

Teenagers and the Law

Your Guide to the Most Pertinent Laws and Issues Facing Teens in Michigan



Message from the Barristers

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Alcohol



Alcohol use by persons under age 21 years is a major public health problem. Alcohol is the most commonly used and abused drug among youth in the United States, more than tobacco and illicit drugs. Although drinking by persons under the age of 21 is illegal, people aged 12 to 20 years drink 11% of all alcohol consumed in the United States. More than 90% of this alcohol is consumed in the form of binge drinking, meaning they had consumed 5 or more drinks on a single day within the past month. A recent survey by the U.S. Department of Health and Human Services showed that almost 16% of persons ages 14 or 15 and nearly 30% of 16 or 17 year olds had consumed alcohol within the past thirty days. On average, underage drinkers consume more drinks per drinking occasion than adult drinkers. In 2005, there were more than 145,000 emergency room visits by youth 12 to 20 years for injuries and other conditions linked to alcohol.

However, the legal age for drinking alcohol in Michigan is 21. *MCL § 436.1109*. Michigan has one of the strongest minor in possession (MIP) laws in the country. Under the MIP law, it is illegal for anyone under 21 to purchase, consume or possess alcohol. *MCL § 436.1703*. This means that a minor who has alcohol in his or her dorm room or other living space is violating the law.

In addition, minors are prohibited from having a “bodily alcohol content.” This means that a person under the age of 21 cannot have “any presence of alcohol” within his or her body which is the result of the consumption of alcohol. *MCL § 436.1703*. This rule applies whether or not the minor is operating a vehicle. *MCL § 436.1703*.

If a police officer believes a minor has consumed alcohol or has a “bodily alcohol content,” the police officer may require the minor to submit to a breathalyzer. A breathalyzer is an apparatus that a person blows into to detect if the per-

son has been drinking alcohol. The police officer may arrest the minor based on the results of the breathalyzer, and the results of the breathalyzer are admissible in court. A minor who refuses to submit to a breathalyzer may be ordered to pay a fine up to \$100. *MCL § 436.1703*.

What are the penalties for minors who violate the laws prohibiting alcohol use?

Minors who violate the law by using, purchasing or possessing alcohol are subject to stiff penalties. A person under the age of 21 who purchases, consumes or possesses alcohol illegally may receive a fine of \$100. The person may also be required to participate in substance abuse treatment and substance abuse screening at his or her own expense and required to perform community service. *MCL § 436.1703*.

Minors who violate the law for a second time may be placed in jail for up to 30 days if they have violated an order of probation, failed to successfully complete any treatment, screening or community service ordered by the court or failed to pay any fine. Second time offenders may also be required to pay a fine of \$200, and participate in substance abuse treatment and perform community service. Minors who violate the law three or more times may be placed in jail for up to 60 days, ordered to pay a \$500 fine and required to participate in substance abuse treatment and perform community service.

A minor who is convicted for violating any of the laws prohibiting alcohol consumption or use will automatically have his or her license suspended. *MCL § 436.1703*. *This is true even if the offense does not involve an automobile.* Also, the police are required to notify the parents of any minor who violate these laws. *MCL § 436.1703*.

What happens if I use a fake I.D.?

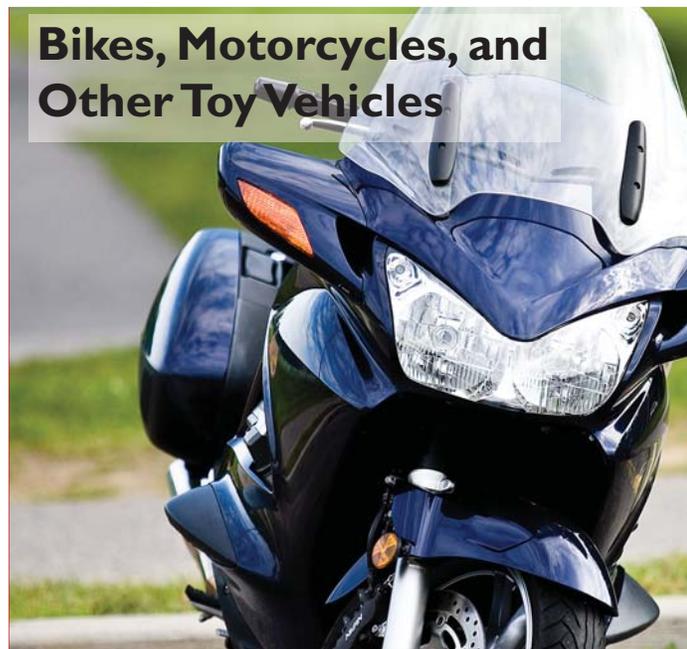
With some exceptions, individuals under the age of 21 are prohibited from being in bars or other establishments where liquor is being served. The law makes it illegal to possess false identification or use a fake I.D. to purchase (or attempt to purchase) alcohol or to enter an establishment where alcohol is being served. *MCL § 436.1703*. Minors who use a fake I.D. to purchase alcohol may be placed in jail for up to 93 days and required to pay a fine up to \$100.

Also, 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. *MCL § 436.1701*. Anyone who provides alcohol to a minor, including a parent, can be held criminally liable and face up to 90 days in jail. If, after illegally consuming alcohol, the minor is involved in an accident that results in a fatality, the person who illegally provided alcohol to the minor is guilty of a felony punishable by imprisonment for up to 10 years and a fine up to \$5,000. Driving under the influence of alcohol (DUI) is very serious, and will result in huge monetary fines, a mandatory

jail sentence, and the suspension or revocation of a driver's license.

In short, teens who drink alcohol are more likely to experience:

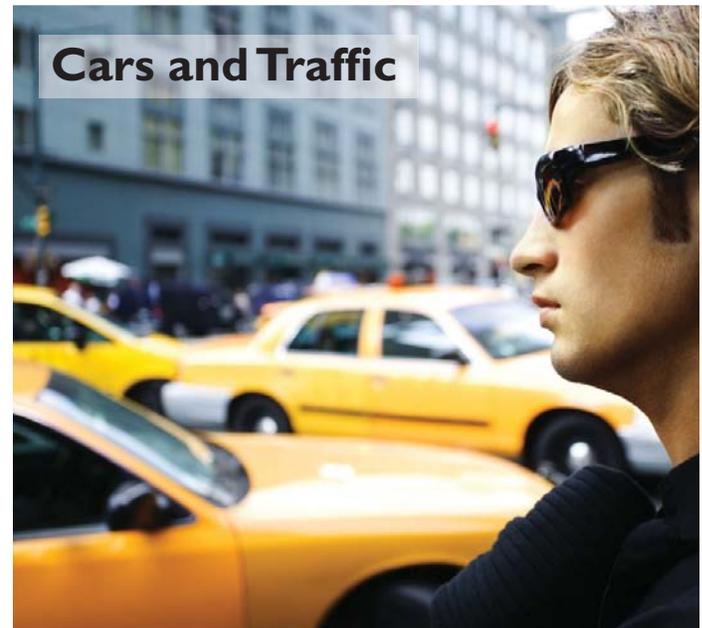
- School problems, such as higher absence and poor or failing grades.
- Social problems, such as fighting and lack of participation in youth activities.
- Legal problems, such as arrest for driving or physically hurting someone while drunk.
- Physical problems, such as hangovers or illnesses.
- Unwanted, unplanned, and unprotected sexual activity.
- Disruption of normal growth and sexual development.
- Physical and sexual assault.
- Higher risk for suicide and homicide.
- Alcohol-related car crashes and other unintentional injuries, such as burns, falls, and drowning.
- Memory problems.
- Abuse of other drugs.
- Changes in brain development that may have life-long effects.
- Death from alcohol poisoning.



As with motor vehicles, bicycle riders must obey the rules of the road. For instance, bicyclists have to follow traffic signs, stop at intersections and stop signs, and ride with traffic. Parents are not authorized to knowingly allow their children to violate any laws pertaining to bicycles, motorcycles, and toy vehicles. *MCL § 257.656.*

In Michigan, anyone riding a motorcycle and any person under the age of 19 must wear a helmet when riding on any public street. Motorcycles must be equipped with adequate seats and foot rests, and you generally can't ride a motorcycle unless your legs can reach the foot rests. Also, mopeds and other electronic devices may only carry one person at a time. *MCL §§ 257.658, 257.658a.*

It is against the law to ride on someone's bicycle handlebars or center frame bar, or over the bike's rear tire. *MCL § 257.658.* If you are riding between anytime between a half hour before sunset and a half hour after sunrise, your bike must be equipped with a front light and a red rear reflector. Michigan also requires all bikes to be equipped with a brake. *MCL § 257.662.* It is also against the law to hold onto a moving vehicle while on a bike, moped, motorcycle, coaster, skates, sled, or toy vehicle. *MCL § 257.659.* Lastly, it is illegal in Michigan to carry a package while riding a bike, moped, or motorcycle, when doing so prevents you from being able to place both hands on the handlebars. *MCL § 257.661.*



When can teenagers in Michigan legally drive a car? Michigan has a Graduated Driver Licensing (GDL) system which consists of several levels. Under GDL, teen drivers under age 18 must complete two segments of driver education classroom instruction and meet the requirements for each of the three GDL licensing levels. Driving privileges are increased at each new licensing level as the teen driver gains greater skill and confidence. GDL ends for all teens at age 18.

Step 1: Driver Education Certification – Segment 1

- A teen must be 14 years, 8 months old to enroll in a Segment One driver education course.
- Segment One must include:
 - 24 hours of in-class instruction.
 - 6 hours of behind-the-wheel instruction.

Once a teen successfully completes Segment One, a green Michigan Department of Education Segment One Certificate of Completion is issued by the driver education instructor. The certificate of completion is not a permit to drive and may not be used as a driver's license.

Step 2: Level 1 License

- After the driver education instructor issues the green Segment One certificate, the teen and parent should go to a Secretary of State Branch office immediately to apply for a Level 1 License. A teen must be at least 14 years, 9 months old to apply.
- A parent or legal guardian must accompany the teen to sign the application. The parent or legal guardian must sign the application or the teen driver will not be issued a Level 1 License. Signing indicates parental/legal guardian approval for licensing of a minor.
- The Level 1 License is a paper license. No photograph will be taken until the Level 2 License is issued.
- To obtain a Level 1 License, the teen and a parent or legal guardian must present:
 - Primary Group identification document to verify the full name and date of birth of the teen. The teen must be at least 14 years, 9 months old to apply for the Level 1 License. (See the MVA Handbook page 9 for more information about Primary Group identification documents.)
 - Green Michigan Department of Education Segment One Certificate of Completion.
- The teen must pass the vision and health standards prescribed by the Secretary of State.
- A parent or legal guardian must be present to sign the Level 1 License application, granting approval.
- With a Level 1 License, the teen driver may only drive while accompanied by a licensed parent, legal guardian, or designated adult age 21 or older. Among other requirements, a teen must hold a Level 1 License for at least 180 days to be eligible for a Level 2 License.

GDL Suspensions: Teens ticketed and convicted of violating the restrictions of their GDL licenses will be referred for a driver assessment reexamination by the Michigan Department of State. Depending on the nature of the violation, the department may suspend the teen's license for 30 days up to a year.

Step 3: Driver Education Certification – Segment 2

Segment Two of driver education consists of six hours of classroom instruction. Driver education instructors may also provide some on-the-road driving instruction, although it is not required. To enroll in a Segment Two driver education course, the teen must have:

- Completed a Segment One driver education course at least 90 days prior to enrolling in Segment Two.
- Obtained a Level 1 License.
- Completed at least 30 of the mandatory 50 hours of parent-teen driving, which includes 2 of the 10 hours of night-time driving.

- When the teen completes Segment Two, a white Michigan Department of Education Segment Two Certificate of Completion will be issued by the driver education instructor.

