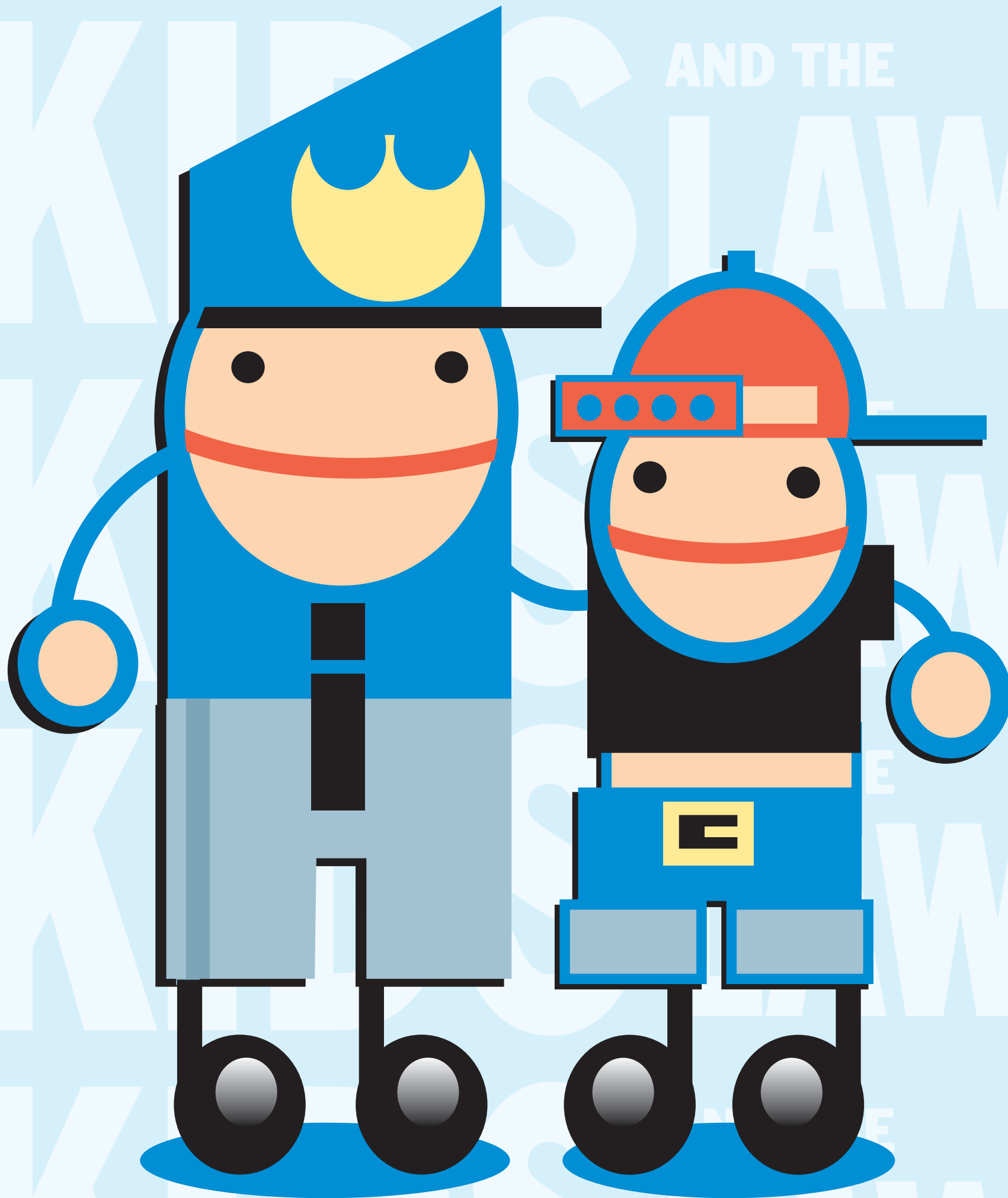


KIDS AND THE LAW

An A-to-Z Guide For Parents



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AN A-T-O-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. And it may be useful to others as well—to teachers and social workers, for example, who work with young people in California.

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

Keep in mind, however, that this guide is intended to provide you with general information. Laws are constantly subject to change. If you have a specific legal problem, you may want to consult an attorney.

The Age of Majority / Alcohol and Kids / Bikes, Skateboards and Scooters / Cars, Kids and Traffic Laws / Civil Laws and Lawsuits / Criminal Law and Crimes / Curfew Laws / Drugs and Kids / Emancipation / Fighting / Gangs, Gang Colors and Dress Codes / Graffiti / Guns and Other Dangerous Weapons / Hate Crimes and Hate Speech / 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 / Vandalism / Work, Work Permits and Taxes / Legal Terms

2 THE AGE OF MAJORITY

The *age of majority* is a term used by lawyers to describe the time in life after which a person 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. Following the ratification of the 26th Amendment to the U.S. Constitution giving 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 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 may come at an earlier age, while others come later. For example, a California resident may be issued a provisional driver's license at age 16 (see *Cars, Kids and Traffic Laws*), but may not purchase alcoholic beverages until age 21. So, what the age of majority has really come to mean is that point when an individual is treated as an adult for most purposes.

Attaining the age of majority, however, also brings with it 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 conditions of employment under child labor laws (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 15 for information on ordering additional copies of *Kids and the Law: An A-to-Z Guide for Parents*.

ALCOHOL AND KIDS

In a recent California survey, roughly one in two 9th graders reported they had consumed at least one alcoholic drink at some point. More than 40 percent of the 11th graders surveyed admitted drinking enough alcohol to become "drunk or sick."

The legal age for drinking alcohol in California, however, is 21. (B&PC §§ 25658, 25659) 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.

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

Also, with some exceptions, individuals under the age of 21 are prohibited from being in bars or other establishments where liquor is being served. The law makes it illegal to possess false identification or use a fake I.D. to purchase (or attempt to purchase) alcohol or enter an establishment where alcohol is being served. While it is legal for those under 21 to be present in a home where adults over 21 are drinking alcohol, it is illegal to provide alcohol to anyone under 21. Parents and others providing the alcohol can be held criminally liable for contributing to the delinquency of a minor.

Under a recent law, a parent could face a misdemeanor charge, up to one year in jail and a \$1,000 fine if his or her child under age 18—or the child's underage companion—causes a traffic collision after drinking alcohol in the home. The law would apply if the parent permitted the child to consume alcohol or use a controlled substance and then allowed the child to drive (with a blood-alcohol concentration of at least 0.05 percent). (B&PC § 25658.2)

In addition, special provisions of the law deal with underage drinking at unsupervised social gatherings. Under California law, an unsupervised social gathering is a public party or event, which is attended by 10 or more people under the age of 21, and is not supervised by a parent or guardian of any of the participants. In such a situation, a peace officer (who lawfully enters the gathering) can seize alcoholic beverages from anyone under 21. (B&PC § 25662(b))

The punishment for violating such laws varies. The offender may be found guilty of an infraction or a misdemeanor. In addition, young people between the ages of 13 and 21 who violate the law may have their driver's licenses suspended,

KEY CODE ABBREVIATIONS

B&PC	BUSINESS AND PROFESSIONS CODE
CC	CIVIL CODE
CCP	CODE OF CIVIL PROCEDURE
Ed.C	EDUCATION CODE
FC	FAMILY CODE
Govt.C	GOVERNMENT CODE
H&SC	HEALTH AND SAFETY CODE
IC	INSURANCE CODE
IRC	INTERNAL REVENUE CODE (U.S.)
Lab.C	LABOR CODE
PC	PENAL CODE
Prob.C	PROBATE CODE
VC	VEHICLE CODE
W&IC	WELFARE AND INSTITUTIONS CODE

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

revoked or delayed for up to one year for each offense related to the possession, consumption or purchase of alcohol. *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 to perform community service. A young person convicted of a second or subsequent offense will be fined up to \$500 or required to perform more community service. (B&PC §§ 25658, 25662(a))

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 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*.)

Parents are not the only adults who may be liable under laws intended to guard against underage drinking. Laws prohibiting the provision of alcoholic beverages to those under 21 also provide for penalties against bar operators and liquor store owners and their employees as well.

