KIDS & THE LAW

An A-TO-Z Guide For Parents

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AN A-TO-Z GUIDE FOR PARENTS

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

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

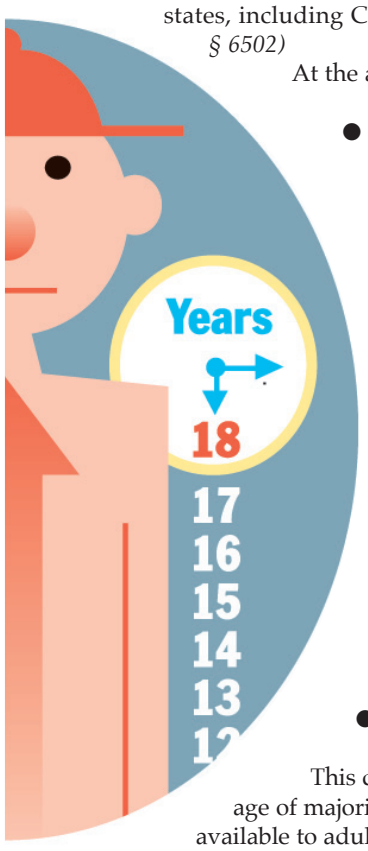
The subjects are set out in a dictionary-type format with cross-references to other subject areas when appropriate. In some instances, we have noted the specific law for those interested in seeking more detailed information (see the key to the code abbreviations below). In addition, we have included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

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

The Age of Majority / Alcohol and Kids / Bikes, Skateboards and Scooters / Cars, Kids and Traffic Laws / Child Abuse and Neglect / Civil Laws and Lawsuits / Criminal Law and Crimes / Curfew Laws / Drugs and Kids / Emancipation / Fighting / Gangs, Gang Colors and Dress Codes / Graffiti and Other Vandalism / Guns, Other Weapons and Fireworks / Hate Crimes and Hate Speech / The Internet, Cell Phones and Computers / Juvenile Court / Kids in Need of Supervision / Parents' Rights and Responsibilities / Police and Police Encounters / Privacy and Kids / Receiving Stolen Property / Schools and School Rules / Sex and Kids / Smoking and Kids / Stealing / Truancy / Work, Work Permits and Taxes / Legal Terms

a 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 § 6502)*



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

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

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

Reaching the age of majority, however, also involves some losses. These losses generally correlate with the rights that children are given for their own protection — for example, the right to their parents' support, care and shelter (see *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*.)

See page 14 for information on ordering additional copies of *Kids and the Law: An A-to-Z Guide for Parents.*

ALCOHOL AND KIDS

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

The legal age for drinking alcohol in California, however, is 21. This means that providing alcoholic beverages to anyone under that age is prohibited. In California, an alcoholic beverage is any beverage that contains at least one-half of 1 percent of alcohol. *(BPC §§ 23004, 25658, 25659)*

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

Also, with some exceptions, young people under age 21 are prohibited from being in bars or other establishments where liquor is served. It is also illegal to possess false identification or use a fake ID to buy (or attempt to buy) alcohol or to enter an establishment where alcohol is being served. *(BPC § 25661)* Although it is legal for those under 21 to be in a home where adults over 21 are drinking alcohol, it is illegal to provide alcohol to anyone under 21. Providing alcohol to a minor is a misdemeanor. *(BPC § 25658)*

If you allow your child, or your child's underage companion, to have a controlled substance or drink alcohol that results in a blood alcohol concentration of 0.05 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 § 25658.2)*

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

KEY CODE ABBREVIATIONS

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

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

Are there laws that address underage drinking at parties?

Yes. A police officer (who lawfully enters the gathering) can seize alcoholic beverages from anyone under 21 at an *unsupervised social gathering*. Under California law, an unsupervised social gathering is a public party or event that is attended by 10 or more people under age 21, and is not supervised by a parent or guardian of any of the participants. (*BPC § 25662(b)*)

The punishment for violating liquor laws varies. The offender may be found guilty of an infraction or a misdemeanor. In addition, young people under age 21 who violate the law may have their driver's licenses suspended for up to one year for each offense related to the possession, consumption or purchase of alcohol. Or, if the minor (age 13 or older) does not yet have a license, he or she would be delayed in receiving one. *This is true even if the offense does not involve an automobile.* Also, for their first offense, young people may be asked to pay up to $250 in fines or perform community service, or both. A young person convicted of a second or subsequent offense will be fined up to $500 or required to perform more community service. *(BPC §§ 25658, 25662(a); VC § 13202.5)*

State legislators and many communities around the state have taken steps in recent years to help curb underage drinking. For example, a law allows *social hosts* (age 21 and over) to be sued if they knowingly provide alcohol in their homes to an underage drinker who then causes an injury or death. *(CC § 1714(d))* In addition, a growing number of cities and counties have enacted *Social Host Accountability* ordinances as well. While such ordinances vary, they generally hold the hosts of underage drinking parties (or the residential property owners who allowed the party to take place) accountable for any drinking and loud, unruly behavior that takes place. The consequences may be fines that increase with each violation, the obligation to pay the costs of responding to the party or breaking it up, and community service.

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

Yes, *under certain circumstances*. If a bar operator serves alcohol to an underage, *obviously intoxicated* patron who later causes a car accident, for example, that operator would be civilly liable for the resulting injuries (except for those sustained by the drunken, underage driver if he or she is over 18). If the intoxicated youth is under 18, the operator could be sued for his or her injuries or death as well. *(BPC § 25602.1)*

BIKES SKATEBOARDS AND SCOOTERS

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

Also, some California communities have local ordinances that prohibit bike-riding on sidewalks in certain areas, such as business districts. Under state law, all bicycle riders under the age of 18 must wear bicycle helmets *(VC § 21212)* and must, if riding at night, have a bike equipped with a front light, red rear reflector, pedal reflectors and side reflectors or reflectorized tires. *(VC § 21201)* 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)*

There are also laws that apply to those who use skateboards, skates, scooters, snowboards and skis. Cities and counties have laws regulating the places where your child may skate and the equipment that must be worn by skaters within these designated areas. Helmets, elbow pads and knee pads must, by state law, be worn at skateboard parks. *(HSC § 115800(a)*) It is against the law to hold onto a moving vehicle while on a bike, skates or a skateboard. *(VC § 21203)* If your child violates any of these laws, he or she may be stopped by a police officer, cited and sent to juvenile traffic court. *(WIC § 256)*

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

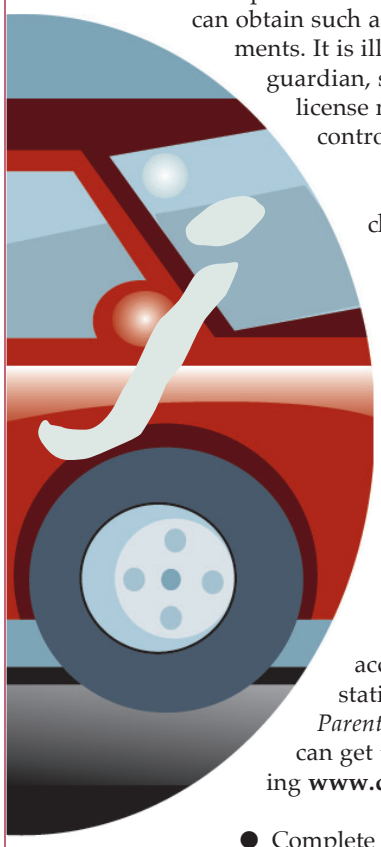
CARS KIDS AND TRAFFIC LAWS

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 or completion of driver training or enrollment in an integrated driver education/driver training program. The application form must be signed by the teen's parents or guardians.
- Give a thumbprint.
- 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 OL 237, 238)* Or, complete an integrated driver education/training program of 30 hours of instruction and six hours behind the wheel.
- Have a learner's permit for at least six months.
- Provide a parent's signature (or other acceptable signature) on his or her learner's permit stating that all of the driving practices outlined in the *Parent-Teen Training Guide* have been completed. You can get this booklet at local DMV field offices or by visiting **www.dmv.ca.gov** (go to *More DMV Publications*).
- Complete 50 hours of supervised driving with an adult (age 25 or older) who has a valid California driver's license. Ten of the 50 hours must be done at night. The adult must certify the 50 hours of driving practice.
- Pass the behind-the-wheel driving test and a written exam. (The teenager must bring proof of insurance for the car in which the driving test is taken.)

