The relationship between parents and children is a special one. Being a parent involves many rewards and also many responsibilities. Parents have a legal obligation to care for, support, and discipline their children. When parents are unable or unwilling to fulfill their responsibilities, the law becomes involved. This chapter explores the legal rights and responsibilities of parents and children.

Responsibilities Between Parents and Children

Parents are legally responsible for their children in many ways. Most importantly, they must provide the necessities of life. They must also provide for their children’s social and moral development, and they must set limits on and supervise their children’s behavior.

Parents are responsible for their children’s education.
Parents and Children

Paternity

No one can be forced to marry someone against his or her will; such a marriage would be invalid and could be annulled. When children are involved, however, the law requires parents to support their children whether or not the parents are married, dating, living together or apart, and regardless of where the child lives.

For example, if a man denies being a child’s father, the mother may bring a paternity suit, or action in court to establish his fatherhood, and force him to pay for prenatal care and child support. If the mother is a minor, some states allow her parents to bring the suit. The Family Support Act of 1988 requires all states to assist mothers and children in obtaining paternity testing and to allow paternity suits until the child is 18 years old. Government lawyers can assist in finding missing parents and help mothers and fathers prove paternity.

Blood samples can be used to prove that a particular man is not a particular child’s father. For example, if both the mother and the alleged father have blood type A and the child has blood type B, the man cannot be the child’s father. A child cannot have type B blood unless either the father or the mother has that type.

Blood type alone, however, cannot prove that a man is a child’s father. Recently, more courts are using DNA tests to prove paternity. This is a method of testing blood or tissue for genes that link a specific parent and child. Test results are extremely accurate and greatly reduce the uncertainties that once plagued paternity suits.

Problem 32.1

Martha, 15, becomes pregnant. She claims that Michael, 17, is the father, but Michael denies it and refuses to marry her or support the child. Does the law require Michael to marry Martha? Does the law require unmarried teenagers to provide support for their children?
The Mentally Disabled Child

When Diem and Kim divorce, the court orders Diem to pay $250 per month in child support for their six-year-old daughter, Meena. Meena is mentally disabled and is not expected to ever function at a level higher than that of a second grader. She lives with her mother and will probably never be capable of living independently. When Meena reaches the age of 18, Diem files a motion seeking to end his child support payments.

Problem 32.2

a. How should the court rule in this case?

b. What is the general rule for how long parents must financially support their children? Should that rule be different if the child is mentally or physically disabled?

c. What other conditions might make it reasonable to require that a parent support a child who is no longer a minor?

Support

The most basic responsibility of parents is to support their minor children. This means that parents must provide the basic necessities of life, including food, clothing, shelter, education, and medical care. These are things minor children cannot provide for themselves.

All parents—rich and poor, married and unmarried, teenagers and older parents—are required to support their minor children. The amount of support a family can give, of course, depends on what it can afford. Poor parents, for example, would not be in a position to provide expensive clothes, lavish housing, or fancy meals.

Increasingly, the law is making mothers and fathers equally responsible for child support. This does not mean that each parent pays the same amount of money but that each parent provides according to his or her ability. In the event of a divorce, a support agreement or court order usually indicates how much each parent must pay.
Traditionally, the parents’ duty to support their children ended when each child reached the age of majority (18 in most states). However, because of the importance of education today, about 20 states have rules that parents must provide reasonable post-secondary school support. In addition, most states have adopted a rule that requires parents to support their adult disabled children.

**Emancipation**

Parents are usually not required to give financial support to an adult child. Parents’ legal responsibility ends when their children become emancipated. Emancipation means that children are free from the legal custody and control of their parents. Emancipation normally takes place when the child reaches adulthood—age 18 in most states. It also can occur when a child gets married, joins the armed forces, or becomes financially self-supporting. Some states also provide for emancipation at a younger age if a child successfully petitions the court for this legal status.

To convince a court to grant emancipation in those states that recognize it, a minor would have to show proof of a steady source of income and a permanent place to live. Parents and other adults can attend the emancipation court hearing and testify either for or against granting emancipation. Emancipation is rarely granted, and when it is, the teen must still wait until the legal age of majority to vote or drink alcohol.

