



## Selected California Minor Consent Laws

### GENERAL PROVISIONS

#### Age of Majority

|                       |                                  |
|-----------------------|----------------------------------|
| Cal. Fam. Code § 6500 | The age of majority is 18 years. |
|-----------------------|----------------------------------|

#### Armed Forces

|                         |  |
|-------------------------|--|
| Cal. Family Code § 6950 | A minor 16 or older may enlist in the armed forces with a parent or guardian's consent, or with a court's consent, if a parent or guardian is not available. |
|-------------------------|--|

#### Contracting Age

|   |   |
|---|---|
| Cal. Family Code §§ 6700, 6710-6712; 6750 | A minor may make a contract in the same manner as an adult (except a contract for real property or a delegation of power). However, but for certain types of contracts listed in California statute, a minor may disaffirm a contract during minority or within a reasonable time afterwards. |
|---|---|

#### Drinking Age

|                                |                               |
|--------------------------------|-------------------------------|
| Cal. Bus. & Prof. Code § 25658 | The drinking age is 21 years. |
|--------------------------------|-------------------------------|

#### Driving Age

|   |   |
|---|---|
| Cal. Veh. Code §§ 12512, 12514.6, 12509 | Minors are eligible for a provisional license at 16 years, and an unrestricted license at 18 years. Minors are eligible for an instructional permit at 15 years and 6 months. |
|---|---|

#### Marriage

|                        |   |
|------------------------|---|
| Cal. Family Code § 302 | Minors under 18 may consent to marriage when both of the following documents is filed with the county clerk:<br>(1) The written consent of the minor's parents/parent/guardian; and<br>(2) A court order granting permission to the underage person to marry. |
|------------------------|---|

#### Voting Age

|                           |                             |
|---------------------------|-----------------------------|
| Cal. Constit. Art. 2, § 2 | The voting age is 18 years. |
|---------------------------|-----------------------------|

### MINOR STATUS

#### Emancipated Minors

|                       |  |
|-----------------------|--|
| Cal. Fam. Code § 7002 | A person under 18 is emancipated if any one of the following occurs: <ul style="list-style-type: none"><li>• The person has entered into a valid marriage, whether or not the marriage has been dissolved;</li></ul> |
|-----------------------|--|

|                             |  |
|-----------------------------|--|
|                             | <ul style="list-style-type: none"> <li>• The person is on active duty with the armed forces; <u>OR</u></li> <li>• The person has received a declaration of emancipation under Cal. Fam. Code § 7122.</li> </ul>  |
| Cal. Fam. Code § 7050(e)    | An emancipated minor may consent to medical, dental, or psychiatric care, without parental consent, knowledge, or liability.   |
| Cal. Fam. Code § 7120, 7122 | <p>The court will declare a minor to be emancipated if it finds that all of the following are true:</p> <ul style="list-style-type: none"> <li>• The minor is at least 14 years old;</li> <li>• The minor willingly lives separate and apart from the minor's parents or guardian with the consent or acquiescence of the minor's parents or guardian;</li> <li>• The minor is managing his or her own financial affairs;</li> <li>• The source of the minor's income is not derived from any activity declared to be a crime; <u>AND</u></li> <li>• Emancipation would not be contrary to the minor's best interests.</li> </ul> <p><i>Note: Emancipation does not change the voting, drinking, or driving age.</i></p> |

### Minors Living Separately and Apart

|                       |   |
|-----------------------|---|
| Cal. Fam. Code § 6922 | <p>A minor may consent to his/her own medical or dental care if all of the following conditions are satisfied:</p> <ul style="list-style-type: none"> <li>• The minor is at least 15 years old;</li> <li>• The minor is living separate and apart from the minor's parents or guardian, whether with or without the consent of a parent or guardian and <i>regardless of the duration of the separate residence</i>; <u>AND</u></li> <li>• The minor is managing his/her own financial affairs, regardless of his/her income source.</li> </ul> <p>The parents or guardian are not liable for medical care or dental care provided pursuant to this section.</p> <p>A physician, surgeon or dentist <u>may</u>, with or without the consent of the minor patient, advise the minor's parent or guardian of the treatment given or needed if the physician and surgeon or dentist has reason to know, on the basis of the information given by the minor, the whereabouts of the parent or guardian.</p> |
|-----------------------|---|

