KIDS & THE LAW

AN A-TO-Z GUIDE FOR PARENTS

GANGS
PARENTS’ RIGHTS
SMOKING
GRAFFITI
WORKING
AGE OF MAJORITY
TRUANCY
SCHOOL RULES
DRIVING
JUVENILE COURT
FIGHTING
ALCOHOL
ONLINE PREDATORS

Funded by a generous grant from the California Bar Foundation

The Age of Majority

The age of majority is a term used by lawyers to describe that point in a person's life when he or she is legally no longer considered a child. In essence, it is an arbitrary time when a child becomes an adult in the eyes of the law. Until fairly recently, the age of majority was set at 21 in most states. After the 26th Amendment gave 18-year-olds the right to vote in federal elections, most states, including California, lowered their age of majority to 18. (FC § 6002)

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 a 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 Parents' 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.)

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. (B&BPC §§ 23004, 25658, 25659)

Those under 21 are not even permitted to possess alcohol in public places, including state highways or in and around schools. (B&BPC § 25662(a)) Minors also must abide by city and county ordinances that prohibit everyone from drinking alcohol in public parks or recreation areas. Anyone, adult or minor, who possesses an open container of alcohol in a prohibited area is guilty of an infraction. (B&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. (B&BPC § 25661) While it is legal for those under 21 to be in a home where adults over 21 are drinking alcohol, it is illegal to provide alcohol to anyone under 21. Parents and others providing the alcohol can be held criminally liable for contributing to the delinquency of a minor. (PC § 272)

If you allow your child, or your child's underage companion, to have a controlled substance or drink alcohol that results in a blood alcohol concentration of 0.05 percent and then you allow that child to drive, you could end 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. (B&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.)
Are there laws that address underage drinking at parties?

Yes. A police officer (who lawfully enters the gathering) can seize alcoholic beverages from anyone under 21 at an unsupervised social gathering. Under California law, an unsupervised social gathering is a public party or event that is attended by 10 or more people under age 21, and is not supervised by a parent or guardian of any of the participants. (B&P §§ 21662(b)(1),(2); VC § 13202) A person can be fined up to $250 for each offense related to the possession, consumption or purchase of alcohol. More severe punishment for violation of local laws varies. The offender may be found guilty of an infraction or a misdemeanor. In addition, young people under age 21 who violate the law may have their driver’s licenses suspended (or even revoked) for up to one year if such offense related to the possession, consumption or purchase of alcohol. Or, if the minor (age 13 or older) does not yet have a license, he or she would be delayed in receiving one. This is true even if the offense does not involve automobile. Also, for their first offense, young people may be asked to pay up to $250 in fines or perform community service. A young person convicted of a second or subsequent offense will be fined up to $500 or required to perform more community service. (B&P §§ 21662(a); VC § 13202.5)

State legislators and many communities around the state have taken steps in recent years to help curb underage drinking. For example, a 2010 law now allows social hosts to an underage drinker who then causes an injury or death. (CC § 1714(d)) In addition, a growing number of cities and counties have enacted Social Host Accountability ordinances as well. While such ordinances vary, they generally hold the hosts of underage drinking parties (or the residential property owners who allowed the party to take place) accountable for any drinking and loud, unruly behavior that takes place. The consequences may be fines that increase with each violation, the obligation to pay the costs of responding to the party or breaking it up, and community service.

Can bar owners also be held liable if they sell alcohol to someone under age 21?

Yes, under certain circumstances. If a bar owner serves alcohol to an under-age 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, 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. (B&P § 25602.5)

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 § 12814.6) And there are special restrictions and requirements for drivers under 18.

But even before a teenager can get a provisional license, he or she must obtain an instruction permit (also called a learner’s permit) from the Department of Motor Vehicles (DMV). (VC § 12810) To get such a permit, the teenager must:

- Be at least 15-1/2 years old but not yet 18.
- Submit an application form and a form showing completion of driver education and enrollment in or completion of driver training or enrollment in an integrated driver education/training program. The application form must be signed by the teen’s parents or guardian.
- Give a thumbprint.
- Pass a vision exam.
- Provide his or her Social Security number.
- Verify birth date and legal presence.
- Have his or her picture taken.
- Pay an application fee.
- Pass a written examination on traffic laws and signs.

Once all of these steps have been completed, the DMV will issue your child a learner’s permit. If the minor is over 17-1/2 years of age, he or she can obtain such a permit without the education or training requirements. It is illegal for a permit 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, your child must:

- Be at least 16 years old.
- Finish both driver education and six hours of provisional driver training and receive the proper certification. (DMV form DL 388 or DL 237, 238) 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 stating that all of the driving practices outlined in the Parent-Teen Training Guide have been followed. The provisional license can get this booklet at local DMV field offices or by visiting dmv.ca.gov (go to More DMV Publications).

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 § 12814.6) And there are special restrictions and requirements for drivers under 18.

But even before a teenager can get a provisional license, he or she must obtain an instruction permit (also called a learner’s permit) from the Department of Motor Vehicles (DMV). (VC § 12810) To get such a permit, the teenager must:

- Be at least 15-1/2 years old but not yet 18.
- Submit an application form and a form showing completion of driver education and enrollment in or completion of driver training or enrollment in an integrated driver education/training program. The application form must be signed by the teen’s parents or guardian.
- Give a thumbprint.
- Pass a vision exam.
- Provide his or her Social Security number.
- Verify birth date and legal presence.
- Have his or her picture taken.
- Pay an application fee.
- Pass a written examination on traffic laws and signs.

Once all of these steps have been completed, the DMV will issue your child a learner’s permit. If the minor is over 17-1/2 years of age, he or she can obtain such a permit without the education or training requirements. It is illegal for a permit 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, your child must:

- Be at least 16 years old.
- Finish both driver education and six hours of provisional driver training and receive the proper certification. (DMV form DL 388 or DL 237, 238) 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 stating that all of the driving practices outlined in the Parent-Teen Training Guide have been followed. The provisional license can get this booklet at local DMV field offices or by visiting dmv.ca.gov (go to More DMV Publications).

- Complete 50 hours of supervised driving with an adult (age 25 or older) who has a valid California driver’s license. Ten of the 50 hours must be done at night. The adult must certify the 50 hours of driving practice.
- Pass the behind-the-wheel driving test and a written exam. (The teenager must bring proof of insurance for the car in which the driving test is taken.)

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

- For the first 12 months, the minor may not drive with anyone under the age of 20 in the car and may not drive between the hours of 11 p.m. and 5 a.m., unless accompanied by a driver who is 25 or older. In certain circumstances (the minor’s sibling, for example, has no other transportation to and from school), an exception may be made if the minor meets certain criteria.
- Teenagers under 18 may not be employed as drivers. (VC § 12325) 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 no other form of school transportation or transportation due to an illness in the family. Or, such a permit might be allowed if the minor needs it for transportation to and from a job and the minor’s income is essential to the support of his or her family. (VC § 12323) In addition, a student driver’s license may be obtained by a student who is over 15 and is taking driving training in a public, parochial or private secondary school with the consent of the school principal and parents. (VC § 12658)

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

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

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

Keep in mind that such insurance is intended to protect your child from losses as a result of an accident that he or she has caused. Since youthful drivers often get into accidents during their first few years of driving, it might be wise to obtain more than the minimum amount of auto insurance required on a car that will be driven by your child.

