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 § 6302)

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

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

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

Reaching the age of majority, however, also involves some losses. These losses generally correlate with the rights that children are given for their own protection—especially their 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.)

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**ALCOHOL AND KIDS**

In a 2011 survey, one in three eighth-graders admitted they had tried alcohol. Even more 12th-graders—nearly three out of four—reported drinking alcohol at some point. Of the high school seniors participating in the national survey, more than half reported they had been drunk at least once. On four in a permitted binge drinking (at least five drinks in a row) within the previous two weeks.

The legal age for drinking alcohol in California, however, is 21. This means that providing alcoholic beverages to anyone under that age is prohibited. In California, an alcoholic beverage is any beverage that contains at least one-half of 1 percent of alcohol. (BPC §§ 23004, 23658, 23659)

Those under 21 are not even permitted to possess alcohol in public places, including state highways or in and around schools. (BPC § 23662a) 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. (BPC § 23662)

Also, with some exceptions, young people under age 21 are prohibited from being in bars or other establishments where liquor is served. It is also illegal to possess false identification or use a fake ID to buy (or attempt to buy) alcohol or to enter an establishment where alcohol is being served. (BPC § 23651) 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. Providing alcohol to a minor is a misdemeanor. (BPC § 23668)

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 wind up in serious trouble. If the child then causes an accident, you could be found guilty of a misdemeanor and face a $1,000 fine and up to a year in jail. (BPC § 23658.2)

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.)

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**KEY CODE ABBREVIATIONS**

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**Note:** The symbols § and §§ refer to “section” and “sections” in the laws cited throughout the guide.

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Are there laws that address underage drinking at parties?

Yes, a police officer (who lawfully enters the gathering) can seize alcoholic beverages from someone 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 or guardained of any of the participants. (BPC § 25606.20)

Bicycle riders

Bike and scooter laws: California’s bike and scooter laws are similar—must abide by most of the traffic laws that apply to motorists. Bicyclists must stop at stop signs and red lights, ride on the proper side of the street and give the right-of-way to all pedestrians. Also, some California communities have local ordinances that prohibit bike-riding on sidewalks in certain areas, such as business districts. Under state law, all bicycle riders under the age of 18 must wear a bicycle helmet (VC § 21221) and, if riding at night, have a bike equipped with a white front light, red rear reflector, pedal reflectors and side reflectors or reflectorized tires. (VC § 21203) Wearing a headset or earplugs is prohibited while riding a bike. (VC § 27400) Riders must also ride on actual bicycle seats (unless the bike is designed to be ridden without a seat). It is against the law to ride on someone’s bicycle handlebars or center frame bar. (VC § 21204)

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 a provisional instruction permit (also called a learner’s permit) from the Department of Motor Vehicles (DMV). (VC § 12509) To get such a permit, the teenager must:

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

Once all of these steps have been completed, the DMV will issue your child a learner’s permit. If the minor is more than 17-1/2 years old, he or she can obtain such a permit without the education or training requirements. It is illegal for a permit driver to drive alone. A parent, guardian, spouse or adult (age 25 or older) with a valid license must be in the car at all times and be able to take control of the vehicle if necessary.

To get a provisional license (VC § 12814.6), your child must:

- Be at least 16 years old.
- Finish both driver education and six hours of professional driver training and receive the proper certification. (DMV form DL 388 or DL 237, 2396) Or, complete an integrated driver education/training program of 30 hours of instruction and six hours behind the wheel.
- Have a learner’s permit for at least six months.
- Provide a parent’s signature (or other acceptable signature) on his or her learner’s permit signing that all of the driving practices outlined in the Parent-Teen Training Guide have been completed. You can get this booklet at local DMV field offices or by visiting www.dmv.ca.gov (go to DMV Publications).
- Complete 50 hours of supervised driving with an adult (age 25 or over) who has a valid California driver’s license. Ten of the 50 hours must be done at night. The adult must certify the 50 hours of driving practice.
- Pass the behind-the-wheel driving test and a written exam. (The teenager must bring proof of insurance for the car in which the driving test is taken.)

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

- For the first 12 months, the minor may not drive with anyone under the age of 20 in the car and may not drive between the hours of 11 p.m. and 5 a.m., unless accompanied by a driver who is 25 or older. In certain circumstances (the minor’s sibling, for example, has no other transportation to and from school), an exception may be made if the minor meets certain criteria.
- Teenagers under 18 may not be employed as drivers. (VC § 12515) When a minor reaches age 18, the provisional part of the license ends. The license is still valid as a driver’s license until the next period for renewal, which would be the driver’s fifth birthday after initially applying for the provisional license.

Minors over the age of 14 can get a junior permit under certain circumstances, such as when there is inadequate school transportation or transportation due to an illness in the family. Such a restricted permit might be allowed if the minor needs it for transportation to and from a job and the minor’s income is essential to the support of his or her family. (VC § 12513) In addition, a student driver’s license may be obtained by a student who is under 18 and is taking driver training in a pubic, parochial or private secondary school with the consent of the school principal and parents. (VC § 12650)

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

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

Note: In signing the form for their teenager’s provisional driver’s license, parents (or the sole parent or legal guardian) agree to accept financial responsibility for their child. However, in most cases, parents can’t be held liable for more than the amounts listed above. (VC § 17020)

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. Not all of the insurance policies often get into accidents during their first few years of driving, it might be wise to obtain more than the minimum amount of auto insurance required on a car that will be driven by your child.

In addition, the liability limits do not apply when a parent has negligently entrusted his or her vehicle to the child. For example, the parents could be found liable if they knew (or should have known) of their child’s poor driving record, past accidents or drinking problem—and still permitted the child to drive his or her own car or a family car. In that case, the parents could be found liable for up
to the full amount of damages if the child causes an accident. (VC § 17708)

All drivers must carry liability insurance to insure against injuries the driver causes to someone else or their property while operating any motor vehicle. Evidence of insurance must be carried in the vehicle at all times. (VC §§ 16020, 36062) A driver could be fined up to $200, plus penalty assessments, for a first offense of driving without proper insurance. (VC § 16029)

Laws that Young Drivers Should Know

Smoke-free cars and kids: It is now illegal to smoke inside a car if any of the car’s occupants are under 16. A violation carries a $100 fine. In 2008, California became one of the first states to pass such a law. Studies indicate that secondhand smoke accumulates quickly inside cars (even with the windows cracked open) and poses a health threat to children in particular. (HSC §§ 118947 et seq.)