Step 4: Level 2 License

A teen will advance from a Level 1 License to a Level 2 License, provided all of the mandatory requirements have been met:

- Pass a road skills test
- Must complete both Segment One and Segment Two of the driver education course to qualify for a Level 2 License.
- Teens cannot have a moving violation resulting in a conviction or civil infraction determination, or been involved in an at-fault crash during the 90-day period immediately preceding application.
- The Level 2 License requires the teen to be photographed.
- To obtain a Level 2 License, teens and their parent or legal guardian must go to a Secretary of State Branch office and present:
 - Proof the teen is at least 16 years old. (The Level 1 License is acceptable proof.)
 - The skills test certificate, verifying the teen has passed a road skills test given by a third-party tester approved by the Secretary of State.
 - Proof that they have had a Level 1 License for a minimum of 180 days.
 - The white Michigan Department of Education Segment Two Certificate of Completion.
 - A log book or other records documenting the teen's 50 hours of supervised driving with a licensed parent, legal guardian, or designated adult age 21 or older. Graduated Driver Licensing requires 10 of the 50 hours of supervised driving to be completed at night.
- A Level 2 License allows teens to drive unsupervised except between midnight and 5 a.m., when a licensed parent, legal guardian, or designated adult age 21 or older must accompany them. Teens who must drive between midnight and 5 a.m. because of work are not required to have an adult with them. They should be able to provide proof they are traveling directly to or from work.

Step 5: Level 3 License (Full Driving Privileges)

- Teen will automatically advance to a Level 3 License provided he or she is age 17, has met all driving requirements, and has parental authorization.
- If the parent does not authorize automatic advancement to a Level 3 License, the teen will remain at Level 2 until

the parent accompanies the teen to a Secretary of State Branch office and grants authorization, or until the teen turns 18.

- If the parent has authorized the teen to automatically advance to a Level 3 License and the teen has successfully met all licensing requirements, the Level 3 License will be mailed to the teen. There is no need to go to a branch office.
- To obtain a Level 3 License, the teen must:
- Be at least 17 years old.
- Have driven at Level 2 for a minimum of six months.
- Have completed 12 consecutive months of driving without a moving violation, an at-fault crash that resulted in a moving violation, a license suspension or a violation of a Graduated Driver License restriction.
- A Level 3 License grants full driving privileges. Graduated Driver Licensing ends for all teens when they are 18.

Parental Consent and Support: Parents have the legal right to request that their teen be held at a certain GDL level, dropped back a level, or have all driving privileges canceled if they believe their teen is not ready to handle certain driving responsibilities.

Liability and auto insurance: Michigan requires owners of passenger vehicles and trucks to purchase Michigan no-fault insurance. Many parents add their child to their own policy, but this is expensive. In Michigan, minors who get their own policies are required to have the following required coverages: bodily injury/property damage (BI/PD), personal injury protection (PIP), and property protection insurance (PPI). These required coverages do not pay for damage to your vehicle nor do they cover theft. If you want your insurance company to cover damage to your vehicle or to cover theft, you may choose to carry collision coverage and/or comprehensive coverage.

Substance Abuse and Driving

Young drivers and alcohol are a deadly combination. Male teenage drivers with a bodily alcohol content of at least 0.05 are 18 times more likely than a sober, male teen driver to be killed in a single vehicle crash. Female teenagers are 54 times more likely to be killed than a sober counterpart. Aside from being extremely dangerous, teenagers who get caught drinking and driving will lose their license. Teenagers who drink alcohol at all run the risk of having their license suspended, whether or not they are in a vehicle! Simply put, it is not worth the risk.

Under Michigan's drunk driving statute, *MCL § 257.625 et seq.*, it is illegal to drive:

- While intoxicated or impaired by, alcohol, illegal drugs, and certain prescribed medications. (OWI). *MCL § 257.625(1)*.

- With a bodily alcohol content of 0.08 or more (driving while intoxicated or DUI). *MCL § 257.625(1)(b)*.
- While visibly impaired (OWVI). *MCL § 257.625(3)*.
- With the presence of controlled substances (OWPCS). *MCL § 257.625(8)*. It is a misdemeanor to operate a vehicle if a person has **any amount** of a schedule 1 controlled substance as listed in *MCL § 333.7212* or a controlled substance described in *MCL § 333.7214(a)(iv)* in his or her body.
- With an open container of alcohol. *MCL § 257.624a*.
- Drunk, impaired, or to be a minor with a BAC or with a controlled substance in the body while a passenger less than 16 years of age is in the vehicle (child endangerment). *MCL § 257.625(7)*.
- It is also illegal to allow an intoxicated or impaired person to drive a vehicle that you own. *MCL § 257.625(2)*.
- If you are under age 21 it is against the law:
- To drive with a bodily alcohol content of 0.02 or greater, or have any presence of alcohol other than that consumed at a generally recognized religious ceremony (also known as "zero tolerance"). *MCL § 257.625(6)*. The "zero tolerance" law is important for underage motorists to understand when they legally consuming alcoholic beverages in Canada and return to Michigan. While crossing the border, the underage motorist transforms from a legally sober driver to a legally intoxicated driver.
- It is an additional misdemeanor to drive drunk, impaired, or to be a minor with a BAC or with a controlled substance in the body while a passenger less than 16 years of age is in the vehicle (child endangerment). *MCL § 257.625(7)*.
- To buy, possess, or consume alcoholic beverages. You may transport alcohol in a vehicle only when accompanied by an adult age 21 or older. If you are caught with alcohol in your vehicle and there is no adult accompanying you, you can be charged with a misdemeanor, whether you are on the road or in a parking lot. *MCL § 436.1703*.

What happens if you are stopped by a police officer for suspicion of driving under the influence of alcohol or drugs?

When pulled over by an officer who suspects that you are driving while intoxicated, you may be asked to take sobriety tests including a Preliminary Breath Test (PBT) to determine if you are under the influence of alcohol or another illegal substance. If you refuse to take the PBT, you will be charged with a civil infraction and fined up to \$150 plus court costs. Persons under age 21 who refuse to take the PBT will receive two points on their driver record. *MCL § 257.625a(2)*.

If arrested, you will also be required to take a chemical test to determine your bodily alcohol content (BAC). Under Michigan's Implied Consent Law, *MCL § 257.625c, 625f*, all drivers are considered to have given their consent to this test. If you refuse a test, six points will be added to your driver record and your license will be suspended for one year. Suspension of a license is automatic for any refusal to submit to the test. *MCL § 257.625f*. This is a separate consequence from any subsequent convictions resulting from the traffic stop. If you are arrested a second time in seven years and again unreasonably refuse the test, six points will be added to your driver record and your license will be suspended for two years. *Id.* If you refuse to take the test under the Implied Consent Law or if the test shows your BAC is 0.08 or more, the officer will destroy your driver license, and you will be issued a paper permit until your case is resolved in court. *MCL § 257.625g(1)*.

Anti-drunk driving laws require swift and sure action and stiff penalties for drunk drivers. The laws:

- Require courts to decide drunken driving cases within 77 days after an arrest.
- Require a mandatory six-month driver license suspen-

sion even for a first conviction. A driver may be eligible for a restricted license after serving 30 days of the suspension.

- Require five days to one year of consecutive jail time and/or 30 to 90 days of community service for a second conviction of drunk driving.
- Include a felony for three convictions in a lifetime.
- Include a felony for a conviction for drunk driving that causes death.
- Include a felony for a conviction for drunk driving that causes a serious injury to another.
- Require fines for a conviction of driving while a driver license is suspended or revoked of up to \$500 for a first offense, and \$1,000 for an additional offense.
- Do not allow hardship appeals for habitual alcohol offenders.
- Require a reinstatement fee of \$125 if your driver license was suspended, revoked, or restricted.
- Require a Driver Responsibility Fee of \$1,000 for two consecutive years for driving while intoxicated and a \$500 fee for two consecutive years for driving while impaired, with any presence of a Schedule 1 drug or

The penalties are also severe for drivers under 21:

cocaine, zero tolerance, or child endangerment.

Violation of "zero tolerance"-

- **First Offense:**
 - Up to \$250 fine and/or
 - Up to 360 hours of community service.
 - Driver license is restricted for 30 days.
 - Four points on driver record.
 - \$500 Driver Responsibility Fee for 2 consecutive years.
- **Second Offense within seven years:**
 - Up to \$500 fine and/or
 - Up to 60 days community service.
 - Up to 93 days in jail.
 - License suspension 90 days. Any prior drunk driving conviction results in a minimum 1 year driver license revocation.
 - 4 points on driver record.
 - \$500 Driver Responsibility Fee for 2 consecutive years.

Person Under 21 who purchases, consumes, or possesses alcohol:

- **First offense:**
 - \$100 fine
 - No action taken against license.
- **Second offense:**
 - \$200 fine

- License is suspended for 30 days/restricted for 60 days.
- **Third offense:**
 - \$500 fine
 - License is suspended for 60 days/restricted for 305 days.
 - Possible community service.
 - Possible alcohol.

Person Under 21 transport or possess in a motor vehicle:

- Up to a \$100 fine.
- **First offense:**
 - No action taken against license.
- **Second offense:**
 - License is suspended for 30 days/restricted for 60 days.
- **Third offense:**
 - License is suspended for 60 days/restricted for 305 days.
 - Possible alcohol screening.
 - Possible community service.
 - Two points on driver record.
 - Vehicle can be impounded up to 30 days.

Using a Fraudulent ID to Purchase Liquor

- Up to a \$100 fine, 93 days in jail, or both.
- 90-day driver license suspension.
- Possible alcohol screening.

http://www.michigan.gov/sos/0,1607,7-127-1627_8665_9070-24488-,00.html

Laws that Young Drivers Should Know:

Reckless driving: Michigan law prohibits driving a vehicle on a highway or in an off-street parking facility *in willful or wanton disregard* for the safety of persons or property. *MCL § 257.626*. The penalty for reckless driving is up to 93 days in jail, up to a \$500 fine plus costs or both. A conviction for reckless driving also results in six points entered on your license. *MCL § 257.320a(1)(e)*.

Drag racing: Drag racing against the law. The offense of “drag racing” on a highway is defined as operating a motor vehicle either (1) in a speed or acceleration contest, (2) for the purpose of making a record, or (3) where 2 or more vehicles accelerate in an attempt to out-distance each other. A judge can imprison an offender for 90 days; at the very least it will cost the driver(s) \$100 each. *MCL §§257.626a & 257.901(1)*.

Passengers in the bed of a truck: It is unlawful for any person under the age of 18 to ride in the open bed of a pickup at a speed greater than 15 miles per hour on a public roadway. *MCL § 257.682b*.

Using a cellphone while driving: Michigan does not have a law specifically prohibiting cell phone use in a vehicle. A driver who becomes distracted by using a cell phone, and commits a traffic violation could be charged with careless

driving, or with the specific violation, such as improper lane use, if they are drifting in and out of their lane. Some cities and municipalities, however, have local ordinances that prohibit using a cellular phone while driving within their jurisdiction.

Seatbelts: Anyone less than 16 years old must wear a seatbelt regardless of where they are seated in a car, including the backseat, with some exceptions. *MCL § 257.710e*. If there are not enough seatbelts available for the passengers then a child less than 16 years of age but more than 4 years of age can ride in the backseat without a seatbelt. If the vehicle is a pick up truck without an extended cab or jump seats, and all safety belts in the front seat are being used they may ride in the front seat.

Littering: Michigan law makes it a misdemeanor to cause litter or any object to fall or to be thrown into the path of or to hit a vehicle traveling upon a highway. A person who violates this law is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both. *MCL § 324.8903*.

Hit and run: Michigan has laws prohibiting drivers from leaving an accident scene. Then penalties differ dependent on whether there was vehicular damage or personal injury. *MCL §§ 257. 617-618*.



Child Abuse and Neglect

Child abuse remains a growing problem in the United States. Some 1,500 children die and there are 140,000 injuries to children from abuse each year. There are 1.7 million reports of child abuse each year. In one year, an estimated 1,100 children died of abuse and neglect, a rate of approximately 1.6 deaths per 100,000 children in the general populations. Though many victims are under age 4, there is no particular profile for child abuse victims.

Child abuse means harm or threatened harm to a child's health or welfare that occurs through non-accidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy.

In Michigan, the law prohibits physical, sexual and emotional child abuse. The law also makes it illegal to intentionally neglect a child who is in your care, such as by failing to adequately feed, clothe or supervise the child or to supply medical care.

Child neglect means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

- Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.
- Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

In addition, if one parent fails to protect his or her child from another parent or partner who is abusive, he or she could be found criminally liable as well.

Below are some of the commonly accepted physical and behavioral indicators of abuse and/or neglect. Please note that the physical and behavioral indicators listed are not the only indicators of child abuse and neglect and if present, do not always mean a child is being abused or neglected.

