



**I'm Under 18 And
Not With My Parents
What Are
My Rights?**

***Legal Aid of NorthWest Texas
Youth Rights Handbook Series***

2014 Edition

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This information is provided as a public service and is not intended to be legal advice. Because laws sometimes change, we cannot promise that this information is up-to-date. By providing this information, we are not acting as your lawyer.

FREE LEGAL SERVICES MAY BE AVAILABLE THROUGH YOUR LOCAL LEGAL AID OFFICE.

LANWT'S YOUTH RIGHTS HOTLINE:

1-855-846-2193

Definitions

◆ Consent

A voluntary agreement made by someone who is legally and mentally competent. Most often, minors do not have the legal competency to make agreements so their parents must make agreements for them. In certain situations, however, minors are allowed to make agreements, or give consent, themselves.

◆ Emancipation

Also known as the “Removal of Disability of Minority.” This is the legal process through which a 16 or 17 year old can become a legal adult before reaching 18 years of age.

◆ Family Violence

An act done by one member of a family or household, against someone else in the same family or household, with the intention of causing a physical or sexual assault or threatening to cause a physical or sexual assault.

◆ Guardian

A person or state agency, such as a grandparent or CPS, that has legal control over a minor through a court order.

◆ Judicial Bypass

A legal proceeding that allows a minor to get an abortion without the consent of a parent or guardian.

◆ Legal Aid

An organization that provides free legal assistance to those who are financially eligible and whose case fits within the legal aid program guidelines.

◆ Parent

Any person who is the mother or father of a child by birth or adoption that has not had his or her parental rights terminated by a court. Parents are legally responsible for their children until they turn 18. For 18 year olds still in high school, their parents remain responsible for them so long as they are enrolled in high school.

Definitions (Continued)

◆ Protective Order

A court order that can make someone who has hurt someone else stay away from the victim's home, school or work. Minors can ask for a protective order against a boyfriend/girlfriend, parents, or any other person who lives in their household, as well as anyone who has ever committed sexual assault against them.

◆ Runaway

Someone under the age of 17 who leaves home without the consent of a parent or legal guardian and does not intend to return home. This does not include someone who has been emancipated, joined the military, or has ever been married.

◆ Status Offense

An act that is only a crime if committed by someone under a certain age. For example, it is a status offense for someone under 21 to drink alcohol.

◆ Statutory Rape

When a minor who is younger than 17 has sex with someone who is three or more years older than the minor, that is statutory rape. Because a minor who is 16 or younger cannot consent to sexual contact, it does not matter if the younger person willingly had sex or not: the older person can still be charged with a crime.

◆ Unaccompanied Minor

Minors who are separated from their parents or legal guardians and take care of themselves, or are cared for by another adult who is not their legal guardian, are classified as unaccompanied.

◆ Youth or Minor

Any person under 18 years old, not including someone who has ever been married or divorced, served in the armed forces, or has been emancipated.

What To Do If You Don't Feel Safe At Home?

If you do not feel safe at home, there are people ready and willing to help you! Sleeping on the streets, in a park, or in a car are not safe options.

In an emergency you can and should call 9-1-1. The police are here to serve and protect their communities and can help you find a safe place to go.

If you've left home and have nowhere to go, find a police or fire station for further assistance. The fire department, like the police, are also here to serve and protect the community.

Anyone can call the Department of Family and Protective Services (DFPS), also known as CPS, and make a report, including minors. If a minor calls DFPS to report abuse or neglect, no one will know that it was the minor who called, not even the minor's parents. Reports to DFPS are confidential, meaning they are secret. DFPS provides many services to families including counseling and educating parents and children on different topics. Even though it can be scary to call, DFPS's mission is to help families and ensure the safety and welfare of children.

At every public school there is a "Homeless Student Liaison" who can help you get enrolled in a school, obtain clothes or school supplies, and provide transportation to and from school. Homeless Student Liaisons can also connect you with the school counselors and others who may be able to help with your situation.



Runaways and the Law



The laws concerning runaway or missing children in Texas are confusing and often unclear. The following are the general rules or guidelines, but keep in mind that every person's situation is different. What may be true for one minor is not necessarily true for another minor in a similar situation.

In general, parents have two options when it comes to reporting their child as a runaway to the police: they can either report them as a runaway or as a missing person. Which report a parent can make is based on the age of the minor as well as the local police department's procedures. In addition to making reports to police, parents have the right to come and pick up their child whenever they want to, assuming there is not a court order which says the parent cannot. For example, if there is a court order which says that one parent no longer has any parental rights to that child, then that parent would not have the right to pick up the child, even if the child has run away from home.



