

# Your HEALTH



A GUIDE FOR TEENS

# and the LAW



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## Important

The material provided here is for basic informational purposes only. It is not meant to be and should not be taken as legal advice, nor should you rely on this information instead of seeking the advice of an attorney. The legal issues surrounding civil rights and civil liberties are among the most complex in the law, and a person's rights may vary from case to case depending on small and subtle details. Only a lawyer who has taken the time to become fully aware of the facts in a given case can provide you with sound legal advice.

If you feel your rights have been violated, contact an attorney at once. The law imposes time limits on most actions to defend your rights, so it is important to act quickly. If you do not know how to reach an attorney, call the Lawyer Referral Service of your local bar association. They will be able to direct you to a lawyer experienced in the type of law involved in your case.

If you are under 18, finding a lawyer can be difficult. Many lawyers do not represent minor clients without a parent's permission. If it is possible, speak to a trusted adult about finding a lawyer. Legal clinics based in universities may be able to assist minors in figuring out their legal options.

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## To the Parents

This booklet is intended to serve as a legal guide to the medical world for teens, parents and adults who work with teens. It seeks to address the confusing intricacies of the health care law as it relates to youth in a format that is easy to understand. This handbook provides teens and their parents with the information needed to help ensure that teens receive the medical care they need and deserve.

This handbook is also designed to educate parents as to the legal rights of teenagers, so parents can be better advocates for their child’s health. It is our hope that, by educating both parent and child, we will encourage communication about these issues where it might not have existed before.

For the purposes of this book, the word “parent” refers to biological parents, legal guardians and any other adult with legal responsibility for a minor.



# Introduction

Teens are one of the least likely groups of people in the U.S. to have access to health care.<sup>1</sup> Researchers have consistently found that concerns about confidentiality, and specifically whether parents will be informed, has a significant impact on whether a teen will seek health care, where they will go for it, and whether they are honest about what they tell their doctors.<sup>2</sup> However, the law sometimes gives teens the option of getting medical testing and treatment without anyone else knowing about it.

This booklet seeks to clarify teens' rights under Ohio and federal law to ensure they have the legal knowledge they need to make their own medical decisions. This handbook is designed to aid not only teens, but also parents, school counselors, teachers and others who work with teens. These adults can use this book to give informed guidance to teens seeking medical care.

Frequently, professionals can promote communication between young people and their parents, helping teens to find needed support as they confront health issues. When teens cannot or will not speak to their parents, professionals can help them seek the support of other adults rather than face their health problems alone. By publicizing information about adolescents' rights, we hope to encourage teens to seek medical care even when they cannot or will not confide in adult family members or friends.

Each section in this booklet begins with an introduction to place the issue in perspective for the reader. Question and answer boxes are also included as examples of specific situations teens might face. Many sections also include information on how to seek help when confronted with especially serious situations or medical conditions. While this booklet is by no means comprehensive, we hope that it will assist in educating teens about their rights, and that it will ultimately help young people to receive the health care they seek.

# I. Basic Definitions

## What is a minor?

Ohio law defines a “minor” as any person between birth and 18 years old.<sup>3</sup>

A minor is denied certain rights under the law, such as the right to vote, the right to enter into an enforceable contract<sup>4</sup> and, in most cases, the right to consent to medical care.<sup>5</sup> However, when a minor is able to consent to medical care without also obtaining parental consent, the minor’s contract is enforceable and the minor can be held responsible for payment of the medical bill.<sup>6</sup>

## What is an adult?

When a person turns 18, she or he is considered an adult for almost all purposes.<sup>7</sup> There are a few exceptions. For example, people with certain mental or physical disabilities may not be recognized as adults by law when they become 18.<sup>8</sup> For the purposes of this book, any person 18 years of age or older is considered an adult.



*Today is **Cindy's** 18th birthday. Is she a minor?*

No. She is no longer under the age of 18, so she is no longer a minor.

## What is informed consent?

“Informed consent,” also referred to in this booklet as “consent,” means that a patient understands and voluntarily agrees to a suggested treatment.<sup>9</sup>

Ohio law requires that a patient give informed consent to any medical procedure because every person should have the right to determine what is done with her body.<sup>10</sup> By law, before a patient agrees to any medical procedure, it must be clearly explained:

- why the procedure is necessary;
- the nature and purpose of the procedure; and
- the risks and benefits of the procedure and any possible alternatives, including no treatment.<sup>11</sup>

A patient who does not understand all of the above cannot give informed consent. Patients must also be given information about the costs of the operation and of any care that will be needed after the operation. Patients have the right to say “no,” seek another opinion or simply think it over before going ahead with the procedure.<sup>12</sup> It is best to give your consent in writing; however, consent can also be given verbally.



