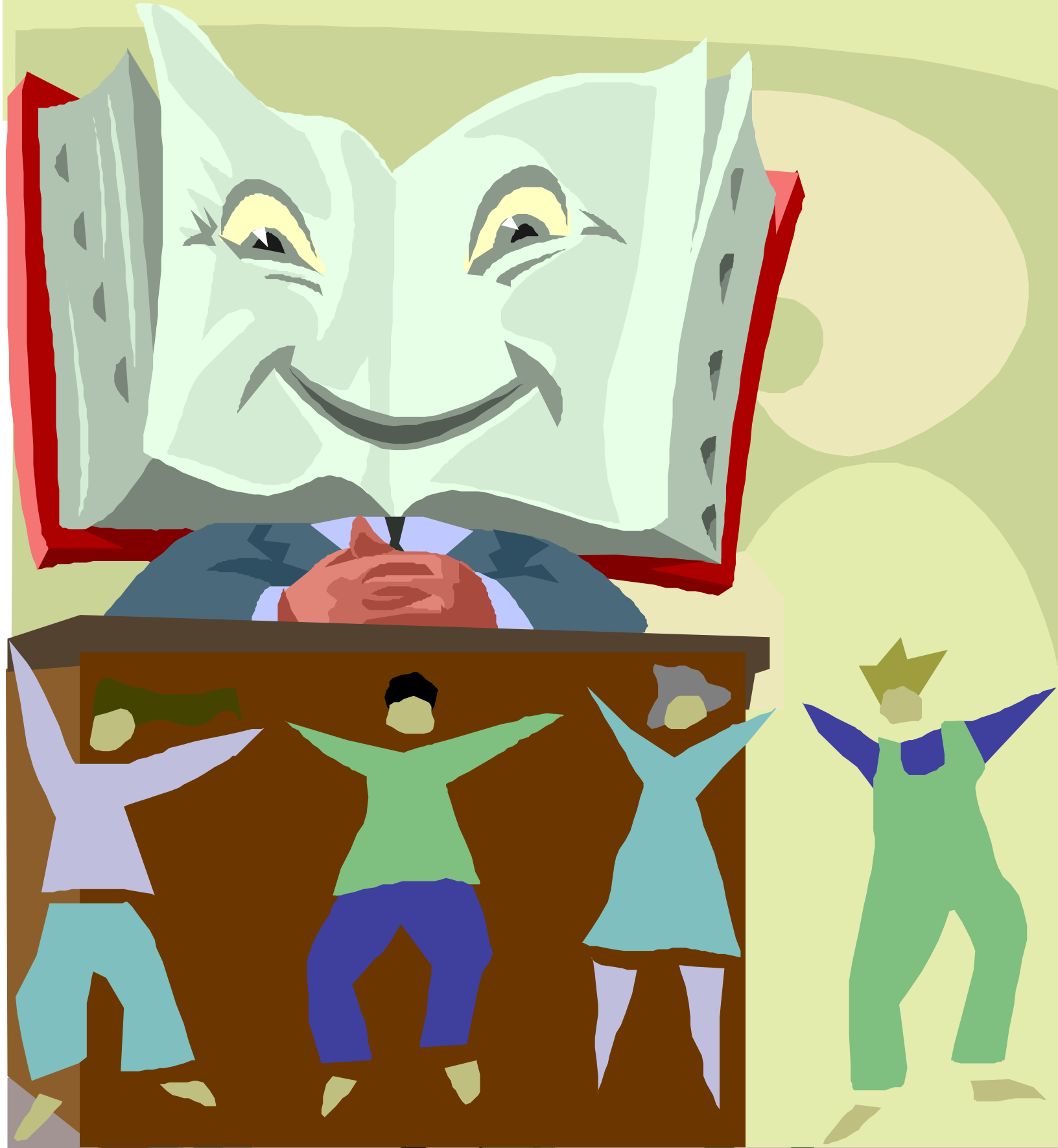
KID'S LAW



CHILDREN'S LAW CENTER
SCHOOL OF LAW
UNIVERSITY OF SOUTH CAROLINA

1600 Hampton Street, Suite 502
Columbia, SC 29208
803-777-1646

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INTRODUCTION

Today's young people are the future of our state and our country. You represent tomorrow's legislators, business leaders, teachers, and parents. With such important roles to fill, it is essential that you study, understand and respect the law.

It is important for you to know how our state and federal laws affect you. You should have a clear understanding of your rights and what the laws allow you to do, as well as limits that the laws place on you as a young person.

Kid's Law provides you with an overview of several areas of the law affecting young people in South Carolina. Its purpose is to educate you about issues that you or your peers are likely to encounter. A question/answer format has been used to directly address questions that are frequently asked by people your age.

This booklet is not meant to be your legal guide or sole source of legal information. It is meant to provide you with a starting point of reference for questions you may have about the law, your rights, or your responsibilities as a citizen of this state.

You can access *Kid's Law* on the Children's Law Center website at http://childlaw.sc.edu by clicking on Publications. If you would like to make copies, contact the Children's Law Center at (803) 777-1646.

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****Laws are subject to change at any time.**

The information in this book is current as of July 2015.

If you have a specific legal problem, you may want to consult an attorney.

