



## Parent Liability Child's Act

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- [Background](#)
- [Minors](#)
- [Civil Responsibility](#)
- [Criminal Responsibility](#)
- [Insurance Coverage](#)
- [Selected State Laws](#)
- [Additional Resources](#)
- [Organizations](#)

### Background

Parental liability is the term used to refer to a parent's obligation to pay for damage done by negligent, intentional, or criminal acts of that parent's child. In most states, parents are responsible for all malicious or willful property damage done by their children. Parental liability usually ends when the child reaches the [AGE OF MAJORITY](#) and does not begin until the child reaches an age of between eight and ten. Laws vary from state to state regarding the monetary thresholds on damages collected, the age limit of the child, and the inclusion of [PERSONAL INJURY](#) in the tort claim. Hawaii was the first state to enact such legislation in 1846, and its law remains one of the most broadly applied in that it does not limit the financial bounds of recovery and imposes liability for both negligent and intentional torts by underage persons. Laws making parents criminally responsible for the delinquent acts of their children followed civil liability statutes. In 1903, Colorado became the first state to establish the crime of contributing to the delinquency of a minor. Today, most states have these types of laws. Children's offenses can be civil and/or criminal in nature. Civil cases are lawsuits for money damages. The government brings criminal cases for violations of criminal law. Many acts can trigger both civil and criminal legal repercussions.

### Minors

A minor is a person under the age of majority. The age of majority is the age at which a minor, in the eyes of the law, becomes an adult. This age is 18 in most states. In a few other states, the age of majority is 19 or 21. A minor is considered to be a resident of the same state as the minor's custodial parent or [GUARDIAN](#).

### Civil Responsibility

Each state has its own law regarding parents' financial responsibility for the acts of their children. Parents are responsible for their children's harmful actions much the same way that employers are responsible for the harmful actions of their employees. This legal concept is known as vicarious liability. The parent is vicariously liable, despite not being directly responsible for the injury. A number of states hold parents financially responsible for damages caused by their children. Some of these states, however, place limits on the amount of liability. The laws vary from state to state, but many cover such acts as [VANDALISM](#) to government or

school property; defacement or destruction of the national and state flags, cemetery headstones, public monuments/historical markers; also, property destroyed in hate crimes, based on race or religion, such as ransacking a synagogue. Personal injury in connection with any of these may also be included.

### ***Teenage Parents***

Each year thousands of teenage girls, some as young as 12, enter into the AFDC system because they become pregnant. These girls are eligible to receive welfare benefits for their children because the fathers are almost always noncustodial. Many of the fathers are also teenagers still attending high school and are frequently unable to pay [CHILD SUPPORT](#) because of their lack of income. These cases, commonly called "minor-mother" cases, are automatically referred to the state child support enforcement agency by the welfare department. When the agency receives a minor-mother referral, it begins [LEGAL PROCEEDINGS](#) against three parties: the father of the minor-mother, the mother of the minor-mother, and the father of the minor-mother's child. Because the parents of minor-mothers are legally responsible to support their daughters until [EMANCIPATION](#), they must pay child support for their minor-mother daughters. The Welfare Reform Act has enacted important changes for teenage parents and minor-mothers. In order for a minor-mother to be eligible to receive AFDC benefits, she must enroll in high school or a state-approved GED program and live under adult supervision. The Welfare Reform Act has thus eliminated the enticement of physical and financial independence from one's parents. Another significant change implemented by the Welfare Reform Act is that parents of a noncustodial teenage father (the grandparents of the minor-mother's child) are liable to pay child support until their teenage son emancipates, if the minor-mother receives welfare. Prior to enactment of the Welfare Reform Act, grandparents were never liable to pay child support for their grandchildren, and the government could not collect child support from a minor-father until he became employed.

Additionally, the parents of a minor teenage noncustodial parent may face [PATERNITY](#) action requests for child support from them, rather than the father of the newborn. When a minor child gives birth, that minor child is responsible for her baby, and the minor's parents remain responsible for her. However, if the young person under the age of 18 continues to live at home, the grandparents' income will be "deemed available" to the grandchild to determine eligibility for Temporary Assistance to Needy Families (TANF), and the mother may seek through the court to have the paternal grandparent's income "deemed available" for child support purposes.