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

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

Minors over the age of 14 can get a *junior permit* under certain circumstances, such as when there is inadequate school transportation or transportation due to an illness in the family. Such a restricted permit might be allowed if the minor needs it for transportation to and from a job and the minor's income is essential to the support of his or her family. *(VC § 12513)* In addition, a student driver's license may be obtained by a student who is over 15 and is taking driver training in a public, parochial or private secondary school with the consent of the school principal and parents. *(VC § 12650)*

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

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

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

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

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

to the full amount of damages if the child causes an accident. *(VC § 17708)*

All drivers must carry liability insurance to insure against injuries the driver causes to someone else or their property while operating any motor vehicle. Evidence of insurance or other mandated financial coverage must be carried in the vehicle at all times. *(VC §§ 16020, 16028)* A driver could be fined up to $200, plus penalty assessments, for a first offense of driving without proper insurance. *(VC § 16029)*

Laws that young drivers should know

Smoke-free cars and kids: It is illegal to smoke inside a car if any of the car's occupants are under 18. A violation carries a $100 fine. In 2008, California became one of the first states to pass such a law. Studies indicate that 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* for the safety of others or property. It also provides for more severe punishment for reckless drivers who cause others to be injured, including the revocation of the driver's driving privilege after the third conviction in 12 months. *(VC §§ 13351(a)(2), 23103-23105)*

Speed contests: Speed contests are against the law. A judge can suspend or restrict a first-time offender's driver's license for up to six months, impound the vehicle for 30 days, as well as impose fines and community service. If someone other than the driver is injured, the driver could face even stiffer penalties. *(VC §§ 23109, 23109.1, 23109.2)*

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

Cell phones and driving: It is against the law to use a cell phone while driving *unless* you are at least 18 and your cell phone is set up for hands-free use, or you are making an emergency call (to law enforcement, for example). Drivers under age 18 are prohibited from talking on cell phones, text-ing or using any mobile device while driving — except to place an emergency call. It is illegal for anyone to drive while using an "electronic wireless communications device" to *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 a $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 §§ 15500-15501)*

Hit and run: In California, you must stop after any accident in which someone is injured or someone else's property is damaged. You also must exchange names, addresses, driver's license numbers, vehicle license numbers and other relevant information. If someone dies in the collision, the accident must be reported to the California Highway Patrol (CHP) or a police officer 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)*

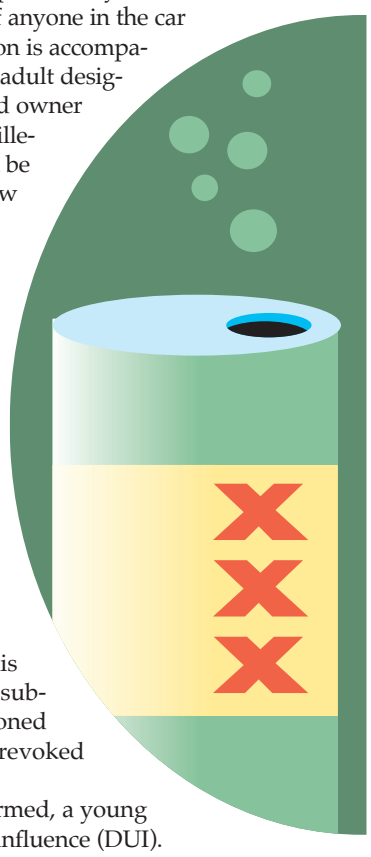
Seat belts/child passenger restraints: The driver and all passengers must be properly restrained by a safety belt—or it is illegal to drive the vehicle. *(VC § 27315)* Violators can be fined. In addition, children must be secured in federally approved safety seats until they turn 8 or are 4 feet, 9 inches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

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

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 delayed for a year in such circumstances.

Laws related to driving, alcohol and minors are particularly strict. It is illegal to carry a *closed* container of alcohol 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, the vehicle can be impounded for up to 30 days. An exception to this law would apply if the minor works for a licensee of the Alcoholic Beverage Control Act and is transporting alcohol during normal business hours. *(VC § 23224)*



In addition, it is illegal for anyone under the age of 21 to drive a vehicle if he or she has a blood-alcohol concentration (BAC) of 0.01 percent or more. *(VC § 23136)* For adults who are 21 or older, the illegal BAC is higher, 0.08 percent or more. *(VC § 23152(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, 23612)*

Even if a breath, blood or urine test is not performed, a young person could still be convicted of driving under the influence (DUI). A chemical test is not required for a conviction if the judge or jury concludes that the person under the age of 21 did consume an alcoholic beverage and was driving a vehicle. *(VC § 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 § 13352.3)*

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

Finally, anyone who has a driver's license suspended or revoked may also have his or her car insurance canceled. A DUI conviction disqualifies an individual from receiving a "Good Driver Discount" insurance policy for the next 10 years. *(IC § 1861.025)*

CHILD ABUSE AND NEGLECT

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

It is against the law for anyone to abuse a child under 18 — physically, sexually (see *Sex and Kids*) or emotionally — or to endanger any child by putting the youngster in harm's way. Nor is it legal to intentionally neglect a child who is in your care — to fail to adequately feed, clothe or supervise the child or to supply medical care. (*PC §§ 270 et seq., 11164-11165.6)*

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

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

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

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

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

What is a mandated reporter?

Because abused and neglected children are at such great risk, individuals in certain professions are required by law to report suspected abuse. The list of so-called mandated reporters generally includes teachers, school personnel, doctors, nurses, police officers and firefighters, as well as certain other professionals who regularly come in contact with youngsters. Mandated reporters must notify authorities immediately and file a written report as well within 36 hours. They simply must have a "reasonable suspicion" that abuse or neglect has occurred; they do not have to have any specific medical indication. *(PC §§ 11165.7-11174.3)*

How common is child sexual abuse?

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

It's common for the abusers to be people a child most trusts, such as a relative, family friend, priest, coach or even a teacher. Often, these crimes are underreported because the abusers use physical violence or verbal threats to silence a child. If your child has told you he or she has been abused, report it to authorities. If you suspect abuse, but don't have proof, call a children's advocacy center. To find one, go to the National Children's Alliance's website at **www.nca-online.org**. Child abuse hotlines can help you locate resources in your community. Parents and concerned adults who suspect sexual abuse can also call the National Child Abuse Hotline at **800-4-A-CHILD**.

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

California law does not specify any particular age. Every situation — and every child — is different. It could depend on various factors: the child's level of maturity and judgment, the time of day, the safety of the neighborhood and the proximity of another responsible adult who could be available in an emergency. The legal question would be whether or not the child would be put at risk if he or she were left alone — whether you could be *endangering* or *neglecting* the child.

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

CIVIL LAWS AND LAWSUITS

In general, legal actions are divided into two categories: *civil* and *criminal*. Civil actions are lawsuits (often between private individuals or businesses) in which someone sues someone else for monetary *damages* (money) or something else to compensate or offer protection for a wrong that was committed. When a civil case has to do with an injured child, parents are often involved.

Minors can, however, enforce their own legal rights in a civil case as long as they do so through a guardian *ad litem*. A guardian *ad litem* is a responsible adult appointed by a court to pursue a case in a child's name and to work to protect and defend the child's rights. In many instances, the court-appointed guardian is the child's parent. Along with the power to sue, children can be sued, often through their court-appointed guardian *ad litem*. *(FC §§ 6600, 6601)*

Are there any deadlines for filing lawsuits?

Yes. When filing lawsuits, adults and children alike must abide by *statutes of limitations*. A statute of limitations is a law that sets a time limit on the filing of particular lawsuits. These time limitations vary according to the type of action involved but are relatively standard for the following cases:

Personal injury — two years from the time of the injury. *(CCP § 335.1)*

Breach of contract — four years from the day the contract was broken, or two years if the contract was never in writing. *(CCP §§ 337, 339)*

Damages to real or personal property — three years from the date the damage occurred. *(CCP § 338(b)(c))*

In addition, California has some other important laws relating to civil actions brought by minors. First, if a child is injured before or at the time of birth, the lawsuit (other than medical malpractice suits) must be filed within six years of the birth. *(CCP § 340.4)* A minor's medical malpractice suit must be initiated within three years, or one year after the parents discovered (or should have discovered) the injury unless he or she is under 6 years old. If the child is under 6, the suit must be initiated within three years or prior to the child's eighth birthday, whichever period is longer. *(CCP § 340.5)*

Lawsuits alleging child sexual abuse generally can be brought until the person is 26 years old or until three years have passed since the person discovered (or could have reasonably discovered) that his or her injuries were related to sexual abuse, whichever period is longer. *(CCP § 340.1)*

In most cases, however, the statute of limitations clock starts when the child reaches 18. This means, for example, that a 12-year-old boy injured in a traffic collision could wait until two years after his 18th birthday to begin an action. *(CCP § 352)*

CRIMINAL LAW AND CRIMES

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 the state, on behalf of society, that files a lawsuit. County prosecutors are the state's designated representatives and have the discretion to choose which violations of criminal law are most important to prosecute or punish. When the state prosecutes someone for breaking a criminal law, the wrongdoer could face a fine, be locked up in a county jail or sent to state prison. In a civil case, you may have to pay a fine if you lose, but you will not be sent to jail.