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DEFINITION OF A CHILD

Who is a "child" in South Carolina?

South Carolina law states that a child is a person under the age of 18. However, when used in the context of delinquency and criminal acts, "child" refers to a person who is under 17 (under 16 for some serious crimes). Children involved in delinquency proceedings are often referred to as "juveniles."

What does "age of majority" mean?

"Age of majority" is the age, defined by law, at which a person gains all the rights and responsibilities that come with being an adult.

When will I be considered an adult?

You will be considered an adult when you reach the age of majority. In South Carolina, you are considered an adult for most purposes on your 18th birthday. The major exception is when purchasing alcohol you are not considered an adult until you turn 21. Furthermore, if you are accused of violating a criminal law and you are at least 17 years old (16 for certain serious crimes), you will be treated as an adult.

When you reach the age of majority, you are said to be "emancipated." Generally, emancipation is that point in time when parents are no longer legally responsible for their children, and children are no longer legally required to answer to their parents. It is when your parents no longer have to provide you with food, clothing, medical care, and education.

There are times when a person under the age of majority is treated as an adult and thus, emancipated. A child may be emancipated earlier when there

is an agreement between the parent and child that the child is able to provide for herself/himself and therefore, may leave the home and take control of her/his own life. You may also be emancipated when you get married.

Why are the laws different for me than for an adult?

Many of the laws governing you, as a child, are different than those that apply to adults. This is simply for your protection. Children, because of their age, lack the experience that is needed to make mature and informed decisions about many of the things that affect them. The laws that apply to you were written to protect you from yourself and from people who might try to take advantage of you.

PARENTAL RIGHTS & RESPONSIBILITIES

How long do my parents have control of me?

Generally, your parents have control of you until your 18th birthday, when you reach the age of majority, unless you become emancipated before your 18th birthday.

What rights do my parents have concerning me?

Generally, both your mother and father have equal power, rights, and duties. They each have the right to your custody and control. However, if they are divorced, a judge may alter these rights according to what is in your best interest.

There is an exception in cases where a child is born and the parents are not married. Under these circumstances, unless there is a court order saying otherwise, the custody of the child is solely with the mother.

Your parents' rights to your custody and control include things like deciding where and with whom you will live, what you will do from day to day, where you will attend school, when you will go to the doctor, and where, if at all, you will go to church. Both of your parents also have the right to your school and medical records and the right to participate in your school activities.

What happens if I don't obey my parents?

Your parents have the right to expect your cooperation and obedience. If you refuse to obey your parents, run away from home, refuse to go to school, or become incorrigible (beyond your parents' control), then your parents may request or the family court may require you to go before a judge to explain your actions. These behaviors may be delinquent acts called status offenses and are discussed in the section on Juvenile Delinquency.

Do my parents have the right to keep the money I earn?

Yes. As long as your parents are obligated to support you, they have the right to the money you earn at any job you perform, with few exceptions. However, most parents do not strictly enforce this right.

What obligations and responsibilities do my parents have concerning me?

The most important obligation your parents have toward you is that of support. Your parents must provide you with the necessities of life, including food, clothing, shelter, medical care, and education. This responsibility of support falls equally on both of your parents whether or not they are married. However, the amount of support you are given is up to your parents, as long as the necessities are provided.

Can my parents get in trouble for things that I do?

Yes they can. Your parents are responsible for exercising supervision and control over you. This means that they must make an effort to keep you from breaking the law. In some instances, your parents may even be held liable for your wrongful actions.

On the other hand, if you are 17 years old and have a record of being incorrigible (beyond your parent's control), then your parents may kick you out of their home and stop supporting you in any manner.

Is it possible for parents to lose their parental control?

Yes. A parent can voluntarily give up custody to someone else such as another relative, or a parent can voluntarily give up parental rights by consenting to adoption. In addition, the family court may take a parent's rights away if the parent abuses or neglects you or is otherwise found to be an unfit parent.

What is "emergency protective custody"?

If a child is taken into emergency protective custody, this means that either a law enforcement officer or a family court judge believed that the child's life, health, or physical safety was in danger due to abuse or neglect and thought it necessary to take temporary custody of that child.

Once a child is taken into custody, the Department of Social Services (DSS) investigates to decide whether or not the child should be returned to his or her parents, placed with extended family members, or held in foster care. If DSS cannot help the parents with making their home safe so that the child may return, then the court may terminate the parents' rights. Termination of the parents' rights allows the child to be adopted by another family who can properly care for him or her.

If my parents are separated or divorced, do I have the right to live where I want?

The family court judge will take into consideration your preference as to where you want to live, based on your age and maturity level. Nonetheless, the judge will do what is in your best interest.

Am I required to pay child support if I have a child?

Yes. Your parents may also be responsible for making your child support payments until you reach the age of 18 or are emancipated.

EDUCATION

How long am I required to attend school?

You are required to attend a public or private school or an approved home study program from age 5 until your 17th birthday or until you graduate from high school. There are some very limited circumstances in which you would be allowed to quit school before turning 17.

What happens if I don't go to school?

If you willfully fail to attend school without excuse, you may be guilty of truancy and you and your parents may have to appear before a family court judge.