**Family Responsibility Laws**

A long tradition of law and social custom has called upon adult children to support their parents when the parents are in need. In most states, children are not legally required to support their elderly or disabled parents. Some states, however, have passed family responsibility laws that require adult children to care for their elderly parents. Other states have abolished these laws, and almost all states limit the support obligation to an amount the relative can reasonably afford.
Problem 32.3

Rose, 42, owns a successful business. Her mother Irma, 65, will retire from her job at the end of the year. However, Irma’s meager savings and Social Security payments are not enough for her to continue paying rent where she lives. Irma can move to a publicly supported home for the elderly but would prefer to stay in her own apartment. Does Rose have a legal obligation to support her mother? Should the law require adult children to support their parents when they are in need? Do people have a moral obligation to support their needy parents?

Education

All children in the United States have a right to a free public school education through the twelfth grade. Each state sets standards for its public school system, but parents have a right to choose the kind of school to which to send their children—public, private, parochial, or homeschool. School attendance is generally required for children ages 7 to 16, although state laws vary. A child who misses school without justification is considered a truant. Because states generally hold parents responsible for their children’s welfare and education, parents who fail to send their children to school may be fined or arrested.

Some parents decide that the traditional public or private school system is not adequate to meet the needs of their children and that they would rather educate their children at home. Prior to the 1980s, many states did not permit children to be homeschooled. All 50 states and the District of Columbia now allow a child’s formal education to take place at home under certain circumstances, such as having dedicated space in which instruction takes place, meeting state curricular requirements, and participating in mandated achievement testing. In 2003, more than one million school-aged children were being homeschooled. This is just over 2 percent of the school-age population in the United States. The number of young people being homeschooled has increased in recent years.

A federal law, the Individuals with Disabilities Education Act (IDEA), provides for a public school education for children with disabilities. Under the law, children with physical, mental, and emotional disabilities who need special services in order to learn are entitled to an evaluation and an appropriate individual education plan. Children who need services must be granted specialized instruction, as well as any related services necessary for the child to benefit from the program. Such services may include transportation, speech and language therapy, and psychological or psychiatric counseling. These services are all provided at no cost to the child or family.

Parents are not legally required to pay for college tuition. However, if they are financially able to, many parents do. Some divorce decrees require parental financial support through college for the couple’s children.
Parents and Children

Medical Care

 Parents have a legal duty to protect and supervise their children’s health. This means that they must provide proper medical and dental care. For example, children must be up to date on immunizations and should receive dental checkups on a regular basis.

 Children usually need their parents’ permission to obtain medical treatment. For example, suppose a 14-year-old boy wants cosmetic surgery. Without his parents’ permission, a doctor could not perform such surgery. Parents have a right to supervise medical care, but they can also be charged with neglect if they ignore their children’s health problems. In very serious cases, a court may permit a doctor to treat a child without parental consent. Doctors may also act in life-threatening emergencies without permission from either a parent or a court.

The School at Home

Michelle and Larry Novitzki have four children. Two are of school age. Both parents are high school graduates, and Michelle has a college degree. They began educating their children at home because they disapproved of the public school’s sex education classes, were concerned about violence in schools, and believed that the children would learn more in a less structured environment. They designed lessons that related to activities around their home and community.

The Novitzkis use books and materials obtained in their state and have set aside one room to serve as a classroom. The children receive instruction six hours a day, year-round. Both children score above average on standardized tests and appear to psychologists to be healthy and normal. An educational official claims that the Novitzkis’ program does not satisfy the state’s compulsory education law.

Problem 32.4

a. Should the Novitzkis be allowed to instruct their children at home? Do you think their reasons for wanting to do so are valid?

b. What are the advantages and disadvantages of homeschooling?

c. What qualifications, if any, do you think a parent should have in order to teach his or her children at home?

d. Do you think homeschooled students should be able to participate on school sports teams or play in the band? Explain.
Care and Supervision

Parents may decide what is best for their children as long as they do not abuse or neglect them. There are no minimum requirements for the number of hours parents must spend with their children. Both parents may work, and their children may be left home alone. However, state laws govern the age at which a child may be left alone in the home, so parents must be sure that someone responsible is caring for their young children at all times. These laws concerning child care and supervision vary from state to state.