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

Criminal offenses are divided into three categories: *felonies*, *misdemeanors* and *infractions*. *(PC § 16)* A *felony* is the most serious type of crime and is punishable by a fine and/or imprisonment in a county jail or state prison or a death sentence. A *misdemeanor* is punishable by a fine and/or imprisonment in a county jail for no more than one year in most cases. *Infractions* usually do not involve any jail time, but the defendant must appear in court and/or pay a fine. If charged with an infraction, you are not entitled to a jury trial or an attorney at state expense. Most traffic violations are infractions. Finally, some crimes are punishable either as misdemeanors or felonies. These crimes are called *wobblers* and are considered felonies until the judgment is imposed.

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

CURFEW LAWS

Curfew laws restrict the rights of youngsters to be outdoors or in public places during certain hours of the day. Such laws aim to establish a safer community and better protect children from the negative influences that they might encounter while wandering around late at night. Currently, there is no state curfew. But under state law, cities and counties can enact their own curfew ordinances. Courts in California have generally upheld such laws as long as the local ordinance seeks to discourage "loitering" or "remaining" in certain places after certain hours.

Under such local laws, parents can be charged for the administration and transportation costs of returning a minor to his or her home on a second curfew violation. *(WIC § 625.5)* Also, a child who is a frequent or habitual curfew violator may be declared a ward of the court and be treated as a *status offender*. *(WIC § 601(a))* (see *Juvenile Court*) Most curfew ordinances prohibit minors from being out past 10 p.m. on weekdays and midnight on weekends. Exceptions to such laws do exist, however, allowing kids to legally stay out late if they are:

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

What will happen if my teenager breaks curfew?

He or she could be temporarily detained by police and returned home. State law also gives local police some latitude in their enforcement of such curfew ordinances if the officer believes a youth has a "legitimate reason based on extenuating circumstances" for the violation. *(WIC § 625.5(c))*

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

Prescription drug abuse

Many teenagers in the United States take a prescription drug without a doctor's prescription, according to a 2014 national survey. Although the abuse of such drugs can cause serious adverse health effects, addiction and even death, experts worry that teens may wrongly view such medications as safer than illegal drugs. Teen abuse of the painkiller Vicodin and other drugs has raised concerns in recent years.

Possessing or using someone else's medical prescription is illegal. Depending on the drug, an offense could be charged as a misdemeanor or a felony with stiff fines. *(BPC § 4060; HSC §§ 11027, 11350, 11377)*

DRUGS AND KIDS

A 2014 survey funded by the National Institute on Drug Abuse (NIDA) showed a decline in the use of prescription pain medicine, inhalants and other illegal drugs by high school students. The same survey showed, however, that more that one in four had used an illegal drug in the past year, and a growing number of youths do not see using smoking marijuana as harmful to their health.

Still, drug abuse among young people remains a serious problem — and parents are often the last to know when their children are in trouble.

Body piercing, tanning salons and tattoos: Your teenager got her lip pierced without your permission? It is against the law to perform a body piercing (this does not include pierced ears) on anyone under age 18 — unless a parent or guardian is present or has sent their notarized written permission. The law also prohibits children under 18 from using any ultraviolet tanning facility. It is a misdemeanor to tattoo or even offer to tattoo anyone under age 18. *(PC §§ 652, 653; BPC §§ 22702, 22705, 22706)*

The use and abuse of certain prescription drugs, including painkillers, has raised concerns. According to a 2015 national update by NIDA, 4.4 percent of high school seniors used Vicodin and 7.7 percent used amphetamines for nonmedical purposes. One drug gaining popularity is Adderall, a prescription drug used for treating attention deficit and hyperactivity. About 7.5 percent of teens have used Adderall. Teenagers often raid medicine cabinets and hold so-called *pharming parties* to trade and sample medicines.

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

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

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

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 five 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.gov.**

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

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

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

It depends. The laws that regulate drugs exist at the federal and state levels. Most of the federal laws deal with large-scale drug trafficking, an activity in which most children are not involved. Young people are far more likely to face state charges for *possession of a controlled substance. (HSC §§ 11053, 11350, 11377(a))* More than 135 controlled substances carry a felony charge — as well as potential prison time — for possession alone. Such controlled substances include concentrated cannabis, heroin, cocaine, LSD, amphetamines and barbiturates.

The punishment for marijuana (the most commonly used illicit drug) is less severe. Possessing 28.5 grams of marijuana (other than concentrated cannabis) or less would be considered an infraction, which could result in a fine of up to $100. Minors also may be escorted home to their parents or taken to a juvenile probation officer. However, if your child is found possessing more than an ounce of marijuana *or with any amount on school grounds* or cultivating marijuana, the consequences would be more serious. *(HSC §§ 11357-58)*

Possessing drug paraphernalia is against the law as well. It is illegal for youths to be anywhere — a party, for example — where controlled substances are used if he or she participates or assists others in their use. *(HSC §§ 11364-65)*

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

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

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

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

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

The data, however, suggest that more teenagers than ever have plenty of opportunity to get drugs if they want them. Many middle and high school students know of other students who sell drugs at school and use them at school or near school grounds. For more information, see the National Institute on Drug Abuse website at **www.drugabuse.gov.**

EMANCIPATION

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

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

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

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

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)*

Before the petition is heard, the minor's parents, guardian or other person entitled to custody must be notified, unless the minor can show that their address is unknown or that notice cannot be given for some reason. *(FC § 7121)*

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

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

FIGHTING

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

In California, an assault is a misdemeanor. When an assault is committed against certain people, such as a peace officer, firefighter, school employee, mobile intensive care paramedic, animal control officer or an emergency medical technician doing his or her job, the punishment is greater. *(PC §§ 241, 241.4, 241.6)* Also, if the assault is committed on school or park property or with the use of a deadly

Nitrous oxide and other inhalants:

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 a similar household product to get high, according to a national survey. Such abusers start young — sometimes as young as age 6 — and face a litany of potential health risks, including sudden death. Parents should read all labels before using such products. It is illegal to sell or distribute nitrous oxide (also known as "laughing gas") to anyone under 18. Selling or distributing Toluene-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 §§ 380, 381, 381b, 381c)* For more information, including signs that a child might be abusing inhalants, go to **www.inhalant.org, www.inhalants.drugabuse.gov, www.inhalants.org** or **www.drugfree.org.**

weapon, the punishment is more severe. *(PC §§ 241.2, 245-245.5)* When a minor commits an assault on school property, he or she may be required to attend counseling at his or her parents' expense, in addition to the fines (up to $2,000) and punishment imposed. *(PC § 241.2)*

If convicted of battery, also a misdemeanor, a young person could face juvenile court punishment and a fine. If the battery was directed at specific public service or medical personnel, the potential punishment would increase. *(PC §§ 243, 243.1, 243.6)* (See *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 one child agrees to meet the other after school for a fight, however, both would be charged.

Finally, fighting or picking a fight in a public place also can result in a charge of *disturbing the peace,* which would be a misdemeanor. (*PC § 415)*

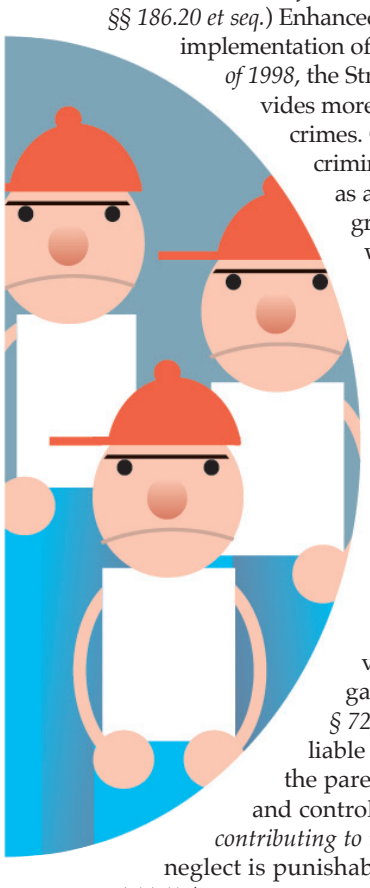
Directly threatening or intimidating a teacher or school official also is a crime. *(PC § 71)* An example of this might be a student who threatens to beat up a teacher unless he or she receives a passing grade. A separate law makes it mandatory for a school employee who has been attacked, assaulted or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

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

GANGS GANG COLORS AND DRESS CODES

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 seq.*) Enhanced in part by the passage of *Proposition 21* and the implementation of the *Gang Violence and Juvenile Crime Prevention Act of 1998*, the Street Terrorism Enforcement and Prevention Act provides more severe penalties for those who commit gang-related crimes. Committing a violent felony in association with a criminal street gang could, if convicted and sentenced as an adult, require minors to be fingerprinted, photographed and registered with police or county sheriffs with 10 days of their release from custody. *(PC § 186.30-186.32)*



A *criminal street gang* is a group of three or more individuals whose primary intent is to commit one or more *specific criminal acts* and whose members have been involved in a pattern of criminal gang activity. *(PC § 186.22(f))* Such criminal acts include, for example, assault with a deadly weapon, the sale or transportation of controlled substances, robbery, homicide, kidnapping, identity theft and carrying a concealed or loaded firearm. *(PC § 186.22(e))*

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 § 727.7*) They can be prosecuted and held criminally liable for their child's gang-related activities as well. If the parents fail to exercise reasonable care, supervision and control over their minor child, they can be charged with *contributing to the delinquency of a minor*. *(PC § 272)* By law, such neglect is punishable by up to one year in jail and a $2,500 fine. *(PC § 272(a)(1))* (See *Parents' Rights and Responsibilities*.)