As soon as you miss 3 days in a row or 5 days all together (if the absences are unexcused), the school is required to meet with you and your parents to identify the reasons for your absences and develop a plan to help you attend school without any additional unexcused absences.

What will happen if I have to go to court?

If the school files a petition for truancy against you, the solicitor will send you and your parents a summons to appear in family court on a certain day and time. In court, unless you can prove that you have attended school as required by law, the judge will most likely place you and your parents under a court order to attend school. The order will usually require you to attend school with no unexcused absences, class cuts, tardies, or discipline problems and may include any other conditions that the judge feels are necessary.

Can I really get in trouble for not following the judge's order?

Yes. If you do not follow the judge's order, you and your parents may be brought back before the judge for contempt of court. At this hearing, you should have an attorney to represent you. If you cannot afford an attorney, the court can determine if you qualify for a public defender. The judge has the authority to place you on probation or send you to the Department of Juvenile Justice for contempt of court. If your parents are found to be guilty of violating the order as well, the judge may make them pay a fine of up to $50.00 per day missed or put them in jail for up to 30 days for each day missed.

Can I bring my cell phone or pager to school?

There is no law prohibiting bringing cell phones or pagers to school. However, you should check with your school's principal to see what your school's policy is regarding cell phones and pagers. Most schools have strict policies which forbid bringing cell phones or pagers on school property, and if you violate the policy, you may be at risk of being suspended or expelled.

What else can I not bring to school?

While on school property, you cannot have a knife, metal pipe or pole, gun, or any other weapon or object that may be used to cause bodily injury or death. If you are caught with a gun on school property, you will probably be expelled from school for at least a year. You cannot lawfully possess a gun until your 18th birthday.

Can a teacher search my book bag?

Yes. Under South Carolina law, any person who enters onto school property is deemed to have consented to a search of his person and property. A school

administrator or official may conduct a reasonable search of your locker, desk, vehicle, and personal belongings such as your purse, book bag, and wallet. You may not, however, be strip-searched.

Will people at school know when a student is arrested?

Not everyone. The law requires law enforcement officers to tell the school principal when a student is arrested for just about any offense other than a traffic citation. The principal can use the information for monitoring purposes, but must keep the information confidential.

What are the LIFE and HOPE Scholarships?

These are scholarships provided to students attending college in South Carolina. You may be eligible for one of these scholarships that will help pay for college. However, some law violations may prevent you from getting the LIFE or HOPE Scholarship.

The amount of the LIFE Scholarship (as of 2012) for an eligible four-year institution is up to $5000 (including a $300 book allowance) each year towards the cost of attendance. Students must meet two of the three following criteria: 3.0 GPA, 1100 SAT or 24 ACT, top 30% of class. Additional requirements must be met in order to continue receiving the scholarship every year.

For eligible technical colleges you may receive up to the cost of tuition, plus a $300 book allowance. For two-year public and independent institutions, you may receive up to the cost of tuition at USC Regional Campuses, plus a $300 book allowance. LIFE Scholarship initial eligibility requirement for two- year institutions is a 3.0 GPA.

A LIFE Scholarship Enhancement for students receiving the LIFE Scholarship and majoring in science or math at four-year institutions may provide an additional $2500 towards the cost of attendance.

The HOPE Scholarship is available to students who do not meet the requirements for the LIFE Scholarship. Students attending an eligible four-year college or university will receive up to $2800 (including a $300 book allowance) towards the cost of attendance during the first year of attendance only. You must earn a cumulative 3.0 GPA upon high school graduation for eligibility. There are no SAT or class ranking requirements.

EMPLOYMENT

When can I get a job?

There are a few types of jobs you can have at any age, such as selling or delivering newspapers or working for your parents' business. In general, you can get a job when you turn 14 years old. You can work in certain areas such as retail stores selling, cashiering, or bagging or other areas doing office or clerical work. After turning 16 years old, you can work in most areas except those determined to be hazardous, like operating power-driven equipment or heavy construction work such as excavating or roofing.

What hours can I work?

While you are under the age of 16, you can work after school hours during the school year but not more than 3 hours on school days or a total of 18 hours a week. You cannot work from 7:00 p.m. until 7:00 a.m. on school days. During the summer, you cannot work more than 40 hours in one week and not during the hours of 9:00 p.m. until 7:00 a.m.

What is the minimum wage?

The minimum wage as of January 2013 is $7.25 an hour. However, if you are under 20 years of age, you can be paid a youth sub-minimum wage of not less than $4.25 an hour during the first 90 days of your job. This is called an opportunity wage.

CONTRACTS, PROPERTY & BUSINESS

Are kids treated like adults in business arrangements?

In general, a child cannot enter into a contract or other legally binding agreement. However, if you enter into a contract while you are under age 18, you can make it legally binding by agreeing to the contract in writing (called ratification) when you turn 18 years old.

Can I own property?

Yes. A child does have the legal capacity to acquire and own property. You may receive title to property by deed or gift and may in turn transfer that title to another person.

Can I have a checking account?

Yes. A minor may have a checking account and will be held fully responsible, just as an adult, for any deposits or checks. However, most banks have a policy that will only allow you to open a checking account if you are at least 15 years old. If you are under 15, you may be able to open a custodial account with an adult.