In addition, the liability limits do not apply when a parent has negligently entrusted his or her vehicle to the child. For example, the parents could be found liable if they knew (or should have known) of their child’s poor driving record, past accidents or drinking problem—and still permitted the child to drive his or
Alcohol and cars: In California, it is unlawful for anyone—driver or passenger—to possess an open container of alcohol in an automobile. (VC §§ 23223, 23226) Possession of an open container of alcohol inside a car could lead to a $1,000 fine, up to three years in jail and a six-month license revocation. A minor’s license can be suspended or delayed for a year in such circumstances.

Laws related to driving, alcohol and minors are particularly strict. It is illegal to carry a container of alcohol or the equivalent of any one in the car—driver or passenger—is under 21 unless the person is accompanied by a parent, legal guardian or another responsible adult designated by the parent or guardian. If the car’s registered owner (whether he or she is driving or simply a passenger) illegitimately possesses 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 the license 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 percent or more. (VC § 23136). For adults who are 21 or older, the illegal BAC is higher, 0.08 percent or more. (VC § 23523(b))

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

The police officer may administrate a breath, blood or urine test to determine the driver’s blood-alcohol level. And the driver may not refuse to take this test without facing serious penalties. Those who do not submit to a BAC test could be fined or imprisoned and could have their driver’s license suspended or revoked for a period of one to three years. (VC §§ 23533.1, 23163, 23621)

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

If your child is convicted of DUI and is under 18, his or her license will be revoked until he or she reaches the age of 18, for or for even longer if he or she has committed prior offenses. (VC § 13352.3)

In most cases, a minor convicted of DUI also would be required to participate in an alcohol education or community service program. If the individual is over 18, he or she would be required to pay the cost of attending this program; otherwise, the expense would be charged to the minor’s parents. (VC § 23520) If your child fails to complete a court-ordered alcohol education or community service program, a court might revoke or suspend his or her driver’s license. If the minor does not have a permit, he or she would be delayed in receiving one. These sanctions would remain in effect until the minor completes the court-ordered program or reaches age 21. (VC § 23502)

Finally, anyone who has a driver’s license suspended or revoked may also have his or her car insurance canceled. And a DUI conviction disqualifies an individual from receiving a “Good Driver Discount” insurance policy for the next 10 years. (IC § 1461.025)

There are more than three million reports of child abuse nationwide each year. By one estimate, nearly five children die from such abuse or neglect every day. And most of the victims are under age 4. But child abuse victims can be any age, come from any ethnic background and be born into poverty or wealth. Such victims include not just children but adults as well.

It is against the law for anyone to abuse a child—physically, sexually (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—to fail to adequately feed, clothe or supervise the child or to supply medical care. (PC §§ 270 et seq., 11164-11166.6)

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 great risk, individuals in certain professions are required by law to report suspected abuse. The list of so-called mandated reporters generally includes teachers, school personnel, doctors, nurses, police officers and firefighters, as well as certain other professionals who regularly come in contact with children. Mandated reporters must immediately 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)
What is “Shaken Baby Syndrome”? It is a life-threatening condition that can develop when someone shakes a baby or toddler hard enough to shake major blood vessels in the child’s brain into his or her skull. One in five children die as a consequence. The resulting trauma can also lead to permanent brain damage, blindness or severe motor dysfunction. It can happen when a frustrated or angry parent or caretaker simply shakes a child to stop a bout of crying. And babies are not the only ones at risk; severe shaking can cause head trauma in children up to age 5. Proposed legislation still pending in 2010 would require health facilities and the State Department of Social Services to provide new parents with information on the syndrome. Experts suggest that over-stressed parents or caregivers seek help. Parents, concerned adults and children alike can visit childhelp.org or call 1-800-4-A-CHILD (422-4453) for assistance.

At what age can a child legally be left alone at home—and for how long?

California law does not specify any particular age. Every situation—and every child—is different. It could depend on various factors: the child’s level of maturity and judgment, the time of day, the safety of the neighborhood and the proximity of adult or responsible adults 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 are lawsuits (often between private individuals or businesses) in which someone sues someone else for money damages (money) or something else to compensate or offer protection for a wrong that was committed. When a civil case has to do with an injured child, parents are often involved.

Minors can, however, enforce their own legal rights in a civil case as long as the child is under 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.

If, however, a minor is 26 years old or until three years have passed since the person discovered (or should have discovered) that his or her injuries were related to sexual abuse, he or she has six years from the day he or she 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 § 340.1)

Criminal law and crimes represent those instances of behavior or attitudes in society that are considered to be immoral or unacceptable. The penalties that society believes are wrong and wishes to discourage. When a minor or adult violates a criminal law, it is the state, on behalf of society, that files a lawsuit. County prosecutors are the state’s designated representatives and have the discretion to choose which violations of criminal law are most important to prosecute or punish. When the state prosecutes someone for breaking a criminal law, the wrongdoer could face a fine, be locked up in a county jail or be stated to serve time in 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 § 16) A felony is the most serious type of crime and is punishable by a fine and/or imprisonment in a state prison, or a death sentence. A misdemeanor is punishable by a fine and/or imprisonment for a period of 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 infactions. Finally, some crimes are punishable either as misdemeanors or felonies. These crimes are called wobblers and are considered felonies until the judgment is imposed.

Civil actions are lawsuits brought by minors. First, if a child is injured before or at the time of birth, the law can reach for two years from the time of the birth. (CCP §§ 337, 339) 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 § 340.1)

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

Prescription Drug Abuse

One in five high school students has taken a prescription drug without a doctor’s prescription, according to a national 2009 survey. While the misuse of such drugs can cause serious adverse health effects, addiction and even death, experts worry that this issue may wrongly view such medications as safer than illegal drugs. Teen misuse of the painkillers Oxycontin and Vioxx, for example, has raised concerns in recent years.

Possessing or using someone else’s prescription is illegal. Depending on the drug, the penalty could range from 12 months in jail and a $500 fine, to a state prison sentence and a $2,000 fine. (B&P §§ 4060; H&S §§ 10127, 11350, 11337, 11377)

Curfew laws restrict the nights 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, counties and cities can enact their own curfews and ordinances. And 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. (WC § 625.5) Also, a child who is a frequent or habitual curfew violator may be declared a ward of the court and be treated as a status offender. (WC § 601(ea)) (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. State 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. (W&IC § 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 guide to the exceptions and exceptional circumstances. As a parent, you also should request the specific guidelines given to police officers who deal with young curfew violators.