*Jack is a mentally impaired adult. Can he consent to his own care?*

Maybe. If the doctor determines that Jack understands his medical condition and the consequences of various treatments, Jack can consent to his own health care. However, no patient can give informed consent unless that patient understands the risks and benefits of the proposed and alternative treatments.<sup>13</sup>



*Erin asks her doctor for a confidential pregnancy test. Her friend calls later to find out the results for her. Can the doctor disclose the results to Erin's friend?*

Not without Erin's permission. The information is confidential and cannot be disclosed to anyone but Erin.

## **What is confidentiality?**

With regard to medical care, "confidentiality" means that information about the treatment cannot be disclosed without the permission of the person who consented to the care.<sup>14</sup>

Confidentiality is something that is taken very seriously by both patients and doctors. If a doctor tells someone else confidential information about a patient's treatment, that doctor may end up facing disciplinary procedures from the hospital and the medical board. He or she may also end up facing a lawsuit from the patient.<sup>15</sup>

## II. General Rules

### Minors and consent

In general, the law only allows people who are 18 or older to consent to medical treatment.<sup>16</sup> Thus, without parental consent, a physician will not normally treat a minor. There are exceptions to this rule.

For the purposes of this booklet, when a minor “can consent” to health care, the consent of another person, such as the minor’s parent or guardian is **not** needed.

In Ohio, a minor who understands the risks and benefits of proposed care can consent to: emergency health care,<sup>17</sup> limited outpatient mental health care,<sup>18</sup> alcohol and drug abuse treatment,<sup>19</sup> testing for HIV/AIDS<sup>20</sup> and some family planning services.<sup>21</sup> For other treatments, a minor must generally get a parent’s consent. Since a parent who does not consent does not have to pay, the minor will generally be responsible for the bills.

Certain types of minors, generally those who are married or emancipated, can consent to all of their own health care.

### Minors and confidentiality

Unless otherwise specified by law, a medical provider may not reveal confidential information about a patient without the permission of the person who consented to the health care.<sup>22</sup> Medical providers who violate this rule may be charged with professional misconduct and could be subject to fines, reprimands or even the revocation of their license.<sup>23</sup>

There are some instances, however, where a health care provider may be required to disclose confidential information to someone other than the patient. Examples include: when reports are required to be filed with the local, state or federal government; when there is a duty to warn third parties (as with some sexually transmitted diseases); when disclosure is required by a court for a judicial proceeding; or when the provider suspects abuse.<sup>24</sup>

Although current law is unclear, the generally accepted practice is to attach confidentiality to those times when a teen is able to consent to her own medical care.<sup>25</sup>



*A high school teacher is concerned that his student, **Joe**, is suffering from a health problem, and that Joe is too scared to talk about it. Can the teacher look up Joe's medical records in the school-based clinic, or call Joe's physician to find out what's wrong?*

No. That information is confidential. Without Joe's permission, the health care provider cannot release the information to the teacher. The teacher can, however, encourage Joe to talk about his problem, meet with Joe's parents or alert the health care provider to his concerns.

## **Confidentiality when covered by private insurance**

Some methods of payment also compromise a minor's confidentiality. If a minor seeks coverage for services under a parent's insurance plan, itemized benefit statements issued to the parents sometimes reveal confidential medical information.<sup>26</sup>

There is no perfect solution to the problem of confidentiality in the medical billing process. A teen seeking services under a parent's private insurance plan can contact the insurance company<sup>27</sup> directly to find out if all medical services will be reported to the parents.

Theoretically, an adolescent can prevent medical information from being revealed by paying for care directly, rather than relying on insurance or Medicaid. Since medical care is so expensive, teens who choose this option will probably need to find a free or low-cost provider such as a school-based clinic, a low-cost community clinic or a government STD clinic.

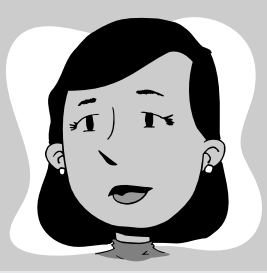
## Emergency care and consent

If taking the time to get consent would delay treatment and increase the risk to a minor's life or health, that minor can receive medical treatment without parental consent. This is called the '*emergency care doctrine*.' If a minor's condition is severe enough, a doctor may not need anybody's consent to begin treatment.