Can I borrow money?

Yes. A child has the full capacity to enter into a contract to borrow money to help pay the costs of attending an institution of higher education, and the child is responsible for the repayment of the money. This is an exception to the general rule that children cannot enter into a legally binding contract.

ALCOHOL & TOBACCO

When can I buy beer and alcohol?

In South Carolina, it is against the law for someone under the age of 21 to purchase or possess beer or any other alcoholic beverage. It is also illegal for anyone else to give beer or alcohol to an underage person. It is also against the law for a person under age 21 to present a false identification (fake I.D.) of his or her age in order to purchase beer or alcohol.

What if my parents will let me drink?

The laws prohibiting a person under age 21 from drinking alcohol do not apply to a minor in his parent's home or to any such beverage used for religious purposes, as long as the beverage was legally purchased.

Is it really a crime for me to buy or possess cigarettes or tobacco products?

It is a crime for anyone to sell or give tobacco or tobacco products to a person under the age of 18.

It is also a noncriminal, civil offense for anyone under 18 to purchase or possess tobacco products. Anyone under 18 who violates this law may be fined; may be ordered to complete a smoking cessation class or community service; or may have his or her driving privileges delayed, suspended or restricted.

MARRIAGE

When can I get married?

In order to get married, you must be at least 16 years old.

How do I get a marriage license?

In South Carolina, a couple must have a license to get married. The Probate Court or Clerk of Court, depending on the county in which you live, usually issues these licenses.

In order to get a license, both the female and male must be at least 16. If you are under 18, you must have the written consent of your parent or guardian.

Are there any exceptions to this age requirement?

Yes. If the female is pregnant or has had a child and she and the father of her child are agreeing to marry with the written consent of her parent or guardian, then a marriage license will be issued regardless of the age of the male or female.

HEALTHCARE

Do I need my parent's permission to get a medical examination or see a doctor?

Yes, if you are under the age of 16. Married minors can consent to health care services without their parent's consent. Minors who have children can also consent to health services for their child. Additionally, if you are 16 or older, your parent's consent to health care services is not required unless the medical treatment includes surgery.

Do girls need parental consent to get an abortion?

Generally speaking, yes, an adult must participate in a teenager's decision to have an abortion. If a minor desires to have an abortion, but a parent, legal guardian, or grandparent will not sign the consent form, there is a process to ask the family court for consent. The Adoption and Birth Parent Services Division of the Department of Social Services must help the teenager with this process. Asking the court for permission has very specific time schedules and rules. The court must consider the maturity, emotional development, intellect, and understanding of the minor. The minor must also have a clear understanding of the consequences and alternatives to an abortion.

DANIEL'S LAW

What is Daniel's Law?

Daniel's Law is a law named after an infant boy who was abandoned and buried in a landfill at birth. He survived and was named Daniel by the nurses who took care of him.

Daniel's Law was designed to save babies born to mothers in crisis who are considering abandoning their newborn infants. Daniel's Law is not designed to punish anyone. It allows a person to leave an unharmed, newborn baby (newborn is defined as up to 30 days old for purposes of this law) with a staff member or employee of a designated *Safe Haven* without fear of prosecution. A Safe Haven is a hospital or hospital outpatient facility, law enforcement agency, fire station, emergency medical services (EMS) station, or house of worship (during the time the church or synagogue is staffed). The baby must be unharmed and must be left with a person. The person leaving the baby does not have to identify him or herself, but will be asked to provide medical information about the baby. This may include a request to provide the name of the baby's parent(s); again, the person leaving the baby does not have to disclose his or her name even if he or she is a parent of the baby. DSS will be contacted and will have legal custody of the baby, who will be placed in an appropriate foster home. DSS will then go through the family court process necessary to free the baby for adoption.

The parent(s) or person who left the baby will not be prosecuted and does not have to go to court as long as:

(1) the baby is less than 30 days old;

(2) the baby is not hurt; and

(3) the baby is given to a person at a Safe Haven.

DRIVING

Driver's License

When can I start to drive?

You can apply for a beginner's permit when you turn 15. This permit allows you to drive a car with a licensed driver who is at least 21 years old and has at least one year's driving experience. This licensed driver must sit in the passenger seat beside you. If you are driving between the hours of midnight and 6:00 a.m., the licensed driver must be your parent or guardian. To get your permit, you must have your parent's signature on the application.

When can I get my license to drive alone?

There are several ways to earn your regular driver's license:
Option one -**Conditional license** (for people who are at least 15 years old and less than 16): Obtain a beginner's permit at age 15. After driving with this permit for 180 days (approximately six months), you can apply for a conditional license. You must submit a certificate of completion for a driver's education course and a certificate of satisfactory school attendance. You must also have completed at least 40 hours of driving practice, including at least 10 hours of driving during darkness, while supervised by licensed parent or guardian.

The conditional license allows you to drive by yourself during daylight hours (you are not allowed to drive alone at night). After a year of driving with this license, you can get a regular driver's license if you have no violations or at-fault accidents.