Body piercing, tanning salons and tattoos: Your teenager got her lip pierced without your permission? It is against the law to perform a body piercing (this does not include pierced ears) on anyone under age 18—unless a parent or guardian is present or has sent their notarized written permission. The law also prohibits children under 14 from using any ultraviolet tanning facility. Older teens (ages 14 to 18) are barred from using such facilities as well unless a parent or legal guardian appears in person to give consent. And it is a misdemeanor to tattoo or even offer to tattoo anyone under age 18. (PC §§ 652, 653; B&P §§ 22702, 22705, 22706)
In recent years, misuse of certain prescription-type drugs, including the painkillers Vicodin and OxyContin, has raised concerns (see page 5). There are accounts of teenagers raiding their family medicine cabinets and holding so-called “pharmacy parties” every weekend that nearly one in four in high school students had been offered, sold or given illegal drugs at school.

The number of children misusing over-the-counter cough and cold medications is troubling as well. Recent data showed that children are taking high doses of such medications just to get high. Of those surveyed in 2009, roughly one in 26 eighth-graders and one in 17 high school seniors had abused such medications in the previous year. And exports fear that young people may not fully realize the risk it takes because the drugs are sold over the counter.

Other drugs abused by young people in recent years include nitrous oxide (see below), anesthetic spray and the so-called club drugs, such as MDMA (more commonly known as “ecstasy”). Certain club drugs have been associated with sexual assaults as well as the drug is slipped into an unsuspecting victim’s drink to render the victim defenseless. For more information, go to 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 most children are not involved. Young people are far more likely to face state charges of possession of a controlled substance. (HSC §§ 11353, 11377(d), 21 USC § 841) For more information on state charges, go to steroidabuse.gov.

By law, the following warning must be posted in all locker rooms, colleges and middle and high-school aged students. (CC § 1812.97)

Warning: Use of steroids to increase strength or growth can cause serious health problems. Steroids can keep teenagers from growing to their full height; they can also cause heart disease, stroke and damaged liver function. Men and women using steroids may develop balding and development of breast tissue. These health hazards are in addition to the civil and criminal penalties for the unlawful sale, use, possession or exchange of anabolic steroids.

Possessing certain drug paraphernalia is against the law as well. This includes items which are used with or for the purpose of illegal drug use. (PC §§ 241.2, 245–245.5)

In California, courts can suspend a young person’s driving privileges (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 any offense committed while driving under the influence of any controlled substance, including marijuana, the consequences would be more serious. (HSC §§ 11357–58)

Possessing 25 grams of marijuana (other than concentrated cannabis) or less would be considered an infraction, which could result in a fine of up to $100. Minor also be escorted home to their parents or taken to a juvenile probation officer. However, if your child is found possessing more than an ounce of marijuana or alcohol-related offenses, the minor has yet to get a license, driving privileges may be delayed for a year beyond the date that the teenager would have turned 16. The minor will be arrested. The suspension, restriction or revocation of driving privileges is in addition to any penalty imposed upon conviction. (VC § 13202.5)

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

In addition, anyone under the age of 18 who induces another minor to violate any laws or to controlled substances could wind up in state prison. (HSC § 11354)

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

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

Legally speaking, emancipation is that point in time when parents are no longer responsible for their children, and children no longer have to answer to their parents. (FC §§ 7002, 7120) Once this occurs, parents do not have to give their permission for anything that the minor may wish to do. They also no longer have to provide their child with support or necessities such as food, shelter and medical care. This means that your minor child does not have to be responsible to you and may live wherever he or she wishes to live. In addition, the emancipated minor can be more independent of his or her own medical, dental and psychiatric care decisions. An emancipated youth also may, for example, enter into a contract, sue and be used in his or her own name, make or revoke a will, buy or sell interests in property, and apply for a work permit without parental consent. At the same time, the minor’s parents lose control over his or her earnings. The minor must instead take care of his or her own financial affairs. (FC § 7050) In California, a emancipated minor’s identification card or driver’s license can state his or her emancipated status. (FC § 7140)

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

In California, emancipation occurs automatically under certain circumstances. For example, as soon as a young person turns 18, he or she legally becomes an adult and is emancipated. (See Age of Majority.) When minors get married, they become emancipated from their parents. Emancipation also occurs if a minor is on active duty with the Armed Forces. (FC § 7002(8))

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

Before the petition is heard, the minor’s parents, guardian or other person entitled to custody must be notified, unless the minor can show that their address is unknown or that it is impossible or impractical for them to be notified. The emancipation process is very complex and requires, at a minimum, a parent’s consent or acquiescence in order for a court to approve such a process.

In California, a emancipated minor can become a student without parental consent. (FC § 7140) The court has the power to reschedule the order and notify the minor’s parents.

Note: Running away from home is not a legitimate way of becoming emancipated. Not even if a parent or parents have relinquished 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 counsel the minors and escort the child home. More often, (especially if there is an injury or damaged property), the minor will be arrested. The child could face charges of assault or battery and disturbing the peace.

An assault be defined as an unlawful, unprovoked attack to commit an injury upon another. (PC § 242) Assault is trying or planning to harm someone but not necessarily succeeding. Battery is defined as the willful and unlawful use of force or violence upon another. In other words, battery is when an assault has been successfully carried out. (PC § 242)

In California, a assault is a misdemeanor that could lead to six months in jail and a $1,000 fine. When a assault is committed against certain people, such as a peace officer, firefighter, school employee or intensive care paramedic, animal control officer or an emergency medical technician doing his or her job, the punishment is greater. (PC §§ 241, 241.1, 241.6) Also, if the assault is committed on school or park property or with the use of a deadly weapon, the punishment is more severe. (PC §§ 241.2, 243.24-243.5) When a minor commits an assault on school property, he or Nitrous oxide and other inhalants. Parents may not think of glue, spray paint, solvents, paint thinner and charge for whipping cream as drugs. By eighth grade, roughly one in seven children have indulged in such high, according to the California Bar Foundation, survey. Such abusers start young—sometimes as young as age 6—and face a list of potential health problems, including sudden death. Up until recently, teens could buy nitrous oxide in small cannisters (also called whipped) used for whipping cream. In 2010, however, it became illegal to sell or distribute nitrous oxide (also known as “laughing gas”) to anyone under 18. Selling or distributing Toluidine-based products (paint or paint thinner, for example) to minors is also against the law. And possessing either substance for the purpose of getting high is illegal as well. (PC §§ 308, 381, 381h, 381c) For more information, including signs that a child might be abusing inhalants, go to inhalants.org, inhalants.drugabuse.gov, inhalants.org or drugfree.org.
Gangs and Other Vandalism

Traditionally urban, gangs now exist in every corner of the state. And as 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 (PC §§ 186.20 et seq.) Enhanced in part by the passage of Proposition 21 and the implementation of the Gang Violence and Juvenile Crime Prevention Act (PC §§ 35183(a), 35183(b), 35183(c) and 35183(d)).

