maximum penalty for failing to report it is a ticket. However, if the property owner is six months in jail and/or $1,000 fine. If someone is injured or killed and you fail to stop and report it, the potential penalties are much greater. (VC §§ 20001-04)

Driving without a license: In California, it is a misdemeanor to drive with out a valid driver’s license or permit. Also, the law requires drivers to have their licenses in their possession while driving. Driving with a suspended or revoked license is a misdemeanor that could lead to six months in jail and/or a fine of up to $1,000 for a first conviction of certain offenses. In addition, the unlicensed minor could lose the use of his or her vehicle and be impounded for up to six months. (VC §§ 12500-27, 14601 et seq.; VC § 23529)

Seat belts/child passenger restraints: The driver and all passengers must be properly restrained by a safety belt—or it is illegal to drive the vehicle. (VC § 27313) Violators can be fined. In addition, children must be secured in fed erally approved safety seats until they turn 6 or weigh at least 60 pounds. Children under age 6 and under 40 pounds or under 40 inches tall are already secured by children under 12. Youngsters are not permitted to ride in the front seat of a vehicle with an active air bag if they are under a year old, weigh less than 20 pounds or are restrained in a rear-facing child seat. (VC §§ 27360-27360.5) For more safety information, go to nhtsa.gov or call the Vehicle Safety Hotline at 1-888-327-4236.

Unattended children: Children ages 6 and under cannot be left alone in a car if the keys are still in the ignition or if any other conditions could put them at significant risk. Someone age 12 or older must stay behind to supervise them. (VC § 15620) Nor is it legal in California to leave an animal in a parked car if the conditions—heat, cold or lack of ventilation, for example—could cause the animal to suffer or die. (PC § 597.7)

Alcohol and cars: In California, it is unlawful for anyone—driver or passen gers—to possess an open container of alcohol in an automobile. (VC §§ 23223, 23226) Possession of an open container of alcohol inside a car could lead to $1,000 fine for a first conviction and six months in jail. A minor’s license can be suspended or delayed for a year in such circumstances.

Laws related to driving, alcohol and minors are particularly strict. It is illegal to carry a closed container of alcohol if any one in the car—driver or passenger—is under 21 unless the person is accompanied by a parent, legal guardian or other responsible adult designated by the parent or guardian. If the car’s registered owner (whether he or she is the driver or simply a passenger) illegally possesses an alcoholic bev erage, the vehicle can be impounded for up to 30 days. (See above to the right.)

In addition, it is illegal for anyone under the age of 21 to drive a vehicle if he or she has a blood-alcohol concentration (BAC) of 0.01 per cent or more. (VC § 231.36) For adults who are 21 or older, the illegal BAC is higher, 0.08 percent or more. (VC § 23223(b))

What will happen if my teenager is stopped by police for driving under the influence of alcohol?

The police officer may administer a breath, blood or urine test to determine the driver’s blood-alcohol level. And the driver may not refuse to take this test with out facing serious penalties. Those who do not submit to a BAC test could be fined or imprisoned and could have their driver’s license suspended or revoked for a period of one to three years. (VC §§ 13352.1, 23163, 23626)

Even if a breath, blood or urine test is not performed, a young person could still be convicted of driving under the influence (DUI). A chemical test is not required for a conviction if the judge or jury concludes that the person under the age of 21 did consume an alcoholic beverage and was driving a vehicle. (VC § 23409)

If your child is convicted of DUI or is under 18, his or her license will be revoked until he or she reaches the age of 18, or for one year, or for even longer if he or she has committed prior offenses. (VC § 13352.5)

In most cases, a minor convicted of DUI also would be required to participate in an alcohol education or community service program. If the individual is over 18, he or she would be required to pay the cost of attending this program; otherwise, the expense would be charged to the minor’s parents. (VC § 23520) If your child fails to complete a court-ordered alcohol education or community service program, a court might revoke or suspend his or her driver’s license. And if the minor does not yet have a license, he or she would be delayed in receiving one. These sanctions would remain in effect until the minor completes the court-ordered program or reaches age 21. (VC § 23520)

Finally, anyone who has a driver’s license suspended or revoked may also have his or her car insurance canceled. And a DUI conviction disqualifies an indi vidual from receiving a “Good Driver Discount” insurance policy for the next 10 years. (VC § 1661.025)

There are more than three million reports of child abuse nationwide each year. By one estimate, nearly five children die from such abuse or neglect every day. And most of the victims are under age 4. But child abuse victims can be any age, come from any ethnic background and be born into poverty or wealth. Such victims do not fit into any particular profile. It is against the law for anyone under the age of 21 did consume an alcoholic beverage and was driving a vehicle. (VC § 23409)

For adults who are 21
or older, the illegal BAC is higher, 0.08 percent or more. (VC § 23223(b))

What should I do if I suspect a child is being abused or neglected?

Call your local Child Protective Services hotline (every county has one) or contact the local police. The youngster could be at great risk. And unless it can be proven that you knowingly filed a false report, you cannot be held liable if you are wrong.

Will the alleged abuser find out that I filed a report?

It depends. You can remain anonymous unless you are a mandated reporter.

What is a mandated reporter?

Because abused and neglected children are at such great risk, individuals in certain professions are required by law to report suspected abuse. The list of so-called mandated reporters generally includes teachers, school personnel, doctors, nurses, police officers and firefighters, as well as certain other professionals who regularly come in contact with youngsters. Mandated reporters must notify authorities im mediately and file a written report as well within 36 hours. They simply must have a “rea sonable suspicion” that abuse or neglect has occurred; they do not have to have any specific medical indication. (PC §§ 11165-11174.3)
What is “Shaken Baby Syndrome”? It is a life-threatening condition that can develop when someone shakes a baby. The person will shake the child’s head violently against something, usually the child’s brain into his or her skull. One in five children die as a consequence. The resulting trauma can also lead to permanent brain damage, blindness or severe motor dysfunction. It can happen when a frustrated parent or caregiver simply shakes a child to stop a bout of crying. And babies are not the only ones at risk; severe shaking can cause head trauma in children up to age 5. Proposed legislation still pending in 2010 would require health facilities and the State Department of Social Services to provide new parents with information on the syndrome. Experts suggest that over-stressed parents or caregivers seek help. Parents, concerned adults and children alike can visit childhelp.org or call 1-800-4-A-CHILD (422-4453) for assistance.

At what age can a child legally be left alone at home—and for how long? California law does not specify any particular age. Every situation—and every child—is different. It could depend on various factors: the child’s level of maturity and judgment, the time of day, the safety of the neighborhood and the proximity of an adult who could be available in an emergency. The legal question would be whether or not the child would be put at risk if he or she were left alone—whether you could be endangering or neglecting the child. There are, however, other situations in which it is against the law to leave a child of a certain age alone. For example, in certain circumstances, children under 7 cannot be left alone in a car (see Laws that Young Drivers Should Know on the previous page).

CIVIL LAWS AND LAWSUITS

In general, legal actions are divided into two categories: civil and criminal. Civil actions are lawsuits (often between private individuals or businesses) in which someone sues someone else for money damages (money or something else to compensate or offer protection for a wrong that was committed). When a civil case has to do with an injured child, parents are often involved. Minors can, however, enforce their own legal rights in a civil case as long as the minor is more than a certain age and of a certain mental capacity. A guardian ad litem is a responsible adult appointed by a court to pursue a case in a child’s name and to work to protect and defend the child’s rights. In many instances, the court-appointed guardian is the child’s parent. Along with the power to sue, children can be sued, often through their court-appointed guardian ad litem. (CCP § 6600, 6601). Are there any deadlines for filing lawsuits? Yes. When filing lawsuits, adults and children alike must abide by statutes of limitations, statutes of limitations is a law that sets a time limit on the filing of particular lawsuits. These time limitations vary according to the type of action involved but are relatively standard for the following cases:

<table>
<thead>
<tr>
<th>Case Type</th>
<th>Time Limit</th>
</tr>
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<tbody>
<tr>
<td>Personal injury</td>
<td>two years from the time of the injury. (CCP § 333.2)</td>
</tr>
<tr>
<td>Breach of contract</td>
<td>four years from the day the contract was broken, or two years if the contract was never in writing. (CCP § 337, 338)</td>
</tr>
<tr>
<td>Damages to real or personal property</td>
<td>three years from the date the damage occurred. (CCP § 338.6(b)(c))</td>
</tr>
</tbody>
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In addition, California has some other important laws relating to civil actions brought by minors. First, if a child is injured before or at the time of the birth, the lawsuit (fee) must be filed within six years of the birth. (CCP § 340.4) A minor’s medical malpractice suit must be initiated within three years, or one year after the parents discovered (or should have discovered) the injury unless he or she is under 6 years old. If the child is under 6, the suit must be initiated within three years or prior to the child’s eighth birthday, whichever period is longer. (CCP § 340.5)

Lawsuits alleging child sexual abuse generally can be brought until the person is 26 years old or until three years have passed since the person discovered (or should have discovered) that he or her was the victim of sexual abuse. However, if the person is under 18, the suit must be initiated within 1 year of the person’s eighteenth birthday. (CCP § 340.1)

In most cases, however, the statute of limitations clock starts when the child reaches 18. This means, for example, that a 12-year-old boy injured in a traffic collision who was 16 when he was injured could not sue until two years after his 18th birthday to begin an action. (CCP § 332)

CRIMINAL LAW AND CRIMES

Criminal law and crimes represent those behaviors or actions that society believes are wrong and wishes to discourage. When a minor or adult violates a criminal law, it is the state, on behalf of society, that files a lawsuit. County prosecutors are the state’s designated representatives and have the discretion to choose which violations of criminal law are most important to prosecute or punish. When the state prosecutes someone for breaking a criminal law, the wrongdoer could face a fine, be locked up in a county jail, or be sent to state prison. In a civil case, you may have to pay a fine if you lose, but you will not be sent to jail.

In California, most of the laws defining criminal conduct can be found in the California Penal Code; but criminal acts are defined in other areas of the law as well. City and county ordinances also are considered part of criminal law and include, for example, curfew laws, laws against smoking and laws requiring smoke detectors or fire escapes.

