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Understanding Parental Liability

By Joan E. Lisante

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Parents' & Child's Responsibility

Tyler, 15, fancied himself a modern-day Picasso with attitude. At night, he would spray-paint the walls of office buildings. Unfortunately for Tyler, the police and the building owners disagreed with the young artist's idea of self-expression.

When Tyler was found guilty of vandalism, his sentence included repainting the walls, which shouldn't surprise anyone. The fact that his parents were ordered by the court to help Tyler repaint the walls might.

Like Tyler's mother and father, parents around the country are sharing the punishment doled out to their children who cause injury and damage. In states with parental liability laws, mom and dad can be held accountable if their children are convicted, and may be ordered to repay victims for damages and, in some instances, to share criminal responsibility and jail time for negligence in supervising their children.

Frequently, assets -- both parents' and child's -- are tapped for restitution. For example, a victim's \$2,000 medical bill can be collected from the guilty youth's savings account, the family checking account, or both.

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Parents Pay the Price, Too

Parent liability laws vary across the country. In California, for example, parents can be fined or jailed for allowing children to participate in gangs. Wisconsin requires parents to pay child support when their underage kids have babies. In Florida, parents can serve jail time if their child hurts another with a gun that the parents left accessible. In 29 states and the District of Columbia, families can be evicted from public housing if a child is using or selling drugs. This is by no means a complete list and laws are always changing, but visiting your state's Web site can lead you to more information about individual liability laws.

Why are parents being taken to task -- and to court -- for the actions of their children? The legal system assumes that parents, the first line of defense against juvenile crime, have some control over their child's actions. (When the family is not intact, the parent who has day-to-day custody is usually responsible.) Failing to supervise a child is a chief component of parental liability, although anyone who has dropped off a teenager at school, only to have him slip out the back door, knows that total supervision is almost impossible.

Nonetheless, parental liability laws were passed to reduce juvenile crime and to compensate victims. The U.S. Department of Justice reports that in 2001, almost 800,000 juveniles were arrested for crimes ranging from property damage to drug abuse.

Pros & Cons of Parental Liability

Brette McWhorter Sember, lawyer and author of 15 books, including *How to Parent with Your Ex: Working Together for Your Child's Best Interest* (Sourcebooks), supports the philosophy behind parental liability laws. "From a victim's standpoint, someone has to be responsible," Sember says, noting that the laws deal with intentional damage or injury. If the child causes damage accidentally, it could be covered under the parents' insurance policies, she says.

Some opponents of parental liability worry that the laws may be used against poor or single parents, who have a tough time supervising kids because of inadequate childcare or the need to hold multiple jobs. They also wonder whether punishing parents may further deteriorate a parent-child relationship, resulting in domestic violence or child abuse.

Prevention and Protection Action Steps for Parents

No matter what your stance on parental accountability, take measures to keep your family out of trouble.

- **Do a reality check.** Let kids know that if they harm a person or his property, not only will they lose their allowance for decades, but Mom or Dad might have to pay a lot of money to the people they hurt. Organizations like the American Bar Association's Division for Public Education have age-appropriate materials that show how laws work (see the Web site abanet.org/publiced).
- **Take a family field trip to your local courthouse.** Hazel Osborn took daughters Chelsea and Michaela to a sentencing hearing to see what happens to young adults who are found guilty of breaking windows, injuring someone while driving while intoxicated, or splattering buildings with graffiti. The girls learned quickly about harsh legal consequences that result from such actions.
- **Supervise, supervise.** State judicial officials come down hard on parents for not knowing what their son or daughter is doing. In Arkansas, Kentucky, and Ohio, parents of chronic school-skippers can be fined or even jailed. To be sure your child's time is filled with worthwhile activities, check into extracurricular programs offered in your community or seek resources such as Afterschool Alliance, supported by the U.S. Department of Education (see the Web site afterschoolalliance.org).
- **Help kids fight peer pressure.** Talk with your child about the values and ethics that are important in your family. Invite his or her friends to dinner. Make your home a welcoming gathering place for your child's peers so you can get to know them, as well as supervise their activities. Offer to pick him up whenever he needs a ride home from an uncomfortable situation -- no questions asked. Talk about peer pressure scenarios and how to handle them.

If It's Already Happened

If you are faced with a situation in which your child is being charged with wrongdoing, there are some steps you should take to protect yourself and your family's legal rights.

- **Stay calm and get the facts.** If you get an angry phone call from someone whose garage windows have been smashed, grab a pen and write down everything the victim is telling you. Are there witnesses? Was a police report filed? Once you've spoken to the victim, talk to your child to get his version of the events.
- **If you are served with a legal document, call a lawyer.** If you don't have one, ask a friend or neighbor who's been in a similar fix. Or call your local bar association's lawyer referral service, which will arrange a consultation with a knowledgeable attorney for a small fee. The lawyer can explain the charge and a likely outcome if formal charges are filed. National lawyer locator services include lawyers.com, sponsored by Martindale-Hubbell; abanet.org, sponsored by the American Bar Association; and LegalMatch.com.
- **If it's a minor matter and the victim is agreeable, suggest a solution.** Community service, no matter what form it takes, drives home consequences to a child. A teen who smashes a neighbor's mailbox might apologize and mow that neighbor's lawn for the summer. A child who scribbles graffiti on a fence might repaint that fence and plant some flowers in front of it.

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