KIDS & THE LAW

An A-TO-Z Guide For Parents

FUNDED WITH A GENEROUS GRANT FROM THE CALIFORNIA BAR FOUNDATION

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 § 6302)

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.

Reaching the age of majority, however, also involves some losses. These losses generally correlate with the rights that children are given for their own protection — for example, the right to their parents’ support, care and shelter (see Parental Rights and Responsibilities), their right to treatment within the juvenile court system (see Juvenile Court), and their protection against exploitation and harmful or dangerous employment conditions (see Work, Work Permits and Taxes).

Note: An exception to the rule that your child must wait until age 18 to acquire the rights and obligations of an adult would apply if he or she were emancipated. (To understand how this might occur, as well as its legal consequences, see Emancipation.)


In a 2013 survey from the Centers for Disease Control, about two in every three high schoolers admitted they had tried at least one drink of alcohol. About one in three said they currently drink alcohol and had consumed at least one drink in the past 30 days. One in five admitted to drinking alcohol before they turned 13 years old, according to the survey.

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. (BPC §§ 23004, 23658, 25659)

Those under 21 are not even permitted to possess alcohol in public places, including state highways or in and around schools. (BPC § 25652.2a) 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 a misdemeanor. (BPC § 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. (BPC § 25651) Although 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. Providing alcohol to a minor is a misdemeanor. (BPC § 25658)

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 0.01 percent and then you allow that child to drive, you could wind up in serious trouble. If the child then causes an accident, you could be found guilty of a misdemeanor and face a $1,000 fine and up to a year in jail. (BPC § 25658.2)

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.)

Key Code Abbreviations

BPC BUSINESS AND PROFESSIONS CODE
CC CIVIL CODE
CCP CODE OF CIVIL PROCEDURE
Ed.C EDUCATION CODE
FC FAMILY CODE
Gov.C GOVERNMENT CODE
HSC HEALTH AND SAFETY CODE
IC INSURANCE CODE
IHC INTERNAL REVENUE CODE (U.S.)
Lab.C LABOR CODE
Pen.C PENAL CODE
Prob.C PROBATE CODE
USC UNITED STATES CODE
VC VEHICLE CODE
WIC WELFARE AND INSTITUTIONS CODE

Note: The symbols § and §§ refer to “section” and sections” in the laws cited throughout the guide.
Are there laws that address underage drinking at parties?

Yes. A police officer (who lawfully enters the gathering) can seize alcohol beverage containers that are purchased under 21 at an unmarried social gathering. Under California law, an unmarried social gathering is a public event 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. (BPC § 25620.)

If a bar operator serves alcohol to an under-aged patron who later causes a car accident, for example, the operator would be civilly liable for the resulting injuries (except for those sustained by the drunken, underage driver 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. (BPC § 25620.1)

Can bar operators also be held liable if they will alcohol to someone under age 21?

Yes, under certain circumstances. If a bar operator serves alcohol to an under-aged, 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 drunken, under-aged driver 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. (BPC § 25620.)

If your child wants to drive, he or she will need to get a driver’s license. In general, children must be at least 16 years old and have a valid driver’s license or instruction permit to legally operate a motorized vehicle. Minors under the age of 18 must wear bicycle helmets while riding on sidewalks in certain areas, such as business districts. Under state law, all bicycle riders under the age of 18 must wear a bicycle helmet (VC § 21204) and many local jurisdictions require this. These jurisdictions include, but are not limited to: San Francisco, Los Angeles, and Oakland. Failure to obey these laws may result in a ticket and, in some cases, a suspension of the child’s driver’s license.

Bike riders — adults and children alike — must abide by most of the traffic laws that apply to motorists. Bicyclists must stop at stop signs and red lights, ride on the proper side of the street and give the right-of-way to all pedestrians.

Also, some California communities have local ordinances that prohibit bike-riding on sidewalks in certain areas, such as business districts. Under state law, all bicycle riders under the age of 18 must wear bicycle helmets (VC § 21202) and, if riding at night, have a bike equipped with white front lights, red rear reflectors, pedal reflectors and side reflectors or reflectorized tires. (VC § 21202(c)) Wearing a head set or ear plugs is prohibited while riding a bike. (VC § 27400) Riders must also ride on actual bicycle seats (unless the bike is designed to be ridden without a seat). It is against the law to ride on someone’s bicycle handlebars or center frame bar. (VC § 21204)

There are also laws that apply to those who use skateboards, skates, scooters, snowboards and skis. Cities and counties have laws regulating the places where your child may skate and the equipment that must be worn by skaters within these designated areas. Helmets, elbow pads and knee pads must be worn by skateboarders and skaters, and skateboards and skates shall be equipped with protective and safety features such as wheel reflectors, pedal reflectors and side reflectors or reflectorized tires. (VC § 22102) Wearing a head set or ear plugs is prohibited while riding a bike. (VC § 27400) Riders must also ride on actual bicycle seats (unless the bike is designed to be ridden without a seat). It is against the law to ride on someone’s bicycle handlebars or center frame bar. (VC § 21204)

In addition, children under age 18 must wear a bicycle helmet while riding a scooter (motorized or non-motorized). Minors must be at least 16 years old and have a valid driver’s license or instruction permit to legally operate a motorized scooter, and may not operate such scooters on sidewalks or on highways that have speed limits greater than 25 mph. (VC §§ 407.5, 21235)

Many youngsters are eager to know when they can get a driver’s license. In California, they must be at least 16 years old to be eligible for a provisional driver’s license. (VC § 12314.6) And there are specific restrictions and requirements for drivers under 18.

But even before a teenager can get a provisional license, he or she must obtain a provisional instruction permit (also called a learner’s permit) from the Department of Motor Vehicles (DMV). (VC § 12509) To get such a permit, the teenager must:

- Be at least 15 1/2 years old but not yet 18.
- Submit an application form (DL44) and a form showing completion of driver education and enrollment in or completion of driver training or enrollment in an integrated driver education/driver training program. The application form must be signed by the teen’s parents or guardians.
- Give a thumbprint.

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- Pass a vision exam.
- Provide his or her Social Security number.
- Verify birth date and legal presence.
- Have his or her picture taken.
- Pay the application fee.
- Pass the 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 more than 17 1/2 years old, he or she can obtain such a permit without the education or training requirements. It is illegal for a permit-driver to drive alone. A parent, guardian, spouse or adult (age 25 or older) with a valid license must be in the car at all times and be able to take control of the vehicle if necessary.