Option two- **Special restricted license** (for people who are 16 years old and less than 17): A 16 year-old must have a beginner's permit for at least 180 days; submit a certificate of completion for a driver's education course and a certificate of satisfactory school attendance; and complete at least 40 hours of driving practice with at least 10 hours of driving after dark. This restricted

license allows you to drive by yourself during daylight hours (you are not allowed to drive alone at night). You may obtain a time restriction waiver with the submission of two notarized statements allowing you to drive alone after dark. These waivers are granted for people who have school activities, jobs, or vocational training that requires them to be out after dark. The waiver only allows you to drive back and forth to the school event or job. After a year of driving with this license, you can get a regular driver's license if you have no violations or at-fault accidents.

Option three- If you are at least 17 years old and have had a beginner's permit for 180 days, you can get a regular license with no restrictions. If you are 17, your parents still have to sign the application with you.

Will I be tested in order to obtain a driver's license?

Yes. With any type of driver's license (permit, conditional, restricted or regular), you will (1) have your eyesight tested; (2) be tested on your ability to read and understand highway signs; and (3) be given a written test on your knowledge of traffic laws. You will also have to pass a driving test in order to receive any license, except for your beginner's permit.

How can I prepare for this test?

You can get a driving booklet from your nearest Department of Motor Vehicles (DMV). This booklet gives you a thorough explanation of the road signs and traffic laws of South Carolina. It is wise for you to study this booklet to prepare for the beginner's permit test.

Accidents

What should I do if I am in an accident with another car?

If you are involved in an accident with another car, you must immediately stop at the scene of the accident until the police arrive. You must also give your name, address, and vehicle registration number to the driver/occupants of the car; you are required to show the other driver/occupants your driver's license. If anyone in the other car is injured, you should assist in getting help for him or her.

What if I hit a car in the parking lot?

If you cause damage to a parked vehicle, you must immediately stop and either find the driver of that vehicle and give him or her your contact information or leave a note containing your name, address, and an explanation of what happened in an obvious place on the damaged car.

Traffic Offenses

There are many laws that you must follow when driving a car. If you break these laws, you may have to pay a fine, lose your privilege to drive, or you may even risk going to jail. Usually, when you break a traffic law, you will be given a number of points for that violation. Once you have twelve points, you may lose your license for anywhere from 3 to 6 months. However, if you are 15 or 16 years old, have a conditional or restricted license, and receive 6 or more points, your license will be suspended for 6 months. A few of the traffic laws, which you should know about, are listed next.

Driving Without a License

It is against the law for you to drive a car without having been issued a permit or a license by the DMV. Once you have been issued a license, you must have that license in your possession at all times when you are driving a vehicle.

Speeding

As a general rule, you should operate your vehicle at a speed which is safe under the existing conditions and potential hazards of the road. Our lawmakers have determined what this safe speed is in various areas and have posted speed limit signs for every driver to follow. However, when a special hazard exists, such as bad weather or road conditions, it may be a violation of the law to even travel at these posted speeds.

Racing

Any person who is involved with a vehicle race or speed contest on any public road, street, or highway is breaking the law. If you participate or assist in any way in such a race, you will be liable for any injuries received by a third person.

Failure to Stop for a Blue Light and Siren

Whenever a police officer signals you to stop by using a blue light and/or siren, you are required by law to stop. If you attempt to increase your speed or in any way avoid the police, you are guilty of a criminal offense and may have to pay a fine, spend time in jail, and/or lose your driver's license for a period of time.

Seat Belt and Child Passenger Restraint Violations

The driver and every occupant of a vehicle must wear a fastened seat belt. It is the responsibility of the driver to make sure passengers who are age 17 and younger and who do not have a driver's license or beginner's permit are wearing their seat belts or are in a child's safety seat.

A child from birth up to one year of age or who weighs less than 20 pounds must be in the back seat in a rear-facing child safety seat.

A child who is at least one but less than 6 years old and who weighs at least 20 but less than 40 pounds must be in the back seat in a forward-facing child safety seat.

A child who is at least one but less than 6 years old and who weighs at least 40 but not more than 80 pounds must be in the back seat in a booster seat with both lap and shoulder belts.

A child who is at least one but less than 6 years old and who weighs more than 80 pounds may use the seat belt without a booster seat.

Children under the age of 6 may not sit in the front seat of a car (unless there is no back seat or there are other children under 6 taking up all the room in the back seat).

A child who weighs more than 80 pounds or who is at least 6 may use a seatbelt without a booster seat.

You are subject to a fine if you are stopped with children in your car who are not in a car seat or booster seat.

Open Container

It is against the law in South Carolina for any person, regardless of age, to have an open container of alcohol in a moving vehicle. However, it is not against the law to have an open container in the trunk or luggage compartment of the vehicle.

Driving Under the Influence (DUI)

What is the law in South Carolina regarding driving under the influence?

It is against the law for any person to drive a vehicle while under the influence of any substance or combination of substances that impair his or her mental and physical abilities. Impairment can be inferred if a driver age 21 or older has a blood alcohol concentration of 0.08 percent, whereas a driver **under** age 21 may be guilty of DUI with a 0.02 percent concentration.

How does alcohol affect your driving?

Alcohol causes poor judgment, loss of concentration, vision problems, impaired reaction time, and other physical and mental effects. Alcohol-impaired drivers are a major threat to the safety of people using the roads.