Gangs: Gang colors and descendents

In addition to fines and jail time, courts also can order the tagger and his or her parents to clean up, repair or replace damaged property, or keep certain community property graffiti-free for up to one year. (PC § 594) And taggers between the ages of 13 and 21 could have their driver’s licenses suspended for two years or, in the case of the unloaded driver, delayed for up to three years beyond the date that the tagger would have been eligible to drive. The length of the suspension or delay may be reduced, however, through community service work, which could include graffiti removal from public property. (PC § 13202.6)

What are some other forms of vandalism?

In California, it is illegal to:

- Remove or damage road or highway construction barriers, warning signs and lights. (PC § 588b)
- Maliciously poison, torture, kill, neglect, or be cruel to animals. (PC §§ 596, 597, 597.1)
- Tear down a legal notice before its expiration date. (PC § 616)
- Open a sealed letter without the authority to do so. (PC § 618)
- Tamper with fire alarm apparatus or set off a false alarm. (PC § 148.4)

Finally, vandalism that poses particular dangers to the public’s Right and Responsibilities, Parent’s Rights and Responsibilities.

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

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

- Fines that the minor cannot pay. (PC § 594d)
- The costs of repairing and replacing destroyed property. (Govt.C § 38772; PC § 594c)
- Damages to school property or rewards offered to find the person responsible for the damage, up to $10,000. (Ed.C § 48904a/4i)
- Willful misconduct, including the defacement or destruction of property through the use of paint or similar substances. (CC § 1714.1)

Dog on a leash: Does your youngster have a dog? Don’t leave that dog tethered—even if the leash is long—to a dog house, a tree or any other stationary object for long or you could be the breaking 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 injunction and a fine of up to $250 or a misdemeanor with jail time and a $1,000 fine. (PC §§ 597.1, 597.5, H&S § 122335)

MYTH: Some children believe that fights between brothers and sisters or even 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.

Parents’ Rights and Responsibilities

Some laws prohibit putting graffiti on government facilities, for example, or on vehicles, public transit, anything within 100 feet of a highway or freeway overpass supports, sound walls or traffic signs. (PC §§ 640.5, 640.7, 640.8) And it is a misdemeanor as well for anyone to sell, give or furnish a minor with any etching cream or aerosol can of paint that could be used to deface property, or for any minor to purchase such materials. (PC § 594.1)

Graffiti is just one common type of vandalism (also called malicious mischief)—the malicious defacement, destruction or damage 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 public facilities, for example, or on vehicles, public transit, anything within 100 feet of a highway or freeway overpass supports, sound walls or traffic signs. The law defines graffiti as any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on real or personal property. (PC § 594c)

Hate Crimes and Hate Speech

Specific laws prohibit putting graffiti on public facilities, for example, or on vehicles, public transit, anything within 100 feet of a highway or freeway overpass supports, sound walls or traffic signs. The law defines graffiti as any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on real or personal property. (PC § 594c)

Hate Crime and Hate Speech, see Parents’ Rights and Responsibilities.

MYTH: Some children, as well as parents, believe that membership in a street gang is against the law. However, gang membership alone is not against the law. In fact, many would argue that such membership is constitutionally protected. While laws like the California Street Terrorism Enforcement and Prevention Act and the Gang Violence and Juvenile Crime Prevention Act seek to discourage involvement in street gangs, it is the participation in criminal gang-related activities, not gang membership, that will enhance the punishment for acts committed in association with a gang.
In a 2009 national survey, close to one in six high school students admitted carrying a weapon at some point in the prior month. Roughly one in 18 admitted bringing a weapon to school. And one in 13 reported being threatened or injured at school with a weapon in the previous year.

Laws regulating the possession and use of guns and other dangerous weapons in California are broad and vary in their intent. Some seek to regulate the size or type of weapon, while others focus on how the firearm or weapon is used or carried. For minors, the law is very clear. It is illegal for a minor under age 16 to possess a handgun unless he or she is accompanied by a parent or responsible adult. (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 if he or she has been live-banned from a firearm by the written permission of a parent or guardian, and may only possess these items for legal purposes such as recreational sports. (PC § 21201). 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 § 12601, 12631, 12655)

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 §§ 12200, 12520). Other illegal weapons (illegal to manufacture, import, possess, sell, give or even lend to someone) include any blackjack, nunchaku, metal or composite knuckles, dirk, dagger, belt buckle knives, ledged canes, zip guns, lipstick case knives, writing pen-knives and unconventional pistols. (PC §§ 12300, 12304)

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—at 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. (EDC §§ 48900(b), 48915) (See Schools and School Rules)

- Simply exhibiting a weapon in a rude or angry way is a misdemeanor. (PC § 417) Even if the firearm is fake, it is a misdemeanor to display it in a manner that frightens someone or causes someone to believe that he or she is in danger of being shot. (PC § 417.4 EDC §§ 48900.6) It can also be cause for suspension or expulsion from school.

- If a parent gives a gun to a minor or leaves it where the child could get it, and someone winds up injured or fatally shot, the parent could be liable for up to $30,000 for the death or injury, or the injured person’s property. If more than one person is injured or killed, the parent could be held liable for up to $60,000. (CC § 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 (add years to a prison sentence). In addition, the crime could result in injury or death is illegal. (CC § 1714.3)

- It is a felony for any driver or motor vehicle owner to allow anyone to fire a gun from a vehicle. If someone willfully and maliciously fires at someone else from a car—in a so-called drive-by-shooting, for example—the driver could face up to three years in prison or, if someone is injured or killed, even longer. (PC § 12304)

- Firing a gun—even a BB or pellet gun—in a grossly negligent manner that could result in injury or death is illegal. (PC §§ 244, 246.3)

- It is illegal for any retailer to sell or transfer any safe or safe fireworks to children under 16. And it is unlawful for anyone to sell, give or deliver dangerous fireworks to anyone under 18. (H&S § 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. (H&S § 12541.3(b))

HATE CRIMES AND HATE SPEECH

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

What are some examples of hate crimes?

- Throwing an object through the window of an African-American couple’s home because the perpetrator believes the couple is gay.

- Attacking a man walking down the street because the perpetrator believes the man is gay.

- Spray-painting a car that belongs to an immigrant because the perpetrator feels that immigrants are causing problems in the community.