To get a provisional license (VC § 12814.6), 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 237, 2390) Or, complete an integrated driver education/training program of 30 hours of instruction and six hours behind the wheel.
- Have a learner’s permit for at least six months.
- Provide a parent’s signature (or other acceptable signature) on his or her learner’s permit signing statement that all of the driving practices outlined in the Parent-Teen Training Guide have been completed. You can get this booklet at local DMV field offices or by visiting www.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 § 12515) 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. Such a restricted 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 § 12513) 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 § 17700)

Keep in mind that such insurance is intended to protect your child from losses as a result of an accident. However, such helpful 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 own car or a family car. In that case, the parents could be found 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 someone else or their property while operating any motor vehicle. Evidence of insurance or other financial coverage must be carried in the vehicle at all times. (VC §§ 16020, 16028) A driver could be fined up to $200, plus penalty assessments, for a first offense of driving without proper insurance. (VC § 16029)

Laws that young drivers should know

Smoke-free cars and kids: It is illegal to smoke inside a car if any of the car’s occupants are under 18. A violation carries a $100 fine. In 2008, California became one of the first states to pass such a law. Studies indicate that second-hand smoke accumulates quickly inside cars (even with the windows cracked open) and poses a health threat to children in particular. (FSC §§ 110847 et seq.)

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. A judge can suspend or revoke a first-time offender’s driver’s license for up to six months, imprison the defendant for 30 days, as well as impose fines and community service. If some- one other than the driver caused the accident, the driver could face even stiffer penalties. (VC §§ 23109, 23109.1, 23109.2)

Passengers in the trunk: Riding in the trunk of a car is illegal and dangerous. Dozens of teens have been hurt and, in some cases, killed while riding in car trunks. If a driver allows someone to ride in the trunk, he or she has broken the law as well. (VC § 21712)

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 found operating a vehicle while prohibited from talking on cell phones, text-ing or using any mobile device while driving — except to place an emergency call. It is illegal for anyone to drive while using an “electronic wireless communications device” to test or send, or read any other type of “text-based communications” unless the device is hands-free and voice operated. (VC §§ 23123, 23124)

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. If someone dies in the collision, the accident must be reported to the California Highway Patrol (CHP) or a police officer immedi- ately. Where only property damage is involved, failing to report such damage or otherwise notify the property owner is a misdemeanor. If someone is injured or killed and you fail to stop and/or report it, the potential penalties are much greater. (VC §§ 20001-04)

Driving without a license: In California, it is a misdemeanor to drive without- 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 a fine of up to $1,000 for a first conviction of certain offenses. In addition, the unli- censed driver’s car (even if it is a borrowed vehicle) can be impounded for up to six months. (VC §§ 14601 et seq., 23932)

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 § 27315) In addition, children must be secured in federally approved safety seats until they turn 8 or are 4 feet, 9 inches tall. Children also must sit in a back seat unless there is no such seat or all rear seats are occupied by children under 12. (VC §§ 27360-27360.5) For more safety information, go to nhtsa.gov or call the Vehicle Safety Hotline at 888-327-4236.

Unattended passengers: 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) It is illegal in California to leave a animal in a parked car if the temperature is too hot, or if there is a lack of ventilation, for example — could cause the animal to suffer or die. (VC § 597.7)

Wearing headsets or ear plugs: Headsets or ear plugs in both ears cannot be worn while driving a motor vehicle or operating a bicycle. (VC § 27400)

Alcohol and cars: In California, it is unlawful for anyone — driver or pas- senger — to possess an open container of alcohol in an automobile. (VC §§ 23223, 23226) Possession of an open container of alcohol inside a car is a misdemeanor. A minor’s license can be suspended or revoked for a year in such circumstances.

Laws related to driving, alcohol and minors are particularly strict. It is ille- gal to carry a closed container of alcohol in a vehicle if anyone in the car — driver or passenger — is under 21 unless the person is accompa- nied by a parent, legal guardian or other responsible adult design- nated by the parent or guardian. If the car’s registered owner (whether he or she is driving or simply a passenger) ille- gallypossesses an alcoholic beverage, the vehicle can be impounded for up to 30 days. An exception to this law would apply if the minor works for a licensee of the Alcoholic Beverage Control Act and is transporting alcohol during normal business hours. (VC § 23224)

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 § 23136) For adults who are 21 or older, the illegal BAC is higher, 0.08 percent or more. (VC § 23125(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. A driver who refuses to take this test could face serious penalties: Those who do not sub- mit to a blood-alcohol test could be fined or imprisoned and could have their driver’s license suspended or revoked for one to three years. (VC §§ 13353.1, 23136, 23622)

Even if a breath test 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 driv- ing a vehicle. (VC § 23140)

If your child is convicted of DUI and 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 § 13353.2)

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 § 2320) 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. If the individual has not yet have a license, he or she would be delayed in receiving one. These sanctions would remain in effect even after the minor completes the court-ordered program or reaches age 21. (VC § 23202)

Finally, anyone who has a driver’s license suspended or revoked may also have his or her car insurance canceled. A DUI conviction disqualifies an individual from receiving a “Good Driver Discount” insurance policy for the next 10 years. (VC § 1681.025)

There are more than three million reports of child abuse nationwide each year. By one estimate, nearly five children die each day from abuse or neglect every day. 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 to abuse a child under 18 — physically, sexu- ally (see Sex and Kids) or emotionally — or to endanger any child by putting the youngster in harm’s way. Nor is it legal to intentionally neglect a child who is in your care — fail to adequately feed, clothe or supervise the child or to supply medical care. (PC §§ 270 et seq., 11164-11165.6)

Those who break these laws, depending on the circumstances, could face years in prison. In addition, if one parent fails to protect his or her child from another parent or partner who is abusive, he or she could be found criminally liable as well.

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 grave 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. Mandatory reporters must notify authorities imme- diately and file a written report as well within 36 hours. They simply must have a "reasonable suspicion" that abuse or neglect has occurred; they do not have to have any specific medical indication. (PC §§ 11165.7-11174.3)
How common is child sexual abuse?

There are signs that child sexual abuse is on the decline. Unfortunately, sexual abuse of children remains a pervasive problem. A 2012 report from the National Sexual Violence Resource Center said one in four girls and one in six boys will be sexually abused before they turn 18.

