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PARENTAL LIABILITY FOR DAMAGES CAUSED BY THEIR CHILDREN

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You asked which states have “uncapped parental liability” laws. You also wanted to know what causes of action exist to hold parents liable for acts of their minor children.

SUMMARY

Parental liability statutes impose liability on parents or guardians for the civil or criminal acts of their minor children. Virtually all states impose some degree of civil liability on parents for torts committed by their children. Several states make parents responsible in the criminal area as well. Most states limit parental liability, but a few do not. These latter states do not cap liability when children damage property, commit negligent acts when driving a motor vehicle, harm a person or property when involved in a gang, or use or possess a firearm.

UNCAPPED DAMAGES UNDER PARENTAL LIABILITY STATUTES

Under parental liability statutes, parents may be held liable for personal injury, property damage, vandalism, shoplifting, firearm possession, bias, false reporting, and curfew violation offenses their minor children commit. Generally, these laws limit the dollar amount of a parent’s liability.

But in some states there are no caps for certain acts. In these states, parents are generally fully responsible for their children's property damage, motor vehicle accidents, gang activity, or firearm use and possession. Some states remove the cap on liability if they can show that parental neglect caused the minor to commit the act.

Property Damage

Under Hawaii's parental liability statute, the parents of unmarried minor children are jointly and severally liable for tortuous acts their children commit (Haw. Rev. Stat. § 577-3). The law does not distinguish between negligent and intentional torts. Parents are also liable for graffiti damage their minor child causes (Haw. Rev. Stat. §577-3.5).

Louisiana's statute holds a father and mother "responsible for the damage occasioned by their minor child" (La. Civ. Code Ann. Art. 2318). Under Florida law parents are liable for their minor child who maliciously or willfully destroys or steals property (Fla. Stat. § 741.24). New Jersey does not cap the liability imposed on parents when a child damages school property or if the parent does not exercise reasonable supervision and control when a child willfully, maliciously, or unlawfully destroys property (N.J. Rev. Stat. §§ 18A:37-3 & 2A:53A-15). However, the state limits liability for damage to railroad property (N.J. Rev. Stat. § 2A:53A-16).

Motor Vehicle Accidents

With exceptions, in Delaware, Florida, Hawaii, Indiana, Kentucky, Mississippi, Nevada, New Mexico, North Dakota, Ohio, and Wisconsin, any person who signs a minor's driver's license application is jointly and severally liable with that minor for any damages caused by the minor's negligence or willful misconduct when driving a motor vehicle on a highway (Del. Code Ann. tit. 21, § 6104; Fla. Stat. § 322.09; Haw. Rev. Stat. § 286-112; Ind. Code § 9-24-9-4; Ky. Rev. Stat. Ann. § 186.590(1); Miss. Code Ann. § 63-1-25; Nev. Rev. Stat. §§ 483.300(2) & 486.101(2); N.M. Stat § 66-5-11; N.D. Cent. Code § 39-06-09; Ohio Rev. Code Ann. § 4507.07; Wis. Stat. § 343.15).

Delaware, Kansas, and Kentucky also impose liability on the owner (not necessarily the parent) of a motor vehicle who knowingly permits a minor to drive such vehicle and any person who gives or furnishes a motor vehicle to the minor for any damages caused by the negligence of the minor in driving that vehicle (Del. Code Ann. tit. 21, § 6105; Kan. Stat. Ann. § 8-222; Ky. Rev. Stat. Ann § 186.590(3)). In Kansas, this liability is limited to a minor under age 16 (Kan. Stat. Ann. § 8-222).

Gang Activity

Under Indiana law, a parent of a child who is a member of a criminal gang and actively encourages or knowingly benefits from the child's involvement in the gang, is liable for actual damages arising from harm to a person or property intentionally caused by the child while participating in gang activity if (1) the parent has custody of the child, (2) the child is living with the parent or guardian, and (3) the parent failed to use reasonable efforts to prevent the child's involvement in the gang (Ind. Code § 34-31-4-2).

Firearm Provisions

Nevada law establishes unlimited parental liability for a minor's negligence or willful misconduct in connection with use or possession of a firearm if the parents know that the minor (1) previously has been adjudicated or convicted of a criminal offense, (2) has a propensity to commit violent acts, or (3) intends to use the firearm for an unlawful purpose and the parent permits the firearm's use or possession (Nev. Rev. Stat. § 41.472).

Parental Neglect

Under Kansas law, parents are liable for damages caused by a minor who maliciously or willfully injures a person or damages property. Recovery is limited to actual damages and cannot exceed \$5,000. However, if the act of the minor is the result of parental neglect, there is no dollar limit on the parents' liability (Kan. Stat. Ann. § 38-120).

In Tennessee, the parents or guardian of a minor who maliciously or willfully causes personal injury or property damage is liable for damages up to \$10,000 (Tenn. Code Ann. § 37-10-101). But, the \$10,000 limitation does not apply when the parent knows, or should know, of the child's tendency to commit wrongful injurious acts and fails to control the child's conduct (Tenn. Code Ann. § 37-10-103).

In Texas, parental liability is limited to \$25,000 if a child between the ages of 10 and 18 willfully and maliciously causes property damage (Tex. Fam. Code Ann. § 41.002). But Texas imposes unlimited parental liability for any property damage caused by the negligent conduct of a minor if the conduct is reasonably attributable to the negligent failure of the parent to exercise the duty of control over the minor regardless of age (Tex. Fam. Code Ann. § 41.001).

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