Discipline

Parents have a right and a duty to supervise their children. Likewise, children have a legal obligation to obey their parents and to follow reasonable rules. Parents can ask children to do chores around the house. Parents may also decide where their children live, what school they attend, what religion they practice, and other aspects of their lives. However, parental authority is not absolute. Children do not have to obey parents who order them to do something dangerous or illegal. Parents who resort to unreasonable actions to discipline their children can be charged with child abuse or child neglect.

Children who continually disobey their parents or run away from home may be charged as status offenders. As explained in Chapter 16, status offenses are acts that are not illegal if committed by adults. Status offenses include running away from home, skipping school, refusing to obey parents, or engaging in immoral or dangerous behavior. A status offender may be placed under court supervision. When this happens, the child is known as a PINS, CHINS, or MINS—a person, child, or minor in need of supervision. Under these circumstances, courts may order counseling or special schooling or, in serious cases, may place the child in a juvenile facility or a foster home.

Problem 32.5

Consider the following situations. In each case, decide whether the parents have the legal authority to make the decision involved. What arguments can you make in support of the parents? In support of the child?

a. Mr. McBride disapproves of the lifestyle of his 19-year-old son, Larry, who regularly smokes marijuana. When Larry refuses to stop using the drug, Mr. McBride cuts off his financial support to Larry, including college tuition.

b. Hiroshi, a high school senior, does not want to move to a new city with his parents. He wants to finish high school with his friends. His parents insist that he live with them.

c. Mr. and Mrs. Parham think that their 16-year-old daughter is mentally ill and needs psychiatric treatment. The daughter objects, but her parents decide to commit her to a mental institution.
Parents who fail to exercise proper supervision and control over their children may be held legally responsible for their children’s acts. This is especially true if they aid or encourage improper conduct. For example, a parent who allows an underage child to drink and drive may be held liable if the child causes an accident.

Almost all states hold parents civilly liable for certain acts of their minor children, such as property damage, theft, or vandalism. The action of contributing to the delinquency of a minor is recognized as a crime by some states. A parent who encourages a child to sell drugs, for example, could be charged with this crime. Some states pass and try to enforce laws that make parents criminally responsible for certain delinquent acts, such as vandalism, committed by their children. Other states see such laws as unworkable and believe they shift responsibility away from the children, who should be held accountable for their own actions.

Historically, parents were not held responsible for injuries caused by their children. This applied whether the injuries were accidental or intentional, unless the parents were somehow to blame. For example, if a parent gave a child a gun to play with, or failed to adequately supervise a child, the parent could be liable for injuries caused by the actions of the child.

Today, almost all states make parents legally responsible, up to a certain dollar amount, for harm caused by their children. This amount varies from $200 to $50,000, depending on state law. A rule known as the family car doctrine makes parents responsible for damages caused by any driver in the family. This means that if you cause an accident while driving your parents’ car, your parents may have to pay for any damage.

**Problem 32.6**

Vanessa, 14, stays out late at night and often misses school. She seems to have a lot of cash and nice clothes. When her parents ask where she gets the money, she says she earns it from babysitting. Her parents suspect that she’s involved in selling drugs. One night Vanessa and her boyfriend break into a neighbor’s house, steal a television, and sell it to get money for drugs. A neighbor sees them buying drugs, calls the police, and Vanessa and her boyfriend are arrested.

**a.** Have Vanessa’s parents adequately supervised their daughter? If not, what should they have done differently? Can parents’ actions affect the actions of their children?