Reckless driving: California law prohibits driving a vehicle on a highway or in an off-street parking facility in willful or wanton disregard of the safety of others or property. It also provides for more severe punishment for reckless drivers who cause others to be injured, including the revocation of the driver’s driving privilege after the third conviction in 12 months. (VC §§ 13355(a)(2), 23103-23105)

Speed contests: Speed contests are against the law. A judge can suspend or restrict a first offense driver’s license for up to six months, impound the vehicle for 30 days, or as well as impose times and community service. If someone other than the driver’s insurance covers the other injured, the driver could face even stiffer penalties. (VC §§ 21309, 21309, 21309, 2)

Passengers in the trunk: Riding in the trunk of a car is illegal. In recent years, dozens of teens have been hurt and, in some cases, killed while riding in a trunk. If a driver allows someone to ride in the trunk, he or she has broken the law as well. (VC § 27172)

Cell phones and driving: It is against the law to use a cell phone while driving unless you are at least 18 and your cell phone is set up for hands-free use, or you are making an emergency call (to law enforcement, for example). Drivers can be cited from talking on cell phones, “texting” messages or using any mobile communications device while driving—except to place an emergency call. It is illegal for anyone to drive while using an “hands-free wired or wireless communications device” to text or write, send or read any other type of “text-based communications” unless the device is hands-free and voice operated. (VC §§ 23123, 23124)

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

Unlicensed minors and the purchase of vehicles: A minor who does not possess a valid driver’s license may not purchase or lease a car. The law also prohibits a minor from using a false driver’s license to purchase or lease a vehicle. (VC §§ 15560-15567)

Hit and run: In California, you must stop after any accident in which someone is injured or someone else’s property is damaged. You also must exchange names, addresses, driver’s license numbers, vehicle license numbers and other relevant information. If someone dies in the collision, the accident must be reported to the California Highway Patrol (CHP) or a police officer immediately. When only property damage is involved, failing to report such damage or otherwise notify the property owner is a misdemeanor. If someone is injured or killed and you fail to stop and/or report it, the potential penalties are much greater. (VC §§ 20001-04)

Driving without a license: In California, it is a misdemeanor to drive without a valid driver’s license or permit. Also, the law requires drivers to have their licenses in their possession while driving. Driving with a suspended or revoked license is a misdemeanor that could lead to a fine of up to $1,000 for a first conviction of certain offenses. In addition, the unlicensed driver’s car (even if it is a borrowed vehicle) can be impounded for up to six months. (VC §§ 14601 et seq., 23592)

Seat belts/child passenger restraints: The driver and all passengers must be properly restrained by a safety belt—or it is illegal to drive the vehicle. (VC § 27315) In addition, children younger than 12 must be secured in federally approved safety seats until they turn 8 or are 4 feet, 9 inches tall. Children also must sit in a back seat unless there is no such seat or all rear seats are occupied by children under 12. (VC § 27360-27360.5) For more safety information, go to dtt.ca.gov or call the Vehicle Safety Hotline at 888-327-4236.

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

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

Alcohol and cars: In California, it is unlawful for anyone—driver or passenger—to possess an open container of alcohol in an automobile. (VC §§ 23223, 23226) Possession of an open container of alcohol inside a car is a misdemeanor. A minor’s license can be suspended or revoked for 1 year in such circumstances.

Laws related to driving, alcohol and minors are particularly strict. It is illegal to carry a closed container of alcohol in a vehicle if anyone in the car—driver or passenger—is under 21 unless the person is accompanied by a parent, legal guardian or other responsible adult designated by the parent or guardian. If the car’s registered owner (whether he or she is driving or simply a passenger) illegally possesses an alcoholic beverage, it is considered 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 0.08 percent or more. (VC § 23123(b))

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

The police officer may administer a breath, blood or urine test to determine the driver’s blood-alcohol level. A driver who refuses to take this test could face serious penalties: Those who do not submit to a blood-alcohol test could be fined or imprisoned and could have their driver’s license suspended or revoked for one to three years. (VC §§ 13353.1, 23136, 23622)

Even if a breath or blood test is performed, blood or urine test to determine the driver’s blood-alcohol level. A driver who refuses to take this test could face serious penalties: Those who do not submit to a breath-alcohol test could be fined or imprisoned and could have their driver’s license suspended or revoked for one to three years. (VC §§ 13353.1, 23136, 23622)

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 § 23140)

If your child is convicted of DUI and is under 18, his or her license will be revoked until he or she reaches the age of 18, or for one year, or for even longer if he or she has committed prior offenses. (VC § 13353.2)

In most cases, a minor convicted of DUI also would be required to participate in an alcohol education or community service program. If the individual is over 18, he or she would be required to pay the cost of attending this program; otherwise, the expense would be charged to the minor’s parents. (VC § 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. 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 § 23140)

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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 risk. And unless it can be proven that the parent or guardian cannot adequately feed, clothe or supervise the child or supply medical care—to fail to adequately feed, clothe or supervise the child or to supply medical care. (PC §§ 270 et seq., 11164-11165.6)

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What is a mandated reporter?

There are more than three million reports of child abuse nationwide each year. By one estimate, nearly five children die from abuse or neglect every day. Most of the victims are under age 4. But child abuse victims can be any age, come from any ethnic background and be born into poverty or wealth. Such victims do not fit into any particular profile.

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What is “Shaken Baby Syndrome”?

It is a life-threatening condition that can develop when someone shakes a baby. The sudden shaking motion slams the child’s head 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 an adult or caregiver simply shakes a child to stop a bout of crying. 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 2013 would require the State Department of Public Health to implement the Shaken Baby Education Program that would provide new parents with information on the syndrome. Experts suggest that over-stressed parents or caregivers seek help. Parents, grandparents and adults who talk or child abuse can visit www.childhelp.org or call 800-4-A-KID (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 another responsible adult who could be available in an emergency. The legal question would be whether or not the child would be put at risk if he or she were left alone—whether you could be endangering or neglecting the child.

There are, however, other situations in which it is against the law to leave a child of a certain age alone. For example, in certain circumstances, children under 7 cannot be left alone in a car (see Laws That Young Drivers Should Know on the previous page).

CIVIL LAWS AND SUITS

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

Civil actions are lawsuits (often between private individuals or businesses) which someone sues someone else to compensate or offer protection for a wrong that was committed. When a civil case is tried in court, the plaintiff, who is the person who sues, and the defendant, who is the person being sued, must abide by the rules of civil procedure (CCP § 340.5). Damages to real or personal property (money) or something else to compensate or offer protection for a wrong that was committed. When a civil case is tried in court, the plaintiff, who is the person who sues, and the defendant, who is the person being sued, must abide by the rules of civil procedure (CCP § 340.5). Damages to real or personal property (money) or something else to compensate or offer protection for a wrong that was committed. When a civil case is tried in court, the plaintiff, who is the person who sues, and the defendant, who is the person being sued, must abide by the rules of civil procedure (CCP § 340.5).