Criminal offenses are divided into three categories: felonies, misdemeanors and infraction. (PC § 166) a felony is the most serious type of crime and is punishable by a fine and/or imprisonment in a state prison, or a death sentence. A misdemeanor is punishable by a fine and/or imprisonment in a city or county jail or even more than one year in most cases. Infractions usually do not involve any jail time, but the defendant must appear in court and or/and pay a fine. If charged with an infraction, you are not entitled to a jury trial or an attorney at state expense. Minor traffic violations are infractions. Finally, some crimes are punishable either as misdemeanors or felonies. These crimes are called wobblers and are considered felonies until the judgment is imposed.

MYTH: Some parents believe that children who are under a certain age cannot be convicted of a criminal act. While a child’s age and experience do impact a court’s determina- tion as to whether the child understands that his or her actions were wrong, there is no magic age at which a child cannot be found guilty of a crime. (PC § 261) if the state seeks to prosecute a child under the age of 14 in California, however, attorneys must establish clear proof that the child knew that his or her act was wrong at the time. For more information about how criminal laws relate to kids, see Juvenile Court.

CURFEW LAWS

Curfew laws restrict the rights of youngsters to be outdoors or in public places during certain hours of the day. Such laws aim to establish a safer community and better protect children from the negative influences that they might encounter while wandering around late at night, commit the state curfew. But under state law, counties and cities can enact their own curfew ordinances. And courts in California have generally upheld such laws as long as the local ordinance seeks to discourage “lurking” or “remaining” in certain places after certain hours.

Under such local laws, parents can be charged for the administration and transport- tion costs of returning a minor to his or her home on a second curfew violation. (W&IC § 11027, 11350, 11357, 11377) Also, a child who is a frequent or habitual curfew violator may be declared a ward of the court and be treated as a status offender. (W&IC § 601(a)) (see Juvenile Court). Most curfew ordinances prohibit minors from being out past 10 p.m. on weekdays and midnight on weekends. Exceptions to such laws do exist, however, allowing kids to legally stay out late only if they are:

- Participating in a religious, educational or political activity.
- Running an errand for a parent or guardian.
- Accompanied by a parent, guardian or other adult.
- Working or going to or from their place of employment.
- Responding to some type of emergency.
- Returning home from a school, cultural or recreational activity.

What will happen if my teenager breaks curfew? He or she could be temporarily detained by police and returned home. State law also gives local police an infinite lat- titude in their enforcement of such curfew ordinances if the offi- cer believes a youth has a “legitimate reason based on extenuating circumstances” for the violation. (W&IC § 11027(c))

If you don’t know whether your community has a curfew law, call your local police department. If your community does have a curfew, obtain a copy of the law and a list of the exceptions and exceptional circumstances. As a parent, you also should request the specific guidelines given to police officers who deal with young curfew violators.

In a 2009 survey of nearly 50,000 secondary school students nationwide, one in seven eighth-graders admitted using inhalants to get high. Nearly half of the high school seniors admitted they had tried some type of illicit drug. And one in 20 respondents using marijuana or hashish at least every day or two to relieve stress. Since the survey was released, the Drug Abuse Warning Network System has taken a prescription

Prescription Drug Abuse

One in five high school stu- dents has taken a prescription drug without a doctor’s prescription, according to a national 2009 survey. Experts worry that teens may wrongly view such medications as safer than illegal drugs, while mis- use could cause serious adverse health effects, addiction and even death. Teen misuse of the painkillers Oxycontin and Vicodin, for example, has raised concerns in recent years. Possessing or using someone else’s prescription is illegal. Depending on the drug, the penalty could range from 12 months in jail and a $500 fine, to a state prison sentence and a $2,000 fine. (B&PC §§ 22702, 22705, 22706; PC §§ 652, 653; B&PC §§ 22702, 22705, 22706)

Body piercing, tanning salons and tattoos: Your teenager got her lip pierced without your permission? It is against the law to perform a body piercing on anyone under age 18. (PC §§ 352, 353) And it is a misdemeanor to tattoo or even offer to tattoo anyone under age 18. (PC §§ 352, 353) Prescription Drug Abuse

One in five high school stu- dents has taken a prescription drug without a doctor’s prescription, according to a national 2009 survey. Experts worry that teens may wrongly view such medications as safer than illegal drugs, while mis- use could cause serious adverse health effects, addiction and even death. Teen misuse of the painkillers Oxycontin and Vicodin, for example, has raised concerns in recent years. Possessing or using someone else’s prescription is illegal. Depending on the drug, the penalty could range from 12 months in jail and a $500 fine, to a state prison sentence and a $2,000 fine. (B&PC §§ 22702, 22705, 22706; PC §§ 652, 653; B&PC §§ 22702, 22705, 22706)

Body piercing, tanning salons and tattoos: Your teenager got her lip pierced without your permission? It is against the law to perform a body piercing (this does not include piercing ear) on anyone under age 18—unless a parent or guardian is present or has sent their notarized written permission. The law also prohibits children under 14 from using any ultraviolet tanning facility. Older teens (ages 14 to 18) are barred from using such facilities as well unless a parent or legal guardian appears in person to give consent. And it is a misdemeanor to tattoo or even offer to tattoo anyone under age 18. (PC §§ 652, 653, B&PC §§ 22702, 22705, 22706)
In recent years, misuse of certain prescription-type drugs, including the painkillers Vicodin and OxyContin, has raised concerns (see page 5). There are accounts of teenagers raiding their family medicine cabinets and holding so-called pharming parties (see page 5). Recent data showed that children are taking high doses of over-the-counter medications just to get high. Of those surveyed in 2009, roughly one in twenty-six eighth-graders and one in seventeen high school seniors had abused such medications in the previous year. And experts fear that young people may not fully realize the risks because the drugs are sold over the counter. Other drugs abused by young people in recent years include nitrous oxide (see below), anabolic steroids and the so-called club drugs, such as MDMA (more commonly known as “ecstasy”). Certain club drugs have been associated with sexual assaults as well as drug driving. The drug is slipped into an unsuspecting victim’s drink to render the victim defenseless. For more information, go to clubsdrug.org.

What could happen if my child is arrested for drug possession?

It depends. The laws that regulate drugs exist at the federal and state levels. Most of the federal laws deal with large-scale drug trafficking, an activity in which most children are not involved. Young people are far more likely to face state charges of possession of a controlled substance. (H&SC §§ 11353, 11377(a)) More than 50,000 controlled substances carry a felony charge—and potential prison time—for possession alone. Such substances include, for example, concentrated cannabis, crack cocaine, LSD, amphetamines and barbiturates.

The punishment for marijuana (the most commonly used illicit drug) is less severe. Possessing 25.5 grams of marijuana (other than concentrated cannabis) or less would be considered a misdemeanor, which would result in a fine of up to $100. Minor also can be evicted from their home to their parents or taken to a juvenile probation officer. However, if your child is found possessing more than an ounce of marijuana or a larger amount of a controlled substance, the consequences would be more serious. (H&SC §§ 11357-58)

Possessing certain drug paraphernalia is against the law as well. And it is illegal for a young person to anywhere—a party, for example—where controlled substances are being used if he or she is participating or assisting in their use. (H&SC §§ 11364-65)

In California, courts can suspend a young person’s driver’s license (if he or she is under the age of 21 but older than 13) for one year if he or she has been convicted of certain drug or alcohol-related offenses. If the minor has yet to get a license, driving privileges may be delayed for a year beyond the date that the teenager would otherwise be able to drive. And successive offenses could result in further suspension or delay in eligibility. The suspension, restriction or delay of driving privileges is in addition to any penalty imposed upon conviction. (VC § 13202.5)

When young people are arrested with more drugs than they could reasonably be expected to use themselves, they may be charged with possession with intent to sell drugs. This is a felony, even if the simple possession of the particular drug would not be a felony. (H&SC § 11351)

In addition, anyone under the age of 18 who induces another minor to violate certain laws related to controlled substances could wind up in state prison. (H&SC § 11354)

Are there stiffer penalties for selling drugs to minors at school?

Yes. The state imposes severe sanctions on anyone age 18 or older who unlawfully sells or offers, sells or gives away certain controlled substances to a minor (or selects a minor’s assistance) at certain locations where children are present. This would include a school campus, a public playground or a child day care facility. At times when minors are using the center, the type of drug and the age difference between the minor and the adult, such conduct could lead to an enhanced prison sentence of 14 years. (H&SC §§ 11353.1-11353.6, 11380.1)

The data, however, suggests that teenagers still have plenty of opportunity to obtain drugs. Parents everywhere found that nearly one in four high school students had been offered, sold or given illegal drugs at school.

Legally speaking, emancipation is that point in time when parents are no longer responsible for their children, and children no longer have to answer to their parents. (FC §§ 7002, 7120) Once this occurs, parents do not have to give their permission for anything that the minor may wish to do. They also no longer have to provide their child with support or necessities such as food, shelter and medical care. This means that your minor child does not have to be responsible to you and may live wherever he or she wishes to live.

In addition, an emancipated minor can make his or her own medical, dental and psychiatric care decisions. An emancipated youth also may, for example, enter into a contract, sue and be sued in his or her own name, make or revoke a will, buy or sell interests in property, and apply for a work permit without parental consent. At the same time, the minor’s parents lose control over his or her earnings. The minor must instead take care of his or her own financial affairs. (FC § 7050) In California, an emancipated minor’s identification card or driver’s license will state his or her emancipated status. (FC § 7140)

MYTH: Some kids believe that they can “divorce” their parents or seek emancipation without their parent’s permission. The truth, however, is that kids cannot unilaterally “divorce” their parents. The emancipation process is very complex and requires, at a mini- mum, a parent’s consent or acquiescence in order for a court to approve such a process.

In California, emancipation occurs automatically under certain circumstances. For example, as a soon as a young person turns 18, he or she legally becomes an adult and is emancipated. (See Age of Majority.) When minors get married, they become emancipated and emancipation also occurs if a minor is on active duty with the Armed Forces. (FC § 7002.6(b)).

In addition, a minor may become emancipated in California with a petition to the courts. In such a case, the minor (at least 14 years of age) must state that he or she would like to be emancipated and is willing to live separate and apart from his or her parents or guardian. The minor must be able to prove that this decision was made voluntarily and that he or she has parental consent or acquiescence to manage his or her own financial affairs. The minor must explain to the court how much money he or she makes, and how future expenses will be handled, including the cost of rent, clothes, food and entertainment. (FC § 7120)

Before the petition is heard, the minor’s parents, guardian or other person entitled to custody must be notified, unless the minor can show that their address is unknown or that it is not known for given some reason. (FC § 7123)

Also, a judge must find that it is in the minor’s best interests to become emancipated. If circumstances change after the emancipation order has been granted, the court has the power to rescind the order and notify the minor’s parents.