In addition, recruiting or coercing someone to participate in a criminal street gang (or preventing someone from leaving the gang) can lead to five years in prison if the offending minor is charged as an adult. If the targeted recruit was a minor, three more years will be added to the sentence. (*PC § 186.26)*

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 found guilty of contempt of court, a misdemeanor, for violating the terms of an anti-criminal street gang injunction. (*PC § 166 (a) (10)*) (See *Juvenile Court*)

Dress codes: Restricting gang colors and dress is another way in which California has tackled gang-related problems. In recent years, legislation has given public school officials more authority to ban gang-related apparel and to require students to wear school uniforms. Many educators believe that tighter restrictions on dress and dress codes can reduce discipline problems and encourage greater cooperation, school spirit and academic achievement as well. In developing a school dress code or uniform policy, however, parents must be included in the decision and must be given at least six months' notice of the new dress policy's effective date. They also must have access to resources and funding assistance, if needed, to acquire uniforms. In addition, the dress policy must be part of a larger school effort to combat real or threatened problems on campus, and parents must have the option of excluding their children from the uniform requirement. (Ed.C §§ 35183(b), 35183(d), 35183(e))

MYTH: *Some children, as well as parents, believe that membership in a street gang is against the law. However, gang membership alone is not against the law. In fact, many would argue that such membership is constitutionally protected. While laws like the California Street Terrorism Enforcement and Prevention Act and the Gang Violence and Juvenile Crime Prevention Act seek to discourage involvement in street gangs, it is the participation in criminal gang-related activities, not gang membership, that will enhance the punishment for acts committed in association with a gang.*

GRAFFITI AND OTHER VANDALISM

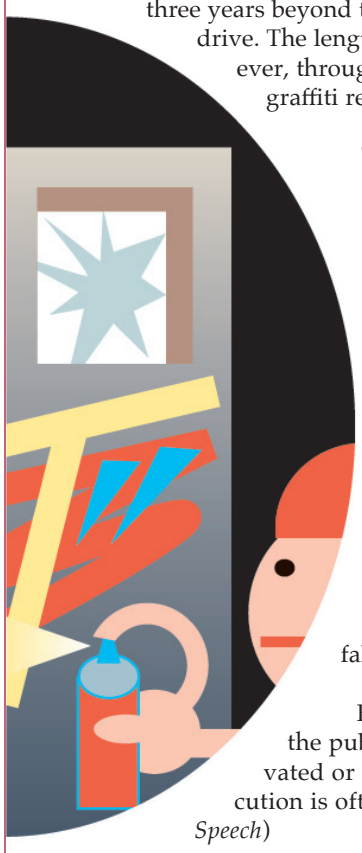
Some may see it as a form of self-expression. But those who mark up walls, stores and buildings with *graffiti* are breaking the law. The law defines *graffiti* as any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on real or personal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

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

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

How severely a so-called *tagger* — someone who does graffiti — will be punished depends on the extent of the damage and the tagger's previous history, if any, of graffiti convictions. *(PC § 594.7)* If the damage is less than $400, a first-time tagger who is a minor could be charged with a misdemeanor and be fined. In more serious cases, however, the tagger could be charged with a felony and slapped with heavy fines. *(PC § 594(b)(1))* (See *Juvenile Court*)

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



What are some other forms of vandalism?

In California, it is illegal to:

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

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

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

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

- Fines that the minor cannot pay. *(PC § 594(d))*
- The costs of repairing and replacing destroyed property. *(Govt.C § 38772; PC § 594(c))*
- Damage to school property or rewards offered to find the person responsible for the damage, up to $10,000. *(Ed.C § 48904(a)(1))*
- Willful misconduct, including the defacement or destruction of property through the use of paint or similar substances. *(CC § 1714.1)*

For more information about laws that may apply to graffiti and/or the defacing or destruction of property, see *Hate Crimes and Hate Speech*, and

Dog on a leash: Does your youngster have a dog? Don't leave that dog tethered — even if the leash is long — to a dog house, a tree or any other stationary object for long or you could be breaking the law. You may restrain your dog while doing a quick task, for example, but you may not leave him tethered for more than three hours in a 24-hour period. Violating this law could lead to an infraction and a fine of up to $250 or a misdemeanor and a $1,000 fine. *(PC §§ 597.1, 597t; HSC § 122335)*

Parents' Rights and Responsibilities.

GUNS AND OTHER WEAPONS AND FIREWORKS

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

Laws regulating the possession and use of guns and other dangerous weapons in California are broad and 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 recreational sports. *(PC §§ 29615, 29655)* 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 §§ 23920, 33210, 33410*)

Other illegal weapons (illegal to manufacture, import, possess, sell, give or even lend to someone) include any blackjack, nunchaku, metal or composite knuckles, dirk, dagger, belt buckle knives, leaded canes, zip guns, lipstick case knives, writing pen-knives and unconventional pistols. *(PC § 16590)* On the topic of weapons and fireworks, parents should be aware that:

- If your child is caught with a dangerous weapon — or trying to sell one — 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. *(Ed.C §§ 48900(b), 48915)* (See *Schools and School Rules*)

- Simply exhibiting a weapon in a rude or angry way is a misdemeanor. *(PC § 417)* Even if the firearm is fake, it is a misdemeanor to display it in a manner that frightens someone or causes someone to believe that he or she is in danger of being injured. *(PC § 417.4; Ed.C § 48900(m))* It also can be cause for suspension or expulsion from school.

- If a parent gives a gun to a minor or leaves it where the child could get it, and someone winds up injured or fatally shot, the parent could be liable for up to $30,000 for the death or injury, or the injured person's property. If more than one person is injured or killed, the parent could be held liable for up to $60,000. *(CC § 1714.3)* And parents who have negligently given their child a gun can be prosecuted for criminal negligence if the youngster uses the gun to injure or kill someone.

- Using a weapon during the commission of another crime will increase the punishment for the crime. In addition, the crime will be treated as a felony. *(PC §§ 12022, 29700)*

- It is a felony for any driver or motor vehicle owner to allow anyone to fire a gun from a vehicle. If someone willfully and maliciously fires at someone else from a car — in a so-called drive-by shooting, for example — the driver could face up to three years in detention facility or, if someone is injured or killed, even longer. *(PC § 26100)*

- 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 § 12541.1(b))*

HATE CRIMES AND HATE SPEECH

Crimes motivated by the hatred or dislike of others are classified as *hate crimes*. A hate crime is any crime committed against a person (or the person's property) because of certain characteristics (real or perceived) about the person. These include the individual's race, ethnicity, religion, ancestry, national origin, disability, gender or sexual orientation. In some cases, threats and intimidation are enough to constitute a hate crime. *(PC § 422.6)* Unfortunately, many of these crimes in California are committed by young people.

What are some examples of hate crimes?

- Attacking a dark-skinned person because the perpetrator believes he or she is Muslim or from the Middle East.

- Destroying a storefront because the person believes the business owner is lesbian or gay.

- Firebombing or spraypainting a synagogue because the person dislikes people who are Jewish.

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

THE INTERNET AND CELL PHONES AND COMPUTERS

Social networking. Texting. Blogging. Today's children play games and learn about the world online. They know as much as you do — or more — about smartphones, texting, Facebook, Twitter and other social media. More than nine out of 10 have posted a photo of themselves, according to a 2013 Pew Research Center survey. The Pew study found that more than 95 percent of teens use the internet and nearly half own a smartphone to find information online, many of them on a daily basis.

Although this digital world may open many doors, it can put your children at risk as well. They may encounter unwanted sexual material 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.

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

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

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

Should I worry about online sexual predators 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 learning experience for your child. But the internet is also an ideal meeting place for sexual predators seeking contact with children. Many young people socialize online with "friends" encountered online. In a 2013 Pew Research Center survey, more than 95 percent of 12- to 17-year-olds were online and 81 percent used social media. Many use the internet to communicate with their friends and make new ones. The problem is that a new friend they think is only 14 years old could actually be a 43-year-old sexual predator.

For tips on minimizing the risks, see *Sexual Predators and the Computer* on page 9. For more information on the risks and what to do if you suspect your child is communicating with an online sexual predator, see the FBI's publication ***A Parent's***

What is sexting?