Criminal law and crimes represent those acts, behaviors or attitudes that society believes are wrong and wishes to discourage. When a minor or adult violates a criminal law, it is a crime, 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 prosecute someone for breaking a criminal law, the wrongdoer could face a fine, be locked up in a county jail or sent to state prison. In a civil case, you may have to pay a fine if you lose, but you will not be sent to jail. In California, most of the laws defining criminal conduct can be found in the California Penal Code, but criminal acts are defined in other areas of the law as well. County and city 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 § 6660, 6601). Felonies are the most serious type of crime and is punishable by a fine and/or imprisonment in a county jail for a term of up to one year and one year in prison. Felonies usually do not involve any jail time, but the defendant must appear in court and pay a fine. If charged with a violation, you are not entitled to a jury trial or an attorney at state expense. Most traffic violations are infractions. Finally, some crimes are punishable either as misdemeanors or felonies. These crimes are called “wobblers” and are considered felonies until the judgment is imposed.

MYTH: Some parents believe that children who are under a certain age cannot be convicted of a criminal act. While a child’s age and experience do impact a court’s determination as to whether the child understands that his or her actions were wrong, there is no magic age at which a child cannot be found guilty of a crime. (PC § 26) If the state seeks to prosecute a child under the age of 14 in California, however, attorneys must establish clear proof that the child knew that his or her act was wrong at the time. For more information about how criminal laws relate to kids, see Juvenile Court.

Curfew laws restrict the rights of youngsters to be outdoors or in public places during certain hours of the day. Such laws aim to establish a safer community and better protect children from the negative influences that they might encounter while wandering around late at night. Currently, there is no statewide curfew. But under state law, cities and counties can enact their own curfew ordinances. Courts in California have generally upheld such laws as long as the local ordinance seeks to discourage “bothering” or “nuisance” in certain places after certain hours. Under such local laws, parents can be charged for the administration and transportation costs of returning a minor to his or her home on a second curfew violation. (WIC § 625.5) Also, a child who is a frequent habitual curfew violator may be declared a ward of the court and be treated as a status offender. (WIC § 60130) 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:

Yes. When filing lawsuits, children and adults alike must abide by statutes of limitations. A statute of limitations is a law that sets a time limit on the filing of particular lawsuits. These time limitations vary according to the type of action involved but are generally upheld such laws as long as the local ordinance seeks to discourage “bothering” or “nuisance” in certain places after certain hours. Under such local laws, parents can be charged for the administration and transportation costs of returning a minor to his or her home on a second curfew violation. (WIC § 625.5) Also, a child who is a frequent habitual curfew violator may be declared a ward of the court and be treated as a status offender. (WIC § 60130) 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:

What will happen if my teenager breaks curfew?

If he or she could be temporarily detained by police and returned home. Such laws also give local police some latitude in their enforcement of such curfew ordinances if the officer believes a youth has a “legitimate reason based on extenuat...
In recent years, misuse of certain prescription-type drugs, including the painkillers Vicodin and OxyContin, has raised concerns (see page 5). According to a 2012 national survey, 7.5 percent of high school seniors used Vicodin and 4.5 percent used OxyContin. Medical personnel and public health experts are concerned over the increased use of these and other prescription drugs. Up to 24 percent of high school seniors have abused prescription drugs, and the misuse of more than 80 percent of the prescription medications teenagers abuse are found in their parent’s medicine cabinets. The number of children using over-the-counter drugs and cold medications for recreational purposes is troubling. Recent data showed that after marijuana, teens most frequently abused prescription drugs and over-the-counter medications. Experts fear that youths may not fully realize the risks because they are sold over the counter. The misuse of prescription drugs by young people in recent years include nitrous oxide (see below), anabolic steroids and the so-called club drugs, such as MDMA (more commonly known as “ecstasy”).

Steroids and Teenagers

Your young athlete may believe that anabolic steroids will improve his or her game. But without a prescription from a doctor, steroids are illegal. In addition, the federal penalty for distributing such drugs is up to 20 years in prison and $250,000 in fines. (HSC §§ 11056(f), 11377(b); 21 USC § 841) For more information on steroids, go to www.steroidabuse.org.

By law, the following warning must be posted in all locker rooms, offices with schools with middle- and high-school-aged students. (CC § 1812.57)

Warning: Using steroids to increase strength or growth can cause serious health problems. Steroids keep teens to from growing to their full height; they can also cause heart disease, stroke and damaged function. Girls who are using steroids may develop fertility problems, personality changes and acne. Men may experience premature balding and development of breast tissue. These health hazards are common to the civil and criminal penalties for the unauthorized sale, use or exchange of anabolic steroids.

Possessing drug paraphernalia is as serious as the use of drugs. When young people are arrested with more drugs then 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 § 11351i)

In addition, anyone under the age of 18 who induces another minor to violate certain laws related to controlled substances for the unauthorized use, sale or exchange of anabolic steroids.

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. That your minor child does not have to be responsible to you and may live wherever he or she wishes.

In addition, an emancipated minor can make his or her own medical, dental and psychiatric care decisions. An emancipated youth also may, for example, enter into a contract, sue and be sued in his or her own name, or 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 of his or her finances and earnings. The minor must instead take care of his or her own financial affairs. If the minor has yet to get a license, driving privileges may be delayed for a year beyond the date that the teenager would normally become eligible. (FC § 7140)

In California, emancipation occurs automatically under certain circumstances. For example, as soon as a person turns 18, he or she legally becomes an adult and is emancipated. (See Age of Majority). When minors get married, they become emancipated from their parents. Emancipation also occurs if a minor is on active duty with the Armed Forces. (FC § 7163.5)

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

Note: Running away from home is not a legitimate way of becoming emancipated. Nor can parents simply abandon their responsibilities by forcing their children out of home. In such situations, children may acquire the right to determine their place of residence and make certain other decisions without losing their right to parental support. (See Parents’ Rights and Responsibilities.)

Fighting is one of the most common ways that young people get into trouble with the law. When children are caught fighting, the police have several options. They can simply contact the minor’s parents and escort the child home. More often, especially if there is damage or injured person or property, the minor will be arrested. The child could face charges of assault and battery or disturbing the peace. An assault is defined as an unlawful attempt, coupled with present ability, to commit an instant assault on another. (PC §§ 241, 241.4) Assault is a misdemeanor and may be the minor’s best interests to become emancipated. If circumstances change after the emancipation order has been granted, the court has the power to rescind the order and notify the minor’s parents.