It's not a time when people talk about child trust, such as a relative, family friend, priest, coach or even a teacher. Often, these crimes are underreported because the abusers use physical violence or verbal threats to silence a child. If your child has told you he or she has been abused, report it to authorities. If you suspect abuse, but don't have proof, call a children's advocacy center. To find one, go to the National Children's Alliance's resource site at www.nca-online.org.

Child abuse hotlines can help locate resources in your community. Parents and concerned adults who suspect sexual abuse can also call the National Child Abuse Hotline at 800-4-A-CHILD

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 another responsible 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).

In general, legal actions are divided into two categories: civil and criminal.

Civil actions (lawsuits) (occurred 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 child is involved with an injured child, parents are often involved.

Misdemeanors can, however, enforce their own legal rights in a civil case as long as they do so through a guardian ad litem. 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 interests. In certain 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. (PC §§ 6600, 6601)

Are there any deadlines for filing lawsuits?

Yes. When filing lawsuits, adults and children alike must abide by statutes of limitations. A statute 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:

- **Personal injury** — two years from the time of the injury. (CCP § 335.1)
- **Breach of contract** — four years from the date the contract was broken, or two years if the contract was never in writing. (CCP §§ 337, 339)
- **Damages to real or personal property** — three years from the date the damage occurred. (CCP § 338(b)(4)(c))

In addition, California has other important laws relating to civil actions brought by minors. First, if a child is injured before or at the time of birth, the lawsuit (other than medical malpractice suits) 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 20 years old. For those who were physically passed since the person could have reasonably discovered) that his or her injuries were related to sexual abuse, whichever period is longer. (CCP § 340.1)

In most cases, however, the statute of limitations clock stops when the child reaches 18. This means, for example, that a 12-year-old boy injured in a traffic collision could wait until two years after his 18th birthday to begin an action. (CCP § 332)

**Civil Laws**

CIVIL LAWS AND LAWSUITS

Criminal actions are divided into two categories: criminal and civil. Lawsuits (other than medical malpractice suits) 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)

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**Civil Laws**

CIVIL LAWS AND LAWSUITS

Criminal laws and crimes represent those acts, behaviors or attitudes that society believes to be wrong and worthy of 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 laws 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 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 of at least six months to life in a county jail or in a death sentence. A misdemeanor is punishable by a fine and/or imprisonment in a county jail for no more than one year in most cases. Infractions usually do not involve any jail time, but the defendant must appear in court and/or pay a fine. If charged with an infraction, you are not entitled to a jury trial or an attorney at state expense. Most 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 determination 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 § 26) 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 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. Currently, there is no state curfew. But under state law, cities and counties can enact their own curfew ordinances. Courts in California have generally upheld such laws as long as the local ordinance seeks to discourage “loitering” or “remaining” in certain places after certain hours.

Under such local laws, parents can be charged for the administration and transportation costs of returning a minor to his or her home on a second curfew violation. (WIC § 625.5) Also, a child who is a frequent habitual curfew violator may be declared a ward of the court and be treated as a status offender. (WIC § 603(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 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. Depending on age, the law also gives local police some latitude in their enforcement of such curfew ordinances if the officer believes a youth has a “legitimate reason based on extenuating circumstances” for the violation. (WIC § 625.5(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 ensure your child understands the specific guidelines given to police officers who deal with young curfew violators.

**Prescription drug abuse**

Many teenagers in the United States take a prescription drug without a doctor’s prescription, according to a 2014 national survey. Although the abuse of such drugs can cause serious adverse health effects, addiction and even death, experts worry that teens may wrongly view such medications as safer than illegal drugs. Teen abuse of the painkiller Vicodin and other drugs has raised concerns in recent years. Possessing or using someone else’s medical prescription is illegal. Depending on the drug, an offense could be charged as a misdemeanor or a felony with stiff fines. (BPC § 4060; HSC §§ 11272, 11350, 11377)

**Injuries to self and laws**

INJURIES TO SELF AND LAWS

Criminal law and crimes represent those acts, behaviors or attitudes that society believes to be wrong and worthy of discourage. When a minor or adult violates a criminal law, it is the state, on
The use and abuse of certain prescription drugs, including painkillers, has raised concerns. According to a 2015 national update by NIDA, 4.4 percent of high school seniors used Vicodin and 7.7 percent used amphetamines for nonmedical purposes. One area of concern is Adderall, a prescription drug used for treating attention deficit and hyperactivity. About 7.5 percent of teens have used Adderall. Teenagers often raid medicine cabinets and hold so-called pill parties to trade and sample medicines.

The number of children using over-the-counter cough and cold medications for recreational purposes is also troubling. Surveys have shown that after marijuana, teens most commonly abused prescription drugs and over-the-counter medications. Health experts fear that youths may not fully realize the risks because many drugs they abuse, such as the cold medicine, are sold over the counter.

Other drugs abused by young people include hallucinogens, anabolic steroids and so-called club drugs, such as MDMA (more commonly known as “ecstasy”). Certain club drugs have been associated with sexual assaults as well. Usually the drug is slipped into an unsuspecting victim’s drink, making them unconscious, dizzy and vulnerable to assault.

For more information, go to www.clubdrugs.gov.

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 many children are not involved.204,205

In California, courts can suspend a young person’s driver’s license (if he or she is under the age of 18) for any violation of the Vehicle Code (VC § 12800). The suspension, restriction or delay of driving privileges may be delayed for a year beyond the date that the teenager would normally become eligible 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 § 12202.5)

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, if the simple possession of the particular drug would not be a felony. (HSC § 11351)

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 receive a license, driving privileges may be delayed for a year beyond the date that the teenager would normally become eligible to drive. And successive offenses could result in further suspension or delay in eligibility.

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 prepares for sale, sells or gives away certain controlled substances to a minor (or solicits 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 any time when minors use the facility. Depending on the location, type of drug and age difference between the minor and the adult, such conduct could lead to an enhanced prison sentence of 14 years. (HSC §§ 11353.1-11353.6, 11380.1)

The data, however, suggest that more teenagers than ever have plenty of opportunity to trade and sample medicines. One drug gaining popularity is Adderall, prescribed to treating attention deficit and hyperactivity. About 7.5 percent of teens have used Adderall. Teenagers often raid medicine cabinets and hold so-called pill parties to trade and sample medicines.

Are you the parent of a minor who has been arrested for drug possession? In California, an emancipated minor may lose his or her parents’ permission. That can occur if his or her parents “abandon” their minor child. The emancipation process is very complex and requires, at a minimum, a parent’s consent and acquiescence in order for a court to approve such a process.