### Pregnant and Parenting Minors

|  |   |
|--|---|
| Cal. Fam. Code §§ 7002, 7120, and 7122 | Pregnancy is not included among the conditions that emancipate a minor.   |
| Cal. Fam. Code § 6925                  | A minor may consent to pregnancy-related medical services except sterilization.   |
| Cal. Penal Code § 11166                | Pregnancy does not, in and of itself, establish reasonable suspicion of abuse for the purposes of reporting child abuse as mandated by law. |

### Minors in Military

|                       |  |
|-----------------------|--|
| Cal. Fam. Code § 7002 | A minor who participates in the armed services is deemed emancipated. (see Emancipated Minors, above). |
|-----------------------|--|

|                       |   |
|-----------------------|---|
| Cal. Fam. Code § 6950 | A minor may enlist in the military at age 16 with parental or court consent. At 18 on his or her own consent. |
|-----------------------|---|

## TYPES OF CARE

### General Medical Care

|                               |  |
|-------------------------------|--|
| Cal. Fam. Code § 6900 et seq. | Unless a specific exception applies, a minor's guardian or parent must consent to medical care. The exceptions include those described below and services related to the prevention and treatment of pregnancy, testing and treatment for reportable communicable or infectious diseases, including STI/STD/HIV, drug and alcohol abuse diagnosis and treatment, outpatient mental health services and rape and sexual assault-related services. |
|-------------------------------|--|

### Emergency Medical Care

|                                |   |
|--------------------------------|---|
| Cal. Bus. & Prof. § 2397(a)(3) | In an emergency, a professional may provide medical services without minor or parental consent. |
|--------------------------------|---|

### Pregnancy/Contraception/Abortion Services

|  |   |
|--|---|
| Cal. Fam. Code § 6925  | A minor may consent to medical care related to the prevention or treatment of pregnancy, <u>except</u> sterilization.   |
| <i>American Academy of Pediatrics v. Lungren</i> , 16 Cal.4th 397 (1997) | A minor may consent to an abortion without parental consent or court permission (ruling Cal. Health and Safety Code § 123450, requiring minors to obtain parental consent before an abortion, violates the right to privacy guaranteed by the California Constitution). |

### Excusing Minor's from School for Medical Care

|  |   |
|--|---|
| Cal. Educ. Code § 46010.1                | The governing board of each school district shall, each academic year, notify pupils in grades 7 to 12, and the parents or guardians of all pupils enrolled in the district, that school authorities may excuse any pupil from the school for the purpose of obtaining confidential medical services without the consent of the pupil's parent or guardian.                             |
| 66 Ops. Atty. Gen. 244 (7-28-83)         | Public school officials have the authority to excuse a pupil from regularly scheduled classes to obtain medical services, including an abortion. Public school officials are under no legal duty to notify the parents or guardian of a public school pupil who is excused from school early to obtain medical services even if such medical services are the obtaining of an abortion. |
| 87 Cal. Ops. Atty. Gen. 168 (11-29-2004) | A school district may not require that a student obtain written parental consent prior to releasing the student from school to receive confidential medical services. A school district may not adopt a policy pursuant to which the school will notify a parent when a student leaves school to receive confidential medical services.   |