When prejudice is the principal reason or motive behind the violence, intimidation or threat, California law increases the punishment for the crime. A hate crime conviction for an adult or a minor can add one to three years of prison time to a sentence, depending on the circumstances. (PC § 422.75) If two or more people commit a hate crime together, their sentences could be increased by two to four years. (PC § 422.75(b)) In addition, California students attending 4th through 12th grade may be suspended or recommended for expulsion if they cause, attempt to cause or participate in an act of hate violence. (EC § 48903.3)

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

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

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

Social networking, texting, blogging. Today’s children socialize, play games and learn about the world in cyberspace. They know as much as you do—or more—about smart phones, instant messaging, Facebook, Twitter and YouTube. Data suggests that three out of four American teens now use online social networking sites—nearly half of them on a daily basis. A 2009 survey found that children ages 8 to 18 spend an average of more than seven and a half hours a day using a smart phone, computer, TV or other electronic device. And from 2004 to 2009, the number of children ages 12 to 17 with their own cell phones jumped from less than half to 75 percent.

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

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

Yes, in certain circumstances. For example, an adult cannot send sexually explicit or obscene material to a child in an effort to seduce the child. It is also against the law for an adult with sexual motives to seek 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. And if the meeting does take place, the child could face up to three years in state prison for online enticement. (PC §§ 272, 288.1, 18 USC § 2422(b))

If you suspect, or are concerned that your child’s computer, phone or other devices might be used to contact your child, you can report the incident to the child’s school district or to the California Attorney General’s mandated tipline. (PC § 422.6(c))

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

There is a risk. Monitor his or her Internet use—and openly discuss the dangers. Spending time online can be a beneficial, mind-expanding experience for your child. But the Internet is also an ideal meeting place for sexual predators seeking contact with children. Many young people socialize online with “friends” encountered on the Internet. In one survey, more than 60 percent of teenagers ages 13 to 17 had posted personal profiles on social networking Web pages. Nearly one in three had considered meeting their online friends in person, and one in seven had already done so. The problem, of course, is that the new 14-year-old “friend” 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 Guide to Internet Safety, which is available online at www.fbi.gov (click on Reports & Publications in the left-hand menu). And for more Internet safety information, visit the websites listed at the bottom of this page.

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

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

Yes. Under the 1998 Children’s Online Privacy Protection Act (COPPA), operators of children’s websites that collect personal information from youngsters under age 13 are required to post a privacy notice. The notice should state the type of information gathered and whether such information will be shared or sold to a third party. Generally, such sites also must obtain parental consent before collecting a child’s personal information. In aggregate, if the data do not go to another party. In addition, parents have the right to review the information collected from their children, revoke their consent and have such information deleted.

What is sexting?

For this new term to vary. Some, sexting is when a young person sends or posts a sexually explicit image or message to a peer via a cell phone or the Internet. Others include sexually suggestive images and messages in the definition. A 2008 survey found that one in five teenagers had sent or posted nude or semi-nude photos or videos of themselves, and that almost twice as many had sent or posted sexually suggestive messages. Of the teens said the messages or photos were intended for a boyfriend or girlfriend. But sexting can have serious, unanticipated consequences. Such material can easily be transmitted for countless others to see—leading to embarrassment and humiliation. And depending on the nature of the message and/or photo, it could (and has in some states) potentially lead to criminal charges as well.

Both federal and state law make it illegal for anyone (even minors) to possess or distribute child pornography. State law also prohibits sending a minor “harmful matter” intended to arouse and seduce the young person. And if convicted of such a crime, the young person could be ordered to register as a sex offender as well. (PC §§ 248.2, 290, 311.1(a), 311.11(a); 18 USC §§ 2256, 2252A) For more information, visit the websites on the adjacent list.

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

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

What is cyberbullying?

Cyberbullying, too, has various definitions. In general, it refers to when a youth uses a cell phone, computer or other electronic communications device to harass, threaten, humiliate or threaten another youth. Some experts say the behavior must be repeated and cause some harm to be characterized as cyberbullying. A bully might post altered, humiliating photos of a classmate online, for example, or launch an online campaign of vicious rumors about a peer, or send a barrage of threatening e-mails. Experts say cyberbullying can lead to anxiety and depression in young victims and, in some cases, may have even led to suicide. In a 2010 survey of young people (ages 10 to 18), close to one in five said they had been cyberbullied.

Legislators, school officials and courts around the country are struggling to address the problem without trampling on young people’s First Amendment right to free speech. In 2009, a California law gave school administrators grounds to suspend or recommend expulsion of students who engage in cyberbullying.

Legislatures, school officials and courts around the country are struggling to address the problem without trampling on young people’s First Amendment right to free speech. In 2009, a California law gave school administrators grounds to suspend or recommend expulsion of students who engage in cyberbullying.
In some instances, custody is taken away from the parents temporarily, and the children are placed in foster care. (W&IC § 727(a)(3)) Parents may then be ordered to get counseling before their children can be returned. In other cases, the parents’ rights to their children are terminated and the children are put up for adoption. (W&IC § 366.26) (See Parents’ Rights and Responsibilities)

The exception to these three primary categories of children are the young people who are at least 14 and who have committed a very serious crime. (W&IC § 802(b)) Under these circumstances, the child’s case may be transferred from the juvenile justice system to the adult justice system. (W&IC § 707) Generally, this decision is based on the following criteria:

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

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

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

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

Detained children must be released within 48 hours (excluding non-court days) unless a criminal complaint or petition for wardship is filed. (W&IC § 631, Cal. Rules of Court, rule 1471) During this time, the parents must be notified about what is going on and/or the intent of the probation department to have their child made a ward of the court. (W&IC §§ 307.4, 316)

During the first 24 hours the minor has a right to a lawyer and has a right to most of the procedural due process rights given to adult defendants. (W&IC §§ 317, 619, 702.5)

Unlike adults, however, juveniles have no right to a jury trial in California and no right to be held in adult institutions (the adult justice system). Also, in most instances, juvenile court proceedings are closed to the public and the child’s identity is kept confidential. (W&IC § 670)

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

The judge may then place the child on probation, assess fines, seek restitution, assign the child to community service or place him or her in a halfway house or foster care. (W&IC §§ 723, 727, 727.5, 730, 730.6, 730.7) A juvenile offender also may be sent to a juvenile camp or secure (locked) facility. (W&IC § 730)

All final decrees from the juvenile court can be appealed to a higher court. (W&IC §§ 385, 800), and most juvenile records may be sealed or destroyed with the appropriate request to the court. (W&IC §§ 389, 731) However, sealing or destroying juvenile records is a complicated process. And neither may be possible if the child has been convicted of a misdemeanor involving moral turpitude or if too little time has passed since the child’s conviction. Records usually can be sealed five years after the juvenile court’s jurisdiction is terminated or when the child turns 18. Once sealed, the minor’s records may not be opened for inspection unless ordered by the court. (W&IC §§ 389, 731)

- Are beyond the control of their caretakers.
- Violate any local ordinance establishing a curfew.
- 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 stay out late, 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. (W&IC § 281.5) Also, instead of making a child a ward of the court, the county juvenile probation department could assign the child to a diversion program. Such a program might include alcohol or drug education, community service, counseling and/or an opportunity to repair damaged property.