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

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

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

For more tips on talking to your children about online safety, go to: **www.connectsafely.org**.

Guide to Internet Safety, which is available online at **www.fbi.gov** (go to *About Us* and click on *Reports and Publications*). For more internet safety information, visit the websites listed at the bottom of this page.

Not only are there safety risks if your child reveals personal information online, there can be a danger 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**.

Sexual predators and cybersafety

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

- Communicate with your child about what sexual victimization is and the potential dangers of going online.
- Spend time with your children online.
- Keep your electronics in a common room in the house, not in your child's bedroom.
- Use the parental controls offered by your Internet service provider and/or blocking software. Although electronic chat can be a great place for children to make new friends and discuss various topics of interest, it is also prowled by sex offenders.
- Always know the password to your child's online account so you can randomly check his or her e-mail.
- Teach your child the responsible use of online resources.
- Find out what the computer safeguards are at your child's school, the public library and the homes of your child's friends.
- Understand that even if your child was a willing participant in any form of sexual exploitation, he or she is not at fault and is the victim.
- Make sure your children know the rules before letting them use a computer, tablet or smartphone:
  - Never arrange a face-to-face meeting with someone they meet online.
  - Never upload (post) pictures of themselves onto the Internet or online service to people they do not personally know.
  - Never give out identifying information such as a name, home address, school name or telephone number.
  - Never download pictures from an unknown source.
  - Never respond to messages or bulletin board postings that are suggestive, obscene, belligerent or harassing.
  - Advise them that whatever they are told online may or may not be true.

Source: *Federal Bureau of Investigation, Innocent Images National Initiative*

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

Yes. Under the *1998 Children's Online Privacy Protection Act (COPPA)*, operators of children's websites that collect personal information from youngsters under age 13 are required to post a privacy notice. The notice should state the type of information gathered and whether such information will be 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 this term vary. To some, *sexting* is when a young person sends or posts a sexually explicit image or message to a peer via a mobile or smartphone or the internet. Others include sexually suggestive images and messages in the definition. According to some surveys, roughly one in five teens has admitted to sexting or posting a nude or semi-nude photo of themselves. Some teens believe the messages and photos will not be shared and remain private for the recipient. But sexting and other forms of *cyberbullying* can have other serious, unintended consequences. Such material can easily be transmitted to countless others online — leading to embarrassment and humiliation. Depending on the nature of the message and/or photo, it could (and has in some states) potentially lead to criminal charges as well.

Both federal and state law make it illegal for anyone (even minors) to possess or distribute child pornography. State law also prohibits sending a minor "harmful matter" intended to arouse and seduce the young person. If convicted of such a crime, a teen who is 14 or older could be ordered to register as a sex offender as well. *(PC §§ 288.2, 290, 311.1(a), 311.11(a); 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 in your area, go to **icactraining.org**.

What is cyberbullying?

Cyberbullying, too, has various definitions. In general, it refers to when a youth uses a mobile or smartphone, computer, tablet or other electronic communications device to taunt, harass, torment, humiliate or threaten another youth. Some researchers say the behavior must be repeated and cause some harm to be characterized as cyberbullying. A *cyberbully* might post altered, humiliating photos of a classmate online, for example, or launch an online campaign of vicious rumors about 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. Surveys of teenagers suggest that up to one in four were the victim of cyberbullying in the previous year.

Legislators, school officials and courts around the country are struggling to address the problem without trampling on young people's First Amendment right to free speech. A California law gives school administrators grounds to suspend or recommend expulsion for students who are caught cyberbullying in certain circumstances. In many cases, such behavior may not break the law. In certain types of serious cases, however, a young cyberbully could potentially face criminal charges. State law prohibits the use of phones or other electronic communications devices to intentionally annoy someone with repeated calls or electronic contacts, obscene language or threats. Depending on the circumstances, a cyberbully could face charges for seriously threatening someone's life, committing a hate crime, cyber-stalking or using electronic means to reveal personal information about someone that would threaten that person's safety. Recent legislation also makes it illegal to try to harm someone by *credibly* impersonating a real person on a website or by other electronic means. *(Ed.C §§ 32261, 48900; PC §§ 422, 422.6, 646.9, 653m, 653.2)* Young people, parents and schools have been sued in cyberbullying-related cases as well. For more information on cyberbullying, visit the websites listed below.

Computers, the internet and theft

California law prohibits:

- Pirating or downloading copyrighted material, such as music. *(PC §§ 502(c), 13848)*
- Accessing someone else's computer without authorization. *(PC § 502(c)(7))*
- Devising and executing schemes to obtain money, property or services with false or fraudulent intent through a computer. *(PC § 502(c)(1))*
- Deleting, damaging or destroying systems, networks, programs, databases or components of computers without authorization. *(PC § 502(c)(4))*
- Disrupting or denying access to the authorized users of a computer. *(PC § 502(c)(5))*
- Introducing contaminants or viruses to a computer. *(PC § 502(c)(8))*

JUVENILE COURT

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

First, there are children who have committed an act that if committed by an adult would be considered criminal. These children are often called *delinquents* or *602 kids*. The number 602 refers to the Welfare and Institutions Code section that specifically relates to delinquents.

Second, there are children who have committed *status offenses*. Status offenses are activities that are only wrong if committed by minors. (Such offenses would not be considered illegal if committed by an adult.) For example, truancy, running away from home, violating curfew or being beyond parental control are status offenses. Children who have committed such offenses are often called *children in need of supervision* or *601 kids*. Again, 601 refers to the Welfare and Institutions Code section that specifically relates to status offenses. (See *Kids in Need of Supervision*.)

Then there are those children who have been abused, neglected or abandoned. A judge must decide who will care for these children. This is done through court *dependency hearings*. *(WIC §§ 300, 302, 360)*

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

www.commonsensemedia.org — Advice on managing your family's "media diet" and teaching online safety to your children. Ratings and reviews on movies, video games, apps, websites and other media.

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

www.oag.ca.gov/cybersafety/children — Resources from the state Office of the Attorney General.

www.cybertipline.com — Website and hotline (800-843-5678) for reporting child pornography or suspected child sexual exploitation. Links to online safety resources and a list of online acronyms.

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

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

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

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

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 § 366.26)* (See *Parents' Rights and Responsibilities*)

The exception to these three primary categories of children are the young people who are at least 14 and who have committed a very serious crime. *(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 under the court's jurisdiction until they reach age 21 — if they became wards of the court before turning 16. If the child is older than 16 when charged with a crime, he or she may remain a ward of the court until age 25. *(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 warnings similar to *Miranda* warnings (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 § 626)* If kept in custody, however, young status offenders generally must be held separate and apart from children who have been charged as delinquents and from adults under arrest. *(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 § 631, Cal. Rules of Court, rule 1471)* During this time, the parents must be notified about what is going on and/or the intent of the probation department to have their child made a ward of the court. *(WIC §§ 307.4, 316)* During these proceedings, the minor has a right to a lawyer and has most 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 bail (unless they are prosecuted in the adult justice system). Also, in most instances, juvenile court proceedings are closed to the public and the child's identity is kept confidential. *(WIC § 676)*

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

The judge may then place the child on probation, assess fines, seek restitution, 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 §§ 395, 800)*, and most juvenile records may be sealed or destroyed with 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 convicted of a felony or a misdemeanor involving moral turpitude, or if too little time has passed since the child's conviction. Records usually can be sealed five years after the juvenile court's jurisdiction is terminated or when the child turns 18. Once sealed, the minor's records may not be opened for inspection unless ordered by the court. *(WIC §§ 389, 781)*

KIDS IN NEED OF SUPERVISION

Children in need of supervision — once referred to as *wayward youth* — are defined by law *(WIC § 601)* as children under 18 who:

- Persistently or habitually refuse to obey the reasonable and proper orders of their parents, guardians or custodian.
- Are beyond the control of their caretakers.
- Violate any local ordinance establishing a curfew.
- Have four or more truancies within a school year (see *Truancy*).
- Persistently refuse to obey the reasonable and proper orders of school authorities.

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

When such children are taken into custody, the courts must treat them in the least restrictive manner and, when practical, return them to their parents. A child could be placed with a relative, however, if it is in the child's best interest and would help keep the family together. *(WIC § 281.5)* Also, instead of making a child a ward of the court, the county juvenile probation department could assign the child to a diversion program. Such a program might include alcohol or drug education, community service, counseling and/or an opportunity to repair damaged property.

Under no circumstances, however, should a child ever be taken away from his or her parents' custody (except during school hours) for simply skipping school or school disobedience alone. Also, merely not listening to a parent (or even running away from home) is not necessarily sufficient to establish that a child is beyond parental control or in need of supervision. It must be shown that the child's behavior is habitual or that the child's act of running away was not caused by the parent's action or inaction. For example, a child would not be classified as someone in need of supervision if he or she has been 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. *(PC § 415)* If the teenagers are violating a curfew law (see *Curfew Laws*), they could be charged with *loitering* as well. *(PC § 647)*

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

In California, there is a separate law involving loitering on or near any school or public place where children are present. *(PC § 653b)* 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.