**b.** Should Vanessa’s parents have to pay for the neighbor’s television? Why or why not?

**c.** Should parents be held criminally responsible for the actions of their children? If so, under what circumstances?
Earnings and Employment

In many families, children who work are allowed to keep and spend their own money. Nevertheless, parents have the legal right to take the earnings of their minor children. Children may keep only the wages that their parents allow them to keep. However, parents have no right to use money from other sources that legally belongs to their children. If a minor receives an inheritance or recovers damages in a lawsuit, for example, this money is the child’s to set aside in a bank account until he or she reaches adulthood.

Child Abuse and Neglect

Child abuse takes many forms. It occurs whenever any adult or older child inflicts or threatens to inflict intentional physical, emotional, or sexual harm on a child. Child neglect occurs more frequently than child abuse and involves the failure to properly feed, clothe, shelter, educate, supervise, or tend to the medical needs of a child. Abuse and neglect are among the leading causes of death of children in the United States.

Abuse and neglect of children have effects that go far beyond the obvious immediate dangers. Studies have shown that nearly 85 percent of all juveniles who break the law have been victims of abuse. Truancy and attempted suicide often result from emotional abuse. Moreover, abused children frequently grow up to be abusive adults.

**Figure 32.1 Child Abuse Reported, 1962–2005**

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1962 (prior to reporting laws)</td>
<td>662</td>
</tr>
<tr>
<td>1976 (first year reported)</td>
<td>1.1 million</td>
</tr>
<tr>
<td>1984</td>
<td>1.7 million</td>
</tr>
<tr>
<td>1988</td>
<td>2.2 million</td>
</tr>
<tr>
<td>1992</td>
<td>2.9 million</td>
</tr>
<tr>
<td>1995</td>
<td>3.2 million</td>
</tr>
<tr>
<td>2002</td>
<td>3.5 million</td>
</tr>
<tr>
<td>2005</td>
<td>3.6 million</td>
</tr>
</tbody>
</table>

**Source:** National Committee to Prevent Child Abuse.

Reporting laws have resulted in an increased number of reported cases of child abuse. **ANALYZE THE DATA** By how much did the number of reported cases change in the 10 years between 1995 and 2005?
Not surprisingly, most youths who run away from home have suffered physical or emotional abuse and neglect. Nearly three-fourths of all female runaways have been sexually abused, and so have many male runaways. Older teenage runaways are sometimes termed “throwaways.” These are children whose parents refuse to care for them.

Abused children often are not in a position to do anything about their abuse. Accordingly, every state has laws requiring doctors, nurses, teachers, social workers, and other adults to report suspected cases of abuse or neglect. Accusing someone of child abuse without reasons to suspect the person of abuse might provide the basis for a civil lawsuit. You will not be held legally liable, however, for a mistaken report made in good faith. In fact, if you are obligated under state law to do so, failure to report suspected abuse can lead to criminal or civil penalties, or both.

**Sexual Abuse**

Reported cases of child sexual abuse have increased dramatically in recent years. Sexual fondling, using a child in pornography, and making a child view pornography all constitute sexual abuse, along with other forms of sexual contact. The sexual offender, often called a pedophile, may be a person the child knows and trusts, such as a family member, a family friend, a child-care worker, a school employee, or even a clergy member. The abuser can be an older child, an adult, or even a parent. Child sexual abuse can cause physical injury to the child as well as serious emotional and psychological harm.

Despite the benefits we enjoy from the Internet, growing use of the Internet by children and adults has provided child abusers with another way of preying on juveniles through online forums such as chat rooms. Child sexual abusers prey on a child’s obedience, trust, and embarrassment. In the online context, they often lie to a child about who they are, their age, and the basis of their interest in the child. In all contexts, abusers often use threats to prevent a child from reporting the abuse.