### ***Negligent Supervision***

A parent is liable for a child's negligent acts if the parent knows or has reason to know that it is necessary to control the child and the parent fails to take reasonable actions to do so. This legal theory is known as negligent supervision. Liability for negligent supervision is not limited to parents. Grandparents, guardians, and others with [CUSTODY](#) and control of a child may also be liable under these circumstances. There is usually no dollar limit on this type of liability. An umbrella or homeowner's insurance policy may offer the adult some protection in a lawsuit.

### ***Family Car Doctrine***

The family car doctrine holds the owner of a family car legally responsible for any damage caused by a family member when driving if the owner knew of and consented to the family member's use of the car. This doctrine is applied by about half of the states. Thus, even if a parent does not have a minor household member listed on the auto insurance policy, under the family car doctrine, the adult remains liable. Most insurance policies have special provisions for members of the household under eighteen. Typically, minor drivers must be included on the policy. The car owner would not be able to invoke the uninsured motorist provision for a minor child driver residing in the insured's household, driving the insured's vehicle.

## **Criminal Responsibility**

Although some states impose criminal liability on parents of delinquent youth, many more have enacted less stringent types of parental responsibility laws. Kansas, Michigan, and Texas require parents to attend the hearings of children adjudicated delinquent or face [CONTEMPT](#) charges. Legislation in Alabama, Kansas, Kentucky, and West Virginia requires parents to pay the court costs associated with these proceedings. Other states impose financial responsibility on parents for the costs incurred by the state when youth are processed through the juvenile justice system. Florida, Idaho, Indiana, North Carolina, and Virginia require parents to reimburse the state for the costs associated with the care, support, detention, or treatment of their children while under the supervision of state agencies. Idaho, Maryland, Missouri, and Oklahoma require parents to undertake [RESTITUTION](#) payments.

### ***Child Access Protection Laws***

Some states have laws which hold parents liable when children gain access to a firearms. At least nine states hold adults criminally responsible for storing a loaded firearm in such a way as to allow a minor to gain access. Some of these provisions include an enhanced [PENALTY](#) if the minor causes injury or death and create exceptions for parental liability when the minor gains access to a weapon by unlawful entry into the home or place of storage or if the firearm is used in [SELF-DEFENSE](#). In addition, several states have provisions that create criminal liability when a custodial adult or parent is aware that his or her child possesses a firearm unlawfully and does not take it away. A number of jurisdictions have enacted laws making it a crime to leave a loaded firearm where it is accessible by children. Typically, these laws apply, and parents can be charged, only if the minor gains access to the gun. There are usually exceptions if the firearm is stored in a locked box, secured with a trigger lock, or obtained by a minor through unlawful entry. In most states, the penalty for unlawful access is a [MISDEMEANOR](#) unless the minor injures someone else, in which case the parent can be charged with a [FELONY](#).

### ***Juvenile Delinquents***

In addition to Access Protection Laws, some states hold parents responsible for paying restitution as well as criminal fines where crimes are committed by minors. Once a minor becomes involved in the juvenile justice system, parents may find themselves reimbursing the state for costs associated with their child's prosecution and rehabilitation. Minors who run away from home, exhibit chronic truancy, or refuse to obey their parents are classified by many states as incorrigible. Incorrigible minors are often referred to as status offenders because they would not be in court but for their status as minors. When a minor commits a criminal act that would still be a crime if committed by an adult, most states will classify the minor as a juvenile delinquent.

## **Insurance Coverage**

Since homeowners insurance includes both property and liability coverage, wrongful acts of children or negligent supervision claims may be covered even if the act took place away from a policyholder's residence. Homeowner's policies typically cover legal liability in the event that anyone suffers an injury while on the insured property, even if the injury was committed by another household member or the result of [NEGLIGENCE](#) on the part of the policyholder.