A minors who is 16 years old or younger can be reported as both a runaway and a missing person. Regardless of which type of report is made, the police have the authority to find runaway or

missing minors and return them to their parents or a legal guardian.

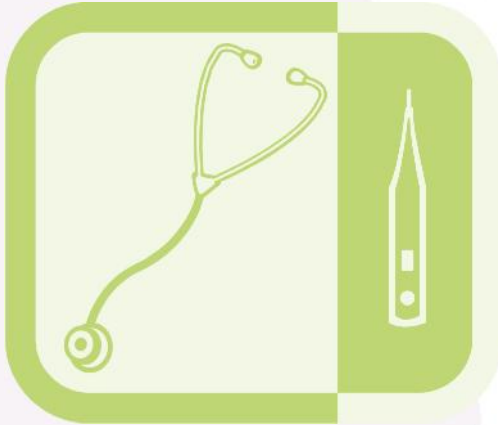
For a minor who is 17 years old, some police departments will take one report but not the other, both reports, or neither one. This will depend on the policy of the individual police department. If either report is taken, it gives police the authority to find the 17 year old and take him or her home. Just because police have the authority to take the 17 year old home, however, does not mean they will do so. Some police departments will only locate the 17 year olds and determine whether or not they are safe. If the officer determines that they are safe, then the officer may leave them where they are instead of returning them to their parents or guardians.

A person who is 18, but still attending high school, is also considered a minor and can be reported as a missing person. Some police departments will take a missing persons report on the 18 year old, others will not.



Adults who allow a runaway or missing minor who is 17 or younger to stay at their house without the parents' permission can be charged with the crime of interfering with child custody or harboring a runaway. If a runaway minor comes to your home, it is a good idea to call the minor's parents and ask permission for the minor to stay. Get this permission in writing if possible. If calling the parents is not a safe option, call local law enforcement or the Department of Family and Protective Services and notify them of the minor's whereabouts. The sooner a call is made, the better. Such a call can serve as a defense if the adult is later charged with a crime.

Minors Consenting to Health Care



Because minors generally cannot consent to their own health care, a parent or guardian must provide this consent. But, there are some exceptions that allow a minor to consent to his or her own health care without permission from a parent or guardian.

One important exception to advance permission is in an emergency situation. In addition, any minor, no matter how old he or she is, can consent to treatment for an infectious, contagious, or communicable disease, like HIV or tuberculosis. Any minor also can consent to treatment for a drug or chemical addiction or dependency. Finally, any unmarried and pregnant minor can consent to hospital, medical or surgical treatments related to her pregnancy, other than an abortion.*

Minors who are 16 years old or older can consent to their own medical, dental, psychological, and/or surgical treatment if they are living apart from their parents or legal guardians and are managing their own financial affairs. It does not matter how long the minor has lived apart from his or her parents or guardians or whether or not the parents or guardians gave permission for the minor to live elsewhere. What it means to manage one's own financial affairs is

not clearly defined, but it would be important to communicate to the doctor how the treatment will be paid for if there is a cost.

Doctors can treat minors in the above situations without a parent or guardian's permission, but they are not required to. They also are allowed to discuss with the parents or guardians what treatments were provided to the minor, as well as other treatments that were not provided but may still be needed. If the minor is seeing the doctor about something that he or she wants to keep private, he or she can ask a doctor about what will be kept confidential and what will be shared with parents.

Grandparents, adult siblings, aunts, and uncles can also give consent for the medical treatment of a minor if the parents cannot be contacted and there has been no actual notice to the grandparent, adult sibling, aunt, or uncle that he or she is not allowed to give consent. Lastly, other adults who are not related to the minor, but have actual care, control, and possession of the minor, can give consent for health care if they have written permission from the parents or guardians to do so.

Minors who are parents themselves can always consent to the medical, dental, psychological and/or surgical treatments of their own children. Please be aware, however, that being a parent does not automatically make a minor an adult.



***See the section on Judicial Bypass for more information about getting an abortion without parental consent.**

Judicial Bypass for Abortions

When a minor who has not been emancipated wants an abortion, her parents or guardians must usually be notified and give their permission since it is a medical procedure. Doctors should notify the minor's parents or guardians at least 48 hours before an abortion, either in person or by telephone, and get the parent's or guardian's permission to proceed. If, however, after attempting to reach the parents or guardians there is no response, a doctor can send a certified letter to their last known address. Forty-eight hours after the letter was sent, a doctor can proceed with the abortion so long as the minor, or qualifying adult, can consent to her treatment.