What is a Breathalyzer test?

The Breathalyzer, Datamaster as it is now called, measures the percentage of alcohol in a person's blood by means of a breath sample. This test is administered at the request of the arresting officer as soon as possible after someone is arrested for DUI.

What is the "implied consent" law?

Any person who drives a vehicle in South Carolina and is arrested for DUI is considered to have given consent, or permission, to conduct a chemical test of his or her breath, blood, or urine to determine the presence of alcohol or drugs.

What happens if a person refuses to be tested?

If a driver refuses to be tested, then his or her driver's license is automatically suspended. If the driver is under 21 years of age, he or she loses the privilege to drive for a period of 6 months.

What happens if a person takes the test?

The results of the Datamaster test can be used against the driver in court. Also, if the driver is over age 21 and his or her test registers a 0.08 or greater, that person's driver's license is suspended for 30 days. If a driver under age 21 takes the test and registers a breath alcohol concentration of 0.02 or greater, then his or her driving privileges are suspended for 3 months.

What are the penalties for DUI?

Depending on the circumstances and the prior record of the driver, a person convicted of DUI may be fined from $400 to $10,000 and imprisoned for 2 days to 7 years. The offender's driver's license will also be suspended, and he or she must complete an Alcohol and Drug Safety Action Program before his or her license can be given back.

JUVENILE DELINQUENCY & CRIMINAL ACTS

The Court System

What happens when a minor gets in trouble?

In South Carolina, if you break the law while you are under the age of 17 (or under 16 for some serious crimes), you are treated as a juvenile. Juveniles who are charged with a criminal offense go to the family court. In family court, a juvenile has the right to have an attorney and the right to a hearing before a family court judge, but a juvenile does not have the right to a jury trial.

Being "arrested" and going to court is serious. (Juveniles are not actually "arrested," they are "taken into custody" by law enforcement.) Depending on your age and the seriousness of the offense, you could be placed in a juvenile corrections facility (which is not very different from a prison, except everyone is under 19).

Upon turning 18, if you have been taken into custody for, charged with, or adjudicated delinquent for having committed a status or a nonviolent offense and you have successfully completed any sentence imposed, you may petition the court to destroy all records related to the offense. The judge will decide whether or not to destroy the records.

When is a juvenile treated like an adult in court?

When you turn 17 years old (16 for some serious offenses), you are no longer dealt with in family court. Instead, you are treated as an adult in either magistrate or general sessions court and are subject to the same types of punishment as an adult for the crimes you commit. Also, a person under age 17 may be treated as an adult (or "waived" to adult court). In general, the more serious the offense, the more likely it is the court can treat you like an adult at a young age.

Are there offenses that only apply to me because I am a juvenile?

Yes. Some acts are unlawful only for children under 17 and not for adults. These are called status offenses. Status offenses include running away, incorrigible behavior (a child who is beyond the control of parents), and truancy (not going to school) (Note: Truancy requirements may be extended beyond the age of 17 by court order)

What criminal acts should I be aware of?

As a juvenile, you will be held responsible for breaking the law, and therefore, you should know the boundaries of what you legally can and cannot do. Some of the more common offenses committed by juveniles are listed below.

Disturbing School: It is against the law for you to interfere with or disturb in any way the students or teachers of a school. This includes hanging around a school that you are not attending, acting in an obnoxious manner while at school, and fighting or cursing at teachers or other students.

Fighting: Getting into a fight can lead to a number of criminal charges. If you injure another person, you could be charged with assault and battery. If you and one or more people gang up on another person and are violent toward that person, you could be charged with assault and battery by mob.

Disorderly Conduct: If you act disorderly or use profanity in a public place or within hearing distance of a school or church, you may be charged with public disorderly conduct.

Shoplifting: You are guilty of shoplifting when you (1) intentionally take an item from a store without paying for it, (2) hide an item in your pocket, under your clothing or in your purse or book bag, with the intention of stealing it, even if you never make it out of the store, or (3) take an item from its original container or box and put it in another one or change the price tag with the intention of not paying full price for the item.

Vandalism or Malicious Injury to Property: If you injure or damage someone's house, a tree in their yard, or any of their personal property, you have committed the crime of vandalism, or malicious injury to property. These acts include "egging" someone's house, spray-painting on walls or fences, keying someone's car, smashing someone's mailbox, breaking a window, or destroying school property.

Larceny: If you steal something that belongs to someone else, you could be charged with larceny. If you use force to take the item from the "person" of another, then you may be charged with robbery.

Receiving Stolen Goods: You may be charged with receiving stolen goods if you purchase or possess stolen property, and you have reason to believe the property is stolen.

Possession of Stolen Motor Vehicle: If you are in a car that is stolen, even if you are not driving the car, you could be charged with possession of stolen motor vehicle.

Criminal Sexual Conduct: It is always a crime to *force* another person to have anal, vaginal, or oral sex. The use of force can include actual physical violence or threats of violence used to make another person have sex.

It may be a crime for one teenager to have sex with another teenager. As the law is written, it is a crime for a person older than 18 to have sexual intercourse (oral, vaginal, or anal sex) with a person who is under 16; it is also a crime for a person 18 or younger to have sexual intercourse with a person under 14.