For example, while parents and social hosts generally cannot be sued if a drunk-en, underage party guest causes someone to be hurt in a traffic collision, bar operators would be liable for civil damages in such situations *under certain circumstances*. If a bar operator serves alcohol to an underage, *obviously intoxicated* patron who later causes a car accident, that operator would be civilly liable for the resulting injuries (except for those sustained by the drunken youth). If the intoxicated patron was under 18, the operator could be sued for the patron's injuries or death as well. (B&PC § 25602)

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, in California, bicycle riders under the age of 18 must wear a bicycle helmet (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 radio headset is prohibited while riding a bike. The number of people who can ride on a bike is limited to the number of actual seats. It is against the law to ride on someone's bicycle handlebars or center frame bar, or over the bike's rear tire. (VC § 21204)

There are also laws that apply to those who use skateboards, skates and scooters. 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 skate parks. (H&SC § 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. (W&IC § 245)

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 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)

Is a bicycle license necessary? No. There is no state law requiring the licensing of anyone—adult or child—who wishes to ride a bike. Some local ordinances, however, do provide for a system of licensing bicycles. In such instances, licensing forms can be obtained from the police department, the fire department or a bike store, depending on the community. Some towns also register bicycles. Both licensing and registration of a bike may assist with its retrieval if it is lost or stolen. It is against the law to remove a bicycle's serial number or to buy, sell or possess a bicycle that has had the serial number taken off. (VC §§ 39001-07)

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

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

To get a *provisional license*, your child must:

- Be at least 16 years old.
- Finish both driver education and six hours of 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 Aid* have been completed. This booklet is available at local DMV field offices.
- 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.)

In addition, the law imposes some restrictions on those with a provisional driver's license:

- For the first six months, the minor may not drive with anyone under the age of 20 in the car, or between the hours of 12 a.m. and 5 a.m., *unless* accompanied by a driver who is age 25 or older.
- For the next six months, he or she still cannot drive between 12 a.m. and 5 a.m. unless accompanied by an adult age 25 or older. However, at any other time of the day or night, he or she can now drive with passengers under the age of 20 without adult supervision.
- 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 four years after the date the license was granted.

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 the illness of a family member. Or, such a permit might be allowed if the minor needs it for transportation to and from a job and the minor's income is essential to the support of his or her family. (VC § 12513) In addition, a student driver's license may be obtained by a student who is over 15 years old and is taking driver training in a 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. 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: (VC § 17709)

- \$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.

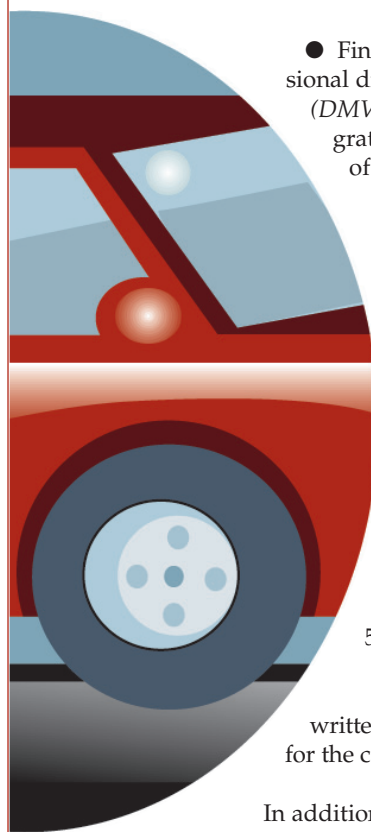
Many parents simply add their child to their own policy, but this can be expensive. In California, minors who get their own policies are required to have the following minimum auto insurance coverage: (VC § 16430)

- **Bodily injury**—\$15,000 per person/\$30,000 per accident.
- **Property damage**—\$5,000 per accident.

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 which will be driven by your child.

In addition, the liability limits do not apply when a parent has *negligently* entrusted their 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. (VC §§ 16020, 16028) The penalty for a first offense of driving without proper insurance is a \$100 fine, plus penalty assessments. (VC § 16029)

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 alcohol inside a car is punishable by up to \$1,000 in fines and six months in jail. A minor’s license can be suspended 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 or 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 and older, the illegal BAC is higher, 0.08 percent or more. (VC § 23152(b))

If your teenager is stopped for driving under the influence (DUI), a peace officer may administer a breath, blood or urine test to determine his or her blood-alcohol level. The driver may not refuse to submit to testing without facing serious penalties. Those who do not submit to a BAC test could be fined or imprisoned and may have their driver’s license suspended or revoked for a period of one to three years. (VC §§ 13353.1, 23136, 23612)

And even if a breath, blood or urine test is not performed, a young person could still be convicted of 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) The court may choose the longest of these options. (VC § 13352.3)

In most cases, a minor convicted of DUI also will be required to participate in an alcohol education or community service program. If the individual is over 18, he or she will be required to pay the cost of attending this program; otherwise, the expense is 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 may revoke or suspend his or her driver’s license. And if the minor does not yet have a license, he or she will be delayed in receiving one. These sanctions will 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 seven years. (IC § 1861.025)

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 some other form of relief 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)

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 age 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 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 does not start until a 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 curfew laws, laws against smoking and laws requiring smoke detectors or fire escapes.

Laws that Young Drivers Should Know:

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 bodily injury to others. (VC §§ 23103, 23104)

Speed contests: Speed contests are against the law. A judge can suspend a first-time offender’s driver’s license for 90 days and may suspend a minor’s license for up to six months for subsequent offenses, as well as impose fines of up to \$1,000. (VC §§ 3352, 23109)

Littering and throwing objects at or from a vehicle: California law makes it a misdemeanor to throw anything at or from a moving vehicle, and a felony to do so with the intent to cause great bodily harm. The law also prohibits littering or throwing lighted cigarettes from a motor vehicle; the penalties range from a \$100 fine to a \$1,000 fine and probation. (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 motor vehicle. 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 licenses, vehicle licenses and other relevant information. In addition, if someone dies in the collision, the accident must be reported to the California Highway Patrol (CHP) or a police officer. When only property damage is involved, the maximum penalties for failing to report such damage or otherwise notify the property owner are six months in jail and/or a \$1,000 fine. If someone is injured, however, the penalties could be as severe as \$10,000 in fines and/or one year in jail, in addition to any liability incurred for the injury. (VC §§ 20001-04)

Driving without a license: In California, it is a misdemeanor to drive without a valid driver’s license. Also, the law requires drivers to have their licenses in their possession while driving. Driving with a suspended or revoked license is a misdemeanor carrying a punishment of five days to six months in jail and/or a fine of up to \$1,000 for a first conviction. (VC §§ 12500-27, 13553, 14601, 14601.5)

Laser pointers: It is illegal to point a laser into a motor vehicle to annoy or harass the driver or passengers. Violating this law could result in a \$50 fine, or required community service. A subsequent violation could result in a \$100 fine or additional community service hours. (PC § 417.27)

Seat belts/child passenger restraints: It is illegal to operate a motor vehicle unless the driver and all passengers are properly restrained by a safety belt. (VC § 27315) Violators can be fined. In addition, children who are under age 6 or who weigh less than 60 pounds must be secured in federally approved safety seats. Beginning in 2005, such 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. Youngsters will not be permitted to ride in the front seat of a vehicle with an active air bag if they are under a year old, weigh less than 20 pounds or are restrained in a rear-facing car seat. (VC §§ 27360-27360.5) For more information, call the Auto Safety Hotline at 1-800-424-9393.

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 judgement is imposed.

MYTH: Some parents believe that children who are under a certain age cannot be convicted of a criminal act. But 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. Such laws or ordinances are typically passed and enforced by local municipalities, cities and townships. 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 state law, parents can be charged for the administration and transportation costs of returning a minor to his or her home on a second curfew violation. (*W&IC § 625.5(d)*) Also, a child who is a frequent or habitual curfew violator may be declared a ward of the court and treated as a status offender. (*W&IC § 601(a)*) 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 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.