Physical Neglect - Physical Indicators

- Unattended medical needs.
- Lack of supervision.
- Regular signs of hunger, inappropriate dress, poor hygiene.
- Distended stomach, emaciated.
- Significant weight change.

Physical Neglect - Behavioral Indicators

- Regularly displays fatigue or listlessness, falls asleep in class.
- Steals/hoards food, begs from classmates.
- Reports that no caretaker is at home.

Physical Abuse - Physical Indicators

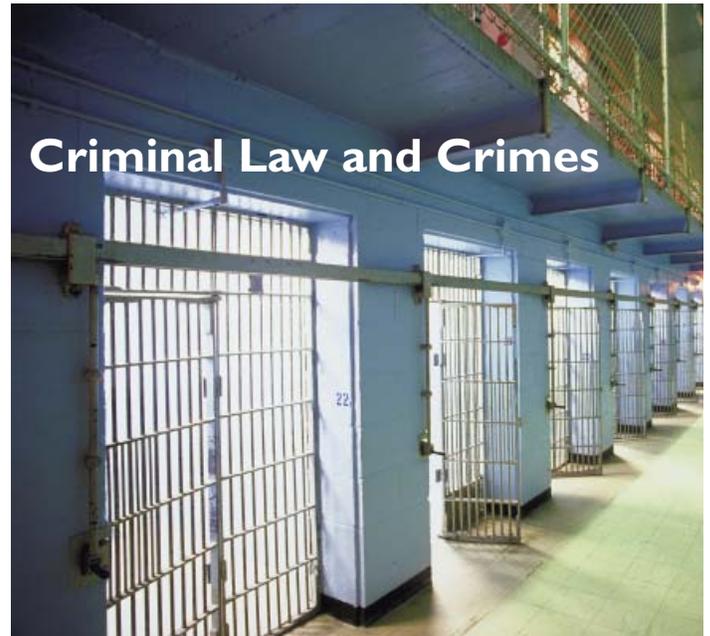
- Unexplained bruises (in various stages of healing), welts, loop marks.
- Adult/human bite marks.
- Bald spots or missing clumps of hair.
- Unexplained burns/scalds.
- Unexplained fractures, skin lacerations/punctures or abrasions.
- Swollen lips/chipped teeth.
- Linear/parallel marks on cheeks and temple area.
- Crescent-shaped bruising.
- Puncture wounds.
- Bruising behind the ears.

Physical Abuse - Behavioral Indicators

- Self-destructive/self-mutilation.
- Withdrawn and/or aggressive-behavior extremes.
- Uncomfortable/skittish with physical contact.
- Arrives at school late or stays late as if afraid to be at home.
- Chronic runaway (adolescents).
- Complains of soreness or moves uncomfortably.
- Wears clothing inappropriate to weather, to cover body.
- Lack of impulse control (e.g. inappropriate outbursts).

Sexual Abuse - Physical indicators

- Pain or itching in genital area.
- Bruises or bleeding in genital area.
- Sexually transmitted disease.
- Frequent urinary or yeast infections.
- Extreme or sudden weight change.
- Pregnancy under 12 years of age.



Certain wrongful conduct is unlawful and is against the criminal laws of the State of Michigan. When anyone in Michigan violates a criminal law, the state, on behalf of the people of Michigan, can file a lawsuit charging the person with a crime. County prosecutors have the discretion to decide which crimes should be charged, and also have the discretion to decide whether the wrongdoer should be fined or whether a case should proceed to trial. Unlike civil cases, where a fine is the most that you could lose, a criminal trial could result in imprisonment.

In Michigan, the Michigan Penal Code covers most crimes, but there are also municipal and county ordinances that are considered part of the criminal law. For example, laws regarding cell phone use while driving, curfew laws, laws against smoking, and laws requiring smoke detectors or fire escapes are also criminal ordinances.

Crimes in Michigan are divided into two categories: *felonies and misdemeanors*. *MCL § 750.6*. A *felony* is the most serious type of crime and is punishable by a fine and/or imprisonment in a state prison, or a death sentence. A *misdemeanor* is punishable by a fine and/or imprisonment in a county jail for no more than one year.

Many parents and teenagers believe that children under a certain age cannot be convicted of a crime. This is not the case. While a prosecutor and the court may consider a child's age and experience when deciding where to prosecute the case, there is no minimum age at which a child can be convicted of a crime. If the state seeks to prosecute a child under the age of 16 in Michigan, however, special rules apply regarding confinement and trial. *MCL § 750.139*.



Curfew Laws

Curfews limit teenagers from being outdoors or in public places after a certain time of night. These laws try to prevent teens from getting into trouble late at night, when there is a greater chance of criminal activity. In Michigan, the curfew for children under age 12 runs from 10:00 p.m. through 6:00 p.m. *MCL § 722.751*. An exception to the general curfew rule applies where the child is accompanied by a parent or guardian, or by another adult delegated by the parent or guardian to accompany the child.

For those under age 16, the curfew runs from 12 midnight through 6:00 a.m. *MCL § 722.752*. Again, an exception to the general rule applies where the child is accompanied by a parent or guardian or an adult delegated by the parent or guardian. A child under age 16 is also exempt from the rule if he is on “an errand or other legitimate business directed by his parent or guardian.” *MCL § 722.752*.

In addition, under Michigan law, cities and counties can enact their own more restrictive curfew. *MCL § 722.754*. For example, each year, the City of Detroit implements an emergency curfew for juveniles under the age of 18. Under the City’s rule, it is unlawful for juveniles under the age of 18 to be on City streets, unaccompanied by a parent or guardian on “Angel’s Night,” which runs from 6 p.m. on October 30 to 6 a.m. on October 31.

What will happen if my teenager breaks curfew?

Teenagers who violate curfew laws are likely to be temporarily detained by the police and returned home. In addition, adults who aid underage children in violating curfew laws may be punished with misdemeanor. *MCL § 722.753*.

Your local police department can help you identify if your community has a curfew law (in addition to the Michigan law). The police can also identify specific guidelines that they follow in handling curfew violators.



Drugs

Illegal drug use among Michigan teenagers continues to be a problem. The majority of high school seniors report that they had tried some type of illicit drug, including marijuana, cocaine, ecstasy, and steroids. Many use marijuana nearly every day. Although illegal drug use among U.S. children and teenagers has decreased over the years, it is evident that drug use among young people remains a serious problem.

Which drugs are the most commonly used among teenagers in the United States?

Marijuana use is the most commonly used drug among American teenagers. One out of every ten eighth graders reportedly has used marijuana. In high school, the prevalence of marijuana use increases. A recent survey reveals that one out of every four tenth graders and one out of every three twelfth graders reported marijuana use.

After marijuana, another commonly-used drug among teenagers is illegally-used prescription drugs, such as the prescription painkillers OxyContin and Vicodin. The incidence of prescription drug abuse among teens is troubling. According to experts, use of these drugs may be prevalent among teenagers because of a misperception that these drugs are “safer” than other drugs, and because it is often easier to obtain prescription drugs than it is other types of drugs.

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

It depends on the drug. In Michigan, marijuana use is punishable as a misdemeanor. A person convicted of marijuana use could receive a fine of up to \$100 and/or a jail sentence of up to 90 days in length. *MCL § 333.7404(2)(d)*. A conviction for marijuana possession, while also a misdemeanor, carries with it the possibility of more severe penalty. A person convicted of possessing any amount of marijuana could receive up to a one-year jail sentence and/or a maxi-

imum fine of \$2,000. *MCL § 333.7403(2)(d)*. Additionally, courts may order those convicted of marijuana use or possession to participate in a substance abuse program.

While the simple possession and use of marijuana constitute misdemeanors, other types of conduct associated with marijuana are felonies. Delivering, manufacturing, and possessing marijuana with the intent to deliver it are felonies. Accordingly, conviction for these crimes carries with it more severe punishments, and the severity of the punishment depends on the amount of marijuana involved. Upon conviction, a person may receive a prison sentence of up to four to fifteen years and/or a maximum fine of \$20,000 - \$10,000,000. *MCL § 333.7401(2)(d)*.

If your child is convicted of illegally using a drug other than marijuana, your child will be found guilty of a misdemeanor, and will face a possible jail sentence and/or a fine. The length of the sentence and the amount fined depend on the type of drug used. *MCL § 333.7404*. If your child is convicted of possession of a controlled substance, your child could face more serious consequences. The severity of the punishment depends on the quantity of substance involved and the type of substance involved. For example, conviction for possessing less than twenty-five grams of either certain cocaine-related substance or what are known as a schedule 1 or schedule 2 narcotic drugs is a felony, and is punishable by up to four years in prison, and/or a fine of up to \$25,000. *MCL § 333.7403(2)(a)(v)*. A person convicted of possession of larger amounts of those drugs is subject to lengthier prison sentences, higher fines, or both. Finally, there are severe penalties for possession of an illicit substance with the intent to deliver that substance, and for the actual delivery of the substance. While all are felonies, the severity of the punishment is based upon the type and amount of substance involved. *MCL § 333.7401(2)*. Parents should note that it is illegal for anyone to use or possess a prescription drug that was prescribed for someone else, and that this crime would be punishable under the laws described above.

After having been convicted for drugs, your child will also lose his or her privilege to drive. Michigan law mandates that a person's driver's license be suspended after a drug conviction, regardless of whether the person convicted of the drug offense had been driving at the time of the offense. If

While the simple possession and use of marijuana constitute misdemeanors, other types of conduct associated with marijuana are felonies. Delivering, manufacturing, and possessing marijuana with the intent to deliver it are felonies.

this is your child's first drug violation, the suspension lasts six months, and he or she cannot obtain a restricted license for at least the first thirty days of the suspension. *MCL § 333.7408a(1)(a)*. However, if your child has had one or more prior drug convictions in the last seven years, the suspension will be lengthier. In this situation, your child's driver license will be suspended for one year, and no restricted license will be allowed for the first sixty days of the suspension. *MCL § 333.7408a(1)(b)*. Additionally, before being allowed to regain his or her license, your child will have to pay a driver's license reinstatement fee. *MCL § 257.320e*.

What is "huffing"?

"Huffing" describes conduct that includes intentionally inhaling chemical fumes for the purpose of becoming intoxicated. Studies show that, unlike other drug behaviors, "huffing" is more prevalent among younger teens than older ones. Except for inhalation of anesthesia in the medical or dental context, this behavior is illegal under Michigan law. *MCL § 752.272*. A conviction under *MCL § 752.273* carries with it a possible jail sentence of not more than ninety-three days, and/or a maximum fine of \$100.00.

What are the penalties for using or possessing a "rape drug"?

Across the country and in Michigan, sexual assaults have been linked to ingestion of Gamma-hydroxybutyrate, more commonly known as "GHB." Gammabutyrolactone, also known as "GBL," is another drug that may be involved in sexual assaults. The illegal use, delivery or possession of GHB is punishable under the Michigan law described above, because GHB is a Schedule 1 drug under Michigan law. *MCL § 333.7212(f)*. The punishments for the illegal possession or delivery of GBL are found under a separate statute. *MCL § 333.7401b(3)*.

If a person uses a controlled substance such as GHB or GBL in conjunction with a criminal sexual assault or an attempted criminal sexual assault, that person could be convicted of a felony and could face up to a twenty-year prison sentence. *MCL § 333.7401a(1)*. It is important to note that while a person still can be convicted of (and sentenced for) other crimes relating to the incident, a person may be convicted under this statute without having been convicted of the underlying criminal sexual assault or attempted criminal sexual assault. *MCL § 333.7401a(2)*, *MCL § 333.7401a(3)*.

Emancipation

Emancipation occurs when parents are no longer responsible for their children, and children no longer accountable to their parents. *MCL § 722.1*. After emancipation, parents do not have to give permission for their child's conduct, and no longer are obligated to support their child with food, shelter or medical care. After emancipation, a child can decide where or with whom he or she wants to live.

An emancipated minor has several rights that are normally afforded to adults. For instance, he or she can make medical, dental or other health care decisions, enter into contracts, sue or be sued in his or her own name, buy or sell property, and apply for a work permit without parental consent. An emancipated minor also controls his or her own financial affairs. *MCL § 722.4e*.