PARENTS' RIGHTS AND RESPONSIBILITIES

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

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

Cooperation and obedience: Parents are expected to control their children and are permitted to discipline them (not to the point of abuse or neglect, however). In some instances, children may run away from home, refuse to go to school or be beyond parental control. If the situation is extreme, the parents may seek to give up legal responsibility for the child. 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 be charged with *contributing to the delinquency of a minor, child abuse (PC § 273a)* or *neglect*. *(PC § 270)*

Earnings: Although 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 § 3300)*

Recovery for 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

Rowdy fan law: If you try to distract a player or interfere with a professional sporting event by throwing an object onto or across the court or field, you will be breaking the law. Nor can you or your child, as spectators, enter the court or field during the event without official permission. If you violate this law, you could face a fine of up to $250 for an infraction. Owners of professional sporting facilities must post notices describing the illegality of such conduct and the potential punishment. *(PC § 243.83)*

person responsible. *(CCP §§ 376, 377.60)*

Parental responsibilities: Parents' most important responsibility is to support their children. They are legally obligated to provide their children with the necessities of life. 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 § 8616)* 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 § 903)* And parents must pay the county back for legal services provided to minors in juvenile court proceedings. *(WIC § 903.1)* The duty to provide support to children lasts until the child reaches the age of majority (18), or 19 if the child is still enrolled in high school fulltime. *(FC § 3901)* (See *Emancipation* for exceptions.)

The fact that a child's parents are not married does not affect the parents' responsibility to support their child. *(FC § 3900)* If parents are unmarried or divorced, and cannot agree on how much each should contribute toward the support of their children, the courts may be called upon to decide. One parent, or the child through a guardian *ad litem*, may bring an action against the other parent to enforce the duty to pay child support. *(FC § 4000)* Alternatively, the county may proceed on behalf of a child to enforce the child's right of support against a parent who fails to provide it. *(FC § 4002)* A judge may order one parent to make specified payments to the other or child support. *(FC § 4500)* The court's authority to order a parent to pay child support or to enforce such an award includes the following: a *writ of execution* or *levy (FC § 5100)*, a *wage garnishment (FC § 5230)*, civil contempt proceedings *(FC § 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 § 3900)* Birth parents remain primarily responsible for child support unless the stepparent adopts the child. *(FC § 8616)* If, 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 § 3950)* However, the natural parents, 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 § 3951)*

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 § 6600)* There are exceptions. For example, parents who encourage their children to break the law may be found guilty of *contributing to the delinquency of a minor*. *(PC § 272)* Also, parents who know or should have known that their child engages in improper conduct, or who aid or encourage such conduct, may be held liable for their children's acts. There are specific statutes that hold parents liable for certain harm caused by their children:

Injuries from guns: Parents may be required to pay victims up to $60,000 if more than one person is injured. *(CC § 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 § 1714.1)*

Graffiti: Parents may be liable for the costs of removal, repair and/or replacement of property, and for keeping the property free of graffiti for up to one year. *(PC § 594(c); Govt.C § 38772(b))* If there are repeated graffiti offenses, parents could be liable for up to $50,000 in fines that their children cannot pay. *(PC § 594(b)(d))*

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 $50 fine for the fourth violation in one year. *(Ed.C § 48264.5(d)(2))*

Injuries to another person on school grounds; damage to school property; failure to return borrowed school property: Parents may be liable for up to $10,000, and up to $10,000 for any reward. The school may withhold grades, diplomas or transcripts until these amounts are paid. *(Ed.C § 48904)*

Shoplifting: If a child steals from a store or library, the parents may be responsible for up to $500 plus costs. *(PC § 490.5(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 § 625.5(e))*

POLICE AND POLICE ENCOUNTERS

Nationally, there's been a lot of news about violent encounters between youths and authorities. Make sure you discuss your child's behavior if he or she is stopped, questioned or arrested by police. How they react could protect them from getting shot or hurt.

Never struggle with police. Resisting arrest *(PC § 148)* or assaulting a police officer *(PC §§ 241.4, 243)* are separate and additional crimes. Police may file charges even when a child is innocent of any underlying crime. Advise your child to act respectfully. 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, photograph the injuries, note the officer's badge number and collect names of any witnesses.

Respectfully decline permission to search. Children have the same protection as adults against unreasonable searches and seizures under the Fourth Amendment to the U.S. Constitution. Generally, police only have the right to conduct 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* body search, but only to check for weapons. *(PC § 833.5)* Such searches are permitted for the officer's protection. No consent 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, for example. If a minor gives permission, he or she will be giving up his or her Fourth Amendment rights. Those 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, minors are entitled to the *Miranda* advisements, which include the warning that anything they say to police can be used against them in court.

Call your parents. When taken to a police station or juvenile hall, minors have the right to place two telephone calls to parents or a responsible friend within one hour. *(WIC § 308(b))* If a minor is arrested, police are required, if asked, to state the charges. If a 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. If the minor fails to show up in court at 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 AND KIDS

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

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

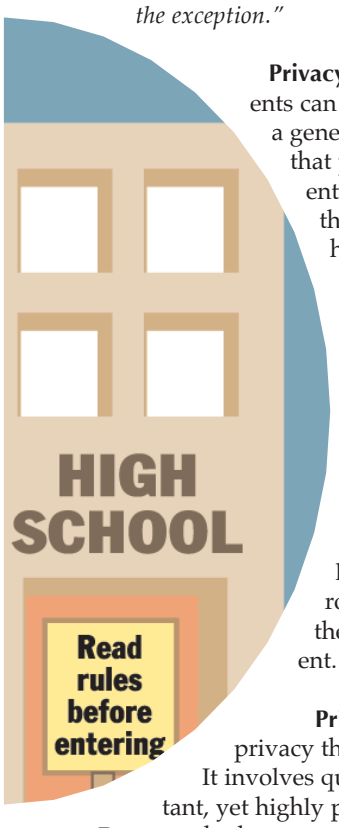
Some two decades ago, the U.S. Supreme Court decided that while teachers were considered state agents who must respect the constitutional right to privacy, searches of students could be conducted as long as they were reasonable and could be justified under the circumstances. In that specific case, a 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 vice principal then searched the student's purse and found cigarettes, marijuana and other paraphernalia. The court found the search to be reasonable under the circumstances.

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

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 reasonableness of a search is determined by comparing the impact on the 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 permissible.

In contrast, years earlier, the California Supreme Court found that the search of a student who was walking through the school grounds with his friends was unlawful. The student seemed to be trying to conceal a black bag from the assistant principal. When the student refused to hand it over, the assistant principal took it by

force, finding marijuana inside. The court found the search to be illegal since the assistant principal had no information concerning the student's use, possession or sale of drugs. The court noted: *"Neither indiscriminate searches of lockers nor more discreet individual searches of a locker, a purse or a person, here a student, can take place absent the existence of reasonable suspicion. Respect for privacy is the rule—a search is the exception."*



Privacy rights at home: Youngsters often ask if their parents can legally permit police to search their bedrooms. As a general rule, the answer is *yes*. Most courts have stated that parents or guardians have a property interest in the entire home and are allowed to consent to the search of that property or to search it themselves. Also, courts have felt that children who remain at home are under the authority of their parents, which weakens the children's privacy rights with regard to their rooms and the items in their rooms. This general rule, however, should not be taken too far. For example, roommates generally only have the authority to allow a search of areas they may use or common areas within the home (living rooms, for example). A California case outlined some specific protections for minors regarding a child's personal property. The California Supreme Court held that a warrantless search of a minor's locked toolbox in the child's room violated the child's constitutional rights when the consent to search was only obtained from the parent.

Privacy and "private decisions": This is an area of privacy that is of much interest to parents and their children. It involves questions of when, and if, children can make important, yet highly personal, decisions without their parents' knowledge. Parents who have custody of their child have the right to make many important decisions about their child's life and life plans. In California, however, there are a number of circumstances in which youngsters have the authority to make decisions without parental involvement. Some of these situations include:

- When a child is 12 or older and seeks medical treatment related to an infectious, contagious or sexually transmitted disease. *(FC § 6926)*

- When a child is 12 or older and seeks medical treatment for rape. A medical care professional, however, shall attempt to contact the minor's parents or guardian, unless he or she reasonably believes the minor's parents or guardian committed the sexual assault on the minor. *(FC §§ 6927, 6928)*

- When a child is 12 or older and seeks medical treatment related to a drug or alcohol problem. *(FC § 6929(b))*

- When a child is seeking medical care related to the care and prevention of pregnancy. This includes birth control information and devices, and (if the child is deemed sufficiently mature) abortion or any other care, short of sterilization.