If a child breaks curfew, he or she can be temporarily detained by police and returned home. State law also gives local police some latitude in their enforcement of such curfew ordinances if the officer believes a youth has a “legitimate reason based on extenuating circumstances” for the violation. (*W&IC § 625.5(c)*)

If you don’t know whether your community has a curfew law, call your local police department. If your community does have a curfew, obtain a copy of the law and a 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.

DRUGS AND KIDS

In a 2003 survey of nearly 50,000 secondary school students nationwide, one in two high school seniors admitted they had tried some type of illicit drug. Roughly one in 20 reported using marijuana or hashish nearly every day.

Illicit drug use overall has declined among 8th, 10th and 12th graders in recent years, according to the annual study funded by the National Institute on Drug Abuse. But drug abuse among young people remains a serious problem—and parents are often the last to know when their child is in trouble.

The non-medical use of certain painkillers, such as Vicodin and OxyContin, and some renewed interest in inhalants among teenagers have raised concerns in recent years. In addition, teen use of MDMA (known as “ecstasy”)—one of several so-called club drugs—shot up in the late 1990s and has only recently begun to decline, according to recent data. Certain other club drugs have been associated with sexual assaults (such drugs are, for example, sometimes slipped into an unsuspecting victim’s drink). For more information on drug abuse, visit the National Institute on Drug Abuse Web site at www.drugabuse.gov.

Laws regulating drugs exist at the federal and state levels. Most of the federal

ON DRUGS

Parents are often the last to know that their child is involved with drugs. You need to look for marked changes in your child’s general behavior and attitude. While some change in behavior is typical of adolescence, you should be particularly concerned if you see a combination of changes in your child, including:

- A noticeable lack of interest in once rewarding activities or close friends.
- Frequently vague or withdrawn moods.
- Secret telephone calls or meetings, or being peculiarly secretive about personal possessions.
- Increased frustration levels and frequent temper tantrums.
- Changes in sleeping and eating habits.
- A rapid decline in school grades or an unusual number of recurring absences.
- Frequent borrowing of money or the outright lack of money.
- Stealing or the disappearance of valuable items from around the house.
- Changes in personal dress, from neat and reasonably clean to unkempt and dirty.
- New friends and hangouts, and the development of unusually strong alliances with those friends.

laws deal with large-scale drug trafficking, an activity in which most children are not involved. Young people are far more likely to face state charges of *possession of a controlled substance*. (*H&SC §§ 11053, 11354*) More than 135 controlled substances carry a felony charge for possession alone. Such substances include, for example, 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 a misdemeanor, 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. (*H&SC §§ 11357-58*)

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

In California, courts can suspend a young person’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 and alcohol-related offenses. If the minor has yet to get a driver’s license, driving privileges may be delayed for a year after 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. (*H&SC § 11351*)

In addition, the state imposes severe sanctions on anyone age 18 or older who unlawfully prepares for sale, sells or gives away a specified controlled substance to a minor at locations where children are present. This would include a school campus, public playground or child day care facility, for example, at any time when minors are using the facility. Such conduct could lead to a prison sentence of up to nine years. (*H&SC §§ 11353.1- 11353.6*) Anyone under the age of 18 who induces another minor to violate certain laws related to controlled substances also could wind up in state prison. (*H&SC § 11354*)

some commonly abused drugs

	marijuana	cocaine	MDMA	oxycodone HCL	methamphetamine	inhalants
Commercial and street names:	blunt, dope, ganja, grass, herb, joints, Mary Jane, pot, reefer, sinsemilla, skunk, weed	Cocaine hydrochloride; blow, bump, C, candy, Charlie, coke, crack, flake, rock, snow, toot	Adam, clarity, ecstasy, Eve, lover’s speed, peace, STP, X, XTC Note: This is one of the so-called club drugs.	<i>OxyContin</i> ; <i>Oxy</i> , <i>O.C.</i> , <i>killer</i> Note: Vicodin is another commonly abused drug with similar effects and potential consequences.	<i>Desoxyn</i> ; <i>chalk</i> , <i>crank</i> , <i>crystal</i> , <i>fire</i> , <i>glass</i> , <i>go fast</i> , <i>ice</i> , <i>meth</i> , <i>speed</i> Note: This is one of the so-called club drugs.	<i>Solvents</i> (paint thinners, gasoline, glues), <i>gases</i> (butane, propane, aerosol, propellants, nitrous oxide), <i>nitrites</i> (isoamyl, isobutyl, cyclohexyl); <i>laughing gas</i> , <i>poppers</i> , <i>snappers</i> , <i>whippets</i>
How used:	swallowed, smoked	injected, smoked, snorted	swallowed	swallowed, snorted, injected	injected, swallowed, smoked, snorted	inhaled through the nose or mouth
Effects and potential health consequences:	euphoria, slowed thinking and reaction time, confusion, impaired balance / cough, respiratory infections, impaired memory and learning, increased heart rate, anxiety, panic attacks, addiction	increased heart rate and blood pressure, feelings of exhilaration, increased temperature / rapid or irregular heart beat, reduced appetite, heart and respiratory failure, chest pain, nausea, strokes, seizures, headaches, panic attacks	increased heart rate, mild hallucinogenic effects, increased tactile sensitivity, empathetic feelings / impaired memory and learning, hyperthermia, cardiac toxicity, renal failure, liver toxicity	pain relief, euphoria, drowsiness / nausea, constipation, confusion, sedation, respiratory depression and arrest, tolerance, addiction, unconsciousness, coma, death	increased heart rate and blood pressure, aggression, violence, psychotic behavior / memory loss, cardiac and neurological damage, impaired memory and learning, tolerance, addiction	stimulation, loss of inhibition, headache, nausea or vomiting, slurred speech, loss of motor coordination, wheezing / unconsciousness, cramps, weight loss, muscle weakness, depression, memory impairment, damage to cardiovascular and nervous systems, sudden death

Courtesy of the National Institute on Drug Abuse

EMANCIPATION

Legally speaking, *emancipation* is that point in time when parents are no longer responsible for their children, and children no longer must answer to their parents. (FC §§ 7002, 7050) 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 or medical care. This means that your minor child does not have to be responsible to you and may live wherever he or she wishes to live.

In addition, an emancipated minor can make his or her own medical, dental or 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 years of age, 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 means 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

Of the many ways young people get into trouble with the law, fighting is among the most common. 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 the person of another. In other words, battery is when an assault has been successfully carried out. (PC § 242)

In California, an assault is a misdemeanor punishable by six months in custody or \$1,000, or both. When an assault is committed against certain people, such as a peace officer, firefighter, school employees, mobile intensive care paramedics, animal control officers 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 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 § 241.6) If convicted of battery, also a misdemeanor, a young person could face up to six months in jail and a \$2,000 fine. If the battery was directed at specific public service or medical personnel, the potential punishment would increase and could even include a prison sentence. (PC §§ 243, 243.1) Fights that occur on school grounds, in parks or at a hospital also are of special concern. (PC § 243.2)

Rowdy Fan Law: If you try to distract a player or interfere with a play at 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 new 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)

But sometimes 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.

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.

Also, keep in mind that fighting on a school campus could result in additional consequences. For example, such fighting could be grounds for suspension or expulsion (See *Schools and School Rules*). This is true even if the assault was the result of a student hazing as part of some initiation process. Unlawful hazing is any act that is meant to degrade or injure a fellow student. Illegal hazing can result in up to one year in jail and \$5,000 in fines. (Ed.C §§ 32050-51)

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. (Ed.C § 44014)

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

GANGS AND GANG COLORS AND DRESS CODES

An estimated 95,000 gang members belong to street gangs in Los Angeles County alone. Traditionally urban, gangs now exist in every corner of the state. And as they have increased in size and presence, they have grown more violent as well. In response to gangs carrying guns and terrorizing neighborhoods, 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, for example, add 10 more years to the individual's prison sentence. (PC § 186.22(b)(1))

A *criminal street gang* is defined as 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)) These specific criminal acts include, for example, assault with a deadly weapon, sale or transportation of controlled substances, robbery, homicide, manslaughter, burglary, rape and kidnapping. (PC § 186.22(e))

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

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. Under public nuisance law (CC § 3480), cities have imposed up to six months in jail or a \$1,000 fine against gang members who violate the injunction.