In Michigan, emancipation occurs automatically as soon as a person turns 18 years old and legally becomes an adult. (See *Age of Majority*). Emancipation also occurs if a minor is validly married or if a minor enlists in the Armed Forces. *MCL § 722.4(2)(a)-(c)*. A minor may also become emancipated in Michigan after filing a petition with a court. To file a petition, the minor must be at least 16 years of age. *MCL § 722.4a*. The petition must be accompanied by an affidavit from an adult having knowledge of the minor's circumstances (such as a doctor or a teacher) indicating that emancipation is in the best interests of the minor. *MCL § 722.4a(2)*. Before granting a petition, a court must find that the minor can responsibly manage his or her own financial affairs and, that he is she is not receiving financial assistance from his or her parents. *MCL § 722.4c(2)(d)*. The minor must demonstrate the ability to manage his or her financial affairs, personal and social affairs. *MCL § 722.4c(2)(d)-(e)*.

Before the petition is heard, the minor's parents or guardian must be notified. *MCL § 722.4a(3)*. If a judge finds that it is in the minor's best interests, the judge can order the minor to become emancipated. *MCL § 722.4c(2)*.

Under *MCL § 722.4*, emancipated kids have the following rights whereas, without emancipation, kids would require

parental involvement and/or permission with respect to the following rights:

- (a) The right to enter into enforceable contracts, including apartment leases.
- (b) The right to sue or be sued in his or her own name
- (c) The right to establish a separate domicile.
- (d) The right to act autonomously, and with the rights and responsibilities of an adult, in all business relationships, including, but not limited to, property transactions and obtaining accounts for utilities, except for those estate or property matters that the court determines may require a conservator or guardian ad litem
- (e) The right to earn a living, subject only to the health and safety regulations designed to protect those under the age of majority regardless of their legal status.
- (f) The right to authorize his or her own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability.
- (g) The right to apply for a driver's license or other state licenses for which he or she might be eligible.
- (h) The right to register for school.
- (i) The right to marry.
- (j) The right to apply to the medical assistance program administered under the social welfare act, Act No. 280 of the Public Acts of 1939
- (k) The right to apply for other welfare assistance, including general assistance and aid to families with dependent children administered under Act No. 280 of the Public Acts of 1939, if needed.
- (l) The right, if a parent, to make decisions and give authority in caring for his or her own minor child.
- (m) The right to make a will.

Some teenagers erroneously think they can "divorce" their parents. This is not true in Michigan - kids cannot unilaterally "divorce" their parents. As discussed above, the emancipation process is very detailed and requires at least parental notice in order for a court to approve such a process. Emancipation does not happen simply by running away from home.



This guide is intended as a general overview of the laws that most often affect parents and children in making decisions regarding employment in the State of Michigan. The ability of minors (individuals less than 18 years of age) to work within the State of Michigan, whether in a paid or unpaid position, is regulated by the Michigan Youth Employment Standards Act 90 of 1978, and often (depending on the particular employer), the U.S. Fair Labor Standards Act. Together, these form the regulatory body of laws regarding the employment of minors. In addition, the Internal Revenue Service and the Michigan Department of Treasury have developed rules regarding the filing of federal and state tax returns for minors.

Work Permits

Michigan law requires employers to obtain work permits, which certifies the age of the minor and compliance with labor laws, prior to the minor beginning work. *MCL § 409.104*. Work permits are generally issued by the superintendent of a school district, or their designated representative (often in the middle school or high school the minor attends). There are two forms: (1) for minors under the age of 16 (Form CA-6); and (2) for minors aged 16 and 17 (Form CA-7). Completing such a form allows the minor to be employed only by the employer that completed “offer of employment” section, and is generally valid until the minor reaches the age of 18.

There are some exceptions to the requirement for a work permit. For example, a work permit is not required for a minor who does occasional odd jobs in connection with a private residence, in the sale or delivery of newspapers, or where a minor is employed by a business owned and operated by the parent or guardian of the minor. *MCL § 409.119*.

The minimum age for employment in the state of Michigan is 14, although children 11 years of age and older may be employed as a golf or bridge caddy, or as a youth athletic performance referee.

Age and Time Restrictions:

The minimum age for employment in the state of Michigan is 14, although children 11 years of age and older may be employed as a golf or bridge caddy, or as a youth athletic performance referee. *MCL § 409.103*. In addition, the performing arts industry is exempt from these age requirements. Thus, children of any age may be employed by any performing arts organization if a letter of approval is obtained from the Michigan Department of Labor, Energy, and Economic Growth. *MCL § 409.114*.

Children under the age of 16 may only be employed between the hours 7:00 a.m. and 7:00 p.m. while school is in session, and between 7:00 a.m. and 9:00 p.m. during summer vacation. *MCL § 409.110*. In addition, children under the age of 16 may work no more than:

- 6 days per week;
- 8 hours maximum per day (only 3 hours maximum on school days);
- 18 total hours per week, or 48 hours combined school and work hours in one week, whichever is stricter, when school is in session; and
- 40 hours per week while school is not in session.

Finally, minors ages 15 and under may not be employed during school hours. *MCL § 409.110; 29 C.F.R. § 570.35*.

Minors who are 16 or 17 years old may be employed only between the hours of 6:00 a.m. and 10:30 p.m. Sunday through Thursday, and between the hours of 6:00 a.m. and 11:30 p.m. on Friday, Saturday and in vacation periods lasting longer than 7 days. *MCL § 409.111*. In addition, children who are 16 or 17 years old may work no more than:

- 6 days per week;
- a weekly average of 8 hours per day;
- 10 hours in one day; and
- 48 hours combined school and work hours in one week. *MCL § 409.111*.

No minor may be permitted to work more than 5 hours without a 30 minute uninterrupted break. *MCL § 409.112*.

Wage Requirements

The Michigan minimum hourly wage rate is currently \$7.15 per hour, and increases to \$7.40 per hour effective July 1, 2008. *MCL § 408.384*. However, minors 16 years or older may be paid a training wage of \$4.25 per hour for their first 90 days of employment, and minors under the age of 18 may be paid 85% of the minimum hourly wage rate (currently \$6.08 per hour, and effective July 1, 2008, \$6.29 per hour). *MCL § 408.384b*. In employment where tips are received, a minor employee may be paid a minimum of \$2.65 per hour, when tips reported in writing by the employee, combined with the hourly rate, equal at least the required minimum hourly wage rate under Michigan law. *MCL § 408.387a*. Additionally, under Michigan law, employees must be paid one-and-a-half times their regular pay rate for work in excess of 40 hours per week, unless specifically exempted by the statute (for example, persons employed in a bona fide executive, administrative, or professional capacity). *MCL § 408.384a*.

Restricted Occupations

The federal government has declared 17 occupations to be “hazardous” and has barred minors from working in such jobs. These include, among others, driving a motor vehicle (except for incidental and occasional driving by 17 year olds as defined under the regulations), operating power-driven hoisting equipment, operating power-driven metal forming, punching and shearing machines, operating power-driven bakery machines, operating power-driven circular saws, band saws and guillotine shears, and working on roofing operations. *29 C.F.R. § 570.50-68*.

In addition to these federal prohibitions, Michigan law prohibits minors from participating in certain forms of employment. For example, a minor may not be employed in an occupation that involves a cash transaction after sunset or 8:00 p.m., whichever is earlier, unless directly supervised by

a person over the age of 18. *MCL § 409.112a*. Minors are prohibited from performing in or being involved in any depiction of sexual acts. *MCL § 409.114a*. A minor under the age of 16 may be employed in establishments where alcohol is sold at retail, if the sale of alcohol constitutes less than 50% of the total gross receipts of the establishment; a minor under the age of 16 may not be employed in an establishment where alcohol is consumed. *MCL § 409.115*. A minor 16 years of age or older may be employed at any establishment where alcohol is sold at retail or consumed, so long as the sale of alcohol constitutes less than 50% of the total gross receipts of the establishment. *MCL § 409.115*.

These state prohibitions identified above, and the work permit rules and time restrictions above, do not apply to a minor who is 16 years of age or older and has completed the requirements for graduation from high school; nor do they apply to a minor who is 17 years of age or older and has successfully passed the general educational development test (GED). Further, such rules do not apply to emancipated minors. *MCL § 409.116-117*.

State and Federal Taxes

Minors (or parents on behalf of their minor children) may be required to file a federal income tax return. *IRS Publ. 929*. A “dependent child” is a child who lived at home for more than half the year, is receiving more than half of her support from her parents, and is under the age of 19 or is a full-time student under the age of 24. Generally, filing requirements for a “dependent child” depend on the amount of the dependant’s earned and unearned income. As a general rule, a dependent child must file an income tax return if:

- the minor had only unearned income and the minor’s unearned income exceeds \$850 (in the 2006 tax year);
- the minor had on only earned income and the minor’s earned income is in excess of the basic standard deduction (\$5,350 in tax year 2007); or
- the minor had both earned and unearned income in the year, and the total gross income of the minor for the year exceeds: (a) both (i) \$850; and (ii) the minor’s earned income plus \$300; or (b) the basic standard deduction. *IRS Publ. 929*.

To qualify as a full-time student (for purposes of remaining a dependant between the ages of 19 and 24), your child

must be, during some part of each of any 5 calendar months (not necessarily consecutive) of the year:

- a full-time student at a school that has a regular teaching staff, course of study, and a regularly enrolled student body at the school; or
- a student taking a full-time, on-farm training course given by a school described above, or by a state, county, or local government agency. *IRS Publ. 501*.

Importantly, even if a federal income tax return is not required, a dependent should file a tax return if income tax was withheld from his or her income. By filing a return, the dependent may get a refund of some or all of the withheld amounts. *IRS Publ. 929*.

Generally, a minor is responsible for filing his or her own tax return and for paying any taxes due. If the minor cannot file his or her own tax return, the minor’s parent or guardian is responsible for filing it on the minor’s behalf. A standard deduction may be claimed by a minor dependant on his or her own tax return, but is limited to the larger of \$850 or the individual’s earned income plus \$300 (but not more than the standard deduction). *IRS Publ. 929*.

A minor who has only unearned income does not have to file a return if a parent elects to include that child’s unearned income on their own tax return, so long as the following conditions are met:

- the child had unearned income only from interest and dividends;
- the child had unearned income of less than \$8,500 (in 2006);
- the child made no estimated tax payments during the year, and no overpayment from the prior year was applied to the current year tax; and
- no federal tax was withheld from your child’s income. *IRS Publ. 929*.

The State of Michigan requires that all persons who owe tax, are due a refund, or whose adjusted gross income exceeds the Michigan exemption allowance file a return. However, a minor does not need to file a return if his or her parents claim the minor as dependant, and the minor’s adjusted gross income is \$1,500 or less.

Importantly, even if a federal income tax return is not required, a dependent should file a tax return if income tax was withheld from his or her income. By filing a return, the dependent may get a refund of some or all of the withheld amounts.

Fighting



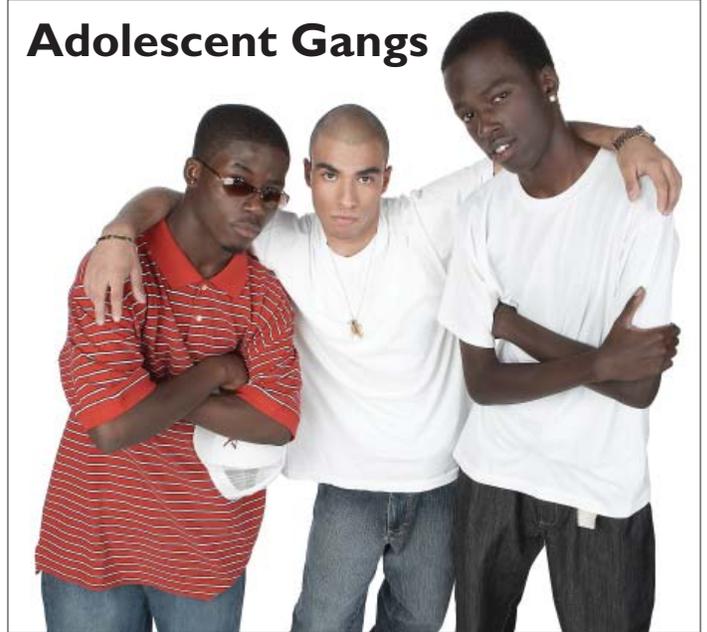
Fighting and teenagers often goes hand-in-hand. The degree and seriousness of the fight could end up with police involvement. If the police get involved, they can choose to contact the teenager's parent and escort the teenager home. However, if the fight is serious, such as involving injury or property damage, the teenager could be arrested and charged criminally with a crime, such as assault and battery or disturbing the peace.