Information about a minor's emergency treatment can be disclosed to the minor's parents on request if the parents' consent would have been necessary had there been no emergency. If the minor could have consented on his or her own, then the doctor may not be able to disclose that information to the parents.

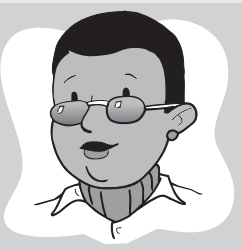
## HIPAA and privacy

The Health Insurance Privacy and Accountability Act (HIPAA) sets national privacy standards for health care. Parental notification and a minor's ability to consent to treatment are generally not affected by HIPAA.<sup>28</sup> However, in cases where Ohio law is silent or unclear about parental notification, HIPAA's Privacy Rule allows licensed health care professionals to decide.<sup>29</sup>



***Maria**, who is 16, receives confidential medical treatment. Although she does not need, and therefore does not obtain, parental consent for the treatment she receives, she does wish to pay for the treatment through her parent's insurance plan. Will information about her treatment be disclosed to her parents?*

Maybe. The health care provider cannot disclose the information to Maria's parents. However, it is possible that some information will be disclosed to her parents during the insurance reimbursement process. By asking the insurance company about the risks of disclosure beforehand, Maria will be well-informed before deciding where to seek care and how to pay for it.



***Mrs. Smith** is a school nurse. One of her patients, a 16-year-old, has a bad case of the flu and wants the nurse to call a doctor. Can Mrs. Smith give the student's medical files to the doctor?*

Probably not. In certain cases, a minor can authorize the disclosure of health information. However, this is generally up to the parents.

# III. Paying for Health Care Services

## Coverage based on income

Many teens can receive free or low-cost health care coverage based on family income. Teens with special medical conditions such as pregnancy or a disability may qualify for programs listed under other sections of this

handbook. If a teen is not entitled to free care, she then must pay for the services herself unless her parents consent to the treatment and pay for it, or it is covered by the parents' health insurance plan. Some clinics provide free or low-cost services for teens.



Teens who do not already receive health insurance may qualify for the following programs:

The **Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)** program provides complete health services to those who receive Medicaid and are under 21 years of age.<sup>30</sup> Eligibility is determined based on family income. For more information or to apply for enrollment, contact a Healthcheck Coordinator for your county by visiting [http://](http://jfs.ohio.gov)

### Did you know . . .

There are at least **27** services that can be provided under EPSDT, including physician and clinic services, laboratory and X-ray services and dental services.<sup>31</sup>

[jfs.ohio.gov](http://jfs.ohio.gov), or call the state's EPSDT Program Coordinator at the Medicaid Consumer Hotline at 800-324-8680.

**Healthy Start** is a health insurance program for children under the age of 19 and pregnant women with low to moderate income. For more information or to apply for enrollment call: 800/324-8680. You may also visit the Healthy Start website at <http://jfs.ohio.gov/ohp/bcps/hshf/index.stm>.

The **Help Me Grow Program** is geared toward providing health care and developmental services to expectant parents, newborns, infants and toddlers. Their contact information is:

Ohio Department of Health  
Bureau of Early Intervention Services  
246 North High Street, 5<sup>th</sup> Floor  
Columbus, OH 43215  
Phone: 800/755-GROW  
<http://www.ohiohelpmegrow.org>

Low or no-cost health care may also be available through school health clinics, community clinics or nonprofit clinics such as Planned Parenthood.

## Coverage for teens with disabilities

Children with physical or medical disabilities often have difficulty paying for health care or obtaining private insurance. This is because the cost of caring for a child with a disability can be extremely expensive. Ohio has a public insurance program that may be able to help.

The **Children with Medical Handicaps Program** is a state-administered program for children with special health care needs. Their services include funding services for the diagnosis and treatment of medically eligible conditions, collaborating with medical resources to assist in increasing access to care, and helping families find appropriate sources of payment for services for their child. Their contact information is:

Ohio Department of Health  
Bureau for Children with Medical Handicaps  
246 North High Street  
P.O. Box 1603  
Columbus, OH 43216  
Phone: (614) 466-1547  
<http://www.odh.ohio.gov/cmh/cwmh/bcmh1.aspx>

## IV. Emancipated Minors

Certain groups of minors are enabled by law to consent to all of their own health care. Most minors can consent to only certain procedures. By law, teens who cannot adequately understand the risks and benefits of treatment cannot consent to their own care, regardless of their legal status.<sup>32</sup>

### Emancipated minors

An emancipated minor is considered independent and can legally consent to all of his or her medical care and treatment.