Why do kids join street gangs?

There are many reasons. But some of the reasons mentioned most often by children and experts are:

- To be a member of something larger than themselves or to be part of a team.
- For protection from other gangs, school acquaintances or adult figures of one type or another.
- To become a leader with power, respect and the backing of an organized group.
- To enhance their self-esteem.

- To make money (though illegally) and acquire material goods, which bring status and power.
- For the thrill of it; to be “cool.”
- To acquire a reputation; to be significant.
- To rebel.

MYTH: Some kids, 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

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. Anyone who maliciously defaces, damages or destroys someone else’s property is guilty of *vandalism*. (PC § 594) In addition, with graffiti-related clean-up costs approaching \$500 million annually in California a decade ago, laws were passed to specifically forbid anyone from putting graffiti on, for example, government facilities, vehicles and public transit, or within 100 feet of a highway, or on a freeway overpass support, sound walls or traffic signs. (PC §§ 640.5, 640.6, 640.7)

The laws define graffiti as an unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on real or personal property. (PC § 594(e))

How severely a so-called tagger—someone who does graffiti—will be punished depends on the extent of the damage. If the damage amounts to \$400 or more, for example, he or she could face up to a year in jail or as much as \$10,000 in fines. If the damage is \$10,000 or more, the punishment could increase to a \$50,000 fine and/or imprisonment. (PC § 594(b)(1)) If the damage is less than \$400, the punishment could be imprisonment for up to one year and/or a fine of up to \$1,000. (PC § 594(b)2(A))

In addition to fines and jail time, courts also can order the tagger to clean up, repair or replace damaged property. (PC § 594(c)) And taggers between the ages of 13 and 21 could have their driver’s licenses revoked or delayed for up to a year. (VC § 13202.6(a)(1)) The length of the suspension or delay may be reduced, however, if the young person performs community service, which could include removing graffiti from public property. (VC § 13202.6(a)(2))

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))
- Damages or losses related to merchants’ property or library books. (PC § 490.5)
- Damages 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, Parents’ Rights and Responsibilities*, and *Vandalism*.

GUNS AND OTHER DANGEROUS WEAPONS

In a national survey in 2001, one in six high school students admitted that they had carried a weapon at some point in the prior month. One in 16 admitted bringing a weapon to school.

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. If the minor is age 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 § 12101) In addition, no one may sell or give a firearm, even an air gun or gas-operated gun, to a minor without parental consent. 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 unmarked pistols (handguns that have their identifying numbers removed), as well as sniper scopes, silencers and plastic firearms. (PC §§ 12020, 12094, 12520)

Other illegal weapons (illegal to manufacture, import, possess, sell, give or even lend to someone) include any ballistic knife, fletchette dart, blackjack, sling shot, nunchaku, metal knuckles, dirk, dagger, a weapon held in a camouflaging firearm container and oriental throwing stars. Also prohibited are belt buckle knives, leaded canes, zip guns, shurikens, lipstick case knives, writing pen-knives and unconventional pistols. (PC §§ 12020, 12094)

On the topic of weapons and young people, parents should be aware that:

- If your child is caught possessing, selling or using a dangerous weapon at school, he or she can 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))

- 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) Additionally, parents who have negligently given their child a gun can be prosecuted for criminal negligence if the youngster uses the gun to injure or kill someone.

- Using a weapon during the commission of another crime will increase the punishment for the crime (add years to a prison sentence). In addition, the crime will be treated as a felony. (PC § 12022(c))

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

HATE CRIMES AND HATE SPEECH

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

Some Examples of Hate Crimes

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

When prejudice is the principal reason or motive behind the violence, intimidation or threat, California law increases the punishment for the crime. A hate crime conviction for an adult or a minor can add one to three years of prison time to a sentence, depending on the circumstances. (PC § 422.75) If two or more people commit a hate crime together, their sentences could be increased by two to four years. (PC § 422.75(c)) In addition, California students between the 4th and 12th grades 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 be sued by the victim as well and, under California law, may be ordered to pay:

- For 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. As a result, 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))

JUVENILE COURT

California, like all other states, has a separate court system for children under the age of 18. 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 simply 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*)

And then there are those children who have been abused, neglected or abandoned. A judge must decide who will be responsible for taking care of these children. This is done through court *dependency hearings*. (W&IC §§ 300, 360) In some instances, custody is taken away from the parents temporarily, and the children are placed in foster care. (W&IC § 727(a)(3)) Parents then may 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. (W&IC § 366.26) (See *Parents’ Rights and Responsibilities*)

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

Generally, this decision is based on the following criteria:

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

Usually, a child will only be transferred to adult court if 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. (W&IC §§ 602, 707) Children who remain in the juvenile justice system may be kept under the court’s jurisdiction until they reach age 21—if they became wards of the court before turning 16. If the child is more than 16 years old when charged with a crime, he or she will remain a ward of the court until age 25. (W&IC § 607)

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

Detained children must be released within 48 hours (excluding non-court days) unless a criminal complaint or petition for wardship is filed. (W&IC § 631, *Cal. Rules of Court, rule 1471*) During this time, the parents must be notified about what is going on and/or the intent of the probation department to have their child made a ward of the court. (W&IC §§ 307.4, 316) During these proceedings, the minor has a right to a lawyer and has most of the procedural due process rights given to adult defendants. (W&IC §§ 317, 679, 702.5)

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



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

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

All final decrees from the juvenile court can be appealed to a higher court (W&IC §§ 395, 800), and most juvenile records may be sealed or destroyed with the appropriate request to the court. (W&IC §§ 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. (W&IC §§ 389, 781)

KIDS IN NEED OF SUPERVISION

Children in Need of Supervision—once referred to as *wayward youth*—are defined by law (W&IC § 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 truanancies within a school year (see *Truancy*).
- Persistently refuse to obey the reasonable and proper orders of school authorities.

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

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

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

Note: In California, there is a separate law involving loitering on or near any school or public place where children are present. (PC § 653g) 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 punishable by a fine of up to \$1,000 or six months in jail, or both. (PC §§ 19, 647)

Help for Kids who Have Run Away From Home

The California Youth Crisis Line 1-800-843-5200

The hotline provides 24-hour counseling and referral services to children who have run away from home or who need help. In addition, assistance is available for runaways who want to go home or relay a message to their family.

Note: In California, children who are at least 12 years old have the right to remain at a runaway shelter if a professional counselor deems them mature enough to make such a decision. The law also states that if it is possible the child could hurt himself or endanger others, or if the minor is an alleged incest or child abuse victim, he or she may remain at the shelter. (FC §§ 6920, 6921, 6924)

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. And, if the situation is extreme, the parents may seek to give up legal responsibility for the child. Or, if the parents fail to adequately control their child, a judge may determine that the child is in need of supervision and declare him or her a ward of the court. When this occurs, the court sometimes takes custody of the child and the responsibility for that child's basic needs and education. (See *Kids in Need of Supervision*)

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

Earnings: While most parents allow their child to keep his or her earnings, parents do 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 § 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 person responsible. (CCP § 376)

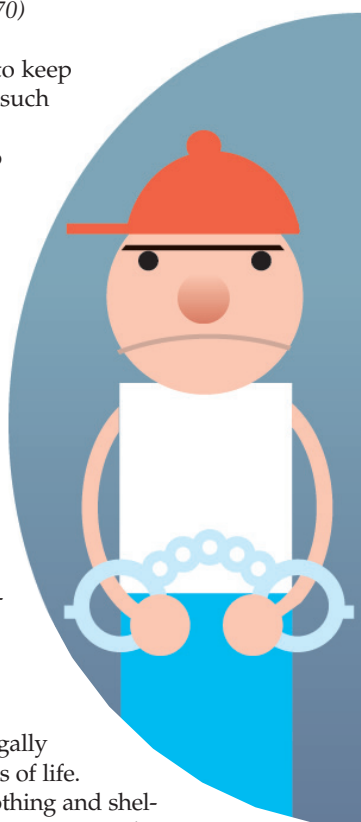
Parental responsibilities: Parents' most important responsibility is to support their children. They are legally obligated to provide their children with the necessities of life. (PC § 270) Such necessities are not limited to food, clothing and shelter, but also include medical care. In addition, parents are expected to support their children 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 § 9305) 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. (W&IC § 11477) Parents also are required to reimburse the county for support costs incurred during the detention of a child under a juvenile court order. (W&IC § 903) And parents must pay the county back for legal services provided to minors in juvenile court proceedings. (W&IC § 903.1) The duty to provide support to children lasts until the child reaches the age of majority, usually 18, or 19 if the child is still enrolled in high school full-time. (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 upon 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 for 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 § 9305) 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. (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. (This could apply to the parents of a child who commits an Internet-related crime, such as software piracy.) (CC § 1714.1)