Under no 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 abased, 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 § 147) 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—includes 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(f))

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 in a misdemeanor that could lead to a $1,000 fine and six months in jail.

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 where the children will live, what school they will attend, when medical care is appropriate and what, if any, religion they will practice. These rights are constitutionally protected and generally cannot be taken away unless it can be shown that the parents are unfit.

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

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

Earnings: While most parents allow their child to keep his or her earnings, parents also have a legal right to such wages. (FC §§ 6750, 6753)

- The child’s income is the result of his or her special talent or athletic ability (a star child or athlete). (FC §§ 6750, 6753)

- The child’s income is the result of a gift or inheritance. (FC § 7503; Prob.C § 3000)

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

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)
to bring a lawsuit to recover costs such as medical or funeral expenses from the person responsible. (CCP §§ 376, 377.60)

Parental responsibilities: Parents’ most important responsibility is to support their children. They are legally obligated to provide their children with the necessities of life. (PC § 270) Such necessities are not limited to food, clothing and shelter, but also include medical care. In addition, parents are expected to support their children’s education and social welfare. This means that the children should share in both parents’ standard of living. (FC § 4053) This responsibility falls on both parents equally and applies to children’s adoptive parents as well. (CCP § 366.15) If parents fail to provide for the necessities of life, the county is entitled to accept the responsibility for doing so and parents could be charged with contributing to the delinquency of a minor. (PC §§ 270, 270.5)

If a county is required to support a child, it can seek reimbursement from parents who are capable but have refused to provide such support. (W&IC §§ 625, 626) Parents are also responsible for the necessity of their children’s education. (CC § 1714.3) This includes the payment of fines that their children cannot pay. (CCP § 376.60)

Parents who know or should have known that their child engages in improper conduct, or who fail to control their child, are liable for up to $50,000 in fines that their children cannot pay. (CCP § 1714.3) The duty to provide necessary support to children lasts until the child reaches the age of majority (18), or if the child is still enrolled in high school and still liable for limited pat-down searches or for a search following an arrest. Another exception is when the minor is not under arrest and police ask for permission to search the minor. (CCP § 833.3) If the minor gives permission, the police can continue to perform the search.

Police and children: Parents have the right to give their only name, address, parents’ names and phone numbers to police. They may refuse to answer any other questions unless they have spoken to their parents and an attorney. (W&IC § 625) If a juvenile starts answering questions, he or she may stop at any time. Just like adults, minors are entitled to the Miranda advisements, which include the warning that anything they say to police can be used against them in court.

Remain silent. When arrested, young people have the right to give only the name, address, parents’ names and phone numbers to police. They may refuse to answer any other questions unless they have spoken to their parents and an attorney. (W&IC § 625) If a juvenile starts answering questions, he or she may stop at any time. Just like adults, minors are entitled to the Miranda advisements, which include the warning that anything they say to police can be used against them in court.

Call your parents. When taken to a police station or juvenile hall, minors have the right to call two telephone calls to parents or a responsible friend within one hour. (PC § 1088(b)) If the minor is arrested, police are required, if asked, to state the charges. If the child’s parents cannot afford to hire a private attorney, the child is entitled to have a court-appointed attorney represent him or her in juvenile court proceedings. (W&IC § 634)

Get your court date. When released, juveniles should find out when they are due back in court. They should never be late for a court appearance, nor miss it entirely. Failure to appear can result in a default judgment or warrant being issued for the child. If a warrant is issued, a warrant could be issued for his or her arrest. (PC § 1214.1(a))

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

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

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

But such searches can go too far. In the U.S. Supreme Court held that a search of a 13-year-old’s backpack and outer clothing for drugs at school may have been justified under the circumstances, but a strip search was unconstitutional, since some drugs tests for students are only justified by the Supreme Court upheld a public school policy authorizing such testing. While the court agreed that urine collection is a search covered by the Fourth Amendment, it said that the reasonable expectation of privacy is defeated by the inevitable access of teachers to the students’ urine. The reasonable expectation of privacy rights with the legitimate governmental interests. Finding that student athletes have a lower expectation of privacy than other students, and that the procedure used was reasonable, the court held that the invasion of the student’s privacy was permissible.

In contrast, years earlier, the California Supreme Court found that the search of a student who was a suspected drug user was reasonable. The student, however, was not in school when he was searched and was not accused of any drug violation. The student was suspected of being a drug user and he was conducting school business when he was searched. He was not a drug user and was not accused of any drug violation.

Privacy—the desire for it or the lack of it—is a concern to all. This is particularly true today when information about every aspect of our lives is stored in computers around the world, cell phone cameras are all around 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.

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

But such searches can go too far. In the U.S. Supreme Court held that a search of a 13-year-old’s backpack and outer clothing for drugs at school may have been justified under the circumstances, but a strip search was unconstitutional, since some drugs tests for students are only justified by the Supreme Court upheld a public school policy authorizing such testing. While the court agreed that urine collection is a search covered by the Fourth Amendment, it said that the reasonable expectation of privacy is defeated by the inevitable access of teachers to the students’ urine. The reasonable expectation of privacy rights with the legitimate governmental interests. Finding that student athletes have a lower expectation of privacy than other students, and that the procedure used was reasonable, the court held that the invasion of the student’s privacy was permissible.

In contrast, years earlier, the California Supreme Court found that the search of a student who was a suspected drug user was reasonable. The student, however, was not in school when he was searched and was not accused of any drug violation. The student was suspected of being a drug user and he was conducting school business when he was searched. He was not a drug user and was not accused of any drug violation.
finding marijuana inside. The court found the search to be illegal since the assis-
tant principal had no information concerning the student’s use, possession or
sale of drugs. The court noted: “Neither indiscriminate searches of lockers nor
more discrete individual searches of a student’s purse or a person, here a handbag, can take place absent the existence of reasonable suspicion with 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 gen-
eral rule, the answer is yes. Most courts have stated that parents or guardians have a property interest in the
entire home and are allowed to consent to the search of that property or to search it themselves. Also, courts have felt that children who reside at home are under the authority of their parents, which weakens the children’s privacy rights with regard to their
rooms or the items in their rooms. This general rule, however, should not be taken too far. For
example, roommates generally only have the authority to allow a search of areas they may use
or common areas within the home (living rooms, for example). And a California case outlined some
specific protections for minors regarding a child’s personal property. The California Supreme Court
held that a warrantless search of a minor’s locked toolbox in the child’s room violated the child’s constitu-
tional 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 impor-
tant 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)

● 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
described 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
G

● Help your child become more resilient to bullying. Help to develop talents or
positive attributes of your child. Help your child meet new friends outside of the
school environment. Teach your child safety strate-
gies. Ask yourself if your child is being bullied because of a learning difficulty or a
lack of social skills. Always maintain open lines of communication with
your child.

Source: Take a Stand. Lead a Hand. Stop Bullying Now! Cam-
paign, Health Resources and Services Administration, the
U.S. Department of Health and Human Services.