In Michigan, an assault and a battery are misdemeanors that could lead to imprisonment up to 93 days and a \$500 fine. An assault committed against certain people, such as a medical examiner, parole officer, court employee, judge, or other officers or persons doing his or her job, is a felony and the punishment varies depending upon the extent of bodily injury. The range of punishment starts at incarceration up to 4 years and/or a fine up to \$5,000.00 through 20 year imprisonment and/or a \$20,000.00 fine. *MCL § 750.479*. An assault committed on school property with the use of a deadly weapon is a felony. *MCL § 750.82*. When a minor 14 years or older commits a felony, he or she may be tried and punished as an adult. *MCL § 712.4*.

A teenager has a right to defend himself or herself in self-defense. If a teenager can prove that he or she acted in self-defense, the charges could be dropped or not filed. However, if both participants agree to fight, self-defense would not apply.

Parents can be held responsible for the damages sustained by victims of their teenagers. Restitution from maliciously or willfully causing bodily harm or injury to a person can fall on the parent if the court determines that the juvenile will be unable to pay. *MCL § 600.2913 and MCL § 712A.30*. Finally, fighting or picking a fight in a public place could result in an additional charge for *disturbing the peace*. *MCL §91.1*.

Adolescent Gangs



Applicable Laws

A gang is a group of individuals who share a common identity and, in current American conversational usage, engage in some form of illicit activity. Most commonly, the word “gang” refers to street gangs (a.k.a. youth gangs) who take over territory (“turf”) in a particular geographical area, and who are often involved in “providing protection” (in fact, a thin cover for extortion), or in other forms of criminal activities. Once an urban problem, street gangs have now infiltrated U.S. communities large and small; the Federal Bureau of Investigation (FBI) research shows that at least 30,000 gangs – with more than 800,000 members – are active nationwide, with 100,000 of those gang members living in suburban and rural areas across the United States.

In response to the spread and proliferation of gang participation and violence through both urban and rural Michigan, the State of Michigan has followed the lead of many other states and has recently passed Michigan Penal Code (MCL 750.411u) to establish a felony penalty for a person who committed or attempted to commit a felony for which gang membership or association provided the motive, means, or opportunity. The law broadly define “gang” as a group of individuals, including, but not limited to, individuals less than 18 years of age working to unlawful or antisocial ends. The law makes it up to a 20-year felony for a gang member to commit a felony or attempt to commit a felony if the member's association in the gang provides the motive, means or opportunity to commit the felony; this sentencing is in addition to the sentencing of the underlying felony or the attempt of the felony. In addition, the law makes it a felony to cause, encourage, recruit, solicit, or coerce someone to join, participate in, or assist a gang, punishable by a civil fine or up to 5 years imprisonment. The law is also very proactive in making it a felony to threaten someone assist-

ing a person to withdraw from a gang, or retaliating against a person for leaving a gang, punishable by up to 20 years imprisonment.

Warning Signs

The early adolescent years (12–14 years of age) are a crucial time when youths are exposed to gangs and historically are most susceptible to joining a gang. Negative influences within the family including domestic violence, child abuse, harsh or inconsistent parenting practices, and/or drug/alcohol abuse by family members substantially increases the chance that an adolescent will join a gang. However, research indicates that parents play a pivotal role in keeping their children out of gangs. Parents can protect their children from gang activity through positive actions such as monitoring their children's activities, fostering close relationships with their children and using positive discipline strategies.

Unfortunately, many parents lack basic factual information about gangs. A child who is considering participation in a gang may demonstrate the following behaviors:

- (1) withdrawing from family;
- (2) declining school attendance;
- (3) abnormal behavior and declining performance at school;
- (4) staying out late without reason;
- (5) unusual desire for secrecy;
- (6) confrontational behavior;
- (7) sudden negative opinions about law enforcement or adults in positions of authority (e.g. school officials and teachers);
- (8) change in attitude about school, church, or other normal activities or change in behavior at these activities; or
- (9) unusual interest in one or two particular colors of clothing or a particular logo.

(See Office of Juvenile Justice and Delinquent Program: Parents Guide to Gangs, <http://www.iir.com/NYGC/publications/ParentsGuide-EN.pdf>).

In addition these subjective indicators, adolescent gang participation can evidence itself in some very certain objective manifestations. Parents should become familiar with, and take early note, of the following identifiers:

- **Gang-Style Clothing and Dress:** Gang members may use a particular style of dress to identify with a particular gang, set, clique, or crew. This might include clothing or bandanas worn only in certain colors that are representative of a gang. Other clothing that might be worn by gang members could include pants worn well below the waist (sagging); gang-themed t-shirts with pictures of gang members, prison scenes, graffiti, or slogans; two- or

three-toned bead necklaces; sports clothing of specific teams; or colored fabric belts, occasionally with a metal buckle that includes the initial(s) of the gang.

- **Colors:** Many gangs use one or more colors as a symbol to represent their gang. These colors may be worn on shirts, bandanas, multicolored or single-colored beads, belts, hats, shoes, shoelaces, headbands, jewelry, and other items.
- **Symbols and Numbers:** Some symbols and numbers may have special significance within the gang culture in a particular area. A few common symbols from some of the large gangs in the United States are stars (five- and six-pointed), crowns, pitchforks (pointing up or down), three dots in a triangle, and numbers. Contact your local police or sheriff's department to get specific information on the meaning of unidentifiable symbols or numbers that you may see in graffiti or clothing in your area.
- **Grffiti:** Gangs use graffiti to mark their territory, brag about their reputation, mourn fallen members, and threaten or challenge rival gangs. For this reason, graffiti can be very dangerous and should be removed as soon as possible. Youths who are participating in graffiti may have items such as spray paints, spray-paint plastic tips, wide-tipped markers, or sketchbooks with graffiti works in progress and may have paint on their clothing, backpacks, or other items.
- **Hand Signs:** Some gangs use specific hand gestures to communicate their affiliation with the gang and issue threats or challenges to rival gangs. *Id.*

All youth crime fighting organizations conclude that positive parental influence is the strongest combatant in deterring adolescent involvement in gangs. The FBI and the United States Department of Justice recommend the following 10 parental actions to help prevent youth gang involvement:

- (1) spend quality time with your child;
- (2) get involved in your child's school activities;
- (3) be a positive role model and set the right example;
- (4) know your child's friends and their families;
- (5) encourage good study habits;
- (6) teach your child how to cope with peer pressure;
- (7) help your child develop good conflict resolution skills;
- (8) encourage your child to participate in positive after school activities with adult supervision (recreation centers, organized sports, youth);
- (9) take action in your neighborhood (e.g., create a neighborhood alliance, report and remove graffiti, etc.); and

(10) talk with your child about the dangers and consequences of gang involvement.

As gang participation continues to grow across Michigan and the United States, the importance of educating parents on the warning signs of gang involvement grows increasingly more crucial. For more information on gangs and the organizations committed to educating parents on curbing gang participation by adolescents, please contact the Office of Community Oriented Policing Services (www.cops.usdoj.gov), the Institute for Intergovernmental Research (www.iir.com), the Federal Bureau of Investigation--Violent Gangs Unit (www.fbi.gov), or the United States Department of Justice, National Gang Intelligence Center (www.usdoj.gov/criminal/ngic).



Graffiti

Graffiti *IS* a crime. Graffiti is another form of vandalism—resulting in damaging or destroying someone else's property.

What are some forms of vandalism?

In Michigan, it is illegal to:

- Remove or damage road or highway construction barriers, warning signs and lights. *MCL §750.383.*

- Maliciously poison, torture, kill, neglect, tether or be cruel to animals. *MCL §750.50.*
- Tear down a legal notice before its expiration. *MCL § 750.383.*
- Tamper with fire alarm apparatus or set off a false alarm. *MCL § 750.240.*

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

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

- Fines that the minor cannot pay. *MCL § 600.2913.*
- The costs of repairing and replacing destroyed property. *MCL § 600.2913 and MCL § 712A.30.*
- Damages or losses related to merchants' property. *MCL § 600.2913 and MCL § 712A.30.*
- Damages to school property. *MCL § 600.2913 and MCL § 712A.30.*

Finally, vandalism that poses particular dangers to the public, is racially motivated, or stems from feelings of religious hatred or persecution is treated as a felony and punishable by imprisonment for up to 2 years and/or a fine up to \$5,000.00. *MCL § 750.147(b).*



Guns, Other Weapons, and Fireworks

Gun violence continues to be a problem in our schools and communities. On a monthly basis, approximately 20% of high school students admit carrying a weapon. Michigan has laws that regulate the possession and use of guns and other dangerous weapons. Students are not permitted to carry a dangerous weapon, meaning a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles to school. *MCL § 380.1313.*

It is illegal for a teenager under age 18 to possess a handgun (including a BB gun) in public, unless he or she is accompanied by a person over 18 years of age. *MCL § 750.234f.* However, an individual less than 18 years of age may possess a firearm without a hunting license while at, or going to or from, a recognized target range or trap or skeet shooting ground if, while going to or from the range or ground, the firearm is enclosed and securely fastened in a case or locked in the trunk of a motor vehicle. *MCL*

§ 750.234f. Finally, in Michigan, children under the age of 14 may obtain a license to hunt deer, bear, or elk with a firearm. *MCL § 324.43517.*

Parents should know that:

- Your child likely will be expelled from school if he or she is caught with a dangerous weapon, or trying to sell one, at school.
- Simply pointing a weapon without malice toward another person is a misdemeanor. *MCL § 750.233.*
- It is a felony to fire a gun from a motor vehicle, snowmobile, or off-road vehicle and the penalty could be up to four years in prison an/or a \$2,000.00 fine. *MCL § 750.234a.* And it is a misdemeanor to transport or possess in a boat or motorized vehicle a loaded firearm, other than a pistol or other wise permitted by law. *MCL § 750.227c.*

Finally, a retailer may not sell or transfer explosives to a minor without written consent of the parent or guardian. *MCL § 750.327a.*

The Internet — Computers and Kids

Almost everyone today uses the Internet for email, games, research, or surfing the net, and use of computers is growing. Even preschoolers now use the computer at school and at home. As you would expect, while surfing the Internet could be fun and educational, it can also expose children to several risks. Minors are exposed to unwanted sexual material and many are even being solicited on-line. Also, children can be coerced into divulging personal information that can be misused. The internet can also give teenagers the ability to download certain material, which could expose them and their parents to liability.

Illegal Solicitations

It is illegal for adults to email sexually explicit or obscene material to minors. Likewise, state laws criminalize solicitations – such as where an adult with sexual motives seeks to seduce a child online or to arrange an in-person meeting with the child. Television shows like Dateline NBC have even done entire shows that highlight attempts by on-line predators to solicit children into sex. Setting up such a meeting is a misdemeanor, and an adult can face four years in state prison for *online enticement* if there is an actual meeting. *MCL §750.145a and §570.145d; 18 USC § 2422(b).*

Monitor Your Child's Internet Usage

You should discuss with your children the risks of the internet. Many children socialize online with their friends and even strangers they meet on-line. The majority of teenagers also post personal profiles on social networking Web pages such as “My Space” and “Facebook.” A good number of children consider meeting online contacts in person, and a surprising number of children have already done so. Of course, there is no way to know whether the person on the other computer is actually a teenager or an adult, posing as one.

Where Can I Obtain Information To Learn About the Risks of The Internet?

Parents can look to a number of sources for information on the risks of using the internet. Here are a few:

- www.fbi.gov - the FBI's publication *A Parent's Guide to Internet Safety* (click on *Reports & Publications* in the left-hand menu)
- www.NetSmartz.org
- www.cybertipline.com
- www.25MRT4U.com

or call the National Center for Missing & Exploited Children at 1-800-THE-LOST (843-5678).

Computer Short-Hand – Are You In Touch?

Teens use this lingo in e-mails and instant messages. Have you heard these?

121	one to one	DGT	don't go there	IMS	I am sorry
143	I love you	DIKU	Do I know you?	IPN	I'm posting naked
A/S/L?	Age, sex, location	EMA	what is your e-mail address?	LMIRL	Let's meet in real life
BCNU	I'll be seeing you	F2F	face to face	LOL	laughing out loud
FB	Boyfriend	FAWC	for anyone who cares	P911	My parents are coming!
B/W/O	Black, white, other	GGOH	Got to get out of here	PIR	parent in room
CULBER	See you later			WYRN	What's your real name?