In California, emancipation occurs automatically under certain circumstances. For example, as a person turns 18, he or she legally becomes an adult and is emancipated. (See Age of Majority.) When minors get married, they become emancipated from their parents. Emancipation also occurs if a minor is on active duty with the Armed Forces. (FC §§ 7120, 7121)

In addition, a minor may become emancipated in California with a petition to the courts. In such instances, the minor (at least 14 years of age) must state that he or she would like to be emancipated and is willing to live separately 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)

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 notice cannot be given for some reason. (FC § 7121)

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. Nor can parents simply abandon 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.)

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 contact the minor’s parents and escort the child home. More often, especially if there is injury or damage to property, the minor will be arrested. The child could face charges of assault and battery or disturbing the peace.

Assault is defined as an unlawful attempt, coupled with present ability, to commit a violent injury upon another. (PC §§ 242, 243) Assaulting, for example, as a person turns 18, he or she legally becomes an adult and is emancipated. (See Age of Majority.) When minors get married, they become emancipated from their parents. Emancipation also occurs if a minor is on active duty with the Armed Forces. (FC §§ 7120, 7121)

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weapon, the punishment is more severe. (PC §§ 242.1, 245-245.5) When a minor com-
mits 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 § 242.2)

If convicted of battery, also a misdemeanor, a young person could face juve-
nile court punishment and a fine. If the battery was directed at a specific public
school employee, the potential punishment would increase. (PC §§ 242.1, 243.4) Juvenile Court

At times, however, it can be difficult to determine who started the fight.
If your child can prove that he or she acted in self defense, the charges might be
dropped or might not be filed at all. In a situation in which children meet
the other after school for a fight, however, both would be charged.
Finally, fighting or picking a fight in a public place also can result in a
charge of disturbing the peace, which would be a misdemeanor. (PC § 415)

Directly threatening or intimidating a teacher or school official also is a crime.
(PCS § 71) An example of this might be a student who threatens to beat up a teacher
unless he or she receives a passing grade. A separate law makes it mandatory for
a school employee who has been attacked, assaulted or physically threatened by a
pupil to report such conduct to law enforcement. (ED.C. § 44014)

MYTH: Some children believe that fights between brothers or other
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.

Traditionally, urban, gangs now exist in every corner of the state.
Because they have increased in size and presence, they have grown more violent as well. In response,
California lawmakers have passed laws to help combat gang-related problems.

First, there is the California Street Terrorism Enforcement and Prevention Act. (PCS §§ 186.20 et seq.) Enhanced in part by the 21 and
the implementation of the Gang Violence and Juvenile Crime Prevention Act of 1998, the Street Terrorism Enforcement and Prevention Act
provides more severe penalties for those who commit gang-related crimes.

A criminal street gang could, if convicted and sentenced as
an adult, require minors to be fingerprinted, photograp-
hed, identified, and supervised for 10 years. However, through community service work, which could include
gang removal from public property. (VC § 13202.6)

What are some other forms of vandalism?
In California, it is illegal to:

• Remove or damage road or highway construc-
tion barriers, warning signs and lights. (PC §508B)

• Maliciously poison, torture, kill, neglect, teth-
er or cruel to animals. (PC §§ 596, 597, 597.1)

• Tear down a legal notice before its expira-
tion date. (PC § 616)

• Open a sealed letter without the au-
thority to do so. (PC § 618)

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

Finally, vandalism that poses particular dangers to
the public, is directed toward animals, is racially moti-
vated or stems from feelings of religious hatred or perse-
cution is often treated as a felony. (See Hate Crimes and Hate
Speech)

Are parents liable when their kids destroy, damage or deface the
property of others?
Yes, California law makes parents liable in certain circumstances. For example, they may be liable for:

• Fines that the minor cannot pay. (PC § 594d)

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

• Damage to school property or rewards offered to find the person respon-
sible for the damage, up to $10,000. (ED.C. § 48904(a)(1)

• Willful misconduct, including the defacement or destruction of property through the use of paint or similar substances. (CC § 1743.1)

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

Dog on a leash: Does your younger have a dog? Don’t leave that dog unattended — 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 and a $1,000 fine. (PC §§ 597.1, 597; HSC § 122335)

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 unau-
thorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on real or personal property. (PC § 594c)

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, anywhere within 100 feet of a highway or freeway overpass supports, sound walls or traffic signs. (PC §§ 604.5, 640.7, 640.8) It also is a misuse
of an official for someone to sell, give or furnish a minor with any etching cream or aerosol

Speech

Hate Crimes and Hate

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

Even before the growth in gun ownership and rise in shootings, kids were vulnerable to gun violence. But a 2014 study now shows that one in three teenagers lives in a home where there are guns, and of those, 40 percent has access to the weapon and can fire it.

Laws regulating the possession and use of guns and other dangerous weapons in California are broad and aimed at the full range of threats. Some laws 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. (Even adults cannot carry a concealed firearm unless they have a special permit.) If the minor is 16 or older, he or she may only possess a handgun for self defense or live ammunition with the written permission of a parent or guardian, and may only possess these items for legal purposes such as recreational sporting. (PC §§ 22615, 29855) In addition, certain less than lethal weapons, such as a remote-firing stun gun, cannot be sold to minors. And to buy a direct-contact stun gun, the minor would have to have a parent’s consent and be at least 16. (PC § 22610)

Some types of firearms and firearm-related equipment are outright illegal, with or without parental permission. Such items include sawed-off shotguns, machine guns and any gun that has had its identifying numbers removed, as well as silencers. (PC §§ 33529, 33221, 33410)

Other illegal weapons (those to be manufactured, import, possess, sell, give or even lend to someone) include any blackjack, nunchaku, metal or composite knuckles, dirk, dagger, belt buckle knives, loaded cans, zip guns, lipstick case knives, writing pens-knives and unconverted plated pistols. (PC § 16590) On the topic of weapons and fireworks, parents should be aware that:

- If your child is caught with a dangerous weapon — or trying to sell one — to school, he or she could be suspended or expelled. This punishment is in addition to any criminal charges that might be filed against your child. (EJC §§ 489000, 48913) (See Schools and School Rules)
- Simply exhibiting a weapon in a rude or angry way is a misdemeanor. (PC § 417.4) Even if the firearm is not shown, 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 § 417.4 Ed. § 48900 m) 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 $300,000 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 $600,000. (CC § 1714.3) 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.
- Using a weapon during the commission of another crime will increase the punishment for the crime. In addition, the crime will be treated as a felony. (PC §§ 12022, 29700)
- 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 detention facility or, if someone is injured or killed, even longer. (PC § 26100)
- Feiring 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 safe and sane fireworks to anyone under 18. (HSC § 12689)
- 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. (HSC § 12541.1(b))

LAW ENFORCEMENT RESOURCES

Crimes motivated by the hatred or dislike of others are classified as hate crimes. A hate crime is any crime 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 intimidations are enough to构成 a hate crime. (PC § 422.6) Unfortunately, many of these crimes in California are committed by young people.