Destruction of property: Parents may be liable for sums that their children cannot pay, up to \$50,000. (PC § 594(b)(d))

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))

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

Truancy fines: Parents may be required to pay fines of up to \$100. (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. (W&IC § 625.5(e))

POLICE AND POLICE ENCOUNTERS

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

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

Respectfully decline permission to search. Children have the same protections as adults against unreasonable searches and seizures under the Fourth Amendment to the U.S. Constitution. Generally, police only have the right to conduct a *full-scale* search of someone who has been placed under arrest. (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 the minor gives permission, he or she will be giving up his or her Fourth Amendment rights. Those Fourth Amendment rights are protected, however, if the minor respectfully declines the officer's request to conduct a search.

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

Call your parents. When taken to a police station or juvenile hall, minors have the right to place two telephone calls to parents or a responsible friend within one hour. (W&IC § 308(b)) If the minor is arrested, police are required, if asked, to state the charges. If the child's parents cannot afford to hire a private attorney, the child is entitled to have a court-appointed attorney represent him or her in juvenile court proceedings. (W&IC § 634)

Get your court date. When released, juveniles should find out when they are due back in court. They should never be late for a court appearance, nor 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. (PC § 1214.1(a))

Don't talk about your case. Young people should avoid talking to anyone except their lawyer(s) or parent(s) about any criminal charges brought against them. They should, however, be encouraged to talk openly and honestly with their lawyer. Without all 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 of us. This is particularly true today when information about every aspect of our lives is stored in computers around the world, 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 which arise at school or at home, or which 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.

Nearly 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.

Less than a decade ago, the U.S. Supreme Court upheld a public school policy authorizing the random drug testing of student athletes. 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, in 1985, 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 prior knowledge of, or information concerning, the student's use, possession or sale of drugs. The court also 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 (kitchens and living rooms, for example). A California case also outlined some specific protections for minors regarding a child's personal property.

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. (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 has been found to be of sufficient maturity and is seeking medical care related to the care and prevention of pregnancy (this includes birth control information and devices and/or an abortion or any other care, short of sterilization). (FC § 6925)

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)

Note: 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)

1998 Children's Online Privacy Protection Act

Operators of children's Web sites that collect personal information from youngsters age 13 and younger are required to post a privacy notice. The notice should say whether such information will be sold or forwarded to a third party. The notice has to request parental consent, which generally must be obtained before the child's personal information can be collected. In agreeing to provide personal data, the parent can request that the information not go to another party.

Note: Parents and their children should be aware of the potential dangers and risks, in addition to any benefits, in providing personal information online. For further information, contact the National Center for Missing and Exploited Children and request free copies of *Child Safety on the Information Highway* and *Teen Safety on the Information Highway*. These publications can be obtained online in English and Spanish at www.missingkids.com or, in printed form, by calling 1-800-THE-LOST (843-5678).

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 (PC § 496) regardless of the item's value. If the stolen property's value is more than \$400, the punishment for the crime is increased. (PC § 496(b))

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 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? Did the child know that similar items had recently been stolen? And what were the child's past dealings with whoever sold the stolen property?

SCHOOLS AND SCHOOL RULES

It is important for parents to know something about the most critical school rules and how schools operate.

School structure: In general, public education in this state 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 a group of people supervising the day-to-day activities of its schools. These individuals are called school administrators. The organizational structure of schools may vary from district to district, but key administrative personnel include:

- A board of education or school board whose members are generally elected to office.
- A superintendent who acts as the chief administrator of the school system.
- The principal who is responsible for the operation of a given elementary or secondary school, including the supervision of teachers and the protection of the health and safety of all students and staff.

It is important to understand how your child's particular school or school district operates so that you can better deal with problems that may arise. The names of school employees are public information and should be made available to you upon request.

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

School rules: Some rules may be unique to a particular school or classroom. Others may have come about in the form of a directive from a school board. And still others are mandated by state or federal law. Knowing the kind of school rule with which you are dealing is important if you seek to change or challenge the rule.

Some of the most important school rules to know deal with suspensions and expulsions—under what circumstances a child can be told to leave school temporarily or permanently. (Ed.C §§ 48900 et seq., 48915)

Suspensions—In California, students may be suspended if the pupil has:

- Caused, attempted to cause or threatened to cause physical injury to another person.
- Willfully used force or violence on another, except in self-defense.
- Possessed, sold or otherwise furnished any firearm, knife, explosive or other dangerous object without written permission from a certificated school employee and the principal.
- Unlawfully possessed, used, sold or otherwise furnished, or been under the influence of any controlled substance, alcoholic beverage or intoxicant.
- Unlawfully offered, arranged or negotiated to sell any controlled substance, alcoholic beverage or intoxicant, and then either sold, delivered or otherwise furnished to any person another liquid, substance or material and represented the liquid, substance or material as a controlled substance, alcoholic beverage or intoxicant.
- Committed or attempted to commit robbery or extortion.

- Caused or attempted to cause damage to school or private property.
- Stolen or attempted to steal school property or private property.
- Possessed or used tobacco, or any products containing tobacco or nicotine products, excluding use of the pupil's own prescription products.
- Committed an obscene act or engaged in habitual profanity or vulgarity.
- Had unlawful possession of, or unlawfully offered, arranged or negotiated to sell any drug paraphernalia.
- Disrupted school activities or otherwise willfully defied the valid authority of any school personnel.
- Knowingly received stolen school property or private property.
- Possessed an imitation firearm.
- Committed or attempted to commit a sexual assault or a sexual battery.
- Harassed, threatened or intimidated, or attempted to intimidate, a pupil who is a witness in a school disciplinary proceeding.

Ordinarily, a child should only be suspended as a last resort. The suspension should be in response to an offense that took place at school, while traveling to or from 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 intimidation by students in grades 4-12 can be grounds for suspension. (*Ed.C §§ 48900, 48900.2, 48900.3, 48900.4*) Terrorist threats of causing death or great bodily injury, or to damage school property in excess of \$1,000, constitute grounds for suspension or expulsion, even if the student did not intend to carry out the threat. (*Ed.C § 48900.7*)

Finally, in most 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*)

Expulsion—Many of the same rules and grounds also apply to expulsions. But the school principal 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.
- Possesses a 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 a hearing at which they can defend their actions.

When should parents consider challenging the suspension or expulsion of their child from school?

- If the child was suspended or expelled for violating a rule that was not communicated to the child; for example, if the school has no disciplinary code or if the code was never posted or made available to students.
- 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. (Some students are never punished, while others are always being suspended or expelled.)
- 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*)

Note: In California, it is against the law for teachers and/or school administrators to hit students (use corporal punishment). 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*)

For further information on school-related legal issues, see the publication *Law*

in the School: A Guide for California Schools, School Safety Personnel & Law Enforcement. The 152-page California Department of Justice guide is available at www.safestate.org (click on "for teens," then "publications and videos") or, to purchase a printed copy (\$8.95, plus handling and other costs), call 1-800-995-4099.

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 national survey data 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. So, 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 engages in unlawful sexual intercourse and who is not more than three years older than the minor 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/misdemeanor punishable by imprisonment in county jail or state prison. And a person over 21 who engages in sex with someone younger than 16 can be sent to state prison for two to four years. (*PC § 261.5(d)*)

In general, there are no excuses or defenses for unlawful sexual intercourse in California.