Nutritional Facts and other Inhaling:

Parents may not think of glue, spray paint, solvents, paint thinner and air fresheners as drugs. By eighth grade, however, roughly one in nine children has inhaled one of these or similar household products to get high, according to a national survey. Such abusers start young—sometimes as young as age 6—and face a lifetime of potential health risks and.kats. It is illegal to inhale glue, spray paint, or air fresheners (also known as “laughing gas”) to anyone under 18. Selling or distributing Volume-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 §§ 180, 381, 381b, 381c) For more information, including signs that a child might be abusing inhaling, go to www.inhalant.org, www.inhalants.drugabuse.gov, www.inhalants.org or www.drugfree.org.
weapon, the punishment is more severe. (PC §§ 242.1, 245-245.5) When a minor com-
mit an assault on school property, he or she may be required to attend counseling at
his or her parents' expense, in addition to the fines (up to $2,000) and punishment imposed. (PC § 242.1)

If convicted of battery, also a misdemeanor, a young person could face juve-
nile court punishment and a fine. If the battery was directed at specific public
services or medical personnel, the potential punishment would increase. (PC §§ 242.1, 245-245.5) Juvenile Court

Sometimes, however, it can be difficult to determine who started the fight.
If your child can prove that he or she acted in self defense, the charges might be dropped or
might not be filed at all. In a situation in which a child believes he or she meets
the other after school for a fight, however, both would be charged.

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

Some children believe that fights between students or even other
family members are not against the law. (PC § 413)

Juvenile Court

Parents of gang members can, in certain
circumstances, be ordered to attend anti-gang
violence parenting classes if their child commits a
gang-related offense as a first-time offender. (WIC
§ 605, 607.0, 640.8) It is also a misde-
emeanor 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)

GANGS, GANG COLORS, AND DRESS CODES

CRIMES

In California, it is illegal to:

- Remove or damage road or highway construc-
tion barriers, warning signs and lights. (PC § 588b)
- Maliciously poison, torture, kill, neglect,
tether or be cruel to animals. (PC §§ 596, 597.1, 597.1
- Tear down a legal notice before its expira-
tion date. (PC § 616)
- Open a sealed letter without the author's
permission to do so. (PC § 614)
- Tamper with fire alarm apparatus or set off
a false alarm. (PC § 148.4)

Anti-gang injunctions: Some cities in California and other states have been
granted civil injunctions restricting the members of certain gangs from gathering
together in business establishments or public places in specific neighborhoods.
Such injunctions may prohibit the gang members from, for example, wearing
clothing that bears gang insignia or talking on cell phones in certain areas. A
person may be held in court, a court may have authority of contempt of court, a misdemeanor, for violat-
ing the terms of an anti-criminal street gang injunction. (PC § 166 (a) (10)) (See Juvenile Court

Gangs

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

First, there is the California Street Terrorism Enforcement and Prevention Act. (PC §§ 186.20 et al.) Enhanced in part by the
enactment of the Gang Violence and Juvenile Crime Prevention Act of 1998, the Street Terrorism Enforcement and Prevention Act pro-
vides more severe penalties for those who commit gang-related crimes, including a violent felony.

In California, it is illegal to:

- Commit a violent felony in association with a
criminal street gang. Committing a violent felony
in a gang-related offense as a first-time offender. (PC § 186.22)
- Be enjoined for failure to appear in court
for a gang-related offense. (PC § 186.21)
- Possess or receive stolen property. (PC § 186.21)

Children born to parents who are members of a street gang are not considered
members of a street gang. (PC § 186.22(e))

Graffiti

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

Graffiti is just one common type of vandalism (also called malicious mischief)—the
malicious defacement, damaging or destruction of someone else's real or personal
property. It is against the law to commit any type of vandalism.

Specific laws prohibit putting graffiti on government facilities, for example, or
on vehicles, public transit, anything within 100 feet of a highway or freeway overpass supports, sound walls or traffic signs. (PC §§ 640.5, 640.7, 640.8) It is also a misde-
emeanor 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)

What are some other forms of vandalism?

In California, it is illegal to:

- Remove or damage road or highway construc-
tion barriers, warning signs and lights. (PC § 588b)
- Maliciously poison, torture, kill, neglect,
tether or be cruel to animals. (PC §§ 596, 597.1, 597.1
- Tear down a legal notice before its expira-
tion date. (PC § 616)
- Open a sealed letter without the authority's
permission to do so. (PC § 614)
- Tamper with fire alarm apparatus or set off
a false alarm. (PC § 148.4)

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

Are parents liable when their kids 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. (Gov.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. § 48940(a)(1))
- Willful misconduct, including the defacement or destruction of property
through the use of paint or similar substances. (CC § 1714.3)

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

- Threaten or attempt to deface property.
Even before the recent spate of school shootings, we know that kids were vulnerable to gun violence. A 2013 study shows that one in five kids at risk for suicide has access to a gun at home, and many of them know where the weapon is and how to get bullets.

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 or live ammunition with the written permission of a parent or guardian, and may only possess these items for legal purposes such as self-defense or recreational sports. (PC § 29815, 29853) In addition, certain less than lethal weapons, such as a remote-firing stun gun, cannot be sold to minors.

And to buy a direct-contact stun gun, the minor would have to have a parent’s consent and be at least 16. (PC § 22610)

Some types of firearms and firearm-related equipment are outright illegal, with or without parental permission. Such items include sawed-off shotguns, machine guns and any gun that has had its identifying numbers removed, as well as silencers. (PC §§ 29300, 33240, 33410)

Other illegal weapons (illegal to manufacture, import, possess, sell, give or even lend to someone) include any blackjack, machuca, metal or composite knuck- les, dirk, dagger, belt buckle knives, loaded cans, zip guns, lipstick case knives, writing pen-knives and unconventional pistols. (PC § 16590) On the topic of weapons and firearms, 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. (Educ Code §§ 489000, 48915) (See Schools and SchoolRules)
- 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 a reasonable person to believe he or she is in danger of being injured. (PC § 417.4 Ed.C § 489006) It also can be cause for suspension or expulsion from school.
- If a parent gives a gun to a minor or leaves it where the child could get it, and someone winds up injured or fatally shot, the parent could be liable for up to $30,000 for the death or injury, or the injured person’s property. If more than one person is injured or killed, the parent could be held liable for up to $60,000. (CC § 1774.3) And parents who negligently give their child a gun can be prosecuted for criminal negligence if the youngster uses the gun to injure or kill someone.
- Using a weapon during the commission of another crime will increase the punishment for the crime. In addition, the crime will be treated as a felony. (PC §§ 12022, 29700)
- It is a felony for any driver or motor vehicle owner to allow anyone to fire a gun from a vehicle. If someone willfully and maliciously fires at someone else from a car—in a drive-by shooting, for example—the driver could face up to three years in detention facility or, if someone is injured or killed, even longer. (PC § 26100)
- Firing a gun—even a BB or pellet gun—in a grossly negligent manner that could result in injury or death is illegal. (PC § 246.3)
- It is illegal for any retailer to sell or transfer any safe and sane fireworks to children under 16. And it is unlawful for anyone to sell, give or deliver dangerous fireworks to anyone under 18. (HSC § 12689)
- In some cities and counties, all types of fireworks are illegal. Under state law, cities and counties can adopt their own ordinances or regulations prohibiting or regulating the sale and use of fireworks. (HSC § 12541.10)

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, age or sexual orientation. In some cases, threats and intimidation are enough to constitute a hate crime. (PC § 422.6) Unfortunately, many of these crimes in California are committed by young people.