Note: Running away from home is not a legitimate way of becoming emancipated. Not only can parents expel their children from their homes, but they can choose to exercise their responsibilities by forcing their children out of the home. In such situations, children may acquire the right to determine their place of residence and make certain other decisions without losing their right to parental support. (See Parents’ Rights and Responsibilities.)

Nitrous oxide and other inhalants

Parents may not think of glue, spray paint, solvents, paint thinner and cleaners for whipping cream as drugs. By eighth grade, however, roughly one in seven children have tried such drugs according to a national survey. Such abusers often start young—sometimes as young as age 6—and face a litany of potential health problems, including sudden death. Up until recently, teens could buy nitrous oxide in small canisters (also called whippets) used for whipping cream. In 2010, however, it became illegal to sell or distribute nitrous oxide (also known as “laughing gas”) to anyone under 18. Selling or distributing法律 enforcement (see page 3) for example) to minors is also against the law. And possessing either substance for the purpose of getting high is illegal as well. (PC §§ 380, 381, 381b, 381c) For more information, including signs that a child might be abusing inhalants, go to inhalants.org or drugfree.org.

Fighting is one of the most common ways that young people get into trouble with the law. When children are caught fighting, the police have several options. They can simply counsel the minor and escort the child home. More often, (especially if there is an injury or damaged property), the minor will be arrested. The child could face charges of assault or battery and disturbing the peace.

An assault is defined as an unlawful attempt, coupled with present ability, to commit a violent injury upon another. (PC § 240) Assault is trying or planning to hurt someone but not necessarily succeeding. Battery is defined as the willful and unlawful use of force or violence upon another. In other words, battery is when an assault has been successfully carried out. (PC § 242)

In California, an assault is a misdemeanor that could lead to six months in jail and a $1,000 fine. When a assault is committed against certain people, such as a peace officer, firefighter, school employee or someone in intensive care pediatric, animal control officer or an emergency medical technician doing his or her job, the punishment is greater. (PC §§ 241, 241.1, 241.6) Also, if the assault is committed on school or park property or with the use of a deadly weapon, the punishment is more severe. (PC §§ 241.2, 243-245.5) When a minor commits an assault on school property, he or
she may be required to attend counseling at his or her parents’ expense, in addition to the fines (up to $2,000) and punishment imposed. (PC § 243.2)

If convicted of battery, also a misdemeanor, a young person could face up to six months in jail and a $2,000 fine. If the battery was directed at specific public service or medical personnel, the potential punishment would increase and could even include a prison sentence. (PC §§ 243, 243.1, 243.6)

Sometimes, however, it can be difficult to determine who started the fight. If you or your child are attacked in self defense, the act could be dropped or might not be filed at all. In a situation in which one child agrees to meet the other after school for a fight, however, both would be charged.

Finally, fighting in a public place may result in a charge of disturbing the peace—a crime with a penalty of up to 90 days in jail and/or a $400 fine. (PC § 415)

MYTH: Some children believe that fights between brothers and sisters or even own family members are not against the law. But the truth is that no one (except a parent using reasonable force to discipline a child) has permission to strike another person. This is true whether that person is your kid brother, annoying sister, parent or teenage son. In such cases, the police, while often deferring to parents, can arrest the offender and refer the matter to court.

MYTH: Yes, California law makes parents liable in certain circumstances. For example, if a school employee who has been attacked, assaulted or physically threatened by a pupil to report such conduct to law enforcement. (Ed.C. § 44014)

GRAFFITI AND OTHER VANDALISM

Some may see it as a form of self-expression. But those who mark up walls, stores and buildings with graffiti are breaking the law. The law defines graffiti as any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on real or personal property. (PC § 594(e))

Graffiti is just one common type of vandalism (also called malicious mischief)—the malicious defacement, damaging or destruction of someone else’s real or personal property. It is against the law to commit any type of vandalism. Specific laws prohibit putting graffiti on government facilities, for example, or on vehicles, public transit, anything within 100 feet of a highway or freeway overpass supports, sound walls or traffic signs. (PC §§ 640.5, 640.7, 740.8) And it is a misdemeanor as well for anyone to sell, give or furnish a minor with any etching cream or aerosol can of paint that could be used to deface property, or for any minor to purchase such materials. (PC § 594.1)

How severely a so-called tagger—someone who does graffiti—will be punished depends on the extent of the damage and to the extent of past criminal history, if any, of graffiti convictions. (PC § 594.7) If the damage is less than $400, a first-time tagger could face up to a year in custody and/or a fine of up to $1,000. (PC § 594(b)(2)) In more serious cases, however, the tagger could be sent to prison and slapped with as much as $50,000 in fines. (PC § 594(b)(3))

In addition to fines and jail time, courts also can order the tagger and his or her parents to clean up, repair or replace damaged property, or keep certain community property graffiti-free for up to one year. (PC § 594) And taggers between the ages of 13 and 21 could have their driver’s licenses suspended for two years or—in the case of the unrelicensed driver, delayed for up to three years beyond the date that the tagger would have been eligible to drive. The length of the suspension or delay may be reduced, however, through community service work, which could include graffiti removal from public property. (PC § 12302.6)

What are some other forms of vandalism?

In California, it is illegal to:

● Remove or damage road or highway construction barriers, warning signs and lights. (PC § 5889)

● Maliciously poison, torture, kill, neglect, tether or be cruel to animals. (PC §§ 596, 597, 597.1)

● Tear down a legal notice before its expiration date. (PC § 616)

● Open a sealed letter without the authority to do so. (PC § 618)

● Tamper with fire alarm apparatus or set off a false alarm. (PC § 148.4)

Finaly, vandalism that poses particular dangers to the public, is directed toward animals, is racially motivated or stems from feelings of religious hatred or persecution is often treated as a felony. (See Hate Crimes and Hate Speech)

Are parents liable when their kids damage, destroy or deface the property of others?

Yes, California law makes parents liable in certain circumstances. For example, they are liable for:

● Fines that the minor cannot pay. (PC § 594(i))

● The costs of repairing and replacing destroyed property. (Govt.C. § 38772; PC § 594(c))

● Damages to school property or rewards offered to find the person responsible for the damage, up to $10,000. (Ed.C. § 49090.4(a)(1))

● Wilful misconduct, including the defacement or destruction of property through the use of paint or similar substances. (CC § 1714.1)

For more information about laws that may apply to graffiti and/or the defacing or destruction of property, see Hate Crimes and Hate Speech, and Parents’ Rights and Responsibilities.

Dog on a Leash: Does your youngster have a dog? Don’t leave that dog tethered—even if the leash is long—to a dog house, a tree or any other stationary object for long, or you could be breaking the law. You may restrain your dog while doing a quick task, for example, but you may not leave him tethered for more than three hours in a 24-hour period. Violating this law could lead to an infraction and a fine of up to $250 or a misdemeanor with jail time and a $1,000 fine. (PC §§ 597.1, 597.5, HS&C § 122335)
In a 2009 national survey, close to one in six high school students admitted carrying a weapon at some point in the prior month. Roughly one in 18 admitted bringing a weapon to school. And one in 13 reported being threatened or injured at school with a weapon in the previous year.

Legally regulating the possession and use of guns and other dangerous weapons in California is broad and varies in their intent. Some seek to regulate the size or type of weapon, while others focus on how the firearm or weapon is used or carried. For minors, the law is very clear. It is illegal for a minor under age 16 to possess a handgun unless he or she is accompanied by a parent or responsible adult. (PC § 246.3) Even if the firearm is fake, it is a misdemeanor to display it in a manner that frightens someone or causes someone to believe that he or she is in danger of being injured. (PC §§ 2417.4, 246.3) It also can be cause for suspension or expulsion from school.

If a parent gives a gun to a minor or leaves it where the child could get it, and someone winds up injured or fatally shot, the parent could be liable for up to $30,000 for the death or injury, or the injured person's property. If more than one person is injured or killed, the parent could be held liable for up to $60,000. (CC § 1774.3) And parents who have negligently given their child a gun can be prosecuted for criminal negligence if the youngster uses the gun to injure or kill someone.

A weapon using the weapon during the commission of another crime will increase the punishment for the crime (add years to a prison sentence). In addition, the crime will be treated as a felony. (PC § 12020(c))

It is a felony for any driver or motor vehicle owner to allow anyone to fire a gun from a vehicle. If someone willfully and maliciously fires at someone else from a car—in a so-called drive-by-shooting, for example—the driver could face up to three years in prison or, if someone is injured or killed, even longer. (PC § 12034)

Firing a gun—even a BB or pellet gun—in a grossly negligent manner that could result in injury or death is illegal. (PC § 246.3)

It is illegal for any retailer to sell or transfer any soft and some fireworks to children under 16. And it is unlawful for anyone to sell, give or deliver dangerous fireworks to anyone under 18. (H&S § 12869)

In some cities and counties, all types of fireworks are illegal. Under state law, cities and counties can adopt their own ordinances or regulations prohibiting or regulating the sale and use of fireworks. (H&S § 12541.3(b))

In some cities and counties, all types of fireworks are illegal. Under state law, cities and counties can adopt their own ordinances or regulations prohibiting or regulating the sale and use of fireworks. (H&S § 12541.3(b))

Hate crimes and hate speech

Crimes motivated by the hatred or dislike of others are classified as hate crimes. A hate crime is any act committed against a person (or the person's property) because of certain characteristics (real or perceived) about the person. These include the individual's race, ethnicity, religion, ancestry, national origin, disability, gender or sexual orientation. In some cases, threats and intimidation are enough to constitute a hate crime. (PC § 2422.3) Unfortunately, a large percentage of these crimes in California are committed by young people.

What are some examples of hate crimes?

- Throwing an object through the window of an African-American couple’s house because the perpetrator does not like African-Americans and wants them to move out of the neighborhood.
- Attacking a man walking down the street because the perpetrator believes the man is gay.
- Spray-painting a car that belongs to an immigrant because the perpetrator feels that immigrants are causing problems in the community.