Emancipation of a minor occurs when parents no longer have financial control over the child.<sup>33</sup> This can happen when a teen gets married,<sup>34</sup> has a baby,<sup>35</sup> enlists in the armed services,<sup>36</sup> is incarcerated,<sup>37</sup> or leaves home and provides financially for him or herself.<sup>38</sup> Emancipation by marriage is recognized by Ohio law specifically.<sup>39</sup> While a teen can be providing for him or herself financially, Ohio law assumes that a minor child living with his or her parents is not emancipated.<sup>40</sup> While it is possible for a parent to relinquish custodial and financial responsibility



*George, a 17-year-old boy, has been living on his own for two years. He is financially self-supporting, and lives in his own apartment. He is not in regular communication with either of his parents. He needs to have his wisdom teeth pulled. Can the dentist perform the surgery without the consent of George's parents?*

Maybe. A mature minor — a minor who is not emancipated — may be able to obtain health care without parental consent if the physician is convinced that the minor is mature enough to understand the ramifications of the treatment.



*Julia is a 17-year-old who is emotionally mature and fully capable of understanding her medical condition and the risks and benefits of various treatments. She wants to consult a physician about her severe allergies, but because of their religious beliefs her parents have refused to grant her permission. Can she consent to her own health care?*

Probably not, but her parents do not have the right to refuse her treatment based on **their** religious beliefs.<sup>41</sup> She is entitled to receive treatment which is in her best interest. She may need to go to court and petition a judge to receive the treatment. Before Julia goes to court, she might want to get a lawyer to help her with this process. If her allergies are so severe as to risk her overall health, a doctor may be able to treat her without parental consent under the emergency doctrine.

and emancipate a child, this does not happen very often.<sup>42</sup> A court hearing for emancipation rights happens even less often. Both voluntary and Court ordered emancipation happen only under extreme circumstances and they are not easy to obtain.<sup>43</sup> Finally, Ohio does not have any express law that gives a teen the right to be emancipated, which also makes emancipation difficult to obtain.<sup>44</sup>



## When are minors allowed to marry?

In Ohio, a man must be at least 18 years old and a woman at least 16 years old in order to marry. Men and women under the age of 18 and wishing to marry must receive parental consent before a court will issue a marriage license.<sup>45</sup>

# V. Minors and Sexuality

**A**s teens mature and grow older, many become sexually active. Sexually active teens are often at risk for unplanned pregnancies, sexually transmitted diseases, AIDS and other health complications when proper protection is not used.

Teens who develop health problems or become parents as a result of sexual activity often risk criticism from within their family as well as from community members and at school. Some adolescents may be asked to move out of their home, be denied access to school organizations — such as the National Honor Society — or be forced to quit school to care for a child. There are laws in place to guarantee fair treatment of pregnant women in education and employment. If you think you may have been treated unfairly, consider discussing the problem with a lawyer.

Since sexual activity can carry serious consequences, teens should be aware of their rights when confronted with important health issues.

## Sexually transmitted diseases (STDs)

In addition to risking pregnancy, sexually active teens must protect themselves against STDs. Although few STDs are life threatening, many can result in serious health problems such as infertility.

A 2008 study by the Centers for Disease Control and Prevention found that 1 in 4 teen girls in the U.S. had at least one common STD.<sup>47</sup> Even teens who are not sexually active can be at risk for STDs such as hepatitis or HIV/AIDS through activities such as needle sharing. Many are undetectable without a blood test, so it is important for teens to be tested regularly.

### Did you know . . .

Consistent condom use provides substantial protection against the acquisition of many STDs, including statistically significant protection against HIV, chlamydia, gonorrhea, herpes, and syphilis.<sup>46</sup>

Minors should not avoid seeking treatment for an STD out of fear that their parents will find out. Minors can undergo treatment without parental consent and local clinics exist to provide care to patients who cannot afford to pay for their treatment.

### *Consent*

A minor can be diagnosed and treated for an STD without parental consent.<sup>48</sup> However, if the parents do not know about or consent to the treatment,<sup>49</sup> then they are not obligated to pay for the treatment.

### *Confidentiality*

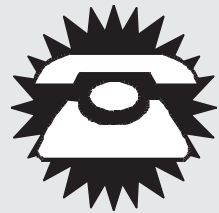
As with most medical treatment, a patient's treatment for an STD is a confidential part of his medical record, but there are some cases where a



*Joanna has gonorrhea and needs treatment. She is 16 and does not want to tell her parents that she has an STD. Can she be treated without parental consent?*

Yes. The law allows Joanna to consent to the treatment without telling her parents, but if she doesn't tell her parents and get their consent, she will have to pay for the costs of the treatment herself. Because the treatment might be very expensive, she may want to ask her physician to help her find a low-cost or free provider, or help her talk to her parents.