The same rules from the "Minors Consenting to Health Care" section apply when a minor is consenting to an abortion without the permission of her parent or guardian. She would have to be 16 or 17 years old, living apart from her parents or guardians, and managing



her own financial affairs. In addition, a qualifying grandparent, adult sibling, aunt, uncle, or unrelated adult can provide consent.

If a minor does not want her parents to know that she is pregnant and seeking an abortion, she can get permission from a judge through a proceeding called a Judicial Bypass. At a Judicial Bypass hearing, the judge will decide whether or not the applicant is mature enough to make the decision to have an abortion, whether notifying her parents or guardians is in her best interests, and whether notification to the parents creates a risk that she may be physically, emotionally, or sexually abused. If the judge finds that one of those three things is true, then the judge will sign an order allowing the minor to get an abortion without her parent's or guardian's permission. The fact that a Judicial Bypass was applied for or granted will not be revealed to a minor's parents or guardians.

Free legal services are available for pregnant teens who are considering getting a Judicial Bypass at Jane's Due Process. Jane's Due Process is a legal service organization that ensures that pregnant and parenting teens in Texas have access to free legal services.

Jane's Due Process

1-866-999-5263

<http://janesdueprocess.org/>

info@janesdueprocess.org

[Facebook.com/janesdueprocess](https://www.facebook.com/janesdueprocess)

Right To A Free Education



Students who are homeless, part of a family that is currently homeless, or are unaccompanied and living apart from their parents or guardians are entitled to a free public school education. Being homeless does not necessarily mean that a person is living on the street. Legal homelessness includes living with other families or friends; staying in a shelter, motel or car; or sleeping in a public place like a park or campground.

Missing a lot of school or changing schools frequently can be difficult for a student and make graduating a challenge. That is why staying in school, or getting back in as soon as possible, is so important. That is also why the law says that public schools must enroll homeless or unaccompanied students right away. Schools cannot require homeless or unaccompanied students to have copies of their school records, proof of immunizations, or proof of residency before they will be enrolled.

If at any point if you or your family becomes homeless or you are an unaccompanied minor, reaching out to a school's Homeless Student Liaison (HSL) can be helpful. Every public school has a HSL. If the HSL has not already been in touch with you, feel free to reach out to that person yourself. HSLs can help you and enroll in school, provide transportation to and from school, access free school meals, purchase school supplies, obtain copies of your school and immunization records, and more. Some can even help you get clothing and toiletry items or find a safe place to sleep at night if you

have nowhere to go after school.

In an effort to create as little disruption to education as possible, schools are required to enroll homeless or unaccompanied students in the last school they attended. That school is called a student's "school of origin." You can also choose to attend a school closer to where you are currently staying if your school of origin is now far away. If there is any disagreement about whether or not a student is homeless or in which school they should be enrolled, the school must still enroll the student right away and figure out the details later.

If you or your family is homeless, or you are an unaccompanied minor and a school is not allowing you to enroll, helping you with transportation, meals, or getting your school records, an attorney may be able to help. Remember to try and get in touch with your school's Homeless Student Liaison first, but if they are not helpful, you can also call your local legal aid organization for assistance.



Protective Orders



A protective order is an order from a judge that tells one person, the aggressor, that he or she must stay away from another person, the victim, and leave the victim alone. Minors can get protective orders against family or household members if they have previously been a victim of family violence and there is a chance that family violence could happen again. Family violence is when one family or household member does something that is intended to cause physical harm, injury, assault, or sexual assault to another family or household member. Minors can also get protective orders against people they previously dated, or had an intimate relationship with, if that previous partner has been violent towards the minor or is stalking them, and there is a chance that the violence or stalking will continue.

Protective orders are serious because if a person disobeys the order that person might have to pay fines or spend time in jail. Nobody can give permission for a protective order to be violated except a judge. That means that if you get a protective order against

someone and later change your mind , you must go back to court and ask the judge to terminate the order.

Getting a protective order begins with filing an application in court. Once an application for a protective order has been filed, a judge should schedule a hearing within 14 days to decide whether or not a protective order is needed. Between the time an application is filed and the hearing, a person can also request a temporary protective order, which is called an ex parte protective order. The ex parte protective order provides protection before a hearing is held.

