

SOUTH CAROLINA BAR
Children and the Law



No relationship is more important than the one between a parent and a child. Many laws affect this relationship, including laws about:

- the duties of parents to their children;
- how fatherhood is proven;
- child abuse and neglect;
- how parents can lose their rights to their children;
- how children can become free of their parents' control (emancipation); and
- when children can make contracts.

PARENTAL DUTIES

Parents must see that their children have enough food, clothing, shelter, medical care and education. They must protect their children from harm.

BEING PART OF A FAMILY

Children may become part of a family by:

- being born to a married or unmarried couple;
- a court ruling naming the child's father; and
- adoption through the family court.

CHILDREN'S BENEFITS

When the law recognizes a child's parents, the child may get many benefits, including

- Social Security death, disability or retirement benefits;
 - estate or property claims;
 - veterans' benefits;
 - workers' compensation;
 - insurance;
 - pensions;
 - claims for wrongful death;
- and
- knowledge of family health problems.

The family court can order parents to pay child support until a child is 18 or even longer if the child has disabilities or is in college.

PARENTS AND THE GOVERNMENT

Parents may choose their family's religion, education and lifestyle. They have the right to raise their children with little governmental interference. However, parents must not:

- abuse their children physically or sexually;
- punish their children in such a way that they suffer

harm (spanking must not cause physical harm); or

- neglect their children.

Parents must provide the necessities of life. The government cannot remove children from the home just because the family is poor.

Most people who work with children are required by law to tell the Department of Social Services (DSS) if they think a child is being harmed. DSS then investigates the charge. If DSS can keep the child safe at home with the family, it must try to do

CHILDREN'S HEALTH CARE

- Health care personnel *may* provide a child with life-saving measures that do not require an operation *without* parental consent.
- Health care personnel may provide services to children, including operations, when essential to save the children's lives.
- Children over age 16 can consent to health services that do not involve an operation.
- Children over age 16 may seek treatment for mental illness or drug and alcohol dependency without parental consent.
- Children under 18 must have the consent of a parent, guardian or person acting as a parent to get an abortion unless they are emancipated. If no one will consent, the minor may apply to family court for permission. Consent is not necessary in an emergency or if the pregnancy is the result of incest.

so. DSS should only take a child from the home when that child is in significant or eminent danger.

Parents may be liable for damages up to \$5,000 if their children harm others or damage property.

IF THE GOVERNMENT GETS INVOLVED

Listed below are events that may happen if DSS or law enforcement believes that a child is being harmed or is at great risk of being harmed.

- The child may be taken into emergency or protective custody.
- The family court will hold a probable cause hearing in 72 hours and a final hearing in 35 days.
- The family court must appoint a lawyer for parents who cannot afford one.
- The family court will appoint a guardian *ad litem* for the child to help the court determine what is best for the child.
- DSS must create a placement plan to get the family back together if possible.
- DSS should arrange for frequent visits between child

and parent.

- If the child is in foster care, the Foster Care Review Board should review the case regularly.

- If parents do not follow family court orders, they may lose all rights to their children.

- Parents who are mentally ill, mentally retarded or who need other help should get special assistance from DSS.

In all situations involving the placement of a child, the court's primary concern is the best interest of the child.

CHILDREN'S RIGHTS AND DUTIES

Children usually become adults at age 18. However, there are some exceptions.

- Schools must provide special education to children who need it until age 21.

- Parents may seek guardianship in probate court for children over age 18 who cannot care for themselves.

Some situations may allow

children to become legal adults earlier than age 18.

- Children may remove themselves from the custody of their parents by obtaining employment, joining the armed forces or otherwise becoming self-sufficient. The family court must grant the emancipation order.
- Marriage also emancipates children. Girls may marry at 14 and boys at 16 with the consent of a parent or guardian. A pregnant girl who

is under the legal age, with parent or guardian consent, may marry the father of her child without the consent of the father's parent or guardian.

Children under age 18 have the right to:

- Contract for higher education with or without parental consent. However, they cannot contract for unnecessary items such as stereo equipment.

General information:

South Carolina Bar Lawyer Referral Service

If you need a lawyer, contact the South Carolina Bar Lawyer Referral Service from 9 a.m. to 5 p.m. Monday through Friday. Call 1-800-868-2284; if you are in Richland or Lexington Counties, call 799-7100.

Additional Legal Tips Available

To access answers to frequently asked questions on other legal issues, visit the South Carolina Bar's LawLine online at www.scbar.org/public/lawline.asp

Provided as a public service of the



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