It is a crime for a person over 18 to commit a "lewd or lascivious act" with a person who is under 16. It is also a crime for a person 14 to 18 to commit a "lewd or lascivious act" with a person who is under 14.

Sex crimes are extremely serious and can result in long prison terms. Anyone (including a teenager) found guilty of certain sex offenses may be required to register as a sex offender for the rest of his or her life. The sex offender registry is a list of every person in the state who has been adjudicated or convicted of a sex offense. The law allows this list to be released to the public. Although the names of children under 12 are not usually released, it is very likely that the names of persons 12 or older who are convicted of sex offenses will be released.

Getting "Arrested" and Detention

Can I be arrested?

As a juvenile, you may be taken into custody and held, or "detained," by the police officer under certain circumstances, but, by law, this is not considered an arrest.

If you are taken into custody, the police officer has the option of releasing you to your parent or a responsible adult or detaining you (if you are

detained, you are locked up in a detention facility or jail) until you go before a family court judge for a hearing. Juvenile offenders can only be detained under certain conditions outlined by law, and even if those conditions are met, the officer may release the child if he or she determines that detention is not necessary.

What happens if I am detained?

If the officer will not release you to your parent or a responsible adult, he must make arrangements for your temporary placement pending your detention hearing. The officer will call a representative of the Department of Juvenile Justice (DJJ) who will place you in a home, program, or detention facility.

What happens after I am detained?

If you are detained, a detention hearing before a family court judge must be held within 48 hours, excluding weekends and holidays. At this hearing, you should have an attorney. A public defender will be appointed if your parents have not had time to hire an attorney or if they cannot afford an attorney. DJJ will make a recommendation to the court about your continued detention, but the court will decide whether you will be allowed to return home or if you will remain in the detention facility until your court date.

After this initial hearing, you have the right to another hearing within 10 days and again within 30. You can be detained for up to 90 days pending your court date.

Who Does What?

Who is the first person I will have contact with if I am caught breaking the law?

The police are usually the first to become involved when someone breaks the law. The officer will take a report about what happened and who was involved. From this report he or she will determine who, if anyone, will be charged with a criminal offense.

What does the solicitor do?

The solicitor is an attorney who prosecutes criminal cases for the state in both the general sessions and family courts. He or she is the person who will decide when and if you will go to court. The solicitor has the responsibility of proving to the court that you have committed a crime.

Who will represent me?

You have a constitutional right to an attorney in delinquency court proceedings. If your parents cannot afford to hire a defense attorney for you, one (usually a public defender) will be appointed by the court to represent you. The role of your attorney is to represent your "expressed interests."

Who will make the decision about what happens to me?

Once your case goes to court, only the family court judge can decide what your punishment will be. You do not have the right to a trial in front of a jury in family court. The judge will listen to the facts of the case against you and determine what action is in your best interest.

Who else will be involved in my case?

The Department of Juvenile Justice (DJJ) is involved in your case from the very beginning. DJJ provides services for you and your family and for the family court. They initially do an intake screening to gather background information about the juvenile who is charged with an offense. They are also responsible for conducting evaluations ordered by the court. If a juvenile is placed on probation or committed to a secure juvenile facility, DJJ is the agency that oversees the child's performance.

The Department of Social Services may become involved with your case if there have been allegations of abuse, neglect, or lack of supervision in the home.

The Court Process

How does a charge against a juvenile get started in the family court system?

Anyone who believes that a child has committed a delinquent act may initiate a family court proceeding involving the child. Under most circumstances, a police officer or someone authorized by the family court will prepare a juvenile petition, which is a formal document claiming that the child committed a delinquent act, and file it with the family court. The petition should contain the juvenile's name, address, date of birth, parent or guardian's name and address, and the facts surrounding the incident.

What rights does a juvenile charged with an offense have once a petition is filed?

Once the petition is filed, the juvenile has certain constitutional rights that apply. These rights include the right to notice of the charges against him, right not to incriminate himself, right to counsel, and right to cross-examine and confront witnesses against him.

What happens after a juvenile petition is filed?

When a petition is filed, the juvenile and his parent or guardian are notified of the charges against the juvenile, and a date for the adjudicatory hearing (the hearing to decide guilt or innocence) is set.

During the adjudicatory stage, the juvenile may choose to plead guilty to the charges or may plead not guilty and go to trial. If the juvenile pleads guilty or is found guilty following a trial, the family court judge will find him or her delinquent and has the option of ordering the juvenile to undergo a social, physical, psychological, and mental evaluation. This evaluation may either be conducted in the community while the juvenile is living at home, or the judge may find it more appropriate to temporarily commit the juvenile for evaluation in a DJJ secure facility for a period of not more than 45 days.

Juveniles ordered to undergo an evaluation return to court for the dispositional hearing (the hearing where the judge sentences the child) with a complete written evaluation report. At this stage, the juvenile has already been found guilty and adjudicated delinquent, and he or she has been evaluated. The DJJ representative, the solicitor, and the defense attorney make recommendations to the court as to sentencing.

Juveniles who are not ordered to undergo an evaluation usually have their adjudicatory and dispositional hearings on the same day.

What are the possible dispositions or sentences the court may order?