What are some examples of hate crimes?

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

When prejudice is the principal reason or motive behind the violence, intimidation or threat, California law increases the punishment for the crime. A hate crime conviction for an adult or a minor can add one to three years 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 § 422.75b) In addition, California students attending 4th through 12th grade may be suspended or recommended for expulsion if they cause, attempt to cause or participate in an act of hate violence. (Ed.C § 48900.3)

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

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

Hate speech (using an ethnic or racial slur when referring to someone, for example) is more difficult to regulate. This is largely due to the fact that the First Amendment of the Constitution—the right of free expression—protects much of what we say and our ability to say it. In California, no criminal penalties can be attached to words alone unless the words themselves amount to threats of violence 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))

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 a minor who is at least 12 years old and a minor who is at least 13 to receive written, oral, or electronic communications from an adult who is at least 18 years old if there is at least a 10-year age difference and the adult has arranged to meet the young person. If the meeting is arranged, the adult could face a penalty of up to one to three years in state prison for a first offense and four years or more for a second or subsequent offense if the adult is more than 10 years older than the child. (Pen. Code § 2800.10, 2800.11)

Hate Crimes and Hate Speech

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 smartphones, texting, Facebook and Twitter. More than nine out of 10 have posted a photo of themselves, according to a 2013 Pew Research Center survey. A 2012 Pew study found that more than 95 percent of teens use the Internet and nearly half own a smartphone to find information online, many of them on a daily basis.

Although this 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. Their personal information could be misunderstood or misused as well if they’re not careful. Also, if they download certain material, your children could be breaking the law—and you, as the parent, could be liable.

Online Lingo

Do you know what it means?

- BCNU - Be cool
- BRLU - Do I know you?
- CBN - I’ll be seeing you.
- F2F - face to face
- FAWC - for anyone who cares
- GGOH - Get out of here
- ILM - I’m lost
- IPN - I’m posting naked
- LMIRL - Let’s meet in real life
- MLR - my parent in room
- NDN - no doubt
- PRG - parent in room
- PYBN - What’s your real name?
- WYBF - Who’s your boyfriend?
- WYN - Who’s your name?
- WYRN - Who’s your number?
- WYPM - Who’s your mother?
- WYPP - Who’s your partner?
- WYRT - Who’s your teacher?

For more lingo, go to www.cybertipline.com. Click on online acronyms under Help Online Predators (HOP). Source: National Center for Missing and Exploited Children

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

There is a risk. Monitor his or her Internet use—and openly discuss the dangers. Spending time online can be a beneficial, mind-expanding experience for your child. But the Internet 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 media pages. Nearly one in three had considered meeting their new 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 41-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
Courts, the Internet and Cyberlaw
California law prohibits:

- Pitting or downloading copyrighted material, such as music. (PC §§ 502(c), 13084)
- Accessing someone else’s computer without authorization. (PC § 502(c)(7))
- Devising and executing schemes to obtain money, property or services by false or fraudulent intent through a computer. (PC § 502(c)(11))
- Deleting, damaging or destroying systems, networks, programs, databases or components of computers without authorization. (PC § 502(c)(4))
- Disrupting or denying access to the authorized users of a computer. (PC § 502(c)(15))
- Introducing contaminants or viruses to a computer. (PC § 502(c)(8))
- Pirating or downloading copyrighted music, books, videos or other intellectual property without the owner’s permission. (PC § 502(c)(5))
- Introducing viruses or other malicious code to computer systems, networks, programs, databases or other electronic communication devices. (PC § 502(c)(6))

There are no 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 sold or forwarded to a third party. Generally, such sites also must obtain parental consent before collecting a child’s personal information. In agreeing to provide personal data, the parent can request that the information 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?

The definitions for the terms can vary. For our survey, sexting is when a young person sends or posts a sexual or explicit image or message to a peer via a mobile or smart device, such as the Internet. Others include sexually suggestive images and messages exchanged in the conversation. Although a 2011 study found that only 2.5 percent of the teenagers had sent or posted sexual photos or videos of themselves, other studies claim that figure is much higher. Some of the teens in the survey said the photos or videos were intended to harass or blackmail the victim. Sexting and other forms of cyberbullying can have other serious, unintended consequences. Such material can easily be transmitted for countless others to see—leading to embarrassment and humiliation. Depending on the nature of the message 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 sustain the sexual interest of a young person. If convicted of such a crime, a teen who is 14 or older could be registered to appear as a sex offender as well. (PC §§ 288.2, 280, 311.1(a), 311.1(f)(1); WIC § 602(b)) For more information, visit the websites on the adjacent list.

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

Contact the website owner or Internet service provider and ask them to remove the image. Most websites provide a means for reporting abuse. Depending on the particular circumstances, you may want to contact your local law enforcement and the CyberTipline (see adjacent list) as well. You could also contact a local Internet Crimes Against Children Task Force agency for assistance. To find a regional task force agency contact your area, go to ic3training.org.

Is what I am cyberbullying?

Cyberbullying, too, has various definitions. In general, it refers to when a youth uses a mobile or smartphone, computer, tablet or other electronic communications device to taunt, harass, torment, humiliate or threaten another youth. Some researchers say the behavior must be repeated and cause some harm or be harmful to characterize it as cyberbullying. A cyberbully 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 emails. Experts say cyberbullying can lead to anxiety and depression in young victims and, in some cases, may have even led to suicide. A 2011 survey of high school students showed one in six were cyberbullied in the previous year. Not only are there safety risks if your child reveals personal information online, there can be a danger of identity theft as well. For information on identity theft and what to do if your child’s identity is stolen, go to www.privacy.ca.gov, www.idtheftcenter.org and www.ftc.gov/idtheft.
In some instances, custody is taken away from the parents temporarily, and the children are placed in foster care. (WIC § 727(a)(3)) Parents may then be ordered to get counseling before their children can be returned. In other cases, the parents’ right to their children is taken away entirely and the children are put up for adoption. (WIC §§ 366.20) (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. (WIC § 602(b)) Under these circumstances, the child’s case may be transferred from the juvenile justice system to the adult justice system. (WIC § 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, kidnapping, assault, selling or providing certain drugs to other minors, or other aggravated offenses. (WIC §§ 602, 707) Children who remain in the juvenile justice system may be kept in the court’s jurisdiction until they reach age 21—unless they become wards of the court before turning 16. If the child is older than 16 when charged with a crime, he or she may remain a ward of the court until age 25. (WIC § 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 warning of their rights to a Miranda warning (the warnings given to adults under arrest). (WIC §§ 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. (WIC § 620) 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. (WIC § 207)

Detained children must be released within 48 hours (excluding non-court days) unless a criminal complaint or petition for wardship is filed. (WIC §§ 602, 707) The judge may then place the child on probation, assess fines, seek restitution, order the child to attend counseling, and any of the procedural due process rights given to adult defendants. (WIC §§ 317, 679, 702.5)

Unlike adults, however, juveniles have no right to a jury trial in California and no right to a trial by a judge in the adult justice system. (WIC §§ 307.4, 316) During these proceedings a lawyer will represent the minor and a judge will make decisions about what is going on and/or the intent of the probation department to have their child made a ward of the court. (WIC §§ 307.4, 316) These proceedings are termed a dependency court hearing or a dispositional hearing.