What are some examples of hate crimes?

- Attacking a dark-skinned person because the perpetrator believes he or she is Muslim or from the Middle East.
- Destroying a storefront because the person believes the business owner is lesbian or gay.
- Firebombing or spraypainting a synagogue because the person dislikes people who are Jewish.

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 to the time to a sentence, depending on the circumstances. (PC § 422.75) If two or more people commit a hate crime together, their sentences could be increased by two to four years. (PC § 422.75b) In addition, California students attending 4th through 12th grade may be suspended or removed from school if they cause, attempt to cause or participate in an act of hate violence. (EC § 48903.0)

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 fact that 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 to 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))

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 to seduce 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. If the meeting does take place, the adult could face four years in state prison for on-line enticement. (PC §§ 272, 288.3; 18 USC § 2422(b))

If your child is solicited or sent obscene material online, contact local law enforcement and the 24-hour CyberTipline at 800-843-5678 or at cybertipline.com. By law, internet service providers (ISPs) must also report any child sexual exploitation or child pornography to the federally mandated tipline.

Should I worry about online sexual predators trying to contact my child frequently 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 learning experience for your child. But the internet is also an ideal meeting place for sexual predators seeking contact with children.

Many young people socialize online with “friends” encountered online. In a 2013 Pew Research Center survey, more than 95 percent of 12- to 17-year-olds were online and 81 percent used social media. Many use the internet to communicate with their friends and make new ones. The problem is that a new friend they think is only 14 years old could actually be a 43-year-old sexual predator.

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

THE INTERNET

Cell Phones and Computers

Social networking. Texting. Blogging. Today’s children play games and learn about the world online. They know as much as you do — or more — about smartphone, texting, Facebook, Twitter and other social media. More than nine out of 10 have a smartphone of their own, according to a 2013 Pew Research Center survey. The Pew study found that more than 95 percent of teens use the internet and nearly half own a smartphone to find information online, many of them on a daily basis. Although this digital world may open many doors, it can put your children at risk as well. They may encounter unwanted sexual material 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. Their personal information could be misunderstood or misused as well 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.

What is sexting?

Kids are already familiar with using phones for taking photos and videos. But not all children know that sharing photos, especially nude or sexually revealing ones, can be a crime.

Tell your child not to take or send nude or suggestive photos and videos of themselves or others. This is called “sexting.” It is humiliating and hurtful. If your child receives a nude photo, tell them not to forward it to others.

In California, people can be charged with a misdemeanor for posting sexually explicit photos of others. (CC §1708.85)

For more tips on talking to your children about online safety, go to: www.connectsafely.org.
Social networking, sexting and cyberbullying: Guidance for parents in the digital age

www.commonsenemedia.org — Advice on managing your family’s “media diet” and teaching online safety to your children. Ratings and reviews of movies, video games, apps, websites and other media.

www.connectsafety.org — Safety tips, advice and news on topics ranging from social media to Internet filters to smart videogaming.


www.cyberline.com — Website and hotline (800-841-5678) for reporting child pornography or suspected child sexual exploitation. Links to online safety resources and a list of online safety acronyms.

www.netsmartz411.org — Internet safety helpdesk and hotline (888-NETS411). Answers questions on numerous topics, including cyberbullying, sexting, monitoring and filtering. (Additional resources can be found on various other sites.)

www.onguardonline.gov — Information on computer security, kids’ online privacy, social networking sites and other online safety-related topics. Online guide entitled Net Cetera: Chatting With Kids About Being Online.

www.stopcyberbullying.org / cyberbullying.us — Information, safety tips and statistics on cyberbullying.

www.wiresafely.org — Information on various topics, including sexting, cyberstalking, cybercrime and cyberlaw. Help for cyberabuse victims and online advice to promote child safety on the Internet.

Social networking, sexting and cyberbullying: Guidance for parents in the digital age

Social networking, sexting and cyberbullying:

Sexual predators and cybersex

Here are some tips to help your child avoid becoming a victim:

• Communicate with your child about what sexual victimization is and the potential dangers of going online.

• Tell your children that the computer safeguards at your child’s school, the public library and the homes of your child’s friends are in place to protect your child from sexual predators and cybersex.

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

• Make sure your children know the rules before letting them use a computer, tablet or smartphone:

  • Never arrange a face-to-face meeting with someone they meet online.
  • Never upload (post) pictures of themselves onto the Internet or online service to people they do not personally know.
  • Never give out identifying information such as a name, home address, school name or telephone number.
  • Never download pictures from an unknown source.
  • Never respond to messages or bulletin board postings that are suggestive, obscene, belligerent or harassing.
  • Advise them that whatever they write online may or may not be true.

Source: Federal Bureau of Investigation, Innocent Images National Initiative

What can I do if a sexually explicit or otherwise inappropriate photo of my child or teenage turn 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 your 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 your area, go to icactraining.org.

What is cyberbullying?

Cyberbullying, too, has various definitions. In general, it refers to when a youth uses a mobile or smartphone, computer, tablet or other electronic communications device to harass, torment, mock or threaten another youth. Some researchers say the behavior must be repeated and cause some harm to be characterized as cyberbullying. A cyberbully might post altered, humiliating photos of a classmate online, for example, or launch an online campaign of vicious rumors about another peer, or send a barrage of threatening emails. Experts say cyberbullying can lead to anxiety and depression in young victims and, in some cases, may have even led to suicide. Surveys of teenagers suggest that up to one in four were the victim of cyberbullying in the previous year.

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. A California law gives school administrators grounds to suspend or recommend expulsion for students who are caught cyberbullying or committing status offenses. In many cases, such behavior may not break the law. In certain types of serious cases, however, a young cyberbully could potentially face criminal charges. State law prohibits the use of phones or other electronic communications devices to intentionally annoy someone with repeated calls or electronic contacts, obscene language or threats. Depending on the circumstances, a cyberbully could face charges for seriously threatening someone’s life, committing a hate crime, cyber-stalking or using electronic means to reveal personal information about someone that would threaten that person’s safety. Recent legislation also makes it illegal to try to harm someone by credibly impersonating a real person on a website or by other electronic means. (§§ 3261, 48900; PC §§ 422.6, 646.9, 653.5) Young people, parents and schools have been sued in cyberbullying-related cases as well. For more information on cyberbullying, visit the websites listed below.