For information about the clinic or private doctor nearest you who provides treatment for people with STDs, call the **Center for Disease Control Sexually Transmitted Diseases Hotline** at 800/232-4636 or visit their website at [www.hivtest.org](http://www.hivtest.org). The call is free and you do not need to give your name.





A public health officer tells **Larry** that he may have an STD. Can the officer tell Larry who transmitted it?

No. The officer can reveal only that Larry is at risk. He or she cannot reveal the name of the contact.

limited amount of information will have to be disclosed. For example, the law requires that an infected person either abstain from sexual activities or, at a minimum, warn his or her sexual partners of the disease,<sup>51</sup> or risk criminal sanctions.

### Did you know . . .

Of the estimated **19 million** new STD infections each year, **almost half** will occur among young people ages 15-24.<sup>50</sup>

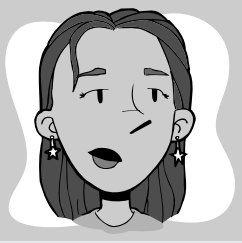
## Family planning and birth control

Sexually active teens seeking to avoid unwanted pregnancies should use some form of birth control. Teens should use latex condoms to protect themselves against STDs.

Since its inception in 1970, the federal Title X family planning program has provided funding to clinics that provide treatment without regard to age or marital status.<sup>52</sup> As a result, Title X-supported clinics have always provided confidential services to teens who request them.<sup>53</sup> Over the last two decades, Title X-funded clinics have prevented over 1 million teen pregnancies.<sup>54</sup>

### *Consent*

The United States Supreme Court has held that the federal constitutional right of privacy in matters relating to the use of contraception protects minors as well as adults.<sup>55</sup> For this reason, the government cannot restrict a minor's access to contraception without a compelling reason.<sup>56</sup>



A 14-year-old girl, **Sally**, wants to get a prescription for the pill. Does she need parental consent?

No. Certain government programs provide for contraceptives, including the pill, to be made available to minors without parental consent.

Private physicians **may** provide contraceptives to their minor patients without parental consent if the patient is mature enough to give his or her own consent.

When a minor receives public assistance, federal law further protects his or her access to family planning services.<sup>57</sup>

### *Confidentiality*

Any family planning counseling and medical exams that a young woman receives are part of her confidential medical records. Information about the counseling or exams cannot be released without her permission. This is also true of any prescription for contraception that she may be given.

## **HIV/AIDS**

In 2006, young people between ages 13-24 accounted for 15% of HIV/AIDS diagnoses.<sup>58</sup> In 2004, the CDC estimated that 7,761 young people were living with AIDS, a 42% increase since 2000, and that 232 young people died from AIDS that year.<sup>59</sup> As the number of HIV-positive teens continues to increase, health workers, government officials and physicians are scrambling to prevent the spread of AIDS, sometimes forgetting about the rights of HIV-positive teens along the way.

Although it is illegal to discriminate against anyone who has HIV or AIDS, people have lost their jobs, been denied health insurance, been denied treatment by doctors and suffered other types of discrimination based on their health condition. Teens are especially vulnerable due to their dependence on a parent or guardian.

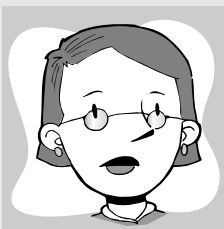
In order to protect the rights of those with HIV, the law separates HIV/AIDS from other sexually transmitted diseases. Special confidentiality mechanisms exist to protect people with HIV/AIDS from discrimination.

### *Consent*

As with all sexually transmitted diseases, **a minor can consent to — or refuse — an HIV test for AIDS.**<sup>60</sup> The health care professional giving the test must obtain the patient's informed consent prior to the test.<sup>61</sup> In most cases, patients cannot be forced to undergo an HIV test. Currently, mandatory testing can only occur in the following cases:

- when enlisting in the military, foreign service or the job corps;<sup>62</sup>
- when applying for U.S. residency;<sup>63</sup> and
- in order to obtain coverage by certain insurance companies.<sup>64</sup>

Though not all health care professionals are required to provide anonymous testing, an individual seeking an HIV test has the right to request an anonymous test.<sup>65</sup> If the health care professional does not offer anonymous testing, she will most likely be able to refer the person to a clinic, health care professional or physician who does. If the minor's parents do not know about the test or do not consent to it, they do not have to pay for the test.<sup>67</sup>