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

The judge may then place the child on probation, assess fines, seek restitution, assign the child to community service or place him or her in a halfway house or foster care. (WIC §§ 725, 727, 727.5, 730.5, 730.6, 730.7.) A juvenile offender also may be sent to a juvenile camp or secure (locked) facility. (WIC § 730)

All final decrees from the juvenile court can be appealed to a higher court (WIC §§ 385, 800), and most juvenile records may be sealed or destroyed after the appropriate request to the court. (WIC §§ 389, 781) However, sealing or destroying juvenile records is a complicated process. And neither may be possible if the child has been conscripted for military service, what, if any, religion they will practice.

Parents have many responsibilities when it comes to their children. They must be responsible for their children’s health and education. (See Kids In Need Of Supervision)

- 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 are taken away from home, run away from home, refuse to go to school or just don’t want to listen to anyone.

When such children are taken into custody, the courts must treat them in the least restrictive manner and, when practical, return them to their parents. A child could be placed with a relative, however, if it is in the child’s best interest and would help keep the family together. (WIC § 293.1) Also, instead of making a child a ward of the court, the courts may order probation departments to handle the case in a different 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 abused, 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. (PV § 415) If the teenagers are violating a curfew law (see Curfew Laws), they could be charged with loitering as well. (PC § 647)

Loitering—legally classified as a type of disorderly conduct—implies 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 § 647.0)

In California, there is a separate law involving loitering on or near any school or school place while children are present. (PC § 638) This law primarily exists to protect rather than prosecute minors. To prosecute someone under this statute, prosecutors must prove that the individual under arrest had an illegal purpose in mind. Loitering is a misdemeanor that could lead to a $1,000 fine and detention.

Custody and control: Parents must make important decisions about their children’s lives, such as where the children will live, or how 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, if a child who runs away from home, refuses to go to school or beyond parental control. If the situation is extreme, the parents may seek to give up 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 may not be held liable. (See Parents’ Rights and Responsibilities)

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

- The parents have exploited, neglected or abandoned the child, and the child has brought suit to be freed from parental control. (FC §§ 7504, 7507)
- The child’s income is the result of his or her special talent or athletic ability (a child star or athlete). (FC §§ 6750, 6753)
- The child’s income is the result of a gift or inheritance. (FC § 7502; Prob.C § 3000)

Recovery from death or injury: If a child is killed or injured, parents are entitled 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. Parents are required to provide their children with the necessities of life. Such necessities are not limited to food, clothing and shelter, but also include medical care. In addition, parents are expected to support their children according to their ability and station in life; 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. (FC § 4816) The failure to provide adequate food, clothing, shelter or parental care and supervision may lead to criminal prosecution for neglect. (PC § 270)

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. (WIC § 11477) Parents also are required to reimburse the county for support costs incurred during the detention of a child under a juvenile court order. (WIC § 9903) And parents must pay the county back for local services provided to minors in juvenile court proceedings. (WIC § 9603.1) The duty to support the support costs until the child reaches the age of majority (18), or if the child is still enrolled in high school fulltime. (FC § 3801) (See Emancipation for exceptions.)

The fact that a child is not married does not affect the parents’ responsibility to support their child. (FC § 3806) If parents are unmarried or divorced, and cannot agree on how much each should contribute toward the support of their children, the courts may be called upon to decide. One parent, or the child responsible, may bring an action against the other parent to enforce the duty to pay child support. (PC § 4000) Alternatively, the county may proceed on behalf of a child to enforce the child’s right of support against a parent who fails to provide it. (FC § 4002) A judge may order one parent to make specified payments to the other parent or child support. (FC § 4500) The court’s authority to order a parent to pay child support or to enforce such an award includes the following: a writ of execution or levy (PC § 21900); a wage garnishment (PC § 2520), civil contempt proceedings (PC § 290) or criminal prosecution. (PC § 270)

Note: A stepchild (a child from a prior marriage) is generally not entitled to support from a stepparent. (FC § 3800) Birth parents remain primarily responsible for child support unless the stepparent adopts the child. (FC § 8616) However, a stepparent or other person provides necessary support to a child in good faith (when the custodial parent neglects to do so), that person may recover the reasonable value of those necessities from the custodial parent. (FC § 3850) However, the natural parents of a stepchild or state would not be required to reimburse such costs if the support was provided voluntarily, unless there was a specific agreement to do so. (FC § 3851)

Supervision and control of children: Parents may be morally responsible for supervising and controlling their children. However, parents generally are not legally responsible for the acts of their children. (FC § 6000) There are exceptions. For example, parents are not responsible for the acts of their children if the child is acting under the wrongful influence of another parent, a guardian ad litem, or if the other parent is the person responsible for the child. (PC § 594(b)(d)) If a child claims parental responsibility for the acts of a minor, the court may find the parent guilty of a civil contempt proceeding. (PC § 272) If the parent fails to pay such an order, the court may hold the parent in contempt of court. (CC § 1714.3)

Willful misconduct: If the child causes injury or death to another, or property damage, the parents are liable for up to $25,000 in damages. (This could apply to the parents of a child who commits an Internet-related crime, such as software piracy.) (CC § 1714.3)

Graffiti: Parents may be liable for the costs of removal, repair and replace- ment of property damaged or cleaned up. (PC § 394(c)); Govt. Code § 3872(b)(b) If there are repeated graffiti offenses, parents could be liable for up to $500 in fines that their children cannot pay. (PC § 3940(b)(b))

Tear gas injuries: Parents who have signed a minor’s consent form to obtain tear gas may be liable for the child’s negligent or wrongful acts or omissions. (PC § 22815)

Truancy fines: Parents may be required to pay a $80 fine for the fourth violation in one year. (ESD § 45264.562)

Injuries to another person on school grounds; damage to school property; failure to return borrowed school property: Parents may be liable for up to $10,000, and up to $15,000 for any reward. The school may withhold diplomas or transcripts until these amounts are paid. (Ed.C § 49894)

Shoplifting: If a child steals from a store or library, the parents may be responsible for up to $500 plus costs. (PC § 4905(b))

Curfew violations: Parents must pay the actual administrative and transportation costs incurred by the police for picking up and returning children to their homes on a second violation. (WIC § 625.3(e))

HELPFUL TIPS

Help your children understand their rights and responsibilities. Here are a few pointers for those parents of a child in good faith, who are ever approached, questioned or arrested by police.