Usually protective orders and temporary protective orders tell the aggressor to stay a certain distance away from the victim and to leave the victim alone. This can make it difficult for minors to get a protective order against their parents. If you think you need a protective order against someone you currently live with, then you should consider finding a safe place to stay away from that person. If you don't have a friend or family member you can stay with, there may be shelters available in your area.*

There are several places you can call to get help with a protective order. You can call your county's victim assistance office. To find the number for this office, call the local district attorney's office or the non-emergency line for the police and ask for it. You also can contact your local legal aid organization. They may be able to help you obtain a protective order or put you in touch with someone who can.



*For more information about homeless and domestic violence shelters ,please see the Contacts section of this handbook.

Emancipations

The removal of the disability of minority, more commonly known as an emancipation, is a legal process where a minor becomes a legal adult before turning 18. There are three ways a minor can be emancipated, the first two happen automatically, the third requires approval of a court.

Minors are automatically emancipated if they get married or join the armed forces. An emancipated minor does not become “un-emancipated” if they are divorced, widowed, or discharged from the armed services before turning 18. Remember that getting married or joining the armed services before turning 18 generally requires parent or guardian consent.

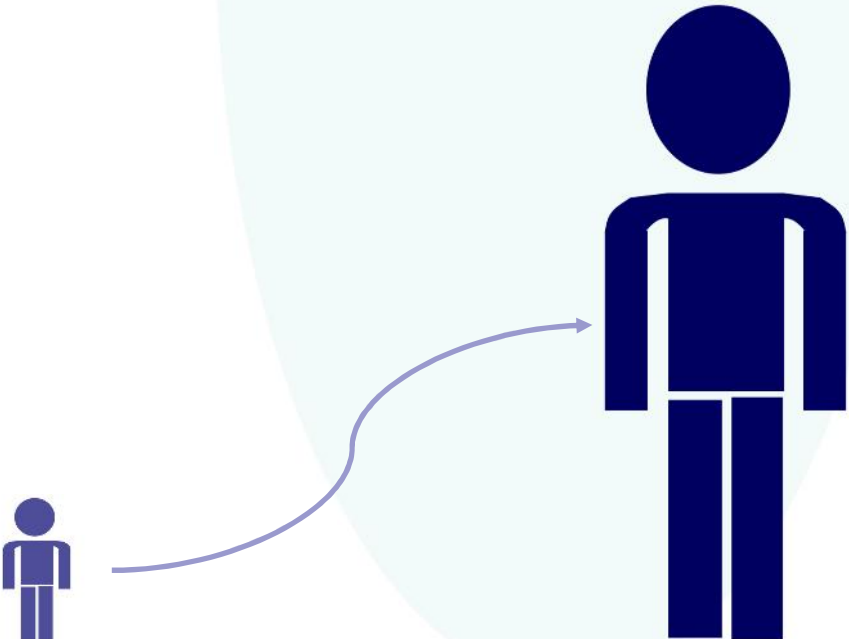


The third way to become emancipated is to ask the court through a petition that requests the disability of minority be removed. Minors who are 17 can qualify for an emancipation if they are self-supporting and manage their own financial affairs. Minors who are 16 can qualify if they are self-supporting, manage their own financial affairs, *and* live separate and apart from their parents or guardians. What it means to be self-supporting and managing one’s own financial affairs is not clearly defined, but it most likely means that the minor has a way to financially support him or herself through a job or some other source of income. This third option for an emancipation allows a minor to either become fully emancipated or emancipated for a limited purpose. For example, a minor could be

emancipated for the limited purpose of being able to consent to special education testing at a school.

There are pros and cons to being emancipated. For example, being a legal adult allows you to consent to contracts such as an apartment lease, finance a car, or obtain health care. But it does not allow you to do everything an older person can, such as buying alcohol or tobacco products. The downside to being emancipated is that no one is responsible for you, not even your parents. Also, just because you are a legal adult does not mean that someone will want to enter into contracts with you. It is possible for minors to become emancipated at 16 and then become unemployed. Emancipated minors' parents are not legally obligated to financially support them or let them move back home. Likewise, apartment complexes are not required to lease an apartment to emancipated minors so they could end up in a shelter or homeless.

Free legal assistance for minors interested in being emancipated may be available at a local legal aid office. An attorney would also be able to explain in more detail what pros and cons would apply in each situation.