When prejudice is the principal reason or motive behind the violence, intimidation or threat. California law increases the punishment for the crime. A hate crime conviction for an adult or a minor can add one to three years of prison time to a sentence, depending on the circumstances. (PC § 242.75) If two or more people commit a hate crime together, their sentences could be increased by one to four years. (PC § 242.75(a)) In addition, California students attending 4th through 12th grade may be suspended or recommended for expulsion if they cause, attempt to cause or participate in an act of hate violence. (Ed’s Code § 48900.3)

Individuals involved in this type of conduct can also be sued by the victim and, under California law, may be ordered to pay:

- The victim’s medical bills and/or property repair bills.
- Money to compensate the victim for his or her pain and suffering.
- A $25,000 fine.
- Fees for the victim’s attorney.

Hate speech (using an ethnic or racial slur when referring to someone, for example) is more difficult to regulate. This is largely due to the First Amendment of the Constitution—the right of free expression—protects much of what we say and our ability to say it. In California, no criminal penalties can be attached to words alone unless the words themselves amount to threats of violence against a specific person or group of people, and the threat comes from someone with the apparent ability to carry it out. (PC § 422.6(c))

- One to one
- 143 - I love you
- BCNU - I'll be seeing you
- DIKU - Do I know you?
- F2F - face to face
- FAWC - for anyone who cares
- GGOH - Got to get out of here.
- IPN - I'm posting naked
- UNLOV - Let's meet in real life.
- PIR - parent in mom
- WYRN - What's your real name?

For more info, go to cyberblipline.com (click on online anonymizers under HOOP).

Source: National Center for Missing & Exploited Children

Should I worry about online sexual predators if my child frequently socializes on the Internet?

There is a risk. Monitor his or her Internet use—and openly discuss the dangers. Spending time online can be a beneficial, mind-expanding experience for your child. But the Internet also provides an ideal meeting place for sexual predators seeking contact with children. Many young people socialize online with “friends” they have never met in person. How do you know? A 2009 survey found that children ages 8 to 18 spend an average of more than seven and a half hours a day using a smart phone, computer, TV or other electronic device. And from 2004 to 2009, the number of children ages 12 to 17 with their own cell phones jumped from less than half to 75 percent.

But while this new digital world may open many doors, it can put your children at risk as well. They may encounter unwanted sexual material online or even sexual solicitation from a stranger. Or they could fall victim to online harassment and bullying. Your children may feel safe, but they cannot always know who’s on the other end of their online chats. And their personal information could be misunderstood or misused as if they’re not careful. Also, if they download certain material, your children could be breaking the law—and you, as the parent, could be liable.

Is it ever illegal for an adult stranger to contact my child online?

Yes, in certain circumstances. For example, an adult cannot send sexually explicit or obscene material to a child in an effort to seduce the child. It is also against the law for an adult with sexual motives to seek a child online or to arrange an in-person meeting with the child—even if the adult fails to show up. Just setting up such a meeting is a misdemeanor that could lead to a year in jail. And if the meeting does take place, the adult faces four years in state prison for online enticement. (PC §§ 272, 288.3, 18 U.S.C. § 2422(b))

If an adult is solicited or sent obscene material online, contact local law enforcement and the 24-hour CyberTipline at 1-800-843-5470 or at cyberblipline.com. By law, Internet service providers (ISPs) must also report any child sexual exploitation or non-compliance to the federal mandated tipline.

For tips on minimizing the risks, see Sexual Predators and the Computer on page 9.
For more information on the risks and what to do if you suspect your child is communicating with an online sexual predator, see the FBI’s publication A Parent’s Guide to Internet Safety, which is available online at www.fbi.gov (click on Reports & Publications in the left-hand menu). And for more Internet safety information, visit the websites listed at the bottom of this page.

Not only are there safety risks if your child reveals personal information, but there can be a danger to your child’s well-being as well. For information on identity theft and what to do if your child’s identity is stolen, go to privacy.ca.gov (click on the Consumers tab). idtheftcenter.org and ftc.gov/idtheft are also good resources.

Are there any laws to help protect my child’s privacy online?

Yes. Under the 1998 Children’s Online Privacy Protection Act (COPPA), operators of children’s websites that collect personal information from youngsters under age 13 are required to post a privacy notice. The notice must provide parents or legal guardians with information on what type of information gathered and whether such information will be sold or forwarded to a third party. Generally, such sites also must obtain parental consent before collecting a child’s personal information. In agreement to provide personal data, the parent can request that the information not go to any other party. In addition, parents have the right to review the information collected from their children, revoke their consent and have such information deleted.

What is sexting?

The definitions for this new term vary. Some definitions say it is when a young person sends or posts a sexually explicit image or message to a peer via a cell phone or the Internet. Others include sexually suggestive images and messages in the definitions. A 2008 survey found that one in five teenagers had sent or posted nude or semi-nude photos or videos of themselves and that almost twice as many had also posted sexually suggestive messages. Most of the teens said the messages or photos were intended for a boyfriend or girlfriend. But sexting can have serious, unintended consequences. For example, transmitted for countless others to see—containing personal information not go to another peer or into the Crazy Life or update a photo on a social networking site can have serious, unintended consequences.

What can I do if a sexually explicit or otherwise inappropriate photo of my child or teenager turns up on a website?

Contact the website owner or Internet service provider and ask them to remove the image. Most websites provide a means for reporting abuse. Depending on the particular circumstances, you may want to contact local law enforcement and the CyberTipline (see adjacent list) as well.

Selecting and Enforcing Child Protection Measures

Sexual Predators and the Computer

Minimize the chances of an online exploit victimizing your child:

● Communicate and talk to your child about sexual victimization and potential online danger.

● Spend time with your child online.

● Utilize parental controls provided by your service provider and blocking software. While electronic chat can be a great place for children to make new friends and discuss various topics of interest, it is also provided by computer-sex offenders.

● Always maintain access to your child’s online account and randomly check his or her e-mail.

● Teach your child the responsible use of online resources.

● Find out what computer safeguards are utilized by your child’s school, the public library and at the homes of your child’s friends.

● Understand, even if your child was a willing participant, that the sexual exploitation, that he or she is not at fault and is the victim.

● Instruct your children:
  - To never arrange a face-to-face meeting with someone they meet online.
  - To never upload (post) pictures of themselves onto the Internet or online service to people they do not personally know.
  - To never give out identifying information such as their name, home address, school name or telephone number.
  - To never respond to messages or bulletin board postings that are suggestive, obscene, belligerent or harassing.
  - That whatever they are told online may or may not be true.

Source: Federal Bureau of Investigation Innocent Images National Initiative

Legislators, school officials and courts around the country are struggling to address the problem without trampling on young people’s First Amendment right to free speech. In 2009, a California law gave school administrators grounds to suspend or recommend expulsion for students who transmit electronic images of young victims and, in some cases, may have even led to suicide. In a 2010 survey of young people (ages 10 to 18), close to one in five said they had been cyberbullied.

Social Networking, Sexting and Cyberbullying

For more information on the risks and what to do if you suspect your child is communicating with an online sexual predator, see the FBI’s publication A Parent’s Guide to Internet Safety, which is available online at www.fbi.gov (click on Reports & Publications in the left-hand menu). And for more Internet safety information, visit the websites listed at the bottom of this page.

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What can I do if a sexually explicit or otherwise inappropriate photo of my child or teenager turns up on a website?

Contact the website owner or Internet service provider and ask them to remove the image. Most websites provide a means for reporting abuse. Depending on the particular circumstances, you may want to contact local law enforcement and the CyberTipline (see adjacent list) as well. You could also contact a local Internet Crimes Against Children Task Force agency for assistance. To find a regional task force agency contact in your area, go to icactraining.org.

Is there a law against selling or renting violent video games to children?

Yes, but in early 2010, it was not in effect—and its future remained unknown. The state law (ruled unconstitutional by one court and awaiting U.S. Supreme Court review in 2010) would prohibit store owners and managers from selling or renting “violent” video games to minors. Under the pending legislation, store owners or managers could face up to $1,000 in fines for selling or renting “violent” video games (in general, any game that involves the killing, maiming, dismembering or sexual assault of a human being) to a minor. In addition, all such games would have to be labeled with a solid white, two-inch “iB” outlined in black. (CC §§ 1766.1-1766.4)

Computers, the Internet and Theft

California law prohibits:

● Pitting or downloading copyrighted material, such as music. (PC §§ 520(c), 13848)

● Accessing someone else’s computer without authorization. (PC § 520(c)(17))

● Devising or executing schemes to obtain money, property or services with false or fraudulent intent through a computer. (PC § 520(c)(1))

● Deleting, damaging or destroying systems, networks, programs, databases or components of computers without authorization. (PC § 520(c)(4))

● Disrupting or denying access to the authorized users of a computer. (PC § 520(c)(5))

● Introducing contaminants or viruses to a system. (PC § 520(c)(8))

Juveal court is a separate court system for those under age 18. All states have such courts. In launching a separate court in the early 1900s, many believed that children could be rehabilitated through intensive counseling, training and guidance, while law-breaking adults may be less open to rehabilitation. Today, our juvenile courts serve three distinctly important functions.

First, there are children who have committed an act that if committed by an adult would be considered criminal. These children are often called delinquents or delinquent kids. The number 602 refers to the Welfare and Institutions Code section that specifically relates to delinquent children. Second, there are children who have committed status offenses. Status offenses are activities that are only wrong if committed by minors. (Such offenses would not be considered illegal if committed by an adult.) For example, truancy, running away from home, violating curfew and being beyond parental control are status offenses. Children who have committed such offenses are often called children in need of supervision or delinquent kids. Again, 602 refers to the Welfare and Institutions Code section that specifically relates to status offenses. (See Kids in Need of Supervision.) And there are those children who have been abused, neglected or abandoned. A judge must decide who will care for these children. This is done through court dependency hearings. (W&IC §§ 300, 302, 360)
Kids and the Law

In some instances, custody is taken away from the parents temporarily, and the children are placed in foster care. (W&IC § 727(a)(3)) Parents may then be ordered to get counseling before their children can be returned. In other cases, the parents’ right to their children may be entirely or partially terminated and the children are put up for adoption. (W&IC § 366.26) (See Parents’ Rights and Responsibilities)

The exception to these three primary categories of children are the young people who are at least 14 and who have committed a very serious crime. (W&IC § 602(b)) Under these circumstances, the child’s case may be transferred from the juvenile justice system to the adult justice system. (W&IC § 707)

Generally, this decision is based on the following criteria:

- The minor’s degree of criminal sophistication.
- Whether the child can be rehabilitated.
- The child’s previous delinquent history.
- The success of previous attempts by the juvenile court to rehabilitate the minor.
- The circumstances and gravity of the offense.