## Selected State Laws

**ARIZONA:** Parents are liable for intentional acts of their children that injure others or damage their property. Parents can be held automatically liable for up to \$10,000 in damage. Although not automatic, under some circumstances, this legal responsibility may extend to the full value of the victim's damages.

**CALIFORNIA:** Parents are responsible if the parent has knowledge of the child's potential for misconduct and fails to take reasonable steps to prevent such misconduct; if the parent has signed the child's driver's license application or the child drives the parent's car with the parent's knowledge and permission; if the child is guilty of willful misconduct; or if the child is given ready access to a firearm.

**ILLINOIS:** It is illegal for a person to store or leave any loaded firearm in a way that allows a minor to gain access to the firearm without permission from a parent or guardian and use it to injure or kill. A firearm is properly stored if it is secured by a trigger lock, placed in a securely locked box, or placed in some other location that a reasonable person would believe to be secured from a minor.

**INDIANA:** If the juvenile is adjudicated a delinquent, the parents or custodians of the juvenile may be required to participate in programs of care, treatment, or rehabilitation for the juvenile and will be held financially responsible for any services provided. These costs may include the costs incurred by the County on behalf of the juvenile for attorneys, institutional or foster care placement, detention, inpatient/outpatient treatment, or counseling. It may also include the costs of returning the child from another [JURISDICTION](#) and court costs associated with the juvenile proceedings. If the parent or guardian defaults in reimbursing the county or fails to pay any fee required, the Juvenile Court may find him/her in contempt and may enter judgment for the amount due. A parent is liable to another person for up to \$5,000.00 in actual damages arising from harm to person or property caused by a child in their custody and may be fully liable for all actual damages resulting from gang activity.

**MASSACHUSETTS:** It is unlawful to store or keep any firearm, rifle, or shotgun including, but not limited to, large capacity weapons or machine guns in any place unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. Dealers must conspicuously post at each purchase counter the following warning in bold type not less than one inch in height: "IT IS UNLAWFUL TO STORE OR KEEP A FIREARM, RIFLE, SHOTGUN OR MACHINE GUN IN ANY PLACE UNLESS THAT WEAPON IS EQUIPPED WITH A TAMPER-RESISTANT SAFETY DEVICE OR IS STORED OR KEPT IN A SECURELY LOCKED CONTAINER." Each dealer must provide the warning, in writing, to the purchaser or transferee of any firearm, rifle, shotgun, or machine gun in bold type not less than one-quarter inch in height.

**MISSOURI:** Parents may be liable in an amount up to \$2,000 under the parental liability [STATUTE](#). Parents may be liable for greater amounts if the court determines that the child's actions were a result of parental negligence. The child must act purposely before the parent is liable.

**TEXAS:** It is a misdemeanor offense when a child gains access to a firearm because an adult fails to secure a readily dischargeable firearm or left the firearm in a place to which the person knew or should have known that a child could gain access. It also requires firearms dealers to post a sign with this warning: "It is unlawful to store, transport, or abandon an unsecured firearm in a place where children are likely to be and can obtain access to the firearm."

**VIRGINIA:** It is a misdemeanor to recklessly leave a loaded firearm so as to endanger the [LIFE OR LIMB](#) of any child under the age of fifteen.

## **Additional Resources**

*Jack and Jill, Why They Kill.* Shaw, James, Onjinjinkta Publishing, 2000.

*Juvenile Crime.* Ojeda, Auriana, Gale Group, 2001.

## **Organizations**

### ***American Bar Association***

750 N. Lake Shore Dr.  
>Chicago, IL 60611 USA  
Phone: (312) 988-5603  
Fax: (312) 988-6800  
URL: <http://www.abanet.org>

### ***Child Welfare League of America***

50 F Street NW, 6th Floor  
Washington, DC 20001-2085 USA  
Phone: (202) 638-2952  
Fax: (202) 638-4004

### ***Families Worldwide***

5278 Pinemont Dr., Suite A-180  
Salt Lake City, UT 84123 USA  
Phone: (801) 262-6878  
Fax: (801) 262-7107

### ***National Association of Child Advocates***

1522 K Street, NW, Suite 600  
Washington, DC 20005-1202 USA

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