Computers, the Internet and theft

California law prohibits:

• Posing or downloading copyrighted material, such as music. (PC §§ 502(c), 13848)

• Accessing someone else’s computer without authorization. (PC § 502(c)(7))

• Devising and executing schemes to obtain money, property or services with false or fraudulent intent through a computer. (PC § 502(c)(11))

• Deleting, damaging or destroying systems, networks, programs, databases or components of computers without authorization. (PC § 502(c)(4))

• Disrupting or denying access to the authorized users of a computer. (PC § 502(c)(5))

• Introducing contaminants or viruses to a computer. (PC § 502(c)(8))

Resource: Children’s Online Privacy Protection Act (COPPA)
In some instances, custody is taken away from the parents temporarily, and the children are placed in foster care. (WIC § 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 is taken entirely and the children are put up for adoption. (WIC § 366.26)(See Parents' Rights and Responsibilities)

The exception to these three primary categories of children are the young status offenders—defined by law (WIC § 727(a)(3)) as children under 18 who:

- Have four or more truancies within a school year (see Truancy).
- Persistently refuse to obey the reasonable and proper orders of school authorities.

If a child meets any of the above criteria, he or she may be classified as a child in need of supervision. Typically, such children are taken out of their home, run away from home, refuse to go to school or just don't want to listen to anyone.

When such children are taken into custody, the courts must treat them in the least restrictive manner and, when practical, return them to their parents. A child could be placed with a relative, however, if it is in the child's best interest and would help keep the family together. (WIC § 293.1) Also, instead of making a child a ward of the court, the court may instead place the child in a division program such as a drug rehabilitation program or a diversion program. Such a program might include alcohol or drug education, community service, counseling and/or an opportunity to repair damaged property.

In some circumstances, however, should a child ever be taken away from his or her parents' custody (except during school hours) for simply skipping school or school disobedience alone. Also, merely not listening to a parent (or even running away from home) is not necessarily sufficient to establish that a child is beyond parental control or in need of supervision. It must be shown that the child's behavior is habitual or that the child's act of running away was not caused by the parent's action or inaction. For example, a child would not be classified as someone in need of supervision if he or she has been neglected, neglected or pushed out of the family home.

Loitering: When teenagers gather together on a street corner, police may simply encourage them to move along. If the young people cause a disturbance, however, they could be arrested and charged with disturbing the peace, which is a misdemeanor. (PC § 415) If the teenagers are violating a curfew law (see Curfew Laws), they could be charged with loitering as well. (PC § 647)

Loitering — legally classified as a type of disorderly conduct — involves more than just lingering in one place for an extended period of time. Before your child can be successfully prosecuted for loitering, it must be established that he or she was looking for an opportunity to commit a crime as well. Simply hanging out and talking to friends outside a convenience store, for example, is not enough to make a case for loitering, However, a child may be arrested if found in a public place under the influence of alcohol or drugs. (PC § 647(b))

In California, there is a separate law involving loitering on or near any school or public place where children are present. (PC § 630) This law primarily exists to protect rather than prosecute minors. To prosecute someone under this statute, prosecutors must prove that the individual under arrest had an illegal purpose in mind. Loitering is a misdemeanor that could lead to a $1,000 fine and detention time.

Parents have many responsibilities when it comes to their children. But they have important rights as well.

Custody and control: Parents must make important decisions about their children's lives, such as whether they will attend school or stay home. 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, when the child is taken away from home, it is to protect the child from abuse or neglect. The court may order the child to leave the home if the child's presence in the home would be likely to hurt the children or the other parent. (PC § 205) If the child is abused or neglected, the court may order the child to leave the home if the child's presence in the home would be likely to hurt the children or the other parent.

Earnings: Although most parents allow their child to keep his or her earnings, parents also have a legal right to such incomes. (PC § 750) 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 §§ 7504, 7507)
- 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 § 3000)

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 child, 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)
When arrested, young people—There are exceptions.

If a court is required to support a child, it can seek reimbursement from parents who are capable, but have refused, to provide such support. (WIC § 4890) Parents are also required to reimburse the court for support costs incurred during the detention of a child under a juvenile court order. (WIC § 903) And parents must pay the court back for legal services provided to minors in juvenile court proceedings. (WIC § 903(a)) The duty to support a non-supporting custodial parent may reach the age of majority (18), or if the child is still enrolled in high school full-time. (FC § 3801) (See Emancipation for exceptions.)

The fact that a child's parents are not married or does not affect the parents' responsibility to support their child. (FC § 3800) 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 § 4900) 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 § 4900) A judge may order one parent to make specified payments to the other child or support. (FC § 4900) 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 (FC § 5190); a wage garnishment (FC § 5220), civil contempt proceedings (FC § 290) 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 for the acts of their children. (FC § 4600) There are exceptions. For example, if a minor fails to do something the parent is required to do, the child may be guilty of contributing to the delinquency of a minor. (PC § 272) 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 if more than one person is injured. (CC § 1744.3)

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 § 1744.3)

Graffiti: Parents may be liable for the costs of removal, repair and/or replacement of property that has defaced a building or other property, up to $2,500. (PC § 394(c); Govt. Code § 38723(b)) If there are repeated graffiti offenses, parents could be liable for up to $50,000 in fines that their children cannot pay. (PC § 394(b))

Trespass cases: If parents have signed a minor's consent form to obtain tear gas may be liable for the child's negligent or wrongful acts or omissions. (CC § 22815)

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, smartphones, tablets and digital cameras are all around us, 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.

Two decades ago, the U.S. Supreme Court decided that while teachers were considered state agents who must respect the constitutional right to privacy, searches 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 and asked the student to come to his office. The student agreed and the teacher 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 violated the child's privacy rights if the procedure used was relatively intrusive, 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 waswalking through the school grounds with his friends 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, finding marijuana inside. The court found the search to be illegal since the assistant principal had no information concerning the student’s use, possession or sale of drugs. The court noted: “Neither indiscriminate searching of lockers nor more discreet individual searches of a locker, a purse or a person, have a sufficient, reasonable basis to place about the existence of reasonable suspicion. Respect for privacy is the rule—a search is the exception.”