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

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

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

RECEIVING STOLEN PROPERTY

Some young people mistakenly believe that buying a stolen item is not wrong because they themselves did not steal it. Receiving stolen property is a crime regardless of the item's value. If the stolen property's value is more than $950, however, the punishment for the crime is increased. *(PC § 496)*

To be guilty of such a crime, the person receiving the property must know that it was stolen. *(PC § 496)* Such knowledge can be proven in court with circumstantial evidence. This means that the court will examine all of the facts to determine whether your child knew that the items were stolen: How much was paid when compared to what the item would have cost in a store? Was there an attempt to flee from authorities or to hide the items? From whom and where were the items purchased? Were there any identifying marks removed from the items?

SCHOOLS AND SCHOOL RULES

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

Each local school district has school administrators who supervise the day-to-day activities of its schools. The school district structure may vary from district to district. But the key administrative personnel include: a board of education or school board (generally elected); a superintendent who acts as the school system's chief administrator; and the school principal.

Private schools, on the other hand, are owned and operated by an individual, a corporation or some type of private or nonprofit association. Most have a board of trustees that acts, in part, as a school board, but whose members generally play a much greater role in the overall financial health of the school than in matters of curriculum. When dealing with a private school, it is best to work with your child's teacher(s) and the school principal or headmaster.

What to do if your child is being bullied:

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

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

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

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

Source: *U.S. Department of Health and Human Services.*

School rules: Some rules may be unique to a particular school or classroom. Others may have come about in the form of a directive from a school board. And still others are mandated by state or federal law. Knowing the kind of school rule with which you are dealing is important if you want to change or challenge the rule. For example, the law lists circumstances under which a child can be suspended or expelled. *(Ed.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. And the suspension should be in response to an offense that took place at a school, while traveling to or from a school, during the lunch period (at school or elsewhere) 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, 48900.3, 48900.4, 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 § 48902)*

When can a child be expelled from school?

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

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

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

Yes, if the child is found to be eligible. Under the federal *Individuals with Disabilities Education Act (IDEA)*, school districts must offer a free appropriate public education to eligible disabled children ages 3 to 21. (Children enrolled in private schools by their parents generally are *not entitled* to free special education and related services.) The process can start with a parent's written request for an assessment. The district must respond within 15 days and, if the request is denied, must provide a written reason for the denial. If an assessment is conducted, a team (including school staff and the child's parents or guardians) then determines if the child requires special education and related services to benefit from the general education program. If your child is found to be eligible, the team will develop an *Individualized Education Program (IEP)* for your child. Services could range from speech therapy to small-group instruction to a special education teacher's assistance. The particular services would depend on your child's needs and would, by law, have to be provided in the least restrictive environment possible.

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

If you believe your child needs 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*).

- Possesses a firearm, knife or other dangerous object at school.
- Sells a controlled substance, except for a first offense of selling less than an 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 appropriate if other means of correction are not feasible or have failed, and if the student's presence poses a danger to other students. Students are usually entitled to defend their actions at a hearing.

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

- If the child was suspended or expelled for violating a rule that was not communicated to the child.
- If the child was not told what he or she was accused of, if the act was not defined as behavior that could result in a suspension or expulsion, or if the child was never given the opportunity to explain his or her side of the story.
- If rules at the school are arbitrarily or discriminatorily enforced.
- If the basis of the school's action is related to tardiness, truancy or another school absence (see *Truancy*).
- If the school did not follow the mandated due process procedures or its own district rules.
- If the child is disabled and the behavior for which he or she is being suspended or expelled relates to that disability.
- If the child says that he or she did not engage in the behavior charged by the school. *(Ed.C §§ 48911, 48914, 48918-48924)*

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, to quell disturbances that threaten physical safety, in self-defense, or to confiscate dangerous weapons or objects. *(Ed.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 suggests that it may be common. In one 2013 survey, about one in five children ages 12 to 18 said they had been bullied during the school year. That included being pushed or shoved, called names, having harmful gossip spread about them or property destroyed and threatened with physical harm. California law states that students and staff have a constitutional right to be safe at school. The *Bullying Prevention for School Safety and Crime Reduction Act of 2003* established a statewide school safety cadre to help improve school attendance and reduce violence and school crime, including bullying. In addition, California schools are required to develop comprehensive safety plans aimed at preventing crime and violence on campus. *(Ed.C §§ 32270, 32280, 32282, 35183 (a))* If your child is a victim, see *What to do if your child is being bullied* on the previous page. 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 or injure 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. (*Ed.C § 48900; PC § 245.6)*

College Prep

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

Child care

Has your family day care provider properly "child-proofed" her home? Has she ever spanked your child? How do you know that your child is safe at a child care provider's home or facility?

You can never be sure. But child care providers, by law, must meet certain state requirements and guidelines (limits on the number of children in their care, for example). Child care licensing workers inspect day care programs statewide — and cite health and safety violators. (They track and investigate complaints as well.) You can call your local child care licensing office to check on any child care provider's license and record. To locate an office in your area and for tips on finding and choosing child care, visit **www.ccld.ca.gov** (click on *Facility Facts*).

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

SEX AND KIDS

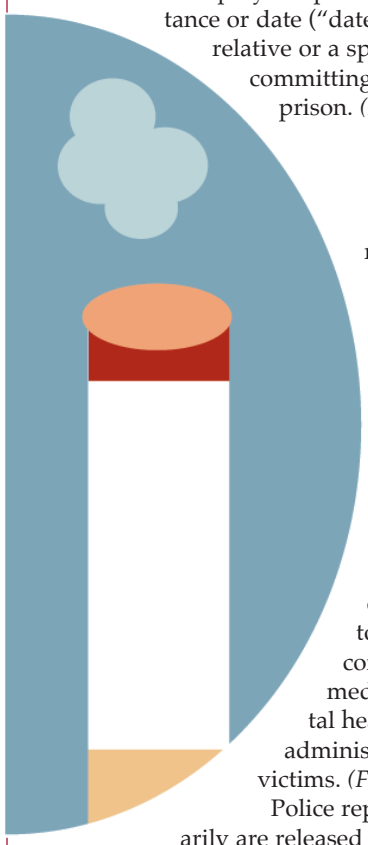
It is against the law in California for minors to have sex or for anyone to have sex with a minor. This is true in spite of a recent survey suggesting that nearly 50 percent of high school students have had sexual intercourse. The only exception to this law is if a minor is married to his or her sexual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

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

In California, statutory rape is called *unlawful sexual intercourse.* It is legally defined as an act of sexual intercourse with any minor who is not the spouse of the perpetrator. *(PC § 261.5(a))* The law is intended to protect boys and girls alike. A person who is 14 or older and is not more than three years older than the victim is is guilty of a misdemeanor. If the person is more than three years older, however, he or she may be found guilty of a felony and punished as an adult with imprisonment in county jail or state prison. In fact, a person over 21 who has in sex with someone younger than 16 can be sent to state prison for two to four years. *(PC § 261.5(d))*

In addition, a separate California law prohibits *lewd or lascivious acts* (child molestation) with a minor. Sexual intercourse is not an element of this crime, and consent is not an issue. Anyone who commits such a crime with a child under 14 could face felony charges. If the sexual abuse of a child under age 14 occurs three times or more over a three-month period or longer, the abuser could face stiffer punishment. *(PC § 288.5)* Engaging in lewd or lascivious acts with a minor who is 14 or 15 can lead to a year in jail or three years in prison if the abuser is at least 10 years older than the victim. *(PC § 288(c)(1))*

Children are also forcibly raped. *Forcible rape* involves the use of force, fear, coercion or trickery to acquire sex. In most cases, forcible rape is a crime of violence. When a child is the victim, the rape usually occurs in one of three ways: The child is preyed upon by strangers; he or she is victimized by an acquaintance or date ("date rape"); or he or she is taken advantage of by a relative or a spouse (incest, child abuse or spousal rape). For committing such a crime, a rapist could face 15 years to life in prison. *(PC § 269)*



What should a young person know about rape?

If a young person has been raped, it should be reported to the police, and the victim should seek immediate medical help and psychological assistance. Many counties in California have victim assistance programs, sexual trauma centers and rape crisis hotlines. These programs are often associated with a county district attorney's office and work with the state to help find and prosecute the rapist. Such programs also offer counseling, financial assistance and other services to help victims overcome the trauma associated with being raped.

In California, young people who are 12 or older may, by law, consent to medical care related to rape or sexual assault without their parents' consent. This legal right applies to treatment from medical doctors, psychiatrists, psychologists and mental health counselors, as well as those acting as chief administrators of programs that provide counseling to rape victims. *(FC §§ 6920, 6927-28)*

Police reports involving rape are confidential and customarily are released only to the prosecutors and defense attorneys or by court order. *(Govt.C § 6254)* This is true even when the rape victim is a minor and the minor's parents want to see the rape report. The only exception to this rule is when the victim's parent is accused of the rape or sexual molestation.