Usually, a child will only be transferred to adult court if he or her alleged offense was extremely serious, such as murder, arson, armed robbery, forced sex crimes, kidnapping, assault, selling or providing certain drugs to other minors, or other aggravated offenses. (W&IC §§ 602, 707) Children who remain in the juvenile justice system may be kept under the court’s jurisdiction until they reach age 21—if they become wards of the court before turning 16. If the child is older than 16 when charged with a crime, he or she may remain a ward of the court until age 25. (W&IC § 607)

What will happen if my child is picked up by police for breaking the law?

Children who are picked up by the police and referred to juvenile court for breaking an adult law or a status offense are entitled to warnings similar to Miranda warnings (the warnings given to adults under arrest). (W&IC §§ 625, 627.5) But police and juvenile probation officers have far more discretion in choosing to simply release such children and send them home to their parents. (W&IC § 626) If kept in custody, however, young status offenders generally must either be held separate and apart from children who have been charged as delinquents and from adults under arrest. (W&IC § 207)

Detained children must be released within 48 hours (excluding non-court days) unless a criminal complaint or petition for wardship is filed. (W&IC § 631, Cal. Rules of Court, rule 1472) During this time, the parents must be notified about what is going on and/or the intent of the probation department to have their child made a ward of the court. (W&IC §§ 307.4, 316)

During this time, the minor has a right to a lawyer and has many of the procedural due process rights given to adult defendants. (W&IC §§ 317, 619, 702.5)

Unlike adults, however, juveniles have no right to a jury trial in California and no right to have counsel in the adult justice system. Also, in most instances, juvenile court proceedings are closed to the public and the child’s identity is kept confidential. (W&IC § 676)

Trials and juvenile court proceedings are called adjudication hearings. If an adjudication hearing is held and a child is found to have committed certain offenses, a dispositional hearing is scheduled. At the dispositional hearing, the state recommends a disposition, keeping in mind that the overriding aim of the juvenile justice system is to rehabilitate youthful offenders and get them back on the right track.

The judge may then place the child on probation, assess fines, seek restitution, order a child to move to a different home, and impose any condition that he or she deems necessary to protect the victim or prevent the child from further committing offenses. (W&IC § 207)

All final decrees from the juvenile court can be appealed to a higher court. (W&IC §§ 385, 880), and most juvenile records may be sealed or destroyed with the appropriate request to the court. (W&IC §§ 389, 731) However, sealing or destroying juvenile records is a complicated process. And, neither may be possible if the child has been found to have committed a misdemeanor involving moral turpitude or if too little time has passed since the child’s conviction. Records usually can be sealed five years after the juvenile court’s jurisdiction is terminated or when the child turns 18. Once sealed, the minor’s records may not be opened for inspection unless ordered by the court. (W&IC §§ 389, 731)

PARENTS’ RIGHTS AND RESPONSIBILITIES

Parents have many responsibilities when it comes to their children. They have important rights as well:

- Custody and control: Parents must make important decisions about their children’s lives, such as where the children will live, with whom they will attend, when medical care is appropriate and what, if any, religion they will practice. These rights are constitutionally protected and generally cannot be taken away unless it can be shown that the parents are unfit.

- Cooperation and obedience: Parents are expected to control their children and are permitted to discipline them (not to the point of abuse or neglect, however). In some instances, children may be taken away from home if they go to school or go beyond parental control. And, if the situation is extreme, the parents may seek to have legal responsibility for the child. Or, if the parents fail to adequately control their child, a judge may determine that the child is in need of supervision and declare the child a ward of the court. When this occurs, the court must sometimes take custody of the child and the responsibility for that child’s basic needs and education. (See Kids in Need of Supervision)

- Children are not required to obey a parental order to do something dangerous or illegal. Parents who allow or encourage children to commit dangerous or illegal acts may be charged with contributing to the delinquency of a minor (PC § 272), child abuse (PC § 273a) or neglect (PC § 270)

- Earnings: While most parents allow their child to keep his or her earnings, parents also have a legal right to such wages. (PC § 7500) There are exceptions to this rule, however. A child’s earnings may not be available to parents if:

  - The parents have exploited, neglected or abandoned the child, and the child has brought suit to be freed from parental control. (PC §§ 7904, 7907)
  - The child’s income is the result of his or her special talent or athletic ability (a child star or athlete). (PC §§ 6750, 6753)
  - The child’s income is the result of a gift or inheritance. (PC §§ 7502; Prob.C § 300)

- Recovery of death or injury: If a child is killed or injured, parents are entitled

Rowdy Fan Law: If you try to distract a player or interfere with a professional sporting event by throwing an object onto or across the court or field, you will be breaking the law. Nor can you or your children, as spectators, enter the court or field during the event without official permission. If you violate this law, you could face a fine of up to $250 for an infraction. Owners of professional sporting facilities must post notices describing the illegality of such conduct and the potential punishment. (PC § 243.83)
to bring a lawsuit to recover costs such as medical or funeral expenses from the person responsible. (CCP §§ 734, 737.60)

Parental responsibilities: Parents’ most important responsibility is to support their children. They are legally obligated to provide their children with the necessities of life. (PC § 270) Such necessities are not limited to food, clothing and shelter, but also include medical care. In addition, parents are expected to support their children’s education and training, and to support the children remaining at home if the parents separate. One way to achieve this is to contribute financially. Parents who refuse to provide such support may be held liable for the necessary expenses until they make good on their obligation. (W&IC § 308(b))

If a county is required to support a child, it can seek reimbursement from parents who are capable, but have failed, to provide such support. (W&IC § 3900) Alternatively, the county may proceed on behalf of a child to enroll the child in the court proceedings. (W&IC § 3003) The duty to support children lasts until the child reaches the age of majority (18), or if the child is still enrolled in high school. (FC § 3901)

The fact that a child’s parents are not married does not affect the parents’ responsibility to support their child. (FC § 3900) If parents are unmarried or divorced, and cannot agree on how much each should contribute toward the support of their children, the courts may be called upon to decide. One parent, or the child through a guardian ad litem, may bring an action against the other parent to enforce the duty to pay child support. (FC § 4000) Alternatively, the county may proceed on behalf of a child to enforce the child’s right of support against a parent who fails to provide it. (FC § 4002) A judge may order one parent to make specified payments to the other or child support. (FC § 4500) The court’s authority to order a parent to pay child support or to enforce such an award includes the following: a writ of execution or levy (PC § 5100), a garnishment (FC § 3230), civil contempt proceedings (FC § 5290), or criminal prosecution. (PC § 270)

Note: A stepchild (a child from a prior marriage) is generally not entitled to support or to enforce such an award includes the following: a writ of execution or levy (PC § 5100), a garnishment (FC § 3230), civil contempt proceedings (FC § 5290), or criminal prosecution. (PC § 270)

Supervision and control of children: Parents may be morally responsible for supervising and controlling their children. However, parents generally are not legally responsible should they ever misconduct their children. (PC § 2722) There are exceptions. For example, parents who encourage their children to break the law may be found guilty of contributing to the delinquency of a minor. (PC § 2722) Also, parents who know or should have known that their child engages in improper conduct, or who aid or encourage such conduct, may be held liable for their children’s acts. There are specific statutes that hold parents liable for certain harm caused by their children.

Injuries from guns: Parents may be required to pay victims up to $60,000. (CC § 1714.3)

Willful misconduct: If the child causes injury or death to another, or property damage, the parents are liable for up to $25,000 in damages. (This could apply to the parents of a child who commits an Internet related crime, such as software piracy.) (CC § 1741.4)

Graffiti: Parents may be liable for the costs of removal, repair and/or replacement of property, and for keeping the property free of graffiti for up to one year. (PC § 594c) If there are repeated graffiti offenses, parents could be liable for up to $50,000 in fines that their children cannot pay. (PC § 594d)

Tear gas injuries: Parents who have signed a minor’s consent form to obtain tear gas may be liable for the child’s negligent or wrongful acts or omissions. (PC § 12403.8(c))

Truancy fines: Parents may be required to pay a $100 fine for the fourth violation in one year. (EDC § 48264.56(b)(2))

Injuries to another person on school grounds; damage to school property; failure to return borrowed school property: Parents may be liable for up to $10,000, and up to $10,000 for any reward. The school may withhold grades, diplomas or transcripts until these amounts are paid. (EIC § 48994)

Shoplifting: If a child steals from a store or library, the parents may be responsible for up to $500 plus costs. (PC § 490.5)

Curfew violations: Parents must pay the actual administrative and transportation costs incurred by the police for picking up and returning children to their homes after curfew. (PC § 833)

Resisting arrest: If a juvenile starts fighting with police officers, they may refuse to answer any other questions except their lawyer’s whereabouts or whether they are the minor in question. (PC § 1214.1(i)(a))

Don’t talk about your case. Young people should avoid talking to anyone except their lawyer(s) or parents about any criminal charges brought against them. They should, however, be encouraged to talk openly and honestly with their lawyer. Without all of the facts, an attorney may not be able to adequately protect the minor’s interests. If the child discusses his or her case with friends or anyone else, however, the police may be able to use such statements in court.

Privacy—the desire for it or the lack of it—is a concern to all. This is particularly true today when information about every aspect of our lives is stored in computers around the world, cell phone cameras are all around, and new technologies continue to emerge. Issues related to privacy rights come up in a variety of situations and settings. Young people, however, are usually most concerned about privacy related issues that arise at school or at home, or that involve personal decisions. Here are a few examples:

Privacy at school: Parents and their children should understand that the U.S. Constitution protects only the reasonable expectation of privacy from government intervention. Whether a reasonable expectation of privacy has been violated and whether the state was involved have been points of controversy in privacy rights cases.

Some two decades ago, the U.S. Supreme Court decided that while teachers were considered state agents who must respect the constitutional rights of their students, police officers conducting a search of students could be conducted as long as they were reasonable and could be justified under the circumstances. In that specific case, a teacher found a 14-year-old student smoking in the bathroom (a violation of school rules) and took the teenager to the principal’s office. The assistant vice principal then searched the student’s purse and found cigarettes, marijuana and other paraphernalia. The court found the search to be reasonable under the circumstances.