California may, however, reduce the charges, dismiss a case or allow for an acquittal if it appears that the minor presented himself or herself as 18 years old or older, or

was involved in activities that would lead the defendant to reasonably believe that he or she was "of age."

This might occur, for example, if the minor was drinking in a bar or enrolled in college.

In addition, a separate California law prohibits *lewd or lascivious acts* (child molestation) with a child under 14.

Sexual intercourse is not an element of this crime, and consent is not an issue. But anyone who commits such a crime could face up to eight years in state prison.

Engaging in lewd or lascivious acts with a minor who is 14 or 15 is punishable by a jail term of up to one year if the perpetrator 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). Rape, in any of these forms, is a very serious crime and is punishable by up to eight years in prison. (*PC §§ 264, 285; FC § 2200*) If the sexual abuse of a child under age 14 continues for three months or longer, the perpetrator could face up to 16 years in prison. (*PC § 288.5*)

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 as well. Many counties in California have victim assistance programs, sexual trauma centers and rape crisis hot lines. These programs are often associated with a county district attorney's office and work with the state to help find and prosecute the rapist.

Such programs also offer counseling, financial assistance and other

Sexual Predators and the Computer

Minimize the chances of an online exploiter victimizing your child:

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

- Spend time with your children online.

- Keep the computer in a common room in the house, not in your child's bedroom.

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

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

- Teach your child the responsible use of the resources online.

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

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

- Instruct your children:

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

Source: Federal Bureau of Investigation Innocent Images National Initiative

services to help victims overcome the trauma associated with being raped.

In California, young people who are 12 years of age 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.

Should I worry about online sexual predators if my child frequently uses the computer?

Spending time online can be a beneficial, mind-expanding experience for your child. However, there are potential dangers as well. In one national survey, for example, one in five Internet users from age 10 through 17 reported receiving an online sexual solicitation or approach within the previous year. For some tips on minimizing the risks, see *Sexual Predators and the Computer* on the previous page. For more information on the risks and what to do if you suspect your child is communicating with an online sexual predator, see the FBI's publication *A Parent's Guide to Internet Safety*. The guide is available in English and Spanish at www.fbi.gov and can be obtained in printed form by calling your local FBI office or 1-202-324-6366. Additional Internet safety information can be found on the National Center for Missing and Exploited Children's Web site—www.missingkids.com—or by calling the center at 1-800-843-5678.

SMOKING AND KIDS

The good news is that teen cigarette smoking has steadily declined since the late 1990s.

Still, in a national survey in 2003, one in four high school seniors reported smoking at least once in the month prior to the survey. One in 12 admitted smoking at least half a pack of cigarettes a day.

In light of the detrimental health effects, California has enacted various laws over the years aimed at eliminating the use of tobacco products among minors.

It is against the law for minors to purchase, receive or possess tobacco products in California. It is also against the law to knowingly sell, give or furnish tobacco products (including cigarette paper and chewing tobacco) to children under the age of 18. (B&PC § 22951; PC § 308)

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. (B&PC § 22952(b)) The owners of stores licensed to sell tobacco products must register any tobacco-related vending machines with the California Department of Health Services and must comply with regulations regarding the location and availability of these machines. Those who violate these laws can be fined up to \$6,000 and have their licenses to sell such products suspended or revoked. (B&PC § 22958)

Note: While 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 be prosecuted for that conduct and have his or her driver's license suspended. (VC § 13202.5) Possession of a false I.D. is a misdemeanor. (PC § 529.5)

Students (whether in elementary or secondary schools) cannot smoke or use tobacco products while at school or attending a school-sponsored activity (see *Schools and School Rules*) without the threat of suspension or expulsion. (Ed.C § 48901) Additionally, many cities restrict the places where anyone can smoke or require that smoking or non-smoking areas be established in public places, restaurants and places of employment and entertainment.

STEALING

The legal term for stealing is *theft*. And the legal definition for theft is: the 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 generally involves stealing or taking money, property or services with a value in excess of \$400. (PC § 487) Petty theft generally involves stealing or taking something worth less than \$400. (PC §§ 487, 488) The punishment for grand theft is up to one year in a county jail or state prison. (PC § 489) Petty theft is punishable by a fine of up to \$1,000 or six months in a county jail, or both. (PC § 490) The use of a gun may result in a state prison sentence of between 16 months and three years. Some forms of theft and other crimes related to gang activity also are subject to greater penalties. (PC §§ 182.5, 186.22)

In addition to the criminal statutes, victims have the right to file civil suits for damages and other expenses. (CC § 1714.1) In some cases, parents can be held responsible for their child's illegal activities. Criminal penalties include fines of up to \$10,000 and state imprisonment for up to three years, or both. (PC § 502)

Joyriding, or 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 penalty for joyriding can include a fine of up to \$10,000 or four years in prison, or both, if the car taken is an ambulance, police car or fire vehicle, or a vehicle modified for use by a disabled person. (VC § 10851(b))

Note: *Robbery, extortion and car-jacking* are considered *crimes against persons* rather than *property crimes*. This is because these crimes occur by way of force, fear or intimidation against someone and are far more serious than simple theft crimes in which the owner of the property is often not around. Remember, involvement in most of these crimes may also be grounds for suspension or expulsion if the crime takes place on school grounds and involves school property or the property of pupils. (See *Schools and School Rules*)

TRUANCY

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

What is a valid excuse for an absence?

- A justifiable personal reason, including a court appearance, observance of a religious holiday or ceremony, or an absence requested in advance by a parent and approved by the school. (Ed.C § 48205)
- A medical reason, illness, quarantine, medical or dental appointment, or attendance at the funeral of an immediate family member. (Ed.C § 48205)
- Religious training. With written parental consent, pupils may participate in religious observances or instruction for up to four days per month under a release-time plan whereby the child 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 instruction full-time at a private school or through a tutor under a variety of circumstances may be exempt from attending public school. (Ed.C §§ 48222-32)

If a student is found to be truant, the school must notify the child's parent or guardian by means reasonably sure to reach the parent (such as first-class mail). The notice must state that: The pupil is truant; the parent should compel attendance; and if the parents do not compel school attendance by their children, they themselves may be guilty of an infraction and subject to prosecution. (Ed.C §§ 48260.5, 48290) 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(s), 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. (Ed.C § 48260.5; VC § 13202.7) And it is recommended that the parents come to school with their child for one day.

If all of these steps have been taken and the child is reported as 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. (W&IC § 601) If this occurs, the juvenile court has the power to require that the parents personally deliver the child to school each day for the rest of the school term, and can force the child's parents to pay a cash bond

Computers, the Internet and Theft

California law also prohibits:

- Pirating or downloading copyrighted material, such as music. (PC §§ 502(c), 13848)
- Accessing someone else's computer without authorization. (PC § 502(a)(b)(1))
- 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, 502(c)(8))

assuring their child’s attendance. (*Ed.C §§ 48268-69*)

A criminal complaint also can be filed against a parent who fails to comply with the order of the school attendance review board or the court. (*Ed.C § 48291*) Penalties include a fine of up to \$100 for a first conviction, \$250 for a second, and not more than \$500 for a third or subsequent conviction. Instead of fines, the court may order the parent to attend a parent education and counseling program. The court may also order the parent to enroll the pupil in the appropriate school or educational program. Willful violations of the court’s order are punishable as civil contempt with a fine of up to \$1,000. (*Ed.C § 48293*) Additionally, 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. (*W&IC § 601*) As a last resort, a court may even lock up a habitual truant who simply refuses to attend school.