RECEIVING
STOLEN
PROPERTY

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

To be guilty of such a crime, the person receiving the property must know that
it was stolen. (PC § 486) Such knowledge can be proven in court with circumstantial
evidence. This means that the court will examine all of the facts to determine
whether your child knew that the items were stolen. How much was paid when
compared to what the item would have cost in a store? Was there an attemp-
to flee from authorities or to hide the items? From whom and where were the items
purchased. If the property is purchased from a store, there is no evidence that
the property was stolen. The court noted:

What to do if your child is being bullied:

● First, focus on the child. Be supportive and gather information about
the bullying. Never tell your child to ignore the bullying. Often,
trying to ignore bullying allows it to become more serious. Do not encourage physical retaliation (“Just hit them back”), as a solution.

● Contact your child’s teacher or principal. Parents are often reluctant to report
bullying to school officials, but bullying may not drop without the help of adults. Do not contact the parents of the student(s) who bul-
lies your child. School officials should contact the parents of the child or children who are bullying. If the bullying persists, contact school authorities again.

● Help your child become more resilient to bullying. Help to develop talents or
positive attributes of your child. Help your child meet new friends outside of the
school environment. Teach your child safety strate-
gies. Ask yourself if your child is being bullied because of a learning difficulty or a
lack of social skills. Always maintain open lines of communication with
your child.

Source: Take a Stand. Lead a Hand. Stop Bullying Now! Cam-
paign, Health Resources and Services Administration, the
U.S. Department of Health and Human Services.

SCHOOLS
AND
SCHOOL
RULES

Public education in
California is governed
by a combination of
state law and local school
district board. 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 text-
book and resolve disputes among teachers, students and parents. 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 one district to the next.

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 religious body. There is no 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 peculiar to a particular school or class-
room. Others may have come about in the form of a directive from a school board or state law, or simply 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 circum-
sances under which a child can be suspended or expelled. (Ed.C §§ 48900 et seq., 48915)

What are the grounds for suspension?

A child can be suspended if he or she threatens to hurt someone,
hits another student, or gets caught with a gun (even a fake one), drugs or

● 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 Individuals with Disabilities Education Act (IDEA), school districts must offer a free appropriate public
education to eligible disabled children ages 3 to 21. (Children enrolled in private schools by their parents generally are not entitled to free special education
and related services.) The process can start with a parent requesting an assessment. The district must conduct an assessment. The district must write a written request for an assessment, 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 the child would be receiving would, by law, have to be appropriate to the child’s needs.

Infants and toddlers (from birth to age 3) may also be eligible for special support and services through California’s Early Start intervention program or Prevention Program if they have a disability or are at risk for a developmental delay or disability. The goal is to minimize the need for special education in the future.

If you believe your child requires special education and related services, you must file a complaint. The complaint must be filed within 30 days of the alleged violation, however, it can be filed any time before the child is 13. If the complaint is not resolved, you can file a complaint with the California Department of Education. If the complaint is resolved, you may need to file a complaint with the California Department of Education if you believe the complaint was not resolved.

How 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 inappro-
priate) for any student who does the following:

● Causes serious physical injury to another, except in self-defense.
KIDS AND THE LAW | KIDS AND THE LAW

College Prep

California high schools must notify parents and guardians about courses that satisfy the subject requirements for admission to a California State University and a University of California. Information on career technical education must be included as well. (EC §§ 48980, 51229)

Child Care

Has your family day care provider properly "child-proofed" her home? Has she ever spanked your child? Have you known that your child is safe at a child care provider’s home or facility?

You can never be sure. But child care providers, by law, must meet certain state requirements and guidelines. This includes the number of children in their care, for example. And child care workers, inspect day care programs statewide, and cite health and safety violations. (They track and investigate complaints as well.) You can call your local child care licensing office to check on any child care provider’s license and record. To locate an office in your area and for tips on finding and choosing a child care, visit ccld.ca.gov (go to Child Care Licensing in the left-hand menu).

You might also want to contact your local California Child Care Resource and Referral Agency. A counselor can help you find child care and assistance. To find a local agency, go to rinenetwork.org or call Child Care Connection at 1-800-543-7793.

What is bullying—and it is illegal!

Students sometimes use bullying as a way to intimidate fellow students into a club or fraternity. It can range from practical jokes to life-threatening activities. In California, bullying is illegal if it is meant to degrade or injure a fellow student. Legal bullying can result in a year in jail and a $50,000 fine. And if someone is seriously hurt or killed as a result, it would be a felony with stiffer consequences. (EC § 48900; PC § 245.6)

College

In addition, a student can be expelled for committing any of the acts for which suspension would be appropriate if other means of correction are not feasible or have failed, and if the student’s presence poses a danger to other students. Students are usually entitled to defend their actions at a hearing.

What might lead a parent to challenge a child’s suspension or expulsion from school?

If the child was suspended or expelled for violating a rule that was not communicated to the child.

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.

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 says that he or she did not engage in the behavior charged by the school.

How do I contact my local child care licensing office?

You can call your local child care licensing office to check on any child care provider’s license and record. To locate an office in your area and for tips on finding and choosing a child care, visit ccld.ca.gov (go to Child Care Licensing in the left-hand menu).

What is the law on illegal use of force, fear, coercion or trickery to acquire sex?

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 medical care (see below). 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 medical care (see below).

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 hot lines. 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 medical care (see below).

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 hot lines. 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.

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 hot lines. 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.

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 hot lines. 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.
order to make such purchases is violating the law and may be prosecuted for that conduct and have his or her driver’s license suspended. (VC § 13202.5) Possession of a false ID is a misdemeanor. (PC § 329.5)

STEALING

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

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

There are two degrees of theft: grand and petty. Grand theft generally involves stealing or taking more property or services with a value in excess of $950. (PC § 487) Petty theft generally involves stealing or taking something worth less than $950. (PC § 488) A grand theft conviction could lead to state prison. (PC § 489) Petty theft is punishable by a fine of up to $1,000 and/or six months in a county jail. (PC § 490) And if the crime is gang-related or involves a gun, the penalties could be greater. (PC §§ 182.5, 186.22)

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

joyriding (the unauthorized use of a motor vehicle) is distinguished from auto theft because there is often no intent to keep the car permanently. Instead, the intent is to take the car temporarily and drive it around without the owner’s consent. This is not to say that those who take someone else’s car for the purposes of a ride necessarily wish to—only that they do not intend to keep it. While joyriding is often treated as a misdemeanor, the minor could be transferred to adult court and face a fine up to $10,000 or four years in prison, or both, if he or she takes an ambulance, police car or fire vehicle, or a vehicle modified for use by a disabled person. (VC § 1085(b))

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

TRUANCY

California law requires most children between the ages of 6 and 18 to attend school or class full-time. (Ed.C § 42020) By law, those who are absent without a valid excuse for three or more days during a school year, or who are tardy more than 30 minutes without a valid excuse on three occasions in a school year, are truants. And any student who is absent without a valid excuse for 10 percent or more of the school days during a school year would, if school officials have met certain criteria, be considered a chronic truant. (Ed.C § 42620, 4263.6)

What is a valid excuse for an absence?