But such searches can go too far. In 2009, the U.S. Supreme Court held that a search of a 13-year-old’s backpack and outer clothing for drugs at school may have been justified under the circumstances, but a strip search was unconstitutional. A recent decision involving the privacy rights of students and police marked an important milestone. The Supreme Court upheld a public school policy authorizing such testing. While the court agreed that urine collection is a search covered by the Fourth Amendment, it said that the reasonable expectation of privacy is not absolute and that state law permits the student to be placed in a drug testing program for a specified period of time. The court held that the invasion of the student’s privacy was permissible.

In contrast, years earlier, the California Supreme Court found that the search of a student who was a candidate for a school election going through his backpack was unlawful. The student seemed to be trying to conceal a black bag from the assistant principal. When the student refused to hand it over, the assistant principal took it by force, and

Help your children understand their rights and responsibilities; they are a few pointers for them in case they are ever approached, questioned or arrested by police.

Never struggle with police. Resisting arrest (PC § 148) or assaulting a police officer (PC §§ 241, 243) are separate and additional crimes. Such charges may be
Privacy rights at home: Youngsters often ask if their parents can legally permit police to search their bedrooms. As a general rule, the answer is yes. Most courts have stated that parents or guardians have a property interest in the entire home and are allowed to consent to the search of that property or to search it themselves. However, courts have found that children who are home are under the authority of their parents, which weakens the children’s privacy rights with regard to their rooms and the items in their rooms. This general rule, however, should not be taken too far. For example, roommates generally only have the authority to allow a search of areas they may use or common areas within the home (living rooms, for example). And a California case outlined some specific protections for minors regarding a child’s personal property. The California Supreme Court held that a warrantless search of a minor’s locked toolbox in the room where the child’s room involved the child’s constitutionally protected right when consent to search was only obtained from the parent.

Privacy and “private decisions”: This is an area of privacy that is of much interest to parents and their children. It involves questions of when, and if, children can make important, yet highly personal, decisions without their parents’ knowledge.

Parents who have custody of their child have the right to make many important decisions about their child’s life and life plans. In California, however, there are a number of circumstances in which youngsters have the authority to make decisions without parental involvement. Some of these situations include:

- When a child is 12 or older and seeks medical treatment related to an infectious, contagious or sexually transmitted disease. (FC § 7002)
- When a child is 12 or older and seeks medical treatment for rape. A medical care professional, however, shall attempt to contact the minor’s parents or guardian, unless he or she reasonably believes the minor’s parents or guardian committed the sexual assault on the minor. (FC §§ 6922, 6928)
- When a child is 12 or older and seeks medical treatment related to a drug or alcohol problem. (FC § 6929(b))
- When a child is seeking medical care related to the care and prevention of pregnancy. This includes birth control information and devices, and (if the child is deemed sufficiently mature) abortion or any other care, short of sterilization.

California also has made it easier for youngsters who are 15 or older to obtain medical care when they show that they are living separate and apart from their parents and managing their own financial affairs. (FC § 6922)

And minors who are married, have joined the military or have received a formal court order may emancipate need not confer with their parents regarding any decisions. (FC § 7002)

For information on additional privacy issues, see privacy.ca.gov.

RECEIVING STOLEN PROPERTY

Some young people mistakenly believe that buying a stolen item is not wrong because they themselves did not steal it. Receiving stolen property is a crime regardless of the item’s value. If the stolen property’s value is more than $400, however, the punishment for the crime is increased. (PC § 486)

To be guilty of such a crime, the person receiving the property must know that it was stolen. (PC § 486) Such knowledge can be proven in court with circumstantial evidence. This means that the court will examine all of the facts to determine whether your child knew that the items were stolen. How much was paid when the items were purchased? Where were there any identifying marks removed from the items?

WHAT TO DO IF YOUR CHILD IS BEING BULLIED

- First, focus on the child. Be supportive and gather information about the bullying. Never tell your child to ignore the bullying. Often, trying to ignore bullying allows it to become more serious. Do not encourage physical retaliation (“just hit them back”) as a solution.
- Contact your child’s teacher or principal. Parents are often reluctant to report bullying to school officials, but bullying may not stop without the help of adults. Do not contact the parents of the student(s) who bullied your child. School officials should contact the parents of the child or children who are being bullied. If the bullying persists, contact school authorities again.
- Help your child become more resilient to bullying. Help to develop talents or positive attributes of your child. Help your child meet new friends outside of the school environment. Teach your child safety strategies. Ask yourself if your child is being bullied because of a learning difficulty or a lack of social skills. Always maintain open lines of communication with your child.

Source: Take a Stand. Lend a Hand. Stop Bullying Now! Campaign, Health Resources and Services Administration, the U.S. Department of Health and Human Services.

SCHOOLS AND SCHOOL RULES

Public education in California is governed by a combination of state law and local school board discretion. For example, the state usually decides the curriculum and requirements for graduation, attendance and teacher certification. Local school boards are then given the authority to hire and fire teachers, choose textbooks and resolve disputes among parents, teachers and students. Also, school boards generally have some discretion when applying state regulations.

Each local school district has school supervisors who supervise the day-to-day activities of its schools. The school district structure may vary from district to district.

But the key administrative personnel include: a board of education or school board (generally elected); a superintendent who acts as the school system’s chief administrator, and the school principal.

Private schools, on the other hand, are owned and operated by an individual, a corporation or some type of private or not-for-profit entity. They have a board of trustees that acts in part, as a school board, but whose members generally play a much greater role in the overall financial health of the school than in matters of curriculum. When dealing with a private school, it is best to work with your child’s teacher(s) and the school principal or headmaster.

SCHOOL RULES: Some rules may be unique to a particular school or classroom. Others may have come about in the form of a directive from a school board or school official, perhaps mandated by state or federal law. Knowing the kind of school rule with which you are dealing is important if you want to change or challenge the rule. For example, the law lists circumstances under which a child can be suspended or expelled. (Ed.C §§ 48900 et seq., 48915)

What are the grounds for suspension?

A child can be suspended if he or she threatens to hurt someone, hits another student, or gets caught with a gun (even a fake one), drugs or cigarettes. Children also can be suspended for damaging property, trying to steal something or regularly using profanity. Disrupting school activities or willfully defying a teacher’s authority could lead to suspension as well. And these are just a few examples.

However, a child should only be suspended as a last resort. Any student accused should have the right to a response to an offense that took place at a school, while traveling to or from a school, during the lunch period (at school or elsewhere) while attending or traveling to or from a school-sponsored activity.

In addition, sexual harassment, hate violence or threats, or bullying, including cyberbullying (see “The Internet, Cell Phones and Computers” by students in grades 4-12 can be grounds for suspension. A terrorist threat to kill or seriously hurt someone or a threat to damage more than $1,000 worth of school property (even if the student did not intend to carry out the threat) could be grounds for suspension or expulsion as well. (Ed.C §§ 48900.1, 48915.1, 48915.5, 48915.7)

Finally, in certain circumstances, the school must notify police when a pupil has been suspended. This is particularly true if the reason for the suspension was a violation of the Penal Code. (Ed.C § 48902)

When can a child be expelled from school?

Many of the same rules also apply to expulsions. But the school principal or superintendent must recommend expulsion (unless circumstances make it inappropriate) for any student who does the following:

- Causes serious physical injury to another, except in self-defense.

Do children have a right to special education if they need it?

Yes, if the child is found to be eligible. Under the federal Individuals with Disabilities Education Act (IDEA), school districts must offer a free appropriate public education to eligible disabled children ages 3 to 21. (Children enrolled in private schools by their parents generally are not entitled to free special education and related services.) The process can start with a request for an evaluation. The district or school to which a request is made, must provide a written response for the denial. If an evaluation is conducted, a team (including school staff and the child’s parents or guardians) then determines if the child requires special education and related services to benefit from the general education program. If your child is found to be eligible, the team will develop an Individualized Education Program (IEP) for your child. Services can range from speech therapy to small-group instruction to a special education teacher’s assistance. The particular services depend on your child’s disability and school needs. (IDEA requires the least restrictive environment possible). Infants and toddlers (from birth to age 3) may also be eligible for special support and services through California’s Early Start intervention program or Prevention Program if they have a disability or are at risk for a developmental delay or disability. The goal is to minimize the need for special education in the future.

if you believe your child needs a different service or education, you should talk about this with the school district. However, help is available. A network of federally funded parent training and information centers, such as Parents Helping Parents in San Jose, can help you navigate the system and guide you to additional resources. For more information and to find a center near you, go to cde.ca.gov (click on Specialized Programs, then Family Involvement and Partnerships). And to learn more about Early Start or the Prevention Program, go to.dds.ca.gov (click on Birth to 36 Months).
KIDS AND THE LAW

KIDS AND THE LAW

KIDS AND THE LAW

Connection at ccld.ca.gov can help you find child care and record. To locate an office in your area check on any child care provider's license inspection day care programs statewide—and example). And child care licensing workers her home? Has she ever spanked her provider properly "child-proofed" her home? No. It is against the law for teach- ers and (or) school administrators to use corporeal punishment (such as hitting or slapping a student). However, school officials can use force to protect others, to quell disturbances that threaten physical safety, in self-defense, or to confiscate dangerous weapons or objects. (Ed.C § 49011)

Are there school rules prohibiting bullying? Such rules or policies would depend on the particular school— and the circumstances. Bullying can involve hitting, name-calling or other harassment. Or it can be a barrage of insulting photos or comments posted on the Internet. It can happen at school, at home or in cyberspace (see The Internet, Cell Phones and Computers)—and data suggests that it may be common. In one survey, nearly half of the children ages 9 to 13 said they had been bullied. In another, one in six children ages 6 to 11 had had "mean, threatening or embarrassing" things said about them or to them via e-mail, instant messages, social networking websites, chat rooms or text messages. California law states that students and staff have a constitutional right to be safe at school. The Bullying Prevention for School Safety and Crime Reduction Act of 2003 established a statewide school safety cadre to help improve school attendance and reduce violence and school crime, including bullying. In addition, California schools are required to develop comprehensive safety plans aimed at preventing crime and violence on campus. (Ed.C §§ 32270, 32280, 32282, 35183 (a)) If your child is a victim, see What to do if your child is being bullied on the previous page. And for more information visit Stopbullyingnow.hrsa.gov

What is hazing—and is it illegal? Students sometimes use hazing as a way to initiate fellow students into a club or fraternity. It can range from practical jokes to life-threatening activities. In California, hazing is illegal if it is meant to degrade or injure a fellow student. Legal hazing can result in a year in jail and a $5,000 fine. And if someone is seriously hurt or killed as a result, it would be a felony with stiffer consequences. (Ed.C § 48900; PC § 245.6)

It is against the law in California for minors to have sex or for anyone to have sex with a minor. This is true in spite of national survey data suggesting that nearly 50 percent of high school students have had sexual intercourse. The only exception is if a minor is married to his or her sexual partner.