### STD/STI Testing and Treatment

|                       |   |
|-----------------------|---|
| Cal. Fam. Code § 6926 | <ul style="list-style-type: none"><li>• A minor age 12 or older who may have come into contact with a reportable infectious, contagious or communicable disease, or with a sexually transmitted disease, may consent to medical care for the diagnosis and treatment of the disease/infection.</li><li>• A list of reportable diseases, which <u>includes AIDS and certain STDs</u>, can be found in Cal. Code Regs. tit. 17, § 2500.</li><li>• A list of pertinent STDs may be found in Cal. Code Regs. tit. 17, § 5151(a).</li><li>• The minor's parents or guardian are not liable for payment for medical care provided pursuant to this section.</li></ul> |
|-----------------------|---|

### AIDS/HIV Testing and Treatment

|                                       |  |
|---------------------------------------|--|
| Cal. Health & Safety Code § 1603.1(c) | HIV is a reportable communicable disease.  |
| Cal. Health & Safety Code § 120990    | No person shall be tested for HIV without his/her valid written consent.   |
| Cal. Health & Safety Code § 121020    | <ul style="list-style-type: none"><li>• A minor younger than 12 is not competent to give consent for an HIV test.</li><li>• For an incompetent minor, consent may be obtained from a parent or guardian. If the minor is a dependent of the court, written consent may be obtained from the court. Consent from the court or parent shall only be obtained when it is necessary to render appropriate care or to practice preventative measures.</li></ul> |

### Drugs/Alcohol Abuse Treatment

|                       |  |
|-----------------------|--|
| Cal. Fam. Code § 6929 | <ul style="list-style-type: none"><li>• A minor who is 12 or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem. The treatment plan shall include the involvement of the minor's parent or guardian, if appropriate, as determined by the treating professional.</li><li>• A minor may not authorize replacement narcotic abuse treatment without parental consent.</li><li>• This section does not restrict or eliminate the right of a parent or legal guardian to seek medical care and counseling for a drug- or alcohol-related problem of a minor when the minor does not consent to the medical care and counseling.</li><li>• The minor's parents or guardian are not liable for payment for any care provided to a minor under this section, except if the parent or guardian participates in a counseling program under this section.</li></ul> |
|-----------------------|--|

### Outpatient Mental Health Services

|                       |  |
|-----------------------|--|
| Cal. Fam. Code § 6924 | A minor 12 or older may consent to outpatient mental health treatment or counseling on an outpatient basis, or to residential shelter services if all of the following conditions are satisfied: |
|-----------------------|--|

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services; <u>AND</u></li> <li>• The minor either would present a danger of serious physical or mental harm to self or others without the services or is the alleged victim of incest or child abuse.</li> </ul> |
| Cal. Fam. Code § 6924                    | A professional offering residential shelter services is required to make his or her best effort to notify the parent or guardian of the provision of services to the minor (But see Cal. Health & Safety Code §123115(a)(2) below).  |
| Cal. Fam. Code § 6924                    | The mental health treatment or counseling of the minor must include the involvement of the parent or guardian unless, in the opinion of the treating professional, it would be inappropriate and this is documented in the minor's record. An unsuccessful attempt to contact a parent or guardian must also be documented.  |
| Cal. Fam. Code § 6924                    | This section does not authorize a minor to receive convulsive therapy, psychosurgery or psychotropic drugs without the consent of the parent or guardian.  |
| Cal. Fam. Code § 6924                    | The parent or guardian is not liable for payment of mental health treatment or counseling under this section, except for services in which he/she participated. The parent or guardian is not liable for residential shelter services provided to the minor unless he/she consented to them.   |
| Cal. Welf. & Inst. Code § 6552           | See Inpatient Mental Health Services below.  |
| Cal. Health & Safety Code § 123115(a)(2) | If a professional believes it will harm their ability to treat a minor if they inform the minor's parent, they may elect not to do so. The treating professional will not be found liable unless it is determined s/he acted in bad faith.   |