Never struggle with police. Resisting arrest (PC § 148) or assaulting a police officer (PC §§ 241.4, 243) are separate and additional crimes. Such charges may be brought even when the child is completely innocent of any underlying crime. In addition, resisting arrest or fighting with police officers is dangerous. Police carry weapons and are trained to use them if they believe they are in danger. If your child is injured by a police officer, however, photograph the injuries immediately, and note the officer’s badge number and the names of any witnesses.

Respectfully decline permission to search. Children have the same protections as adults against unreasonable searches and seizures under the Fourth Amendment to the United States Constitution. Generally, the Fourth Amendment allows a full-scale search of someone who has been placed under arrest if they believe the person has a dangerous weapon. (PC § 833) Such full-scale searches only extend to what the person has on his or her body and to places within his or her immediate reach. Without an arrest, police can still do a very limited pat-down search, but only to check for weapons. (PC § 833.5) Such searches are permitted for the officer’s protection.

No court is required 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’s backpack, locker or bedroom. However, if the minor refuses, the police may still be given up his or her Fourth Amendment rights. Those Fourth Amendment rights are protected, however, if the minor respectfully declines the officer’s request to conduct a search.

Remain silent. When arrested, young people have the right to give only their name, address, parents’ names and phone numbers to police. They may refuse to answer any other questions until they have spoken to their parents and an attorney. (WIC § 625) If a juvenile starts answering questions, he or she may stop at any time. Just like adults, juveniles cannot be convicted of the Miranda advisements, which include the warn- ing 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 place two telephone calls to parents or a responsible friend within one hour. (WIC § 308(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. (WIC § 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 should they ever miss one. Parents are entitled to receive a court date as soon as possible. If the court is not given the required time, a warrant could be issued for his or her arrest. (W&I § 663)

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 defend 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 at school: Children have the same protections against search and seizure as adults under the U.S. Constitution. Generally, police only have the right to conduct a search of a minor’s premises if they have a reasonable suspicion that evidence of a crime will be found. (WIC § 903) Police are required, if asked, to state the charges. If the minor’s interests. If the child discusses his or her case with friends or anyone else, however, the police may be able to use such statements in court.

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

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

Some two decades ago, the U.S. Supreme Court decided that while teachers were considered state agents who must respect the constitutional right to privacy, searches of students could be conducted as long as they were reasonable and could be justified under the circumstances. In that specific case, a teacher found a 14-year-old student smoking in the bathroom (a violation of school rules) and took the teenager to the principal’s office. The assistant principal, without first obtaining the student’s permission, searched the minor’s pockets and found cigarettes, marijuana and other paraphernalia. The court found the search to be reasonable under the circumstances.

But such searches can go too far. In 2009, the U.S. Supreme Court held that a search of a 13-year-old’s backpack and outer clothing for drugs at school may have been justified under the circumstances, but a strip search was unconstitutional.

Random drug testing of student athletes raises other issues. In 2002, the U.S. 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 suspicion that the search is determined by the impact on an individual’s 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 relatively unobtrusive, the court held that the invasion of the student’s privacy was permitted.

In contrast, earlier this year, the California Supreme Court found that the search of a student who was walking through the school grounds with his friends was unnecessary. The student seemed to be trying to cover up a non-marijuana related, non-school-related, non-violent principal. When the student refused to hand it over, the assistant principal took it by force, finding marijuana inside. The court found the search to be illegal since the
SCHOOLS AND SCHOOL RULES

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

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

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

Private schools, on the other hand, are owned and operated by an individual, a corporation or some type of private or nonprofit association. Virtually all are a group of trustees that act, 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 curricular. When dealing with a private school, it is best to work with your child’s teacher(s) and the school principal or headmaster.

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

What are the grounds for suspension?

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

However, a child should only be suspended as a last resort. It is important that the suspension be in response to an offense that took place at school, while traveling to or from a school, during the lunch period (at school or elsewhere) or while attending or traveling to or from a school-sponsored activity.

In addition, sexual harassment, hate violence or threats, or bullying, including cyberbullying (see The Internet, Cell Phones and Computers) by students in grades 4-12 can be grounds for suspension. A terrorist threat to kill or seriously hurt someone or a threat to damage more than $1,000 worth of school property (even if the student did not intend to carry out the threat) could be grounds for suspension or expulsion as well. (Ed.C §§ 48900, 48900.2, 48901, 48901.4, 48900.7)

Finally, in certain circumstances, the school must notify police when a pupil has been suspended. This is particularly true if the reason for the suspension was a violation of the Penal Code. (Ed.C § 48982)

When can a child be expelled from school?

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

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

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

Yes, if the child is found to be eligible. Under the federal Individuals with Disabilities Education Act (IDEA), school districts must offer a free appropriate public education to children ages 3-21. Children aged 22 and older are entitled to free special education and related services. The process can start with a parent’s written request for an assessment. The district must respond within 15 days and, if the request is denied, must provide a written reason for the denial. If an agreement is not reached, 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 therapy to small-group instruction to a special education teacher’s assistance. The particular services would depend on your child’s needs and could, by law, have to be provided in the least restrictive environment possible.

Infants and toddlers (from birth to age 3) may also be eligible for special support and services through California’s Early Start intervention program or Prevention Program if they have a disability that delays development or a delay in special education disability. If you believe your child needs any of these services, educate yourself about the process and your legal rights. Seeking such services can be a daunting task. However, help is available. A network of federally funded parent training and information centers, such as Parents Helping Parents in San Jose, can help you navigate the system and guide you to additional resources. For more information and to find a center near you, go to www.cde.ca.gov (click on Specialized Programs, then Family Involvement and Partnerships). To learn more about Early Start or the Prevention Program, go to www.dds.ca.gov (click on Birth to 36 Months).
It is against the law in California for minors to have sex or for anyone to have sex with a minor. This is true in spite of a recent survey suggesting that nearly 50 percent of high school students have had sexual intercourse. The only exception to this law is if a minor is married to his or her sexual partner.

Possesses a firearm, knife or other dangerous object at school.

Sells a controlled substance, except for a first offense of selling less than one ounce of marijuana.

Commits robbery or extortion (blackmail).

In addition, a student can be expelled for committing any of the acts for which suspension would be appropri- ate if other means of correction are not feasible or have failed, and if the student’s prior misconduct 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 was 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.

Can my child’s teacher use physical force to punish students?

No. It is against the law for teachers or school administrators to use corporal punishment (hitting or slapping a student). However, school officials can use force to protect others from quell disturbances that threaten physical safety, in self-defense, or to confiscate dangerous weapons or objects. (E.C. § 49001)

Are there school rules prohibiting bullying?