Note: Parents who have refused to abide by the state’s education laws or who have failed to cooperate also have been prosecuted for neglect and/or for contributing to the delinquency of a minor. (*PC § 272*)

VANDALISM

If someone maliciously defaces, damages or destroys someone else’s real or personal property, he or she has committed *vandalism*. (*PC § 594*) Covering a storefront with spray-painted graffiti is one common type of vandalism committed by young people. Maliciously scratching a car or breaking someone’s windows also is considered vandalism. In California, some other types of vandalism or malicious mischief include:

- Removing, entering or destroying any part of a railroad or tracks. (*PC § 587*)
- Throwing or depositing oil, glass, nails, wires, cans or other substances likely to injure people onto a public highway. (*PC § 588a*)
- Removing or damaging road or highway maintenance or construction barriers, warning signs and lights. (*PC § 588b*) Maliciously removing or damaging any highway milepost. (*PC § 590*) Maliciously damaging, removing, obstructing or interfering with any telegraph, telephone, cable TV or electricity line. (*PC §§ 591, 593, 593b*)
- Maliciously poisoning, torturing, killing or being cruel to animals. (*PC §§ 596, 597, 597.1*)
- Entering an occupied or unoccupied dwelling and damaging, injuring or destroying property inside. (*PC § 603*)
- Removing, defacing or altering landmarks, trees used as boundary markers and other such objects with the intent to destroy them. (*PC § 605*)
- Destroying or tearing down legal notices before the time for which they were to remain has expired. (*PC § 616*)
- Opening or reading a sealed letter or envelope without the authority to do so. (*PC § 618*)
- Tampering with fire alarm apparatus and giving false alarms. (*PC 148.4*)

Parents can be, and often are, held liable for vandalism committed by their children. This is particularly true when their children have destroyed school property. (See *Graffiti*)

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*)

WORK AND TAXES

In California, as in all states, 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 work permit. With some exceptions, it will only allow them to work on school holidays or vacations. (*Ed.C § 49111*) Children who are 14 and 15 years old, however, 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. (*Lab.C § 1391(a)(1); Ed.C § 49112(c)*)
- 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); Ed.C § 49111*)
- 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 age 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 deliver newspapers or perform in television, movies or theatrical productions. (*Ed.C §§ 49112(c), 49130-31*) Work permits are issued by the state superintendent of instruction or by an authorized school district. 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 §§ 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*)

Both federal and state laws set minimum wages and overtime pay rates. (*29 U.S.C. § 206; Lab. C § 1182*) California’s minimum wage (as of early 2004) is \$6.75. By law, non-exempt employees must be paid one-and-a-half times their regular pay rate for work in excess of eight hours in one day or 40 hours per week. (*Lab.C §§ 510, 1182.11, 1197*) In some instances, however, 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:

- The minor’s unearned income exceeds \$800 (during the 2004 tax year).
- The minor has total earned and unearned income in excess of the basic standard deduction (\$4,850 in tax year 2004).

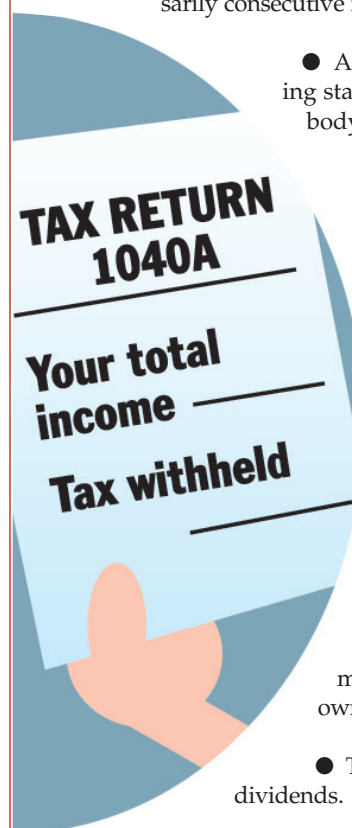
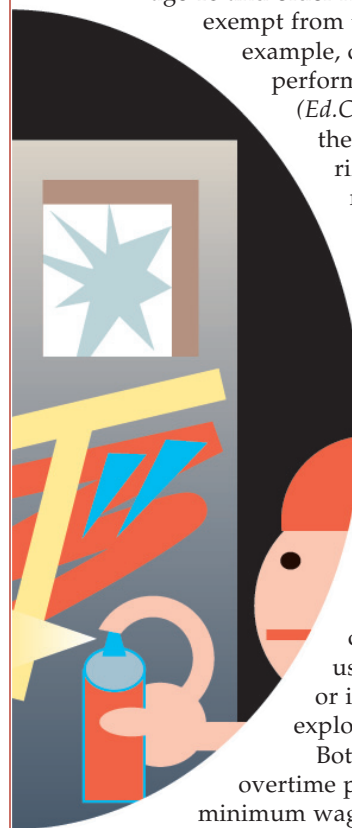
These amounts may differ from year to year, and are different if your child is married or blind. Also, if the child is a full-time student, he or she may be claimed as a dependent until age 24. To qualify as a student, your child must have attended school during some part of five different months in 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 14, a parent may elect to include that child’s *unearned* income on their own tax return in any of the following circumstances:

- The child had unearned income only from interest and dividends.
- The child had unearned income less than \$7,500.
- 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.



See page 15 for information on ordering additional copies of *Kids and the Law: An A-to-Z Guide for Parents*.

LEGAL TERMS

A

Abandonment of a child: When a parent fails to provide any financial assistance to and/or communicate with his or her child over a certain period of time, a court may declare the child legally abandoned. Legal abandonment also occurs when a child is physically abandoned by his or her parent(s).

Accomplice: someone who voluntarily helps another person commit a crime.

Acquaintance rape: the act of being raped by someone known to the victim, such as a date, neighbor or “friend.”

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

Age of majority: the age (18) at which a person becomes an adult, as specified by state law, and acquires most of the rights and the responsibilities of adulthood.

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, intentionally or purposefully assist someone in committing 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.

Arrest: to take a person suspected of a crime into custody.

Assault: to attempt to hurt someone physically in a way that makes the victim feel immediately threatened. There is no need for physical contact.

Attempt: an effort to commit a crime that goes beyond mere preparation but does not result in the commission of the crime.

Attorney: a person who has a law degree (in most instances) and is licensed by the state to advise and represent others in legal matters.

B

Bail: money or property usually put up by the accused or his or her family to allow his or her release from jail before trial. The purpose of bail is to assure the court that the defendant will return for trial.

Battered child: a child who has been the victim of physical abuse.

Battered child syndrome: the term used to describe the syndrome whereby adults who were abused as children grow up to abuse their own children.

Battery: any intentional, unlawful physical contact inflicted on one person by another without consent.

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

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

Booking: the formal process of making a police record of an arrest.

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

Burglary: breaking and entering a building with the intention to commit a felony.

C

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

Capital offense: an offense that may be punishable by death or imprisonment for life.

Capital punishment: the death penalty.

Case number: the number assigned to a case upon its filing in court.

Charge: the formal accusation of a crime.

Child abuse: the neglect or mistreatment of children.

Child in need of supervision: a child who is habitually truant, always violating local curfew laws, running away from home, or for some other reasons beyond the control of his or her parent(s) or guardian.

Child snatching: the act of a divorced or separated parent who takes his or her child away from the other parent who has custody of the child.

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.

Complaint: the first paper filed in a civil lawsuit which states the wrong done to the plaintiff by the defendant.

Compulsory education: the basic right and legal obligation on the part of children to attend school. All states have compulsory education laws and, at a minimum, they usually require that persons between the ages of 6 and 16 attend school.

Conservator: a court-appointed custodian of someone’s property.

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

Contempt of court: to defy a court’s authority. If one is found or held in contempt of court, he or she may be fined, placed in jail, or both.

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

Convict: (1) a person who has been found guilty of a crime and is now in prison; (2) 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 (usually a fine, jail or probation) is set by the state.

Criminal case: an action brought by the federal, state or county authorities against an individual, charging the person with committing a crime.

Criminal justice process: the system by which government enforces criminal law. It includes everything from the arrest of an individual to the individual’s release from control by the state.

Criminal law: the branch of law dealing with crimes and the punishment for them.

D

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

Death penalty: a sentence of death for the commission of a serious crime, such as certain kinds of murder.

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.

Defense: a denial, answer or plea disputing the correctness of the charges against a defendant.

Defense attorney: a private attorney who is hired by the minor and/or the parents to defend the minor in court.