SMOKING AND KIDS

The good news is that cigarette smoking has declined since the mid-1990s. A 2015 CDC report said cigarette smoking among high school students dropped to 9.2 percent in 2014 compared with 15.8 percent in 2011. The bad news is that teens' use of electronic cigarettes rose dramatically, from 1.5 percent in 2011 to 13.4 percent in 2014. Many teens are unaware that using e-cigarettes, known as "vaping," can be just as addictive and harmful.

California has enacted laws over the years aimed at preventing the use of tobacco products by minors. It is against the law for children under 18 to purchase, receive or possess tobacco products in California. (If an elementary or secondary school student is caught smoking or using tobacco products at school or attending a school-sponsored activity, he or she could be suspended or expelled as well. *(Ed.C § 48901))* It is also against the law to knowingly sell, give or furnish tobacco products such as cigarette paper and chewing tobacco to children under the age of 18. *(BPC § 22951; PC § 308)* Lawmakers now want to raise that age limit to 21 and have passed a bill that in early 2016 was still awaiting the governor's approval.

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 § 22952(b))*

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.) (*Ed.C §§ 49431.2, 49431.5*) There are, however, exceptions — certain school fundraisers, for example, or a parent's delivery of cupcakes to a classroom to help celebrate a child's birthday.

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 identification 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 § 529.5)*

STEALING

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

Fraudulently using or stealing a credit card is a common theft offense. The law also applies to the theft or forgery of a bank ATM or debit card to obtain anything of value or to initiate 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)*

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

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 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 § 48200)* By law, those who are absent without a valid excuse for three or more days during a school year, or who are tardy more than 30 minutes without a valid excuse on three occasions in a school year, are truants. 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)*

What is a valid excuse for an absence?

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

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

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

Note: Children excused from public school for justifiable reasons must be allowed to make up the work and be given full credit for that work. *(Ed.C § 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 state that if the parents do not compel school attendance by their children, they themselves may be subject to prosecution. The letter also must inform parents that there are alternative programs for the child, that they can meet with school officials to discuss the problem, that their child may be subject to prosecution if he or she stays out of school without a valid excuse, and that their child's driving privileges may be subject to suspension, restriction or delay. In addition, it is recommended that the parents attend school with their child for one day. *(Ed.C § 48260.5, 48293; VC § 13202.7)*

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

A criminal complaint also can be filed against a parent who fails to comply with a school attendance review board or court order. *(Ed.C § 48291)* This means the parent could face a fine, court-ordered attendance in a parent education and counseling program or even, in certain cases of chronic truancy, jail. If the chronically truant child is in kindergarten or grades 1-8 and the parent fails to "reasonably supervise and encourage" school attendance (after being offered certain support services), the parent could be charged with a misdemeanor and face up to a year in jail and $2,000 in fines. Or, depending on the circumstances, an uncooperative parent might be prosecuted for neglect and/or contributing to the delinquency of a minor. (*Ed.C § 48293; PC §§ 270.1, 272*)

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

WORK PERMITS AND TAXES

Laws that regulate the ability of youngsters to work are generally divided into two categories. The first category regulates *how* and *when* a child is permitted to work. In California, youngsters between the ages of 12 and 18 may obtain a permit to work on school holidays or vacations and, depending on their age and circumstances, certain additional time periods. *(Ed.C § 49111)* Children who are 14 years old and older, for example, may work on school days as well if they follow these rules:

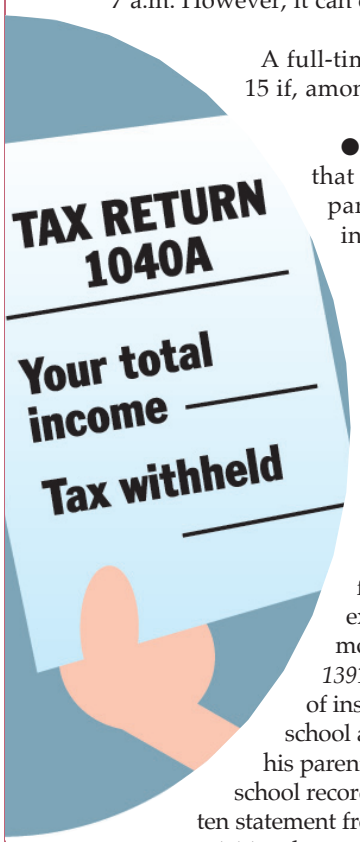
- They work no more than three hours on a school day and no more than 18 hours in a school week. *(Ed.C § 49116; Lab.C § 1391(a)(2))*

- They work no more than eight hours on a non-school day and no more than 40 hours in a non-school week. *(Ed.C § 49112(c); Lab.C § 1391(a)(1))*

- From the day after Labor Day until midnight on May 31, their workday may not begin before 7 a.m. or end after 7 p.m. *(Lab.C § 1391(a)(1))*

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

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



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

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

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

Children who are 16 and older can obtain full-time work permits. Those 18 and older no longer need such a permit. A few industries are exempt from the age restrictions in the child labor statutes. For example, children of any age may perform in television, movies or theatrical productions. *(Lab.C §§ 1298, 1308.7, 1391)* Work permits are issued by the state superintendent of instruction, an authorized school district or a designated school administrator. To obtain a work permit, the minor and his parents or guardians must provide the state with the minor's school record (grade and attendance), evidence of age and a written statement from the prospective employer confirming that the work is available. The parent or guardian also must describe the type of work and produce a health certificate from a doctor stating that the child is physically fit to perform such work. *(Ed.C §§ 49110, 49117, 49133)*

Labor laws: The second category of laws that regulate children at work are state labor codes. These laws are intended to regulate *employment practices* and the *type* of work that young people are permitted to do. Violation of these laws carries civil and criminal penalties. Such laws outlaw the use of minors in dangerous occupations, for example, or in jobs that might put the child at risk of being exploited. *(Lab.C §§ 1285-1312, 1390-99)* With some exemptions, minimum wage and overtime pay is the same for adults and minors. (*Lab.C 204, 29 USC 205, 207, 214)* 204, 29 USC 205,207,& 214)

Both federal and state laws set minimum wages and overtime pay rates. *(29 U.S.C. § 206; Lab. C § 1182)* In 2017, California's current $10-an-hour minimum wage is scheduled to rise to $10.50. It will go up each year until it reaches $15 an hour in 2022. (*Lab. C § 1182.20*) However, cities and counties also set minimum wages, and there the wage that is most beneficial to the employee must be paid (*Lab. C 1182, USC*

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218). Non-exempt employees must still be paid one-and-a-half times their regular pay rate for working more than eight hours a day or 40 hours per week. *(Lab.C §§ 510, 1197)* In some casees, employers may pay less to minors or trainees.

Taxes: Young people may be required to file federal and state income tax returns. *(IRS Publ. 929)* Generally, filing requirements for a *dependent child* (a child who is receiving more than half of her support from her parents and is under the age of 19 or a full-time student under the age of 24) are the same as for any other U.S. citizen or resident. In short, a dependent child must file an income tax return if:

- A minor has only unearned income and it exceeds $1050 (in the 2015 tax year).
- A minor has total earned and unearned income in excess of the basic standard deduction ($6,300 in the tax year 2015).

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

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

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

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

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

LEGAL TERMS

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

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

Aid and abet: to actively, knowingly or intentionally help someone commit a crime.

Appeal: to resort to a higher court for the purpose of obtaining a review of a lower court's order. The person who seeks such a review is called an *appellant* and the person against whom the appeal is filed is called the *appellee*.

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

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

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

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

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

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

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

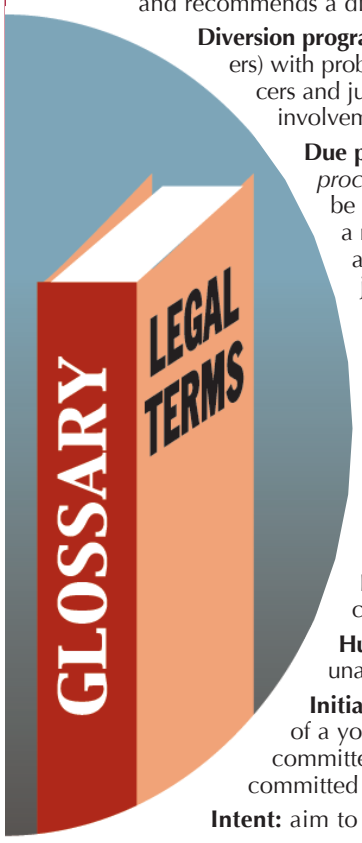
Contributing to the delinquency of a minor: the act of aiding or encouraging improper conduct of a minor.

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

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

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

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



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

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 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.

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

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

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

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

Juvenile court: courts established by a state to hear matters involving 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 or jury.

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

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

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

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

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

Prosecution: suing someone in a civil case or trying someone on criminal charges.

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

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

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

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

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

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

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

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Kids & The Law

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

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