

legal lines

from
MOORE, SUSLER, MCNUTT & WRIGLEY
Lawyers

All Our Children...

Children...they can be our pride and joy. Someone said they're either a pain in the neck or a lump in the throat. Without doubt they constitute our richest natural resource. They're our hope for the future; potential funders of our social security; oh, yes, and possibly our caretakers in later years.

So what are **their** rights and responsibilities? As parents, or other adults (unfortunately not all parents are adults), what are **our** rights and responsibilities when it comes to children. How old do we have to be to vote? to drink? to drive a car? to fly an airplane? to marry? to buy tobacco? to be tried for crime? to stay out as late as we want to?

Our staff thought some answers to these questions might be of interest to you. In the following paragraphs our lawyers discuss these and other legal issues affecting us in our relationships to all our children.

Juveniles in the Criminal Law

A person reaches majority at the age of 18 for almost all purposes in the State of Illinois except for purchasing alcohol. Though 18 is the general age of majority, the State Legislature has determined that one who commits a crime can be prosecuted earlier, depending upon the severity of the crime. At 17, the State Legislature has determined that one can be prosecuted as an adult for offenses carrying only a fine as the possible penalty. Examples are minor traffic offenses and violations of city ordinances, boating, fishing and hunting laws.

For very serious crimes, like first degree murder, and several lesser crimes committed in an aggravated manner, a child is even answerable as an adult at age 15.

Even if the crime is not quite of that seriousness, a minor may be tried as an

adult, if the juvenile court judge is convinced it is in the best interest of the child or of the public to not proceed under the Juvenile Court Act.

Sometimes a minor's defense attorney may decide that the client will fare better under adult criminal statutes. It might be simpler and more quickly concluded in that way — a guilty plea and payment of a fine. Against this, though, a defense attorney and the client must weigh the fact that a criminal conviction record, as opposed to a juvenile court action, which is considered only a civil action, could follow a person throughout life.

When Your Underage Child Becomes a Parent

Your fifteen year-old daughter just gave birth to a rosy-cheeked baby fathered by her fifteen-year old boy friend. What now? Whose responsibility is it to provide for the baby's physical, mental, emotional, and financial needs? The law provides it is the responsibility of those young parents.

The Illinois Parentage Act of 1984 declares the public policy of the state as recognizing "the right of every child to the physical, mental, emotional, and monetary support of his or her parents...." The law also states, "A child's mother or a person found to be the father of a child...is not relieved of support and maintenance obligations to the child because he or she is a minor."

So, according to the law, your minor children who become parents have the same responsibility to their child as though they were adult parents. The reality of the situation, of course, may be quite different. Few minors can afford the cost of raising children. That burden, more than likely, will fall on the grandparents, and particularly the parents of the mother. So will the burden of providing for the physical, mental, and emo-



tional needs of a baby whose mother and father attend school and who still need the mental, emotional, and financial support of their parents. A double whammy for pappy and mammy!

Parents' Rights... Are there any?

Thus far we have concentrated on children's rights and responsibilities and parents' responsibilities under the law; but what about parents' **rights**? Do they have any, especially with regard to the conduct of their children? In Illinois, the question has not been raised often so there are few clear answers. But one issue, sadly occurring more frequently, has been addressed by the legislature and the courts. It is the one of parents who are being abused by their children.

This topic is becoming a serious and often life-threatening concern of parents as they get older. Their children become violent and lash out at those who are closest—usually Mom and Dad. If the child is an adult, the quickest solution is to petition the court for an order of protection and put some distance between the parties until things settle down.

When the child is a minor, involving the police or the courts may result in juvenile detention. Parents may delay or postpone this step, believing they can solve the problems at home. But the situation usually deteriorates before it gets better. Sometimes, quick intervention by professionals (particularly where drugs or alcohol are involved) and the opportunity for everyone to "cool off" has to happen before any real healing can occur.