*Susan, a 15-year-old who lives with her mother, is HIV positive. She has never told her mother that she is HIV positive, and now she has developed an AIDS-related illness. She wants medical care but will avoid treatment if she is required to tell her mother. Can the physician treat her without parental consent?*

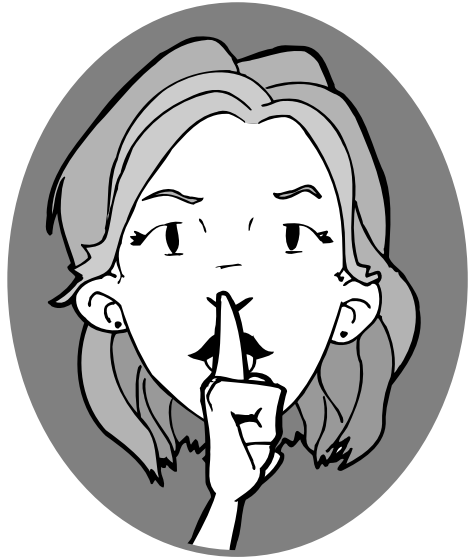
Yes. The physician can treat Susan without consulting either of her parents. However, the physician may wish to help Susan find a supportive adult in whom she can confide about her situation.

## **Anonymous vs. confidential testing: *Which is the best choice?***

Some clinics and hospitals offer confidential testing only; others also offer anonymous testing. Minors seeking to undergo HIV testing should carefully choose the test site depending on the amount of privacy they wish to preserve.

### **Anonymous testing:**

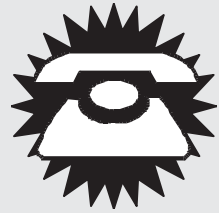
An anonymous test is done by code number, not by name, so a patient's name remains unknown throughout the process. It is the most private because it is virtually impossible for outside persons or groups to gain access to the test results or learn that an HIV test took place without the consent of the patient.



### **Confidential testing:**

In confidential testing, the test result is recorded in a patient's confidential medical record. Medical records are easily accessible to health care workers attending the patient, and courts and insurance companies can gain access to medical records in certain situations. There is also the possibility that a parent may learn of the test if he examines his minor child's records. Someone who goes to a blood bank to donate blood will undergo a confidential, not an anonymous, HIV test.<sup>66</sup>

For information or help call the Ohio AIDS Hotline at 800/332-2437 or 614/466-6374. You do not have to give your name.



### *Confidentiality*

Because people with HIV/AIDS often face discrimination, HIV related information is protected from disclosure. This includes information concerning whether a person underwent an HIV-related test or has an HIV-related illness. The results of a minor's HIV test or the identity of a minor infected with the AIDS virus can be released only to the following people if they request the information:

- a physician or police officer who has a medical need to know a person's HIV status;
- the minor or his or her legal guardian;
- the person's spouse or sexual partner;
- a person to whom disclosure is authorized by written release;
- the minor's physician or health care professional.<sup>68</sup>

A person who knows he or she is HIV positive is required by law to inform any future sexual partners or persons with whom he or she intends to share a hypodermic needle.<sup>69</sup>

### *Disclosure to other individuals and agencies*

A physician, health officer or health care facility can disclose information only in very limited circumstances. The following is a general list of some of the people to whom confidential HIV-related information may be disclosed without a signed release by the patient:

- certain health care facilities or health care providers when disclosure is necessary to provide appropriate care to the patient or the child of a patient; and

- government health officers (when disclosure is required by federal or state law).<sup>70</sup>

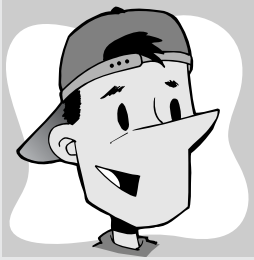
## Sexual orientation

There are no laws directly addressing the health care rights of gay, lesbian, bisexual or transsexual people. In fact, there is no national law **at all** that defines the rights of these individuals in America. This means that in some states a gay man can be fired from his job simply because he's gay. And, in some cities, a lesbian can be denied private health insurance simply because she's a lesbian.

However, state and federal law do offer some protections depending on the circumstances. Although it may not be illegal to discriminate based on sexual orientation, a victim may be able to bring a claim under other aspects of law such as breach of contract, civil or criminal assault, wrongful discharge from employment if an employer needs "just cause" in order to fire an employee, invasion of privacy or First Amendment constitutional claims. If you think you have been discriminated against you should talk to a lawyer since each case is different.