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 children who remain at home are under the authority of their parents, which weakens the children’s privacy rights with regard to their homes and the areas in their homes. 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). 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 child’s room violated the child’s constitutional rights when the 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 § 6926)
- 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 §§ 6927, 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 decree acknowledging their emancipation need not confer with their parents regarding any decisions. (FC § 7002)

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

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 $950, however, the punishment for the crime is increased. (FC § 496)

To be guilty of such a crime, the person receiving the property must know that it was stolen. (FC § 486) Such knowledge can be proven in court with circumstantial evidence. This means if your child does not examine all of the facts to determine whether your child knew that the items were stolen: How much was paid when compared to what the item would have cost in a store? Was there an attempt to flee from authorities or to hide the items? From whom and where were the items purchased? Were there any identifying marks removed from the items?

When to do if your child is being bullied:

- Be supportive and get information about the bullying. Never tell a child to ignore bullying. The abusive behavior can become more serious if it is ignored.

- Contact your child’s teacher, principal or caregiver. Do not contact the parents of the student(s) who bullied your child, make sure you contact school officials or the caregiver again if the bullying persists.

- Bullyproof your child. Help your child develop their talents and positive self-esteem. Discuss with your child being bullied because of a learning difficulty or lack of social skills. Role-play and rehearse with your child about what to do or say when bullying occurs. Do not encourage physical retaliation. “Just hit them back.”

- Make sure your child knows what cyber-bullying is. Tell your child to speak to you right away if they or someone they know is being bullied online. Tell them not to share embarrassing details or photos that could hurt someone else. Explain why they can’t post personal information online and which websites are off-limits. See the website www.stopbullying.gov for more information and tips.


SCHOO.LS 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 for resolved parents and administer special education programs. Also, school boards generally have some discretion when applying state regulations.

Each local school district has school administrators 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 nonprofit association. Where a school has 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. And still others are 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. Code §§ 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 school 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. If you are in response to an offense that took place at school, while traveling to or from a school, during the lunch period (at school or elsewhere) or 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 7 through 12 can be grounds for suspension. A teacher or someone who is 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. Code §§ 48900, 48905, 48900.7, 48900.3, 48900.4)

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. Code § 48982)

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 children ages 3 to 21. (Children enrolled in private schools and homes by their parents are not covered by IDEA. However, IDEA mandates that states set standards for free special education and related services.) The process can start with a parent’s written request for an assessment. The district must respond within 15 days and, if the request is denied, must provide a written reason for the denial. If an assessment 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 could range from speech therapy to small group instruction to a special education teacher’s assistance. The particular services would depend on your child’s needs and would, by law, have to be provided in 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 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 specialized education services.

If you believe your child needs any of these services, educate yourself about the process and your legal rights. Seeking such services can be a daunting task. 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 www.dds.ca.gov (click on Specialized Programs, then Family Involvement and Partnerships). To learn more about Early Start or the Prevention Program, go to www.dds.ca.gov (click on Birth to 36 Months).
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 a recent survey suggesting that nearly 50 percent of high school students have had sexual intercourse. The only exception to this law 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 sexual 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 any minor who is not the spouse of the perpetrator. (PC § 261.5(a)) The law is intended to protect boys and girls alike. A person who is 14 or older and is not more than three years older than the victim is guilty of a misdemeanor. If the person is more than three years older, however, he or she may be found guilty of a felony and punished as an adult with imprisonment in county jail or state prison. In fact, a person over 21 who has sex with someone younger than 16 can be sent to state prison for two to four years. (PC § 261.5(a))

In addition, a separate California law prohibits unlawful or lascivious acts (child molestation) 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 felony charges. If the sexual abuse of a minor under age 14 occurs three times or more over a three-month period or longer, the abuser could face stiffer punishment. (PC § 288.5(c)) 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 § 288.5(c))

Children are also forcibly raped. Forcible rape involves the use of force, fear, coercion or trickery to acquire sex. In most cases, the rapist takes advantage of a situation, such as a drunk or incapacitated victim. 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 acquaint- ance; or he or she is “date rape” (PC § 289.5(b)) — and taken by a relative or a spouse (incest, child abuse or spousal rape). For committing such a rape, a rapist could face 15 years to life in prison. (PC § 269)

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 assistance. Many counties in California have victim assistance programs, sexual trauma centers and rape crisis hotlines. These programs are often associated with a county district attorney’s office and 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’ consent. This legal right applies to treatment from medical doctors, psychiatrists, psychologists and men- tal health counselors, as well as those acting as chief administrators of programs that provide counseling to rape victims. (PC §§ 6820, 6927-28)

Police reports involving rape are confidential and customarily are released only to the prosecutors and defense attorneys or by court order. ( Govt.C. § 6264) This is true even when the 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 cigarette smoking has declined since the mid-1990s. A 2013 CDC report said cigarette smoking among high school students dropped from 9.2 percent in 2014 compared with 15.8 percent in 2011. The bad news is that teens’ use of electronic cigarettes rose dra- matically, from 1.5 percent in 2013 to 17.4 percent in 2014. Many teens are unaware that using e-cigarettes, known as “vaping,” can be just as addictive and harmful.

California has enacted laws over the years aimed at preventing the use of tobacco products by minors. It is against the law for a minor to purchase, receive or possess tobacco products in California. (If an elementary or secondary school student is caught smoking or using tobacco products at school or attending a school-sponsored activity, he or she could be suspended or expelled as well. (Elec. §§ 26920, 26927-28) PC § 308) Laws that make it illegal to sell tobacco products to children under the age of 18. (BPC § 22521; PC § 308) Lawmakers now want to raise that age limit to 21 and have passed a bill that would do just that. This bill would also temporarily stop the sale of any tobacco products to minors. (SB 618) This bill would effectively be in place until October 1, 2016.

In addition, tobacco product retailers are required to post conspicuous notices stating that they must check the identification of anyone who seeks to buy such products and who appears to be under 18. (§ 22521)

What should parents do about sexual abuse?

If a child has been abused, the police should be notified. They will take a report, give the child a medical examination and provide other services. Parents also should seek timely medical and psychological help for the child. (Govt.C. § 6264) Parents can also seek victim assistance programs.

Preventing sexual abuse begins with awareness. This guide offers parents and teachers information about the warning signs of sexual abuse and suggestions for what to do.

SEX AND KIDS

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Preventing sexual abuse begins with awareness. This guide offers parents and teachers information about the warning signs of sexual abuse and suggestions for what to do.