For a more complete list, go to www.cybertipline.com Source: National Center for Missing & Exploited Children.

If you believe that your child has been solicited on-line, call your local police department and the 24-hour Cyber-Tipline at 1-800-843-5678 or at www.cybertipline.com. To minimize the risk of your child becoming a victim, here are some tips:

- Teach your children about the risks of on-line predators
- Know what web-sites your child is visiting.
- Keep the computer in a common room, not in your child's bedroom.
- Use parental controls on your computer.
- Spot-check your child's online account to look at usage.
- Instruct your children not to meet with anyone they meet on-line.
- Tell your children not to give out personal information or post pictures that are accessible to anyone.

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

Identity Theft Can Be Another Problem With the Internet

Identity theft poses another problem for your children, if they are coerced into revealing personal information. Under the *Children's Online Privacy Protection Act (COPPA)*, operators of children's web sites that collect personal infor-

mation from children under age 13 are required to post a privacy notice that states the type of information gathered and whether such information will be sold or forwarded to a third party. Usually, these sites must obtain parental consent before collecting a child's personal information. More information about COPPA can be found at www.ftc.gov/kidzprivacy.

For more information on identity theft, go to www.idtheft-center.org (click on *Victim Information Guides*) and www.ftc.gov/idtheft.

Is there a law against selling or renting violent video games to children?

No. On September 14, 2005, Governor Granholm signed into law Michigan Public Act 108 which prohibited the dissemination and exhibiting of sexually explicit and ultra-violent video games to minors, without parental consent, and imposed civil and criminal penalties for any violation of the Act. Before the law took effect on December 1, 2005, associations of companies that created, published, distributed, sold and/or rented video games filed a suit challenging the constitutionality of the act, claiming the law would violate the First Amendment's free speech clause. The Plaintiffs only contested to the constitutionality of the Act as it related to the dissemination, exhibiting or displaying of ultra-violent video games to minors and won during oral argument on a motion for preliminary injunction.

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 Michigan, lowered its age of majority to 18. *MCL § 722.52*.

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

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

- Join the military without parental consent.

This does not mean that once your child reaches the age of majority, he or she gains all of the rights and privileges available to adults. Some rights and responsibilities may come at an earlier age, while others come later. For example, a Michigan 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. 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*.)

The Juvenile Court System



In Michigan, the family division of the circuit court has jurisdiction over proceedings concerning a juvenile under the age of 17, who is found within the county, if that juvenile 1) violated a town or city ordinance, state law or law of the United States, 2) has deserted his or her home without sufficient cause, 3) is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian or custodian, or 4) is repeatedly absent from school. The court has jurisdiction over proceedings concerning a juvenile under the age of 18 in certain cases where, for example, the juvenile is abandoned by his or her parents or the juvenile's home is unfit to live in.

Typically, the court's jurisdiction ends when the juvenile turns 18, although, with certain exceptions, the court may retain jurisdiction until age 21 if the juvenile committed certain offenses.

If a juvenile 14 years of age or older is accused of committing a felony, jurisdiction in the family division could be waived, and the juvenile may be tried in the court having general criminal jurisdiction of the offense.

Once a juvenile is apprehended, he or she may be ordered detained in detention, pending a preliminary hearing, if the court finds probable cause to believe the juvenile committed certain offenses. In general, when a juvenile is apprehended and detained, the officer is to take the juvenile before the court for a preliminary hearing (or to a place designated by the court pending the scheduling of a preliminary hearing), prepare a petition detailing allegations against the juvenile, prepare a custody statement indicating the location and grounds for detention of the juvenile, and notify the parent or guardian of the detaining of the juvenile, and the need to have a parent present at the preliminary hearing. The preliminary hearing must commence no later than 24 hours after the juvenile has been taken into court custody (exclud-

ing Sundays and holidays), otherwise the juvenile must be released. Under certain circumstances, the court may adjourn the hearing up to 14 days.

At the preliminary hearing, the court will first read the allegations made against the juvenile to determine whether the preliminary hearing should be continued. If it is decided that the preliminary hearing should continue, the court will advise the juvenile of his or her right to an attorney, the right to a trial by judge or jury, and that any statement made by the juvenile could be used against him or her. The juvenile will be given an opportunity to deny or otherwise plead to the allegations. The court will then determine whether to release or detain the juvenile. If the court finds probable cause to believe that the juvenile committed the offense, the juvenile may be ordered to continue in detention. The juvenile will be placed in the least restrictive environment that will meet the needs of the juvenile and the public. An individual who is placed in a juvenile facility and who escapes or attempts to escape from that facility is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

If the court chooses not to order detention, the court will release the juvenile to his or her parents until the trial or the next court appearance. This release may be a conditional release, for example, requiring that the juvenile refrain from using alcohol or drugs, or refrain from committing any offenses while released.

In addition to any other conditions of release, the court may require a parent or guardian to post bail (i.e. money to secure release of the juvenile charged with a crime).

The court may direct the juvenile to appear for a pre-trial conference prior to the actual trial, at which time the judge will discuss the trial proceedings with the juvenile, his or her counsel and the prosecutor.

In all cases, the trial must be held within 6 months after the filing of the petition, unless good cause is shown to support adjournment. If the juvenile has been detained and the trial has not started within 63 days after the juvenile was taken into custody, and the delay is not attributable to the defense, the juvenile will be released pending trial (unless the juvenile is being detained on another matter).

At trial, the standard of proof is beyond a reasonable doubt. If the juvenile is found guilty, or enters a guilty plea or plea of no contest, a dispositional hearing is conducted to determine what measures the court should take with respect to the juvenile. For instance, the court may place the juvenile on probation, order the juvenile to engage in community service or order that the juvenile be placed in a public institution. When the juvenile has been detained, the disposition may not occur more than 35 days after the plea of admission or the trial.

See MCR §§ 3.901 – 3.956. See also MCL §§ 712A.1 – 712A.32



Parents and Other Adults Special Rights and Responsibilities

Being a parent is a great responsibility, which requires a significant amount of time, attention and care. Parents must make important decisions about their children’s lives, such as where the children will live, what school they will attend, and when medical care is appropriate. Parents also must take their responsibility for supporting and protecting their children.

Responsibility for children born out of wedlock: Parents of a child born out of wedlock are liable for the necessary support and education of the child. They are also liable for the child’s funeral expenses.

Responsibility for minors violating the Michigan Penal Code: The parent of a minor is guilty of a misdemeanor if 1) the parent has custody of the minor, 2) the minor violates the Michigan penal code in a weapon free school zone, and 3) the parent knew that the minor would violate the Michigan penal code or the parent acts to further the violation. The parent convicted of this crime may be punished by 1 or more of the following: (a) a fine of not more than \$2,000.00, (b) community service for not more than 100 hours, or (c) probation. It is a complete defense to prosecution under this section if the defendant promptly notifies the local law enforcement agency or the school administration that the minor is violating or will violate the law in a weapon free school zone.

Contributing to neglect or delinquency of children: Any person who causes a minor child under the age of 17 to become neglected or delinquent so as to come under the jurisdiction of the juvenile division of the probate court, shall be guilty of a misdemeanor.

Encouraging Violation of Curfew: Children under the age of 16 shall not loiter or idle in a public street, alley or park between 12 midnight and 6:00 a.m., unless he or she is accompanied by a parent or guardian, an adult delegated by the parent or guardian to accompany the child, or is on

legitimate business directed by his parent or guardian. The same is true for a minor under the age of 12, except that such minors are prohibited from such conduct between the hours of 10:00 p.m. and 6:00 a.m., and there is no “legitimate business” exception to the accompaniment rule. Any person of the age of 16 years or over assisting, aiding, abetting, allowing, permitting or encouraging any minor under the age of 16 years to violate curfew, as set forth above, is guilty of a misdemeanor.

Harboring Runaways: No person shall knowingly and willfully aid or abet a young person under the age of 17 to violate an order of a juvenile court or knowingly and willfully harbor juvenile runaways who have taken flight from the custody of the court, their parents or legal guardian. Engaging in such conduct is a misdemeanor, punishable by fine of not more than \$500.00 or imprisonment of not more than 1 year, or both.

Assistance for kids who have run away from home: The Runaway and Homeless Youth Program provides services to runaway and homeless children, and in certain circumstances, their families. Services are provided through contracts with private agencies. The toll-free telephone number, which is a confidential hotline, is 1-800-292-4517. It is available 24 hours/day, 7 days/week.

See MCL §§ 722.712, 750.145, 750.235a, 722.151, 722.751, 722.752, 722.3



Police Interactions

Being arrested by the police is frightening, but here is a summary of your teenager’s rights and responsibilities when they are questioned, approached or arrested by a police officer.

Cooperation is essential. Your teenager should stay calm and not resist arrest. Resisting arrest is a crime, and a teenager can be charged with this crime, even if he or she is innocent of

the underlying criminal act. In addition, resisting arrest is dangerous and can result in injury, to the teenager or the officer. Furthermore, officers can use the reasonable force necessary to arrest someone. While they cannot use excessive force, they carry weapons and are trained to use them if they believe they are in danger. If your child happens to be injured by a police officer, then you should photograph the injuries immediately, note the date, time and location of the incident, as well as the officer's badge number and the names of any witnesses.

Decline permission to search. Children and adults have Fourth Amendment protections against unreasonable searches and seizures. Without an arrest, police officers can do a very limited frisk or pat-down body search, if they have reasonable cause to believe that your child is armed (if the officer feels a weapon or contraband, he can conduct a further search). Such searches are permitted for the officer's protection. No consent is required for limited pat-down searches. Once your child is lawfully arrested, he or she may be searched, as well as areas within his or her immediate reach. Again, no consent is needed for this search. However, if your child permits such a full-scale search prior to being placed under arrest, your child will be waiving his or her constitutional rights. Those rights are protected, however, if the minor respectfully declines the officer's request to conduct a search.

Remain silent. Once your child is in police custody, the minor must be informed of his or her Miranda rights, which includes the warning that anything the minor says to police can be used against him or her in court. When arrested, your son or daughter has the right to remain silent until he or she has an attorney present. When taken to a police station, minors have the right to make a telephone call. Children should call their parents. If you receive a call from your child informing you that he or she has been arrested, you should make arrangements to secure a lawyer. If a lawyer has been retained, the minor can let the police know that they claim the right to counsel and that a lawyer is on the way. If the minor starts answering questions, he or she may stop at any time.

Don't talk about your case. Teenagers should not discuss their case or the underlying circumstances of their case with anyone other than their lawyer or their parents. They should, however, be encouraged to talk openly and honestly with their lawyer, telling their lawyer the whole truth about the incident leading to their arrest or police encounter. Without all of the facts, an attorney may not be able to adequately defend the minor's interests in court. If the child discusses his or her case with anyone else, however, the police may be able to use such statements in court.

Follow subsequent court procedures: When released, minors should find out when they are due back in court, be sure not to miss the court date, and appear on time.



Privacy issues frequently involve teenagers – especially as more and more teens have computers and telephones. These issues arise both at school and at home. Here are some examples:

Privacy at school: At school, the U.S. Constitution protects only the reasonable expectation of privacy from government intervention – and there is only a limited expectation when it comes to the classroom. The U.S. Supreme Court held that while teachers were state agents who must respect the constitutional right to privacy, they could search students as long as the search was reasonable and could be justified under the circumstances. In that case, the court found that a search was reasonable because a teacher caught a 14-year-old student smoking in the bathroom in violation of school rules and then an assistant vice principal searched the student's purse and found cigarettes and marijuana.

In addition, the U.S. Supreme Court has upheld a public school policy authorizing the random drug testing of student athletes who voluntarily wanted to play a school sport. Although the Court recognized that urine collection is a search covered by the Fourth Amendment, it compared the impact on the individual's privacy rights with the legitimate governmental interests and found that the search was reasonable. The Court held that student athletes have a lower expectation of privacy than other students, and the procedure used was relatively unobtrusive, so the invasion of the student's privacy was permissible. *Id.*

Moreover, Michigan has enacted statutory regulations regarding a students' privacy rights with respect to school lockers. A pupil who uses a locker that is the property of a school district, local act school district, intermediate school district, or public school academy is presumed to have no expectation of privacy in that locker or that locker's contents. *MCL § 380.1306(6)*. A public school principal or his or her designee may search a pupil's locker and the locker's contents

at any time in accordance with the school policy governing such searches. *MCL § 380.1306(3)*. Each school policy, however, is required to provide that the privacy rights of the pupil will be respected regarding any items that are not illegal or against school policy. *MCL § 380.1306(2)*.