The concern for the abuse of elders has resulted in several new criminal statutes. Some of them just raise the ante for committing offenses already on the books against an elder. And who commits the vast majority of these offenses? You've got it — their children!

When There's Trouble, Who Gets Sued?

Generally, minors are liable if they intentionally or negligently injure another's property or person, called a tort. Many Illinois cases, however, hold that a minor's conduct is not measured by the **adult** standard. For example, a child under **seven** is held incapable of negligence. If the child is older, the standard is not always clear. Often a jury will decide what standard applies based on the child's age, abilities and experience. Still, it is clear a child who engages in adult activities, such as driving a car or operating a boat, will be held to the same standard of conduct as adults.

Although the **child** is liable, the parents may not be. The mere relationship of parent and child will not make the parent liable for the acts of a minor. Although it is not negligence for a parent to simply permit a child to own or operate a motor vehicle, there is some precedent that a parent may be responsible for a minor under the doctrine of "negligent entrustment." Allowing a child to operate a motor vehicle without the proper skill and training may be negligently entrusting a potentially dangerous instrumentality into the hands of that child. If an accident occurs, liability may rest with the parent. Too, a minor child may be looked at as the agent of the parent while committing a tort, and make the parent liable under a doctrine called respondeat superior.

In the case of some mature minors, it is possible that parents may be relieved of some of their responsibilities for their minor children. It occurs through a legal process called emancipation. Emancipation allows a mature minor who has demonstrated the ability and capacity to manage his or her own affairs to live wholly or partially independent of parents or guardians. The minor must be at least 16 years of age. A court action is begun by a petition filed in behalf of the minor by the parents or guardians. If the court finds that the child has the capacity and maturity to manage his or her own affairs, and it is in the best interests of the minor and his family, emancipation will be granted. Then, with the apron strings cut, parent and child will be freed of many of their responsibilities to or for each other.

Many frustrated parents **and** minor children might say "Give me that petition!" But, if they are that anxious, chances are it's not a good case for emancipation.

So, aside from loving and nurturing and educating them, what's a parent to do? Be sure your liability insurance coverage is broad and in adequate amounts (good advice even for the childless).

Well, nobody ever told us that being children or having them would be easy. There are thorns in a rose garden, but also a lot of precious beauty. Isn't it the same with family relationships?

At the beginning we asked some questions about legal ages for various activities in Illinois. Here's a checklist:

Voting	18
Smoking	18
Drinking	21
Driving:	
instruction permit	15
full license	16 (with consent of parent or guardian or if emancipated)
Flying:	
solo	16
license to take passengers.....	18
Marrying:.....	18
	16 (with consent of all parents/guardians or Court approval)
Staying out after 11 pm Sunday through Thursday and 12 am on Friday and Saturday	18
Making contracts, wills, powers of attorney	18 (can be 16 if emancipated through court finding he or she is a mature minor)
Stop learning	never!

Pardon the Inconvenience

After some street work in front of our offices scheduled for this summer/fall, it should be easier to enter our property.

The State is going to straighten the west right-of-way line in our area so that the far left lane will be complete from Pershing through to Christine Drive...no more disappearing lane right at our entrance.

While the change is in process, we'll still be reachable, but it may be different. If you're coming to see us, you might want to call ahead for any special directions.

Help Your Health Care Agent Help You

Compliments of the University of New Mexico, we have available a Values History Form. When completed by you (probably a thoughtful half hour job) and shared not with us but with the agent under your health care power of attorney, he or she will be a lot better equipped to make future health care decisions for you.

To assess the true usefulness of this form, we would like to furnish a free copy to the first fifty readers who call in and are willing to complete it in thirty days and answer a few questions for us. The questions are:

1. How long did it take to complete the form?
2. Are there any questions we should add?
3. Are there any questions we should delete?
4. Do you believe this will help your agent help you? A lot? A little? Not at all?

You don't have a health care power of attorney? We'd be glad to send you a re-print of an earlier Legal Lines article about the whys and hows. Just call us.

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