CUTTING CALORIES AND SODA IN SCHOOLS: Under recently revised guidelines, schools can now only sell certain beverages (milk and drinks with at least 50 percent fruit juice, for example) — and no soda. Also, schools have had to cut the caloric, fat and sugar content in some snacks and entrees. (Generally, for example, no high school entree can contain more than 400 calories under the new guidelines.) (Elec. §§ 49541.2, 49431.5) There are, however, exceptions — certain school fundraisers, for exam- ple, or a parent’s delivery of cupcakes to a classroom to help celebrate a child’s birthday.

ковались, know that your child is safe at a child care provider properly “child...tion must be included as well. (Elec. §§ 49914, 49914-49924)

If rules at the school are arbitrarily or discriminatorily enforced.

If the basis of the school’s action is related to tardiness, truancy or another school absence (see Truancy).

If the school did not follow the mandated due process procedures or its own district rules.

If the child is disabled and the behavior for which he or she is being suspended or expelled relates to that disability.

If the child was not told what he or she was accused of, if the act was not defined as behavior that could result in a suspension or expulsion, or if the child was never given the opportunity to explain his or her side of the story.

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The legal term for stealing is theft. 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 a purchase at a store.

Fraudulently using or stealing a credit card is a common theft offense. The law also applies to the theft or forgery of a bank ATM or debit card to obtain anything of value or to initiate a 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, §§ 460, 460.6) There are many other variations of theft involving minors or under the age of 18 that also fall under the umbrella of theft. These include: taking or using someone else’s property with the intent to deprive the owner of it, (PC § 460) stealing from a minor or a patient, (PC § 460.6) misappropriation of wages, (PC § 460.1) or misappropriation of lost property, (PC § 460.2) and theft of property committed by a custodian of another’s property, (PC § 460.3)

Theft offenses are divided into three categories. First-category thefts are thefts of $950 or less and carry a maximum sentence of 90 days in jail. Second-category thefts are thefts exceeding $950 but not exceeding $4,000 and carry a maximum sentence of 1 year in jail. Third-category thefts are thefts exceeding $4,000 and carry a maximum sentence of 2 years in jail.

A parent or guardian presents a sworn statement to the minor’s school district to explain the reasons for the minor’s absence. The minor may not be charged with truancy if it can be reasonably expected that the minor will return to school. The only way to keep the minor from returning to school is by obtaining a court order restraining the minor from entering school premises.

Children who are 16 and older can obtain full-time work permits. These 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 §§ 1298, 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 school record (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 describe the type of work and produce an original health certificate from a doctor or health care facility indicating that the child is physically fit to perform such work. (L.C. § 49110, 49117, 49133)

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. Such laws outlaw the use of minors in dangerous occupations, for example, or in jobs that might put the child at risk of being exploited. (L.C. §§ 285, 3132, 1390-99) With some exceptions, minimum wage and overtime pay is the same for adults and minors. (L.C. §§ 204, 29 USC 205, 207, 214, 204, 29 USC 205,207 & 214) Labor laws contain rules that set minimum wages and overtime pay rates. (29 USC § 206; Lab. C § 1182) In 2017, California’s current $10-an-hour minimum wage is scheduled to rise to $10.50. It will go up each year until it reaches $15 an hour. Children may work no more than three hours on a school day and no more than 18 hours a week. Children may not begin before 7 a.m. or end after 7 p.m.

A parent or guardian presents a sworn statement to the minor’s school district to explain the reasons for the minor’s absence. The minor may not be charged with truancy if it can be reasonably expected that the minor will return to school. The only way to keep the minor from returning to school is by obtaining a court order restraining the minor from entering school premises.

Children who are 16 and older can obtain full-time work permits. These 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 §§ 1298, 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 school record (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 describe the type of work and produce an original health certificate from a doctor or health care facility indicating that the child is physically fit to perform such work. (L.C. § 49110, 49117, 49133)

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. Such laws outlaw the use of minors in dangerous occupations, for example, or in jobs that might put the child at risk of being exploited. (L.C. §§ 285, 3132, 1390-99) With some exceptions, minimum wage and overtime pay is the same for adults and minors. (L.C. §§ 204, 29 USC 205, 207, 214, 204, 29 USC 205,207 & 214) Labor laws contain rules that set minimum wages and overtime pay rates. (29 USC § 206; Lab. C § 1182) In 2017, California’s current $10-an-hour minimum wage is scheduled to rise to $10.50. It will go up each year until it reaches $15 an hour. Children may work no more than three hours on a school day and no more than 18 hours a week. Children may not begin before 7 a.m. or end after 7 p.m.
Delinquent offender: a minor who has committed an offense usually punishable by criminal processes. Such offenders are usually processed through the juvenile justice system.

Detention facility: a juvenile hall, camp or ranch.

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.

Diversion program: a special program for handling minors (first offend- ers) with problems; it is meant to be used by 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—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 jail or 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 for the purpose of protecting the best 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 youth’s arrest. The judge or juvenile court case officer determines that an offense was committed and there is a reasonable cause to believe the youth committed it.

Intent: the attempt 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 abused 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.

Miranda warnings: 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.

Misdemeanor: 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: the 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 a crime.

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: using the law in a criminal case or trying someone on criminal charges.

Public defender: an attorney who is paid by the county to defend those without money who are accused of committing crimes.

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 similar 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 answers to questions that would tend to subject one to criminal prosecution.

Status offenses: acts that are illegal if committed by a juvenile (truancy 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.

Ward: a person incapable of managing his or her own affairs and for whom the court steps in to make decisions.

**LEGAL TERMS**

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

Aggravating factors: factors that might increase the seriousness of an offense. The presence of these factors may be considered by the judge and jury.

Arraignment: a court session at which a defendant is charged and enters a plea. For a minor, the contents of the complaint must be read to the child, who has the right to the presence of 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.

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The California Bar Foundation believes everyone should be aware of their legal rights and responsibilities. We are proud to partner with the State Bar of California to educate parents and children about their rights, responsibilities and legal challenges. This guide provides valuable information about the laws, benefits and services available to parents and their children. We hope you will share this resource with others.

California Bar Foundation is building a better justice system for all Californians. As the only statewide funder investing exclusively in a fairer, more inclusive justice system, we are uniquely positioned for impact. Help us catalyze change for the people of California by making a tax-deductible gift to the California Bar Foundation.

Warmest regards,

Julie Taylor, President
California Bar Foundation

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