Privacy rights at home: Police can search a teenager's bedroom if given permission by a parent. Most courts have held that parents or guardians have a property interest in the

entire home and are allowed to consent to the search of the property or to search it themselves. The theory is that children who remain at home are under the authority of their parents, which weakens the children's privacy rights with the regard to their rooms and the items in their rooms. There are some limits though. For example, roommates generally only have the authority to allow a search of areas they may use or common areas within the home (living rooms, for example).

Receiving Stolen Property

Receiving stolen crime *IS* a crime – even if the teenager was not the person who stole the item. The possible penalty for the crime is increased if the value of the stolen property is more than \$200. *MCL §750.535*.

And to be convicted of this crime, the recipient does not have to witness the theft in order to be guilty. The person need only know or have reason to know that it was stolen. *MCL § 750.535*. Circumstantial evidence could be enough – especially if the price paid for the item was considerably less than its actual value. The court will look at several factors to determine whether the recipient should have or must have known that the item was stolen, such as actual knowledge of the theft, the price paid, where the item was obtained, how it was obtained, whether identifiable marks were removed from the item, and whether the recipient attempted to hide the item from the police.



Today, a parent is afforded numerous options when educating a child – public, charter, private or home schooling. With so many options, a parent may question the differences between the varying types of schools and the rules applying thereto. This article is designed to address some of those questions. For more detailed information, see the Michigan Department of Education's website at www.mde.state.mi.us.

Public Schools

Michigan law requires that every parent send his or her child, aged 6 to 16, to a public school for the entire school year. See *MCL § 380.1561(1)*; see also, discussion of charter, private and home schools below. Public education in Michigan is governed by a combination of state law and

local school board discretion. For example, the state usually regulates teacher certification, curriculum, attendance and graduation requirements. Local school boards are then authorized to select textbooks, resolve disputes concerning parents, teachers and students, and hire and fire teachers. Also, school boards generally have some discretion when applying state regulations.

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

Charter Schools

A charter school is a state-funded public school. See *MCL § 380.504(4)*. Charter schools may include grades K-12 or any combination of those grades. Michigan law allows three kinds of charter schools: (i) public school academies ("PSA"); (ii) Urban High School Academies ("UHSA") operating within Detroit; and (iii) Strict Discipline Academies ("SDA") serving suspended, expelled or incarcerated young people.

A charter school may be chartered by the Board of Directors of any public university, community college, K-12 local education agency or intermediate school district. A charter school may not charge tuition and must serve anyone who applies, except where student applications exceed student capacity. Like other public school teachers, charter school instructors must be certified. Charter schools may not be religiously affiliated. Further, they must meet all of the reporting requirements established by the Michigan Depart-

ment of Education (the “Department of Education”), that apply to public schools.

Private Schools

Parents may also send their child to a non-public school for the entire school year. See *MCL § 380.1561 (3)(a)* and *(f)*. A non-public school is a private, denominational or parochial school, other than a public school. See *MCL § 380.552*. Like public schools, teachers in non-public schools are required to earn a teacher’s certificate. Non-public schools report to the Department of Education in October of each school year. Such reports include, among other things, the number of students in each grade, teacher qualifications and course of study offered.

A private school does not receive funds from the State of Michigan. However, students at a private school may qualify for state or federally funded Auxiliary Services. If particular Auxiliary Services are provided to public school students in a school district, those same services must also be made available to students attending non-public schools located within that district. See *MCL § 380.1296*. Such Auxiliary Services may include: (i) health and nursing examinations; (ii) speech and language services; (iii) social work services; (iv) school psychological services; (v) teacher consultant services for children with disabilities; and (vi) other ancillary services for students with disabilities, remedial reading, and other services determined by the State of Michigan Legislature (the “Legislature”). To determine which Auxiliary Services may be offered to your non-public school pupil, contact your private school, your local public school district or the Department of Education.

Most, but not all, Auxiliary Services are special education related services. To receive special education or a related service, the non-public school student must first be found eligible for special education by an Individualized Educational Program Team (“IEP Team”). To begin this process, the non-public school should refer the student to the local public school district. Upon receipt of the referral, the public school district will conduct an evaluation and hold an IEP Team meeting to determine the student’s eligibility. This referral and evaluation process should be completed within 30 school days. For further information regarding Special Education Auxiliary Services contact the Office of Special Education and Early Intervention Services, Department of Education at (517) 373-1696.

Home Schools

A child may also be home-schooled; that is, “educated at the child’s home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing and English grammar.” *MCL § 380.1561(3)(f)*. A home school is not a public or private school. As such, the Department of Education plays no role with respect to a home school family, nor does the home school family report to the Department of Education. Importantly, there are no minimum qualifications for home school

Laws In Response To Technology and Recent School Tragedies

Cell phones

Seemingly everyone, from age 9 to 90, now carries a cell phone. Many parents outfit their children with a cell phone for both convenience and emergencies. However, you should check with your local school district to determine if your child is allowed to carry a pager, cell phone or other personal communication device to school. Per *MCL § 380.1303(2)*, a school board, or board of directors of a charter school, may adopt and implement its own local policy regarding devices such as cell phones.

School Safety

Parents today are justifiably concerned that school districts take school safety very seriously. The Michigan Legislature has responded to this sentiment and required the Michigan State Police and Michigan State Attorney General to develop a statewide school safety information policy. *MCL § 380.1308*. Such policy includes law enforcement protocols for investigating and reporting pupils suspected of being, or who were involved in, incidents on school property. For detailed information on the policy applicable to your child’s school, contact your local school district. Also see the Department of Education’s website for the Michigan School Lockdown/Shelter-In-Place Drill Policy Packet issued by Governor Jennifer M. Granholm on December 15, 2006.

School Lockers

A pupil who uses a locker at his or her school has no expectation of privacy in that locker or that locker’s contents. *MCL § 380.1306(3)*. Schools have discretion to search a student’s locker and the locker’s contents “at any time.” *MCL § 380.1306(3)*. A law enforcement agency, having jurisdiction over the school, may assist in any such search. *MCL § 380.1306(4)*.

Bullying & Hazing

Traditionally, bullying involved hitting, name-calling or other harassment. In today’s internet era, bullying can involve insulting comments or photos posted on the Internet. It can happen anywhere –at school, at home or in cyberspace (via e-mail, text messages, chat rooms, instant messages or my space pages). The Department of Education has adopted a model anti-bullying policy. Each local school district is required to tailor the Department of Education’s general policy to its specific needs. For more information regarding your local school district’s anti-bullying policy, contact your local school district. In addition as discussed above, Michigan schools are required to develop comprehensive safety plans aimed at preventing crime and violence on campus. *MCL § 380.1306*. If your child is a victim, see *What To Do If Your Child Is Being Bullied* set forth below. And for more information, visit www.stopbullyingnow.hrsa.gov. You could also order *Bullying Prevention*, a pamphlet available in Chinese, Spanish and Vietnamese as well as English at www.safestate.org (go to *focus areas*, then *resources* and *publications*).

For school year 2006-07, there were 797 home schools registered with the Department of Education. None of these schools employ a regulated curriculum. With little to no direction from the Department of Education, a parent contemplating home schooling may seek assistance in curriculum development from a number of sources. For more information on home schooling see:

- www.mivhs.org –Michigan Virtual School (“MVS”) gives non-public schools and home school families the opportunity to have students take middle and high school virtual classes
- www.remc.org –Regional Educational Media Centers (“REMC”) offers instructional materials
- www.nheri.org –National Home Education Research Institute

teachers, except that they must be the parents or legal guardians of the children.

Should a home school choose to submit to the teacher certificate and reporting requirements of non-public schools (discussed above), it will be deemed a non-public school and its students will be eligible for Auxiliary Services. If the home school does not submit to such requirements, the home school pupil will not be entitled to any Auxiliary Services. Nevertheless, home school students may enroll in non-essential elective courses at the resident public school, such as: (i) band; (ii) drama; (iii) art; (iv) physical education; (v) music; (vi) computer; (vii) driver’s education; or (viii) advanced placement.

School Rules

The Department of Education and its public school districts apply many rules in an effort to maintain an orderly atmosphere conducive to educating our children. Private schools are owned and operated by an individual, a corporation or some type of private or non-profit association. As such, the Department of Education’s rules do not necessarily apply to such institutions. When dealing with a private school, it is best to work with your child’s teacher(s) and the school principal or headmaster to address issues faced by your child.

There are many origins of rules regarding suspension/expulsion, personal communication devices, school safety and hazing/bullying. For example, some rules are unique to a particular school or classroom, others spawn from school board directives, and still others are mandated by state or federal law. Knowing the kind of school rule with which you are dealing is important if you want to change or challenge the rule. For example, Michigan law lists circumstances under which a child can be suspended or expelled. *MCL § 380.1311*.

Suspension/Expulsion

Suspension is a temporary interruption in a pupil’s attendance at a public school. Expulsion can be a permanent interruption of a pupil’s attendance at a public school. A teacher, at his or her discretion, may suspend a student from a class, subject or activity for up to one school day. *MCL § 380.1309 (1)*. A longer suspension may result when a school board, superintendent, principal or other designated

school official suspends a student responsible for: (i) gross misdemeanor; (ii) persistent disobedience; or (iii) verbal assault of a school employee, volunteer or contractor. *MCL § 380.1311(1) and § 380.1311(a)(2)*. A gross misdemeanor includes, among other things, the sale and/or use of drugs. Persistent disobedience is not defined, but could include disrupting school activities or willfully defying a teacher’s authority. Verbal assault is defined by your local school board policy, but could include profanity and bomb threats or similar threats. *MCL § 380.1311(a)(2)*.

A student may be expelled if he or she: (i) commits arson; (ii) possesses a weapon in a weapon-free school zone; (iii) commits criminal sexual conduct in a school building or on school grounds; or (iv) physically assaults a school employee, volunteer or contractor. *MCL § 380.1311(2) and § 380.1311(a)(1)*. A dangerous weapon could include a firearm, dagger, brass knuckles, knife with a blade over 3 inches or a mechanical knife. Some school districts have permanently expelled students after finding that BB guns constituted a dangerous weapon.

School officials are authorized to maintain order and discipline in schools and have broad discretion to suspend or expel students. However, a child should be suspended/expelled only as a last resort. Further, the suspension/expulsion should be in response to an offense that took place at a school, while traveling to or from a school, during the lunch period (at school or elsewhere) or while attending or traveling to or from a school-sponsored activity. In all circumstances of expulsion, parents may seek reinstatement.

A parent may prepare and submit a petition for reinstatement at any time after expiration of at least 60 to 150 school days after date of expulsion. The number of days depends on the age and offense of the pupil. *MCL § 380.1311(5)(a) and (b)*. The school board is not required to assist in the preparation of the petition.

In preparing a petition, a parent may consider the following arguments:

- If the school did not follow the mandated due process procedures or its own district rules.
- 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 is disabled and the behavior for which he or she is being suspended or expelled relates to the disability. *MCL § 380.1311(1)*.
- If rules at the school are arbitrarily or discriminatorily enforced. (For example, if it seems that some students are never punished, while others are always being suspended.)
- If the basis of the school's action is related to tardiness, truancy or another school absence.
- If the child says that he or she did not engage in the behavior charged by the school.

Within 10 days of receiving the petition, a school board must appoint a committee to review the petition and any materials submitted by the school board. The committee should consist of: (i) two school board members; (ii) one school administrator; (iii) one teacher; and (iv) one parent of a student in the school district. *MCL § 380.1311(5)(d)*. The committee must review the petition within 20 days of its filing. Upon review, the committee may recommend unconditional reinstatement, conditional reinstatement or no reinstatement. *MCL § 380.1311(5)(e)*. The recommendation must be accompanied by an explanation of the reasons supporting the recommendation. Importantly, the recommendation must be based on the following:

- the extent to which reinstatement would create a risk of harm to pupils or school personnel or a risk of liability for the school board or school personnel
- the age and maturity of the pupil
- the pupil's school record before the incident
- the student's attitude concerning the incident

- the student's behavior since the expulsion and prospects for remediation
- the degree of cooperation and support that has been provided by, and can be expected from, the parent/legal guardian who submitted the petition the parent/legal guardian's receptiveness toward possible conditions placed on the reinstatement. *MCL § 380.1311(5)(e)(i)-(vii)*.