**Problem 32.7**

For each situation, decide whether or not the action of the parent or parents should be considered child abuse or neglect. Explain your answer. If you find abuse or neglect, what should be done to protect the child?

a. Sixteen-year-old Theresa returns home late one evening. As punishment, her parents ground her for a week.

b. Eighteen-year-old Shauna and her two-year-old son, Jeffrey, live with her mother. Shauna has to be at work at 9 P.M., but her mother does not get home until 10 P.M. Shauna feeds Jeffrey, puts him to bed, and leaves him asleep and alone for the hour or so until her mother returns home.
Increasingly, parents are bringing civil suits against child abusers and their employers. The suits typically charge an employer with negligence for not properly overseeing employees or screening job applicants for a history of child abuse. As a result, it is now common for organizations that employ adults who work with children to require a job applicant to submit to fingerprinting as part of a background check. Some people say that children simply imagine episodes of sexual abuse. However, most psychologists stress that young children lack the sexual experience to make up stories of sexual abuse by themselves. Moreover, while it is possible for an older child to invent such a story, such instances are considered unusual. Therefore, anytime a minor reports sexual abuse, his or her story should be investigated.

If a child does report sexual abuse, the police should be notified immediately, and, if justified, charges should be brought against the abuser. An investigation will determine whether the child is in immediate, ongoing danger and whether the case should go to trial. If the alleged abuser is a parent, the child may be removed from the home. Most states currently allow child victims to testify in court through closed-circuit television or by means of videotaped questioning to save them from the trauma of having to face their attackers.

The Case of . . .

A Parent, Drug Use, and Neglect

Jenna is the mother of six-year-old Kimberly. The police recently searched their apartment for drugs and found it to be a “shooting gallery” for heroin. Syringes were found, and Jenna and others present were arrested. Kimberly witnessed the raid.

There is no definite evidence that Jenna is using drugs, although she has a history of drug use and is currently in a drug rehabilitation program. She claims that her boyfriend comes into her apartment with his friends and that they use drugs without her permission. Jenna has a full-time job as a secretary, and Kimberly is doing well in school. She loves her mother and does not want to be taken from her home.

The state law regarding child neglect reads: “Neglect means the negligent treatment or the maltreatment of a child by a person responsible for the child’s welfare under circumstances indicating harm or threatened harm to the child’s health or welfare. The term includes both acts and omissions on the part of the responsible person.”

Problem 32.8

a. The state brings a neglect petition against Jenna. What are the arguments for and against finding Kimberly to be a neglected child?

b. If you were the judge, would you find neglect in this case? Why or why not?

c. If Kimberly is found to be neglected, would you terminate parental rights and remove her from the home? What other orders might you issue?

d. Do you think a parent who uses drugs is committing neglect? Does it make a difference if the child is aware of the drug use? What other factors should be considered before neglect is found to exist?
How to Report Child Abuse and Neglect

• To whom do I make a report?
To make a child abuse or neglect report, call the National Child Abuse Hotline, 1-800-4-A-CHILD, or visit online at www.childhelpusa.org. The hotline will tell you how to contact your local child protective services (CPS) agency. You also may want to talk to a teacher, counselor, medical professional, or other trusted adult. If you believe the child is in immediate danger, contact the police.

• Who must report suspected cases of child abuse?
Usually, medical practitioners, teachers, child-care professionals, school officials, and social workers must report suspected cases of abuse.

• Who may report?
Suspected cases of child abuse can be reported by anyone suspecting that a child is being mistreated. This may include the child who is being abused.

• What conditions should I report?
You should report any situation that indicates abuse or neglect of a child. This may include unexplained bruises or burn marks; constant hunger or repeated inappropriate dress for the weather; major weight gain or loss; or chronic uncleanliness, exhaustion, or school absences. You may also want to talk to the child’s teachers or another trusted adult. If a child is in immediate danger or if you witness a child being beaten, call the police for immediate response.

• What happens if I report someone?
After you make the report, a CPS worker will ask for all the information you have. Then the CPS worker will visit the family to determine whether the child in question is in immediate danger and whether it is necessary to call in the police or a doctor. Under extreme circumstances, the child may be removed from the home immediately. In such cases, the child is placed in foster care or with another family member who does not live in the same household. Otherwise, the CPS worker will interview the parents, observe the physical and emotional conditions of the household, and decide whether there is a need for counseling or family support services.

• Must I give my name when I make a report?
Giving your name is not required. However, it might assist the CPS worker in gaining more information and enable the authorities to take legal action against the abuser.