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

Dependent child: (1) a child under the age of majority (age 18) who is found by a court to have been neglected or abused by his or her parent(s) or guardian(s), and then placed under the protection of the court or appropriate social welfare agency; (2) a child who still depends on his or her parents for financial support, a child who can be claimed as a dependent on an income tax return, or a child who is eligible to receive Aid to Families with Dependent Children (AFDC).

Detention: temporary custody such as being held at the police station or in Juvenile Hall.

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

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

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

Drunken driving: (Driving while intoxicated) the operation of a motor vehicle while intoxicated (overcome by alcohol to the point of losing control over one’s conscious faculties). In California, a drunken person’s blood-alcohol concentration is 0.08 percent or above (0.01 percent for a minor).

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.

E | F

Emancipation: the legal term used to describe the point at which parents are no longer responsible for their children, and children are no longer answerable to their parents. This usually occurs when the child turns 18. However, emancipation may sometimes take place earlier if the parent and child have agreed to live independently, the child has joined the military or married, or a court has granted a petition to declare the child emancipated.

Embezzlement: the taking of money or property by a person who has been entrusted with it (a bank teller or company accountant, for example).

Enjoin: a court’s order to stop some particular wrongful act or conduct.

Extortion: taking property illegally by force or threats of harm.

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

Forgery: the act of making a fake document or altering a real one with the intent to commit fraud.

Foster home: the residence or home (other than that of a child’s own parents) in which a child is placed temporarily by a court or welfare department.

Foster parents: those who take in and care for a child who is without parents or who has been removed from the custody of his or her parents.

G

Graffiti: any unauthorized inscription, word, figure, mark or design that is written, marked, etched, scratched, drawn or painted on real or personal property.

Group home: a state-licensed home to which minors who have gotten into trouble with the law, and who do not require a more restrictive environment, are sent.

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.

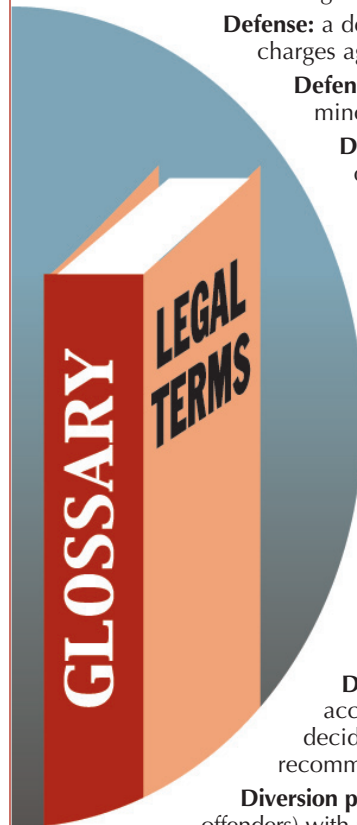
H

Hate Crime: any crime committed against a person (or his or her property) because of his or her perceived race, ethnicity, religion, ancestry, national origin, disability, gender or sexual orientation.

Hearing: a constitutionally required formal proceeding in which the accused is given notice of charges brought against him or her and then has an opportunity to present a defense.

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.



I | J

Incest: the crime of sexual intercourse or cohabitation between a man and woman who are closely related.

Incestuous: sexual relations between close relatives. Relations between parent (including grandparents) and child, siblings, or aunt or uncle with niece or nephew are considered incest.

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

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

Interrogation: the questioning of a witness or suspected criminal.

Jail: a place of short-term confinement for persons convicted of misdemeanors or awaiting trial.

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

Juvenile: a person not yet considered an adult for the purposes of determining either criminal or civil liability; a minor.

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.

K | L

Kidnapping: taking a person against his or her will.

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.

Legislation: laws or statutes that have been enacted by a legislative body.

Lock-up: a secured or *locked* place where the inmates are not free to leave.

Loitering: lingering in a public place with the intent to commit an illegal act.

M | N | O

Malice: ill will; intent to harm.

Malicious mischief: see *Vandalism*.

Mandatory sentencing: laws that require courts to sentence convicted criminals to certain prison terms.

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

Medical malpractice: a medical professional's improper or immoral conduct in performance of his or her duties.

Minor: a person under the age of majority (under the age of 18 in California).

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.

Moral turpitude: dishonesty or vileness of a high degree.

Motive: the reason a person commits a crime.

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

Neglected child: a child is *neglected* when his or her parent or custodian fails to provide necessary physical, emotional, medical or institutional care.

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

P

Parental responsibility laws: statutes in which parents are held responsible for the acts committed by their children.

Parental rights: rights to exercise parental control and custody over a child.

Parole: release from prison before the full sentence has been served, granted at the discretion of a parole board.

Partial emancipation: the legal doctrine that allows minors to keep and spend their own earnings.

Parties: the people concerned with or taking part in a pending legal action or lawsuit.

Paternity: the state or condition of a father, the relationship of a father or fatherhood.

Paternity action (suit): a legal action to determine parentage and often the legal obligation of support.

Penal code: a list of criminal offenses and recommended sentences.

Petition: a formal written request for something to be done.

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*. This is sometimes called *the burden of proof*.

Preventive detention: holding a person against his or her will because of the likelihood that the individual will commit a crime.

Principal: (1) the person who actually commits a crime; (2) the amount of money borrowed or loaned. This amount does not include interest.

Prison: a place of confinement for criminals who are serving long-term sentences.

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.

Probation officer (PO): officers of the court and social workers who work with minors having problems; duties vary from intake to supervision of minors on probation.

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

Prosecutor: the government's attorney in a criminal case.

Prostitution: performing sexual acts for money.

Prove: to show with evidence that something exists, is true, or is untrue.

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

Q | R

Rape: unlawful sexual intercourse.

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.

Rehabilitation: the process through which a convicted person is changed or reformed, so as not to commit another criminal act.

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

Robbery: the unlawful taking of property from a person's immediate possession by force or threat of force.

S

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.

Sexual harassment: unwelcome sexual advances, requests for sexual favors, and other unwanted verbal or physical conduct of a sexual nature that usually occurs in the workplace.

Shoplifting: a form of theft in which items are taken from a store without payment or the intention to pay.

Status offenders: youth who are charged with being beyond the control of their legal guardians, habitually disobedient, or truant from school, or with committing other acts that would not be crimes if committed by an adult.

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.

Statutory rape: an act of sexual intercourse with a minor (under age 18) who is not the perpetrator's spouse. It is a crime whether or not the minor consents to the act.

Stop and frisk: to "pat down" or search someone whom the police believe is acting suspiciously and who may be carrying a weapon.

T | U | V

Taggers: those who deface property (see *Graffiti*).

Temporary restraining order (TRO): an order issued by a court to prevent a change in the status quo. In interpersonal settings, a TRO is sometimes issued by a court to prevent one person from hitting another person or from snatching a child in a custody dispute. A TRO is temporary and may be issued without calling together both parties to the dispute. Often, a court will later hold a hearing to see whether the TRO should be made into a permanent injunction.

Termination of parental rights: the taking away, by the state, of the rights that parents possess in relation to their children. Parental rights are terminated when a child is put up for adoption. Parental rights may also be suspended or terminated if a court finds a parent unfit and/or decides to place a child in foster care.

Throw-away children: a slang term usually referring to older teenagers whose parents have refused to continue to care for them and have forced them out of their house. Such children have also been called "push-outs."

Transcript: the written record of a court proceeding.

Trial courts: courts that listen to testimony, consider evidence and decide the facts in a disputed situation.

Truant: a pupil who has stayed away from school without permission for a certain period of time.

Unfit parent: a parent who has been shown to be unable to care for his or her children, usually because he or she has abused, neglected or abandoned a child, or is of questionable moral character.

Vandalism: maliciously defacing, damaging or destroying someone's property.

Victim: someone who has suffered as the result of another person's actions.

W | X | Y | Z

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

Welfare and Institutions Code: a collection of laws dealing with minors and institutions.

Witness: a person who has knowledge of facts having to do with a case being tried and who gives testimony.

Work program: a program where the court orders a minor to work on public grounds and facilities on weekends and after school.

Work release: the type of sentence in which a defendant is allowed to work in the community but is required to return to custody at night or on weekends.

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