This lack of legal protection only adds to the feelings of exclusion and shame that many young gays and lesbians feel. It may also be a factor in the high suicide and runaway rates among teens who are gay, bisexual or uncertain about their sexual orientation.<sup>71</sup> Teens don't need to feel this way about being gay, though.

Even though there are few laws directly protecting gay, lesbian and bisexual youth, there are plenty of places that offer help and guidance. A gay or lesbian teen can seek professional counseling to help her adjust to her emerging sexuality. A gay youth can go to a family planning clinic and receive free information about STDs. Many schools and communities also have social organizations and support groups for gays, lesbians and bisexuals. Joining one or more of these groups can help gay and lesbian teens to socialize with others in their same situations. These groups also help their members organize campaigns to support and promote the passage of antidiscrimination laws.



*Jordan is a 17-year-old teen who is gay. He recently moved out of his parent's home and rented an apartment. His new landlord just found out that Jordan is gay and wants him to leave. Can Jordan's landlord evict him because he is gay?*

Maybe. Some cities in Ohio prohibit discrimination based on sexual orientation. Others do not. Either way, Jordan may be able to bring a claim for breach of contract against his landlord.

At the time of this writing, the following cities in Ohio have civil rights ordinances, policies or proclamations prohibiting sexual orientation discrimination:

**Athens** (Athens)

**Canton** (Stark)

**Cleveland** (Cuyahoga): ordinance and law making discrimination a misdemeanor crime

**Cleveland Heights** (Cuyahoga)

**Cincinnati** (Hamilton)

**Columbus** (Franklin): city code

**Cuyahoga County**: affirmative action resolution

**Dayton** (Montgomery): executive order

**East Cleveland** (Cuyahoga)

**Lakewood** (Cuyahoga)

**North Olmsted** (Cuyahoga)

**Oberlin** (Lorain)

**Oxford** (Miami)

**Shaker Heights** (Cuyahoga)

**Toledo** (Lucas)

**Westlake** (Cuyahoga)

**Yellow Springs** (Greene): town charter

**Youngstown** (Mahoning)<sup>72</sup>

For more information call the **National Center for Lesbian Rights (NCLR)** at 800/528-6257 or the **LAMBDA Legal Defense and Education Fund** Midwest Regional Office Help Desk at 312/663-4413.



## Pregnancy

Each year almost 750,000 American teens become pregnant and the majority of these pregnancies are not planned.<sup>74</sup> A teen may feel scared, anxious and lonely as she decides what to do about the pregnancy. Sometimes, talking to a parent is the best thing to do in this situation. If it is not possible to speak to a parent, she should try to speak to another supportive adult such as a doctor, school nurse or other family member. Whether

### Did you know . . .

**80%** of all teen pregnancies are unintended.<sup>73</sup>



*Kate is 17. She had sex last night with her boyfriend and the condom broke. She is scared that she will get pregnant and her parents will find out. Is there anything she can do?*

Yes. Kate can use emergency contraception (EC), which is also called "the morning after pill."<sup>77</sup> EC is more effective the sooner it is used. The first dose should be taken within 72 hours after sexual activity. However, if used within 5 days (120 hours), it will still significantly reduce the chances of pregnancy.<sup>78</sup> Kate needs a prescription for EC, so she has to see a doctor or go to a clinic.<sup>79</sup> Many clinics that provide birth control also provide EC. She does not need parental consent to get EC, and the services can be provided confidentially.<sup>80</sup>

## When can a medical provider tell a teen's parents about her pregnancy?

Questions have arisen over whether a medical care provider may notify a teen's parents about the teen's pregnancy. This has come up recently in New York, but has not been litigated in Ohio. The current case law makes it clear that a teen has a privacy right when it comes to abortions. For that reason, all states are required to provide the judicial bypass option to teens who want to have an abortion without notifying their parents. (*Bellotti v. Baird*, 443 U.S. 622 (1979); *City of Akron v. Akron Ctr. for Reprod. Health*, 462 U.S. 416 (1983).)

The Eastern District of New York has taken the position that a privacy right for abortion should not extend to a privacy right for pregnancy and has upheld a school's policy requiring the school nurse to notify parents. (*Port Wash. Teachers' Ass'n v. Bd. of Educ. of the Port Wawsh. Union Free Sch. Dist.*, 361 F. Supp. 2d 69 (E.D.N.Y. 2005)). However, legal scholars are arguing that abortion and pregnancy are inextricably intertwined and privacy over one automatically implies privacy over the other. (Melissa Prober, *Please Don't Tell My Parents: The Validity of School Policies Mandating Parental Notification of a Student's Pregnancy*, 71 *Brook. L.Rev.* 557 (2005).)