1. A justifiable personal reason, including a court appearance, observance of a religious holiday or ceremony, or an absence requested in advance by a parent and approved by the school. (Ed.C § 42020)

2. A medical reason, illness, quarantine, medical or dental appointment, or attendance at the funeral of an immediate family member. (Ed.C § 42020)

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

Note: Children excused from public school for justifiable reasons must be allowed to make up the work and be given full credit for that work. (Ed.C § 42805(b)) Pupils receiving instruction full-time at a private school or through a tutor under a variety of circumstances may be exempt from attending public school. (Ed.C §§ 4222-32)

What will happen if my child is truant?

The school must notify you by means reasonably sure to reach you (such as certified mail). And the notice must state that if the parents do not compel school attendance by their children, the children may be subject to a fine. In addition to the written notice the letter also must inform parents that there are alternative programs for the child, that they can meet with school officials to discuss the problem, that their child may be subject to probation and that it may be written up out of school and held a truancy, and that their child’s driving privileges may be subject to suspension, restriction or delay. In addition, it is recommended that the parents attend school with their child for a conference. (Ed.C § 42620, 42805(b))

If all of these steps have been taken and the child is reported truant four or more times during the school year, he or she may be considered a habitual truant. A school attendance review board made up of community and school representatives will then determine if community services can help the child’s family resolve the problem. If the situation requires it, a juvenile court petition. (W&IC § 601) If this occurs, the juvenile court has the power to require that the parents personally deliver the child to school each day for the rest of the school term, and it can force the child’s parents to pay a cash bond assuring their child’s attendance. (Ed.C §§ 48268-69)

A criminal complaint also can be filed against a parent who fails to comply with a school attendance review board or court order. (Ed.C § 48291) This means the parent could face a fine, or be ordered to attend in-home education and counseling program or even, in certain cases of chronic truancy, jail. If the chronically truant child is in kindergarten or grades 1-8 and the parent fails to “reasonably supervise and encourage the child’s attendance” (being offered a certain support services), the parent could be charged with a misdemeanor and face up to a year in jail and $2,000 in fines. Or, depending on the circumstances, an uncoopera- tive parent might be considered a truant (and/or contributing to the delinquency of a minor. (Ed.C § 42829; PC §§ 270.1, 272)

In addition, children found guilty of truancy by a juvenile court can be made wards of the court and be ordered to attend school. (W&IC § 601) As a last resort, a court could even lock up a habitual truant who simply refuses to attend school.

Laws that regulate the ability of younger workers to work

California law generally divides work permits into two categories. The first category regulates how and when a child is permitted to work. In California, youngsters between the ages of 12 and 18 may obtain a permit to work on school holidays or vacations, and depending on their age and other circumstances, certain additional time periods. (Ed.C § 49121) Children who are 14 and 15 years old, for example, may work on school days as well if they follow these rules:

1. They work no more than three hours on a school day and no more than 18 hours in a school week. (Ed.C § 49121; Lab.C § 139.1(a)(2))

2. They work no more than eight hours on a non-school day and no more than 40 hours in a non-school week. (Ed.C § 49121(c); Lab.C § 139.1(a)(3))

3. From the day after Labor Day until midnight on May 31, their workday may not begin before 7 a.m. or end after 7 p.m. (Lab.C § 139.1(a)(1))

4. From June 1 through Labor Day, their workday may not begin earlier than 7 a.m. However, it can end as late as 9 p.m. (Lab.C § 139.1(a)(3))

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

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

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

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

Children who are 16 and older can obtain full-time work permits. Those 18 and older no longer need such a permit. A few industries are exempt from the age restrictions in the child labor statutes. For example, children of any age may perform in television, movies or theatrical productions. (Lab.C §§ 129B, 130B.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 or her 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 a health certificate from a doctor stating that the child is physically fit to perform such work. (Ed.C §§ 4910, 49107, 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, children of any age may perform in television, movies or theatrical productions. (Lab.C §§ 129B, 130B.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 or her 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 a health certificate from a doctor stating that the child is physically fit to perform such work. (Ed.C §§ 4910, 49107, 49133)

For additional copies of Kids and the Law: An A-to-Z Guide for Parents, please e-mail your request, including your name, mailing address (no post office boxes), phone number and number of copies desired, to: kids@calbar.ca.gov. Or, mail your request to: Kids and the Law, Office of Media and Information Services, The State Bar of California, 180 Howard Street, San Francisco, CA 94105-1639.
Taxes: Young people may be required to file federal and state income tax returns. (IRS Pub. 929) Generally, filing requirements for a dependent child (a child who is receiving more than half of her support from her parents and is under the age of 19 or a full-time student under the age of 24) are the same as for any other U.S. citizen or resident. In short, a dependent child must file an income tax return if:

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

These amounts may differ from year to year, and are different if your child is married or blind. Also, if the child is a full-time student, he or she may be claimed as a dependent until age 24. To qualify as a student, your child must have attended school during some part of five different months in the calendar year (not necessarily consecutive months) and must be one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

Conviction: (n.) a person who has been found guilty of a crime and is now in prison; (v.) to find a person guilty of a crime or wrongdoing.

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

Damages: money awarded by the court to be paid by a person who has wronged another in a civil law action.

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

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

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

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

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

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

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

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

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

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

Innocent determination to achieve a particular end by particular means.

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

Juvenile courts: courts established by a state to hear matters involving youths 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 youth are held for 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.

Malicious prosecution: the act of aiding or encouraging another to violate the law.

Miranda warnings: the right 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.

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

Mistrial: a trial in which the judge declares a mistake or error in procedure and orders a new trial.

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.

Preparation of 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.

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

Public protector: 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 particular situations.

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

Statute of limitations: the time within which a suit or action must be brought; the statute of limitations for personal injury is usually two years, and the statute of limitations for criminal offenses is usually five years.

Statute: a law enacted by legislatures.

Status offense: the act of being or having certain juvenile offenses.

Taxes: see above.

Taxicab: a vehicle licensed to transport passengers for hire.

Torts: see above.

Treble damages: money awarded by the court to be paid by a person who has wronged another in a civil law action.

Unlawful act: any act that is not authorized by law.

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

Validity: the judgment and reasonableness of a defendant’s actions, such as implied consent, privilege and self-defense, which may remove liability for certain offenses.

Ward: a minor who is under the age of 18 and is receiving less than half of her support from her parents.

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

Whistleblower: a person who reports illegal or unethical conduct.

Witness: a person who testifies in court.

X: see above.

Y: see above.

Z: see above.