Laws that make it unlawful to have sex with minors are called statutory rape laws. These laws make it legally impossible for a minor (someone under 18) to consent to intercourse. The act is considered rape even if the minors are in love and freely enter into the sexual relationship.

In California, statutory rape is called unlawful sexual intercourse. It is legally defined as an act of sexual intercourse with an under 18 minor. If the minor is mis-aged is more than three years older, however, he or she may be found guilty of a felony/misde- meanor punishable by imprisonment in county jail or state prison. And a person over 21 who engages in sex with someone younger than 16 can be sent to state prison for two to four years. (PC § 261.5(d))

In addition, a separate California law prohibits unlawful sexual intercourse with a minor. Sexual intercourse is not an element of this crime, and consent is not an issue. Anyone who commits such a crime with a child under 14 could face up to eight years in state prison. And if the sexual abuse of a child under age 14 occurs three times or more over a three-month period or longer, the abuser could face up to 16 years in prison. (PC § 288.5) Engaging in lewd or lascivious acts with a minor who is 14 or 15 can lead to a year in jail or three years in prison if the abuser is at least 10 years older than the victim. (PC § 288(e)) Children are also forcibly raped. Forcible rape involves the use of force, fear, coercion or trickery to acquire sex. In most cases, forcible rape is a crime of violence. When a child is the victim, the rape usually occurs in one of three ways: The child is preyed upon by strangers; he or she is victimized by an acquaintance; or date ("date rape"), or he or she is taken advantage of by a relative or a spouse (incest, child abuse or spousal rape). For committing such a crime, a rapist could face 15 years to life in prison. (PC § 268)

What should a young person know about rape? If a young person has been raped, it should be reported to the police, and the victim should seek immediate medical help and psychological assis- tance. Many communities in California have victim assis- tance programs, sexual trauma centers and rape crisis hot lines. These programs are often associat- ed with a court order that the victim work with the state to help find and prosecute the rapist. Such programs also offer counseling, financial assistance and other services to help victims overcome the trauma associated with being raped.

In California, young people who are 12 or older may, by law, consent to medical care related to rape or sexual assault without their parents' con- sent. This legal right applies to treatment from med- ical doctors, psychiatrists, psychologists and mental health counselors, as well as those acting as chief administrative officers of programs that provide counseling to rape victims. (PC §§ 6920, 6927-28) Police reports involving rape are confidential and cus- tomarily are released only to the prosecutors and defense attor- neys. (Govt. C § 6254) The only exception to this rule is when the rape victim is a minor and the minor's parents want to see the rape report. The only exception to this rule is when the victim's parent is accused of the rape or sexual molestation.

SMOKING AND KIDS

The good news is that teen cigarette smoking has declined since the mid-1990s. Still, in a national survey in 2009, one in five high school seniors reported smoking at least once in the month prior to the survey. One in 20 admitted smoking at least half a pack of cigarettes a day.

In light of the detrimental health effects, California has enacted various laws over the years aimed at eliminating the use of tobacco products by minors. It is against the law, for example, for minors to purchase, receive or possess tobacco prod- ucts in California. (If a student in elementary school or secondary school is caught smoking or using tobacco products while at school or attending a school-sponsored activity, he or she could be suspended or expelled as well. (Ed.C § 48900) It is also against the law knowingly to sell, give or furnish tobacco products such as cigarette paper and chewing tobacco to children under the age of 18. (B&PC § 22952(b)) There are a number of exceptions, however, for minors given the opportunity to explain his or her side of the story.

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Cuts a solds a controlled substance, except for a first offense of selling less than an ounce of marijuana.

College Prep
California high schools must notify par- ents and guardians about courses that satisfy the subject requirements for admission to a California State University and a University of California. Information on career technical education must be included as well. (EC §§ 49890, 51229)

Can my child's teacher use physical force to punish students? No. It is against the law for teach- ers and (or) school administrators to use corporeal punishment (such as hitting or slapping a student). However, school officials can use force to protect others, to quell disturbances that threaten physi- cal safety, in self-defense, or to confiscate dangerous weapons or objects. (Ed.C § 49011)

Are there school rules prohibiting bullying? Such rules or policies would depend on the particular school— and the circumstances. Bullying can involve hitting, name-calling or other harassment. Or it can be a barrage of insulting photos or comments posted on the Internet. It can happen at school, at home or in cyberspace (see The Internet, Cell Phones and Computers)—and data suggests that it may be common. In one survey, nearly half of the children ages 9 to 13 said they had been bullied. In another, one in six children ages 6 to 11 had had "mean, threatening or embarrassing" things said about them or to them via e-mail, instant messages, social networking websites, chat rooms or text messages. California law states that students and staff have a constitutional right to be safe at school. The Bullying Prevention for School Safety and Crime Reduction Act of 2003 established a statewide school safety cadre to help improve school attendance and reduce violence and school crime, including bullying. In addition, California schools are required to develop comprehensive safety plans aimed at preventing crime and violence on campus. (Ed.C §§ 32270, 32280, 32282, 35183 (a)) If your child is a victim, see What to do if your child is being bullied on the previous page. And for more information visit Stopbullyingnow.hrsa.gov

What is hazing—and is it illegal? Students sometimes use hazing as a way to initiate fellow students into a club or fraternity. It can range from practical jokes to life-threatening activities. In California, hazing is illegal if it is meant to degrade or injure a fellow student. Legal hazing can result in a year in jail and a $5,000 fine. And if someone is seriously hurt or killed as a result, it would be a felony with stiffer consequences. (Ed.C § 48900; PC § 245.6)
order to make such purchases is violating the law and may be prosecuted for that conduct and have his or her driver’s license suspended. (VC § 13202.5) Possession of a false ID is a misdemeanor. (PC § 329.5)

The legal term for stealing is theft. And the legal definition for theft is stealing, taking, carrying or driving away with someone else’s personal property. This means a parent or child can be charged with theft for failing to pay for something whether it is a meal at a restaurant or merchandise in a store.

Fraudulently using or stealing a credit card is a common theft offense. The law allows a parent or child to use a Bank, ATM or credit card to obtain anything of value or to imitate any transfer of funds. Any person who uses the number or code of a credit card, personal identification number, computer password, access code, bank account number or any other number as a way to avoid paying for a service or product would be guilty of theft as well. (PC §§ 484 et seq.)

There are two degrees of theft: grand and petty. Grand theft generally involves stealing or taking money, property services with a value in excess of $400. (PC § 487) Petty theft generally involves stealing or taking something worth less than $400. (PC § 488) A grand theft conviction could lead to state prison. (PC § 489) Petty theft is punishable by a fine of up to $1,000.

In addition to the criminal statutes, victims have the right to file civil suits for damages and other expenses. And, in some cases, parents can be held responsible for their child’s illegal activities. (CC § 1714.1)

Forging (the unauthorized use of a motor vehicle) is distinguished from auto theft because there is often no actual intent to keep the car permanently. Instead, the intent is to take the car temporarily and drive it around without the owner’s consent. This is not to say that those who take someone else’s car for the purposes of a ride necessarily return it or even wish to—only that they do not intend to keep it. While joyriding is often treated as a misdemeanor, the minor could be transferred to adult court and face a fine of up to $10,000 or four years in prison, or both, if he or she drives the vehicle recklessly, negligently, or with intent to avoid identification, possession or fire vehicle, or a vehicle modified for use by a disabled person. (VC § 10851(b))

Note: Robbery, extortion and joyriding are considered crimes against persons rather than property crimes. Such crimes are far more serious than simple theft because they involve force, fear or intimidation. When a simple theft takes place, the property owner is often not around. Also, keep in mind that committing such crimes can be grounds for suspension or expulsion as well when the crime takes place on school grounds and involves property belonging to the school or a student. (See Schools and School Rules)

California law requires most children between the ages of 6 and 18 to attend school or classes full-time. (Ed.C § 48200) By law, those who are absent without a valid excuse for three or more days during a school year, or who are tardy more than 30 minutes without a valid excuse on three occasions in a school year, are truants. (Ed.C § 48260)

What is a valid excuse for an absence?

● A justifiable personal reason, including a court appearance, observance of a religious holiday or ceremony, or an absence requested in advance by a parent and approved by the school. (Ed.C § 48205)

● A medical reason, illness, quarantine, medical or dental appointment, or attendance at the funeral of an immediate family member. (Ed.C § 48205)

● Religious training. With written parental consent, pupils may participate in religious observances or instruction for up to four days per month under a release-time plan whereby the child should attend school for at least the minimum in a school day. Individual school districts have the discretion to allow or prohibit absences for religious training. (Ed.C § 46014)

Note: Children excused from public school for justifiable reasons must be allowed to make up the work and be given full credit for that work. (Ed.C § 48205(b)) Pupils receiving instruction full-time at a private school or through a tutor under a variety of circumstances may be exempt from attending public school. (Ed.C § 48222-32)

What will happen if my child is truant?

The school must notify you by means reasonably sure to reach you (such as first-class mail). And the notice must state that: the pupil is truant; the parent should comply; attendance; and if the parents do not comply school attendance review board or court order. (Ed.C § 48200) If this occurs, the juvenile court has the power to require that the parents personally deliver the child to school each day for the rest of the school term, and it can force the child’s parents to pay a cash bond assuring their child’s attendance. (Ed.C §§ 48268-69)

A criminal complaint also can be filed against a parent who fails to comply with a school attendance review board or court order. (Ed.C § 48293) Penalties include a fine of up to $250 for a first conviction, $500 for a second, and not more than $500 for a third or subsequent conviction. Instead of fines, the court may order the parent to attend a parent education and counseling program. The court may also order the parent to enroll the student in an appropriate school or educational program. Willful violations of the court’s order are punishable as civil contempt with a fine of up to $1,000. (Ed.C § 48200) And parents found guilty of truancy by a juvenile court can be instructed by the court to attend school. (W & IC § 601) As a last resort, a court may even lock up a habitual truant who simply refuses to attend school.