A committee may include conditions on reinstatement including requiring: (i) parents to enter into a parental involvement contract; (ii) student to enter behavior contract; (iii) student to enter into an anger management, or other type of, counseling course; (iv) periodic reviews; and/or (v) specified immediate consequences for failure to abide by a condition. *MCL § 380.1311(5)(g)*.

After receiving the committee's recommendation, the school board must make a decision regarding reinstatement no later than the next regularly-scheduled board meeting. The school board's decision is final. *MCL § 380.1311(5)(f)*.

What Is Hazing?

Students sometimes use hazing as a way to initiate fellow students into a club or fraternity. This can range from practical jokes to life-threatening activities. In Michigan, hazing is illegal if it is meant to degrade or injure a fellow student. Illegal hazing resulting in physical injury can result in imprisonment and/or a \$1,000 fine. And if someone is seriously hurt or killed as a result, it would be felony with stiffer consequences. *MCL § 750.411(t)*.



In Michigan, it is illegal for minors to have consensual sex or for an adult to have sex with a minor, unless the minor is legally married. Michigan has a statutory rape law, which makes it legally impossible for a minor (someone under eighteen) to consent to *sexual intercourse*. Statutory rape occurs even if the minor consents and engages in the act voluntarily.

In Michigan, statutory rape is commonly classified as third degree criminal sexual conduct. Third degree criminal sexual conduct is defined as sexual penetration accompanied by any one of several less serious aggravating circumstances, including that the victim is thirteen to fifteen years of age. *MCL § 750.520d(1)(a)*. The law protects both boys and girls. Michigan, makes no distinction between the age gap between the partners. Therefore, a sixteen-year-old can be convicted of third degree criminal sexual conduct for having sex with a fifteen-year-old. More importantly, this crime is a felony punishable by imprisonment for up to fifteen years. *MCL § 750.520d(2)*.

Second degree criminal sexual conduct, in contrast, only requires sexual contact plus an aggravating circumstance. *MCL § 750.520c*. Sexual contact is defined as the intentional touching of the victim's or the actor's intimate parts, or the clothing covering those parts, for the purpose of sexual arousal or gratification. *MCL § 750.520a*. Criminal sexual conduct in the second degree is also a felony, and is punishable by up to fifteen years in prison. Similarly, fourth degree criminal sexual conduct is defined as sexual contact together with a less serious aggravating circumstance. Yet, unlike the

other categories, criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than two years. *MCL § 750.520e(2)*.

Moreover, a separate Michigan law prohibits accosting, enticing or soliciting a child for immoral purposes. Sexual intercourse is not a required element of this offense, and consent is not an issue. Anyone who commits such a crime with a child under the age of sixteen could face up to four years in state prison. *MCL § 750.145a*. In addition, a person convicted of violating section 145a who has one or more prior convictions is guilty of a felony punishable by imprisonment of up to ten years. *MCL § 750.145b*.

Michigan law also criminalizes forcible rape, which includes force, fear, coercion or trickery to acquire sex. This could be date rape, when he or she is victimized by an acquaintance or date, or incest or spousal rape, when he or she is taken advantage of by a relative or a spouse. Forcible rape is generally called first degree criminal sexual conduct in Michigan, which is subject to twenty-five years to life in prison. *MCL § 750.520b(2)(b)*.

All rapes should immediately be reported to the police and the victim should seek immediate medical assistance. There are many rape crises hot lines that are available for assistance and counseling.

Adolescents in Michigan may, by law, consent to certain medical care related to rape or criminal sexual conduct without their parents' consent. For example, if an individual alleges to a physician or other hospital member that within the past twenty-four hours he or she has been the victim of criminal sexual conduct, the attending health care personnel must immediately inform the individual of the availability of a sexual assault evidence kit and, with the consent of the individual, must perform on the individual the procedures required by the sexual assault evidence kit. *MCL § 333.21527*. A minor fourteen years of age or older may also request and receive mental health services without the consent or knowledge of the minor's parent or guardian. *MCL § 330.1707*.

Police reports involving rape are confidential and customarily are released only to the prosecutors and defense attorneys or by court order. See *MCL § 15.243* (discussing certain exemptions from disclosure). Furthermore, *MCL § 750.520k* authorizes the suppression of a court file containing the name of a victim of criminal sexual conduct, the name of the defendant, and the details of the offense until the defendant is arraigned, the charge is dismissed, or the case is otherwise concluded, whichever occurs first.



To prevent smoking among teenagers, Michigan has enacted various laws to eliminate the use of tobacco products.

Although teen cigarette smoking has declined in the past decade, a considerable number of students smoke cigarettes and the number among high school females is trending up. To prevent smoking among teenagers, Michigan has enacted various laws to eliminate the use of tobacco products.

In Michigan, minors may not purchase, attempt to purchase, possess, or attempt to possess tobacco products. *MCL § 722.642*. Also, minors may not use a tobacco product in a public place. *Id.* Moreover, it is illegal to sell, give, or furnish tobacco products (including cigarettes, non-cigarette smoking tobacco, or smokeless tobacco) to children under the age of 18. *MCL § 722.641; MCL § 722.644*.

In addition, stores that sell tobacco product must post conspicuous signs stating: "The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties." *MCL § 722.641(2)*.

A teenager who uses a false identification to make such purchases (or attempt to make them) is violating Michigan law. This is a misdemeanor and could result in fines, mandated participation in health promotion and risk reduction programs, and community service in a hospice, nursing home, or long-term care facility. *MCL § 722.642(2)*.

Stealing

Larceny is the legal term for taking someone's property without permission, with the intention of keeping it. In Michigan, a person who commits larceny by stealing the property, money or goods of another person is guilty of a felony punishable by imprisonment of not more than 10 years or a fine of not more than \$15,000, or both imprisonment and a fine, if the property stolen has a value of \$20,000 or more. If the property has value of \$1,000.00 or more but less than \$20,000, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000 or both. The person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000, or both, if the property stolen has a value of \$200 or more, but less than \$1,000. If the property stolen has a value of less than \$200, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both imprisonment and a fine.

Stealing directly from an individual: A person who commits larceny by stealing directly from a person is guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years.

Stealing items from a car: A person who commits larceny by stealing any wheel, tire, air bag, radio, stereo, clock, telephone, computer, or other electronic device in or on any motor vehicle, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000, or both.

Buying stolen property in general: It is a crime for a person to buy, receive, possess, conceal or aid in the concealment of stolen or converted money, goods, or property, if one knows or has reason to know or believe that the money, goods or property is stolen.

In general, if the property at issue is valued at \$20,000 or more, the person who buys, receives, possess, conceals or aids in its concealment, knowing that such is stolen, will be found guilty of a felony, and punished by imprisonment for not more than 10 years and/or pay a fine. If the property has a value between \$1,000 or more but less than \$20,000, the person will be imprisoned for not more than 5 years and/or pay a fine. If the property has a value of \$200 or more but less than \$1,000, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000, or both. If the property purchased, received, possessed, or concealed has a value of less than \$200, the person who buys, receives, possess, conceals or aids in its concealment, knowing that such is stolen, will be found guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or suffer both imprisonment and a fine.

Buying Stolen Automobiles: A person shall not buy, receive, possess, or conceal a stolen automobile knowing, or having reason to know, that the car is stolen. A person who violates this provision is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000 or both.

Joyriding: Under the law, joyriding (taking a car for pleasure, without the intent to steal it) is a crime. Any person who, without authority, takes or uses a motor vehicle, without the intention to steal it, is guilty of a misdemeanor, and may be subject to imprisonment of up to 2 years or a fine of up to \$1,500. In the case of a first offense, the court may reduce the punishment to imprisonment for not more than 3 months or a fine of not more than \$500.

See MCL §§ 750.356 – 750.367c. See also MCL §§ 750.535 – 750.538

Truancy

In Michigan, children between the ages of 6 and 16 must attend school full-time. *MCL § 380.1561(1)*. Teenagers must consecutively and continuously attend a public school during each entire school year unless one of the following circumstances apply:

- The child is regularly attending a state approved non-public school. *MCL § 380.1561(3)(a)*.
- The child is less than 9 years of age, the child does not reside within 2.5 miles of a public school by the nearest traveled road, and transportation is not furnished for pupils in the school district of the child's residence. *MCL § 380.1561(3)(b)*.
- The child is age 12 or 13 and is in attendance at confirmation classes conducted for a period of 5 months or less. *MCL § 380.1561(3)(c)*.
- The child is regularly enrolled in a public school while in attendance at religious instruction classes for not more than 2 class hours per week, upon written request of the parent, guardian, or person in loco parentis. *MCL § 380.1561(3)(d)*.
- The child has graduated from high school or fulfilled requirements for high school graduation. *MCL § 380.1561(3)(e)*.
- The child is being educated at the child's home by his or her parent or legal guardian in an organized educational program in various required subject areas. *MCL § 380.1561(3)(f)*.

Consequences of Truancy

If a child is repeatedly absent from school without a valid

excuse the school will attempt to confer with the parent or other person in parental relationship with the child. If these attempts fail, the school will notify the parent or other person in parental relationship with the child by registered mail to meet at a specified time to discuss the child's irregularity in attendance with the proper school authorities. *MCL § 380.1586(2)*.

If the parent or other person in parental relation fails to send the child under his or her control to school, the school will give written notice in person or by registered mail to the parent or other person in parental relation requiring the child to appear at the school on the next regular school day following the receipt of notice, and continue in regular and consecutive attendance in school. *MCL § 380.1587*. If the parent or other person in parental relation fails to comply with this notice, the school will make a complaint against the parent or person in parental relation having the legal charge and control of the child to the court having jurisdiction in the county of residence, for the refusal or neglect to send the child to school. *MCL 380.1588*. The parent or other person in parental relation who is found to have failed to comply with the laws regarding compulsory school attendance, is guilty of a misdemeanor punishable by a fine of \$5.00 to \$50.00, or imprisonment for 2 to 90 days, or both. *MCL § 380.1599*.

Note: The board of a school district, other than a primary school district, can establish one or more ungraded schools for the instruction of juvenile disorderly persons, which includes children who are habitually truant from the schools in which they are enrolled. The board may require habitually truant children to attend the ungraded school. *MCL § 380.1596*.

The child may also end up in court due to the child's truancy. The family division of the county circuit court has original and exclusive jurisdiction in proceedings: (1) concerning a juvenile under 17 years of age who willfully and repeatedly is absent from school or other learning program intended to meet the child's educational needs; (2) where the court finds on the record that the child, the child's parent, guardian, or custodian, and school officials or learning program personnel have met on the child's educational problems; and (3) educational counseling and alternative agency help have been sought. *MCL § 712A.2(a)(4)*.

Web addresses found in this publication

Cars and Traffic Laws

http://www.michigan.gov/sos/0,1607,7-127-1627_8665_9070-24488-,00.html

Adolescent Gangs

Office of Juvenile Justice and Delinquent Program: Parents Guide to Gangs

<http://www.iir.com/NYGC/publications/ParentsGuide-EN.pdf>.

Office of Community Oriented Policing Services

www.cops.usdoj.gov

The Institute for Intergovernmental Research

www.iir.com

The Federal Bureau of Investigation-Violent Gangs Unit

www.fbi.gov

The United States Department of Justice, National Gang Intelligence Center

www.usdoj.gov/criminal/ngic

The Internet

The FBI's publication A Parent's Guide to Internet Safety www.fbi.gov (click on Reports & Publications in the left-hand menu)

www.NetSmartz.org

www.cybertipline.com

www.25MRT4U.com

www.cybertipline.com

www.ftc.gov/kidzprivacy.

www.idtheftcenter.org

www.ftc.gov/idtheft

www.cybertipline.com

Michigan Schools and School Rules

www.mde.state.mi.us

www.mivhs.org – Michigan Virtual School ("MVS") gives non-public schools and home school families the opportunity to have students take middle and high school virtual classes

www.remc.org – Regional Educational Media Centers ("REMC") offers instructional materials

www.nheri.org

www.Stopbullyingnow.hrsa.gov

www.safestate.org