The least restrictive disposition is probation. A family court judge can put a juvenile on probation for any certain period of time, but that probation cannot go past the juvenile's 18th birthday. A juvenile on probation is under the supervision of DJJ.

The judge may place certain conditions or requirements on the juvenile that must be met during the time he is on probation. These conditions may include things such as obeying the rules of the parent's home, having no unexcused absences from school, having no disciplinary problems at school, completing community service hours, and paying money to a victim for damages you caused (called restitution). The judge also has the power to suspend or restrict your driver's license until your 17th or 18th birthday, depending on what crime you have committed.

The court may also order the juvenile to live outside of his or her home. This is called alternative placement and could involve a foster home, a group home, or a residential youth program.

The most serious disposition that a judge can order is commitment to the Department of Juvenile Justice. This means that a family court judge can sentence you to time in a secure juvenile facility or institution. The length of the commitment can be anywhere from a set amount of time of up to 90 days or for an indefinite period not to go past the juvenile's 21st birthday. When a juvenile is sent to DJJ for an indefinite period, the DJJ Release Authority or the Juvenile Parole Board determines when he or she is ready to return home.

Once a juvenile is conditionally released from a correctional facility on parole, the juvenile may be required to permit his or her aftercare counselor, a probation agent or any other law enforcement officer to search and/or seize at any time, without a search warrant: the juvenile's person, any car the juvenile owns or drives, and any of the juvenile's possessions. Any juvenile whose crime qualifies the juvenile to be subject to such warrantless searches and/or seizures must consent in writing to these searches and/or seizures before the juvenile can be released from the correctional facility.

Diversion Programs

Is there any way I can avoid going to court if this is the first time I have been in trouble?

Yes. Before the solicitor schedules a court date, the juvenile may be offered the chance to participate in a diversion program and avoid going to court altogether. Diversion programs that may be available, depending on the county where you live, include Arbitration, Juvenile Pre-trial Intervention (JPTI), and Juvenile Drug Court.

Who decides whether or not I may participate in a diversion program?

Depending on the county and type of program, the solicitor or DJJ staff decide if you may participate in a diversion program and avoid formal prosecution. In making this decision, the recommendations of the victims, if any, and the police officer are considered.

What are the requirements of the programs?

There may be fees to participate in the program that can be waived if you have an extreme financial hardship. You must sign an agreement to the requirements of the program that must be met before completion. These requirements may include community service hours, group counseling, proof that you are in school, payment of restitution, and drug testing. A curfew may also be imposed.

Can I be kicked out of a diversion program?

Yes. If you do not follow or complete the requirements and conditions in your agreement, you may be kicked out of the program and you will be taken to court for the original charge. Also, if you are charged with a new offense, you will probably be kicked out of the program.

If you are kicked out for a new charge, you must go to court for not only the new charge, but also the old charge for which you were placed in the diversion program.

What happens with my charge if I complete the program?

If you successfully complete the diversion program, the solicitor will dismiss the charge against you, and you will be able to have the information regarding your "arrest removed" (or "expunged") from your record.

What diversion programs are available in South Carolina?

The three most common programs in South Carolina are Juvenile Arbitration, Juvenile Pre-trial Intervention (JPTI), and Juvenile Drug Court.

The Juvenile Arbitration Program is a community-based diversion program for first-time juvenile offenders charged with committing a nonviolent crime. These youths are diverted from the juvenile justice system to an arbitration hearing. Trained volunteer arbitrators conduct the hearings and monitor the juveniles' progress throughout the program.

JPTI is one diversion program that is available in many counties. You may only go through this program once and there are certain requirements that must be met in order for you to be admitted. Only first time offenders are eligible to participate in JPTI. Juveniles who have been accepted into an intervention program once before and those charged with DUI, a violent crime, or a traffic offense punishable by a fine or points, are not allowed to apply.

Juvenile Drug Court is an intensive rehabilitation program for youth who have been charged with a crime and have a history of drug or alcohol abuse or for youth who have been charged with a crime related to drugs or alcohol. Drug Court involves scheduled appearances before a Judge to review the juveniles' progress and hold them accountable for their actions while in the program, frequent drug testing, and counseling.

Is there any other way to get a charge removed from my record?

Yes. You may be able to get your record cleared (or "expunged") if you have been taken into custody or charged with or adjudicated delinquent for having committed a status offense or a nonviolent offense. To do this, you must petition the family court for an order destroying all official records of this incident. The court may only grant the order if you are at least 17 years old, you have successfully completed any juvenile sentence given by the court, you have not been subsequently adjudicated for or convicted of any criminal offense, and you do not have any pending criminal charges.

SELECTED FEDERAL RIGHTS
&
RESPONSIBILITIES

When can I vote?

When you turn 18, you have the right to vote. This right was granted to every U.S. citizen by the 26th Amendment to the United States Constitution. Before you can vote, you must be registered. To register to vote, contact the county government where you live and ask for the voter registration office.

Who has to register with the Selective Service Administration?

Every male who is 18 or older must register with the Selective Service Administration. This list can be used if the United States goes to war and the government decides to draft citizens into military service. You can register on-line (www.sss.gov) or by sending in the form you can get at any post office.

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