Powers of Attorney



A Power of Attorney (POA) is a document that gives one person the legal power to do something for someone else. There are different types of powers that can be given through a POA, like the power to make medical decisions for someone else, or the power to control someone else's money. A POA can also be used to give an adult the power to act in the place of a parent, allowing that other adult to make decisions for a minor that usually only a parent can make. Some people call this type of POA a "School POA."

Sometimes parents or guardians allow their child to live with another adult, like the parent of a child's friend or someone from their church. Maybe the parents or guardians are going through a difficult time and are unable to provide for their child like they wish they could. Because that other adult does not have the legal rights of a parent or guardian, it can be difficult for the other adult to care for the child. It can be a challenge to enroll the child in school, obtain health insurance for the child, pay for food and clothing, or provide federal benefits like SNAP (food stamps).

A POA can give an adult legal permission to act in place of the parent, making it much easier to care and provide for the child. It does not terminate the rights of a parent or guardian or give custody of the minor to the other adult, but simply extends the

rights of a parent or guardian to the other adult.

A School POA is usually a short document that needs to be signed by the parent and the other adult in front of a notary. It will list the specific powers that the parent is granting to the other adult as well as identify the child that the other adult can now make decisions for. The POA may have an end date listed, or it may not. Either way, if the parent no longer wants the POA, it is an easy process to change. The parent can sign a second document called a “Revocation of the Powers of Attorney.” This document should be signed by the parent, identify which child the other adult can no longer make decisions for, and describe which powers the other adult no longer has. It should also be notarized. Then a copy should be sent to anyone who may have received the original POA, including, for example, the schools, government offices, or health care providers.

Some public schools in Texas have blank School POAs that parents or guardians can ask for. Please be aware that a school cannot require a student to have a POA in order to enroll in or attend school. If your school is requiring a POA for any reason, you should contact your local legal aid for assistance. Your local legal aid organization may also be able to help your parents or guardians get an appropriate POA, and tell them more about on how they work.



Contacts

Emergencies–911

If you are in an emergency situation call 911!

Texas Youth & Runaway Hotline–1-800-989-6884

This hotline provides peer counseling to youth and family members who are experiencing family conflicts, delinquency, truancy, abuse and neglect, and issues involving runaways. These phones are answered 24/7.

www.dfps.state.tx.us/Youth_Hotline

The National Runaway Safeline–1-800-786-2929

Anyone can call this line for help or information about where to turn for help and other issues involving runaways. This line is answered 24/7.

www.1800runaway.org

Texas Department of Family and Protective Services (CPS)–1-800-252-5400

To report abuse, neglect, or exploitation of children, the elderly, or people with disabilities you can call this number or make a report online. Remember that all reports are confidential. This line, as well as online reporting, are open 24/7.

www.txabusehotline.org

Shelters–211

For information about domestic violence or homeless shelters in your area dial 211. If your phone will not connect to 211 you can call their toll free line at 877-541-7905. You can also visit 211 Texas online at:

<https://www.211texas.org/211>

Legal Aid–Online

There are several legal aid organizations across the state that help people with all types of legal needs. To find out which legal aid organization serves your area check out the following websites:

www.lanwt.org ∞ www.trla.org ∞ www.lonestarlegal.org

Legal Aid of NorthWest Texas Youth Rights Hotline–

1-855-846-2193

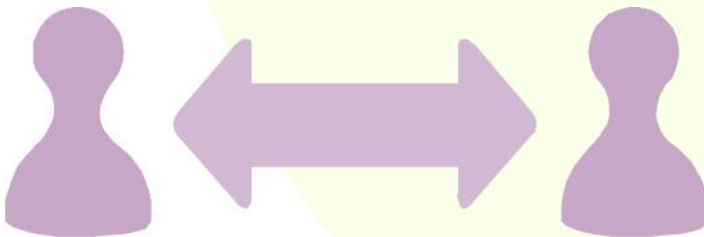
If you are interested in speaking with an attorney about any of the topics in this book, or if you have other questions about your rights as a minor in the State of Texas, you can call this hotline. Leave a message and your call will be returned shortly by an attorney in your area.

www.lanwt.org

Homeless Student Liaisons

To find your school's homeless student liaison you can call the school you last attended and ask to be directed to its homeless student liaison. You can also find a list of every homeless student liaison by school district throughout Texas at:

<http://www.utdanacenter.org/theo/directory/index.php>





**Legal Aid of NorthWest Texas
Youth Rights Hotline**

1-855-846-2193