### **Inpatient Mental Health Services**

|   |  |
|---|--|
| Cal. Welf. & Inst. Code §§ 6000, 6002             | <ul style="list-style-type: none"> <li>• Application for voluntary admission for a minor to a state mental hospital must be made by a parent, guardian, conservator or other person entitled to his/her custody.</li> <li>• A minor admitted voluntarily may leave after completing normal hospitalization procedures after notice is given by the parent, guardian, conservator or other personal entitled to the minor's custody.</li> <li>• When a minor voluntarily admitted to an inpatient mental health program reaches 18, he or she must reapply for voluntary admission as an adult or be released.</li> </ul> |
| <i>In Re Roger S.</i> , 141 Cal. Rptr. 298 (1977) | A minor 14 or older, voluntarily committed by a parent or guardian to a state hospital under Cal. Wel. & Inst. Code § 6000(b), is entitled to a due process hearing before a neutral fact finder to determine whether a basis exists for his or her confinement.   |
| Cal. Wel. & Inst. Code § 6552                     | Any minor under the jurisdiction of the juvenile court as a dependent, status offender, or delinquent may, with the advice of counsel, make voluntary application for inpatient or outpatient mental health services. To   |

|   |  |
|---|--|
|   | <p>authorize such voluntary application, the juvenile court must find:</p> <ul style="list-style-type: none"> <li>• The minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the hospital, facility or program; <u>AND</u></li> <li>• There is no other available hospital, program or facility which might better serve the minor's medical needs and best interest.</li> </ul> |
| <i>In re Michael E.</i> , 123 Cal. Rptr. 103 (1975)                   | A juvenile court may not order a minor ward admitted except pursuant to the procedural safeguards provided for in the Lanterman-Petris-Short (LPS) Act, Cal. Wel. & Inst. Code §§ 5000-5401.   |
| Cal. Wel. & Inst. Code §§ 6002.15, 6002.20, 6002.25, 6002.30, 6002.35 | A minor has statutory rights to an independent clinical review of the necessity for continued inpatient treatment, a written explanation of his/her rights, and consultation with a patients' rights advocate.   |
| Cal. Wel. & Inst. Code § 6002.15                                      | The parent, guardian or other person entitled to the minor's custody must be advised of the facility's treatment philosophy, including the use of restraints, seclusion, medication and family involvement in the minor's treatment.   |

### Residential Shelter Services

|                       |  |
|-----------------------|--|
| Cal. Fam. Code § 6924 | <p>A minor 12 or older may consent to outpatient mental health treatment or counseling on an outpatient basis, or to residential shelter services if all of the following conditions are satisfied:</p> <ul style="list-style-type: none"> <li>• The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services; <u>AND</u></li> <li>• The minor either would present a danger of serious physical or mental harm to self or others without the services or is the alleged victim of incest or child abuse.</li> </ul> |
| Cal. Fam. Code § 6924 | The parent or guardian is not liable for residential shelter services provided to the minor unless he/she consented to them.   |

### Sexual Assault Services

|  |  |
|--|--|
| Cal Penal Code § 261   | Rape involves an act of non-consensual sexual intercourse.   |
| Cal. Family Code § 6928 and Cal. Penal Code §§ 261, 286, and 288a. | Sexual assault includes unlawful acts of rape, some forms of statutory rape (see "Statutory Rape" below), sodomy, and oral copulation.   |
| Cal. Fam. Code §§ 6927 and 6928                                    | A minor who may have been sexually assaulted may consent to medical care related to the diagnosis and treatment of sexual assault and the collection of medical evidence. However, the treating professional shall attempt to contact the minor's parent or guardian and shall note the date and time of the attempted contact and whether it was successful or unsuccessful. This provision does not apply if the treating professional reasonable believes the parent or guardian committed the sexual assault, or if the patient is over 12 and the |

|                       |   |
|-----------------------|---|
|                       | alleged act is rape.  |
| Cal. Fam. Code § 6927 | A minor 12 or older who may have been raped may consent to medical care related to diagnosis or treatment for rape and to the collection of medical evidence. |