And parents who have refused to allow their child to be such laws or who have failed to cooperate also have been prosecuted for neglect and/or for contributing to the delinquency of a minor. (PC § 272)

Laws that regulate the ability of you and your child to work are generally divided into two categories. The first category regulates how and when a child is permitted to work. In California, youngsters between the ages of 12 and 18 may obtain a permit to work on school holidays or vacations and, depending on their age and circumstances, certain additional time periods. (Ed.C § 4912) Children who are 14 and 15 years old, for example, may work on school days as well if they follow these rules:

● They work no more than three hours on a school day and no more than 18 hours in a school week. (Ed.C § 4912; Lab. C § 1391(a)(2))

● They work no more than eight hours on a non-school-day and no more than 40 hours in a non-school week. (Ed.C §§ 49121c; Lab. C § 1391(a)(3))

● From the day after Labor Day until midnight on May 31, their workday may not begin before 7 a.m. or end after 7 p.m. (Lab. C § 1391(a)(4))

● From June 1 through Labor Day, their workday may not begin earlier than 7 a.m. However, it can end as late as 9 p.m. (Lab. C § 1391(a)(3))

A full-time work permit is available to a minor aged 14 or 15 if, among other things:

● A parent or guardian presents a sworn statement that he or she is incapacitated or the death of one of the parents causes the family to need the minor’s earnings.

● A minor is unable to live with his or her family and needs earnings to survive.

● The minor is in foster care or lives with a guardian and obtains written permission from the foster parent, guardian or social worker.

Children who are 16 and older can obtain full-time work permits. Those 18 and older no longer need such a permit. A few industries are exempt from the age restrictions in the child labor statutes. For example, children of any age may perform in television, movies or theatrical productions. (Lab. C §§ 1289, 1308.7, 1391) Work permits are issued by the state superintendent of instruction, an authorized school district or a designated school administrator. To obtain a work permit, the minor and his parents or guardians must provide the state with the minor’s educational, grade and attendance), evidence of age and a written statement from the prospective employer confirming that the work is available. The parent or guardian also must include the type of work and produce a health certificate from a doctor stating that the child is physically fit to perform such work. (Ed.C §§ 49110, 49117, 49333)

Labor laws: The second category of laws that regulate children at work are state labor codes. These laws are intended to regulate employment practices and the type of work that young people are permitted to do. Violation of these laws carries civil and criminal penalties. For example, a retailer who fails to comply with the state’s minimum wage laws for workers 14 or older may face fines of up to $1,000 per employee who is paid less than the minimum wage. (W & IC § 1197.5; Lab. C § 1197.5) As a result, employers with more than one minor worker may face fines of up to $1,000 per minor worker who is paid less than the minimum wage.
Taxes: Young people may be required to file federal and state income tax returns. (IRS Pub. 929) Generally, filing requirements for a dependent child (a child who is receiving more than half of her support from her parents and is under the age of 19 or a full-time student under the age of 24) are the same as for any other U.S. citizen or resident. In short, a dependent child must file an income tax return if:

- The minor’s unearned income exceeds $950 (in the 2009 tax year).
- The minor has total earned and unearned income in excess of the basic standard deduction ($5,700 in the tax year 2009).

These amounts may differ from year to year, and are different if your child is married or blind. Also, if the child is a full-time student, he or she may be claimed as a dependent according to one of the same rules. To qualify as a student, your child must have attended school during some part of five different months in the calendar year (not necessarily consecutive months) and must be one of the following:

- A full-time student at a school that has a regular teaching staff, source of study and regularly enrolled student body in attendance.
- A student taking a full-time, on-farm training course given by a school or state, county or local government.

Note: A dependent child’s income is not included on a parent’s return even though the parents have the right to those earnings and may have actually received them. If a dependent child with taxable income cannot file an income tax return, a parent or guardian must file it for the child. Also, if your child cannot sign her return, you should sign your child’s name followed by the words “parent (or guardian) for minor child.” Finally, if the minor child’s tax is not paid, the parents (or guardians) may be liable for that tax.

However, if a child is under the age of 19 (or 24 if he or she is a full-time student at the end of the year) and does not file a return if a parent-elect to include that child’s unearned income on their own tax return in any of the following circumstances:

- The child had unearned income only from interest and dividends.
- The child had unearned income of less than $9,500.
- The child made no estimated tax payments during the year.
- The child received no overpayments on his previous return and no federal tax was withheld.

Adjudicatory hearing: the procedure used to determine the facts in a juvenile case; similar to an adult trial but generally closed to the public.

Arraignment: a court sentence at which a defendant is charged and enters a plea. For a misdemeanor, this is also the defendant’s initial appearance, when the judge informs him or her of the charges and sets the bail.

Best interests of the child: the standard that courts use when deciding issues involving custody and visitation rights, or whether to approve adoptions and guardianships. It requires the courts to consider many factors, such as the health of the parent or guardian; the child’s preference; and the ability of the parent or guardian to provide the child with food, shelter, clothing and medical care, before deciding what is in an individual child’s best interest.

Beyond a reasonable doubt: the level of proof required to convict a person of a crime. It does not require that one be “convicted 100 percent.” It does mean, however, that there should not be any reasonable doubts as to a person’s guilt.

Burden of proof: the obligation of a party to prove his or her allegations during a trial.

California Youth Authority: a group of people who control secure facilities for repeat offenders or youthful offenders who have committed serious crimes.

Civil action: a lawsuit brought by one or more individuals against another person or business, or the government, for the purpose of redressing private wrongs.

Conspiracy: an agreement between two or more individuals to commit a crime, along with an act done to begin the crime.

Contributing to the delinquency of a minor: the act of aiding or encouraging improper conduct of a minor.

Conviction: a finding of guilt by a court which has been found guilty of a crime and is now in prison; (v.) to find a person guilty of a crime or wrongdoing.

Crime: an act or failure to act that violates a law for a penalty to be set by the state.

Damage: money awarded by the court to be paid by a person who has wronged another in a civil lawsuit.

Defendant: the person against whom a claim is made. In a civil suit, the defendant is the person being sued; in a criminal case, the defendant is the person charged with committing a crime.

Delinquent offender: a minor who has committed an offense usually punishable by criminal processes. Such offenders are usually processed through the juvenile justice system.

Disposition: the word used in the juvenile justice system when referring to the outcome of a Juvenile Court proceeding; similar to “sentencing” in adult court.

District attorney: an attorney who tries to show that an accused person is guilty. In juvenile court, this attorney decides whether or not to bring the juvenile to court and recommends a disposition as well.

Diversion program: a special program for handling minors (first offenders) with problems; it is meant to be used by, for example, police, probation officers and juvenile courts to keep certain juveniles out of further involvement in the juvenile justice system.

Due process: Minors and their parents are guaranteed due process by the U.S. Constitution. This means that you will be given advance notice of all hearings and that you have a right to present your side; legal procedures must follow a set of rules and principles that are meant to guarantee justice and fair play.

Felony: a serious criminal offense punishable by a prison sentence of more than one year.

Guardian: an adult who has been given the right to make decisions on behalf of a child or disabled adult. Guardians are also often given custody of the child or children for whom they are responsible.

Guardian ad litem: a person appointed by the court specifically to protect the interests of a minor in a lawsuit or other legal proceeding.

Homicide: the killing of another person. Homicide can be criminal, non-criminal or negligent.

Hung jury: the situation in which a jury cannot reach a unanimous decision.

Initial hearing: a preliminary examination of the validity of a truancy arrest during which the state must prove that an offense was committed and that there is reasonable cause to believe the youth committed it.

Intent: determination to achieve a particular end by particular means.

Jury: a body of men and women selected to examine certain facts and determine truth in a legal proceeding.

Juvenile court: courts established by a state to hear matters involving juveniles under the age of 18 who have either been neglected or neglected by their parents or found to be outside the control of their parents, or who have committed a crime.

Juvenile hall: a locked facility where minors are placed prior to a court hearing.

Legal defense: a legally recognized excuse for a defendant’s actions, such as implied consent, privilege and self-defense, which may remove liability for certain offenses.

Manslaughter: the killing of a person without malice or premeditation, but during the commission of an illegal act.

Minor warning: rights that a person must be told when arrested or taken into custody by police or other officials. These include the right to remain silent, to contact a lawyer, and to have a free lawyer if the person arrested cannot afford one.

Negligence: a criminal offense, less serious than a felony, punishable by a jail sentence of one year or less.

Mitigating factors: factors that may lessen the seriousness of an offense. The presence of these factors may be considered by the judge or jury.

Murder: unlawful killing of a person with malice aforethought.

Negligence: failure to exercise the care that a reasonable person would exercise in the same circumstances.

Preponderance of the evidence: the standard of proof generally used in civil suits. To prevail, the party must present sufficient evidence in court to show that his or her claims are more likely to be true than not.

Probable cause: a reasonable belief, known personally or through reliable sources, that a person has committed an illegal act.

Probation: a period of time when a minor is under the supervision of a probation officer to make sure court orders against the minor are followed.

Prosecution: the process of suing someone in a civil case or bringing someone to trial on criminal charges.

Public defender: an attorney who is paid by the county to defend those without money who are accused of committing a crime. Guardians are also often given custody of the child or children for whom they are responsible.

Reasonable person standard: the idealized standard of how a community expects its members to act. It is based on the degree of care that persons of ordinary prudence would exercise in particular situations.

Referee/commissioner: appointed by the juvenile court judge. Has the same power as the judge.

Restitution: money paid to victims by the offender to make up for harm or damage done.

Self-defense: the right to defend oneself with whatever force is reasonably necessary against an actual or reasonably perceived threat of personal harm.

Self-incrimination: giving evidence and answering questions that would tend to subject one to criminal prosecution.

Status offenses: acts that are illegal if committed by a juvenile (truanting or running away from home, for example).

Statutes: laws enacted by legislatures.

Statute of limitations: laws that set deadlines for when a lawsuit must be filed. A person who incurs a penalty of managing his or her own affairs and for whom the court steps in to make decisions.
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