Such rules or policies would depend on the particular school—and the circumstances. Bullying can involve hitting, name-calling or other harassment. Or it can be a barrage of insulting photos or comments posted on the Internet. It can happen at school, at home or in cyberspace (see The Internet, Cell Phones and Computers)—and data sug- gests that it may be common. In one survey, nearly half of the children ages 9 to 13 said they had been bullied. In another, one in six children ages 6 to 11 had heard “mean, threatening or embar- rassing” things said about them or to them via-email, instant messages, social networking websites, chat rooms or text messages.

California law states that students and staff have a constitu- tional right to be safe at school. The Bullying Prevention for School Safety and Crime Reduction Act of 2003 established a statewide school safety cadre to help improve school attendance and reduce violence and school crime, including bullying. In addition, California schools are required to develop comprehensive safety plans aimed at preventing crime and violence on campus. (E.C. §§ 32270, 32280, 32282, 33583 et seq.) If a child is a victim, see What to do if your child is being bullied on the previous page. For more information, visit www.stopbullying.gov.

What is hazing—and is it illegal?

Students sometimes use hazing as a way to initiate fellow students into a club or fraternity. It can range from practical jokes to life-threatening activities. In California, hazing is illegal if it is meant to degrade a fellow student. Hazing is a misdemeanor, and if someone is seriously hurt or killed as a result, it would be a felony with stiffer consequences. A student may be suspended or even expelled from school. It could also result in civil action for damages and injuries. (E.C. § 48900, PC § 245.6)

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

The good news is that teen cigarette smoking has declined since the mid-1990s. However, a 2013 report from the Campaign for Tobacco-Free Kids indicates about one in five high school students smoke and 90 percent of adult smokers began before they reached age 19. In light of the detrimental health effects, California has enacted various laws over the years aimed at eliminating the use of tobacco products by minors. It is against the law, for example, for minors to purchase, receive or possess tobacco prod- ucts in a school setting in California. (If a student in elementary school is caught smoking or using tobacco products while at school or attending a school-sponsored activity, he or she could be suspended or expelled as well. (E.C. § 48901) It is also against the law to knowingly sell, give or furnish tobacco products such as cigarette paper laws that make it unlawful for tobacco to children under the age of 18. (BPC § 22920; PC § 308) It is illegal to smoke in a car that has any occupants under 18. (HSC §§ 118474 et seq.; VC § 12834.6)

In addition, tobacco product retailers are required to post conspicuous notices stating that they must check the identification of anyone who seeks to buy such products and who appears to be under 18. (BPC § 22920(b))

Note: Although it is the store owner and clerk who will get in trouble if...
tobacco products are sold to a minor, a young person who possesses false identi-
ification in order to make such purchases is violating the law and may have his or
her driver's license delayed or suspended for a year. (VC § 13202.5) Possession of a
false ID is a misdemeanor. (PC § 295.3)

The legal term for stealing is theft. And the legal definition for theft is stealing, tak-
ing, 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. Theft also includes the use of a credit card that is a common theft offense. The law also
applies to the theft or forgery of a bank ATM or debit card to obtain anything of
value or to initiate 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 is a felony that
generally involves stealing or taking money, property or services with a value in
excess of $950. (PC § 487) Petty theft is a misdemeanor that involves stealing or taking
something worth less than $950. (PC § 488) 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. In some cases, parents can be held responsible for
their child's illegal activities. (CC § 1714.1)

Note: Robbery, extortion and carjacking 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
against persons are considered 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
simple thefts 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 classes fulltime. (Ed.C §§ 48210) 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
truant. 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 §§ 48260, 48263.6)

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

Religious training. With written parental consent, pupils may participate in
religious observances or instruction. (Ed.C § 48205(b)) Pupils receiving fulltime
instruction at a private school or through a tutor under a variety of circumstances may be exempt from such public
full-time day school requirements. (Ed.C §§ 48222-32)

What is a valid excuse for an absence?

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

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

Religious training. With written parental consent, pupils may participate in
religious observances or instruction. (Ed.C § 48205(b)) Pupils receiving fulltime
instruction at a private school or through a tutor under a variety of circumstances may be exempt from such public
full-time day school requirements. (Ed.C §§ 48222-32)

What will happen if my child is truant?

The school must notify you by means reasonably sure to reach you (such as
first-class mail, email or telephone). The notice 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 prosecution if he or she stays out of school without
a valid reason or if he or she is tardy for more than 30 minutes.

(A release-time plan whereby the child shall attend school for at least the minimum
school day. Individual school districts have the discretion to approve or prohibit absences for religious training. (Ed.C § 46614)

Note: Children excused from public school for justifiable reasons must be
allowed to make up the work taken and will be given full credit for that work.
(Ed.C § 48205(b)) Pupils receiving fulltime instruction at a private school or
when a minor is unable to live with his or her family and needs earnings to

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

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

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

A 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 per-
form such work. (WIC §§ 4010, 40117, 40133)

Labor laws: The second category of laws that regulate children at work are state
laws. These laws are intended to regulate employment practices and the type of
work that young people are permitted to do. Violation of these laws carries civil and
criminal penalties. Such laws outlaw the use of minors in dangerous occupations, for
example, or in jobs that might put the child at risk of being exploited. (Lab.C §§ 1285-
1306, 1328-99)

Both federal and state laws set minimum wages and overtime pay rates.
(29 U.S.C. § 206; Lab.C § 1182) In 2008, California’s minimum hourly wage was
increased to $8. However, pending state legislation would increase it to $8.25 in 2014.
Non-exempt employees must be paid one-and-a-half times their regular pay rate for
work in excess of eight hours in a day or 40 hours per week. (Lab.C §§ 530, 1197) In
some instances, however, employers may pay less to minors or trainees.
Delinquent offender: a minor who has committed an offense usually punishable by criminal processes. Such offenders are usually processed through the juvenile justice system.

Detention facility: a juvenile hall, camp, or ranch.

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

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

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

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

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

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

Guardian ad litem: a person appointed by the court specifically 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.

Hang 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.

Intent: an attempt to complete a particular act by means of a guilty mind.

Jurisdiction: a right to try someone in a particular court.

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

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

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

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

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

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

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

Murder: the unlawful killing of a person with malice aforethought.

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

Plea: an admission or denial of the facts of the case.

Probable cause: a reasonable ground for belief of a person’s guilt.

Prosecution: someone who is in a situation where the grand jury has decided to take action.

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

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

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

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

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

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

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

Statutes: laws enacted by legislatures.

Statute of limitations: laws that set deadlines for when a lawsuit must be filed.

Ward: a person incapable of managing his or her own affairs and for whom the court steps in to make decisions.
The California Bar Foundation believes everyone should be aware of their legal rights and responsibilities. Every day, we fund projects increasing the public’s understanding of the law and available legal services, because an informed citizenry is critical to all Californians.

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Warmest regards,

Frederick Brown, President
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