If schools, or other medical professionals, notify parents of the pregnancy, then they deprive the teen's right to seek a judicial bypass for abortion without parental notification. Because this issue has never made it to the courts in Ohio, it may be wise for Ohio medical care providers to err on the side of caution by protecting the teen's right to privacy.

she chooses to continue a pregnancy or to terminate it, acting quickly will protect the teen's health – and her options.

## Raising a child

There is no law specifically addressing the rights of a pregnant minor. Prenatal care, delivery and postnatal care are very expensive,<sup>75</sup> so it is unlikely that a hospital or doctor would agree to treat a minor without first receiving the consent of her parent. If a parent refused to consent to

## Assistance programs

**Women, Infants and Children (WIC):** food program that provides supplemental food and nutritional information to women, infants and young children. For more information or to apply for enrollment contact:

Bureau of Women, Infants and  
Children  
Ohio Department of Health  
246 N. High St.  
P.O. Box 118  
Columbus, OH 43266-0118  
614/644-8006  
Toll-free: 800/775-GROW



**Child and Family Health Services:** health clinic services based on family size and income. This program covers both mothers and their children. For more information or to apply for enrollment contact:

Bureau of Child and Family Health Services  
Ohio Department of Health  
246 N. High St., 6th Floor  
P.O. Box 118  
Columbus, OH 43215  
614/466-5332

prenatal care for his or her daughter, she may be able to turn to the courts for help.

The only circumstance in which the consent of the minor would definitely be accepted is if the girl came to the emergency room already in labor. This would be an emergency case and the hospital staff could deliver the baby without any consent because of the emergency care doctrine.<sup>76</sup>

## Adoption

A minor who wishes to have her baby but does not wish, or is unable, to raise the child herself may put her child up for adoption. There are about 6 million people in the U.S. who were adopted.<sup>81</sup>

Ohio legislators completely rewrote the state's adoption laws in 1996. Because of this, the law differs depending on the birth date of the child to be adopted. The laws discussed in this handbook apply only to children born on or after January 1, 1997.

### *Types of adoption available to teens*

The courts of Ohio recognize two types of adoptions:

**Agency adoptions:** In an agency adoption, the biological parents give permanent custody of their child to a registered agency. The agency then chooses the adoptive parents and arranges the adoption. The biological and adoptive parents normally do not meet and do not know who each other are.<sup>82</sup>

**Open adoptions:** An open adoption is usually arranged through an attorney (though some agencies will also provide assistance) and allows more involvement by the biological parents. The biological parents can choose and meet the adoptive parents, and the two sets of parents can even contract for certain things regarding the child's upbringing.<sup>83</sup>

Though some of the laws differ depending upon the type of adoption chosen, other laws are universal. For example, **only** an agency or an attorney can arrange an adoption; an adoption arranged by someone else will be invalid.<sup>84</sup>



**Shana** is a 14-year-old teen mother. After she gave birth, her parents threatened to make her move out of the house unless she put her baby up for adoption. Knowing that she could not support her baby on her own, Shana reluctantly agreed to the adoption.

*A week later, Shana's grandmother agreed to let both Shana and the baby live at her house. Now Shana wants her baby back even though she has already consented to the adoption. Can Shana revoke her consent?*

Probably. A court will not allow Shana to take back her consent simply because she's 14, but a court must always keep the best interests of the child in mind when making decisions in an adoption case. If the court feels that it is in the baby's best interests to stay with his or her mother and great-grandmother, then the court will most likely allow Shana to revoke her consent.

### *Consent*

The consent laws are also the same no matter which type of adoption is chosen. Consent to an adoption cannot be given until at least 72 hours after the birth of the child.<sup>85</sup> Before consent is given by the biological parents, an officer of the agency or court will meet with the biological parents and explain to them the adoption procedures and their rights and responsibilities under the state's adoption laws.<sup>86</sup> The child's biological mother must always consent to the adoption.<sup>87</sup> The father of the child does not need to consent to adoption unless he has confirmed legally that he is the father.<sup>88</sup> After a court issues an adoption decree, the adoption is final; a biological parent may not withdraw consent after that time. Even if the biological parent is a minor, her (or his) consent is valid for the purpose of adoption."<sup>89</sup>

## Abortion

Pregnant teens also have the option of getting an abortion to end their pregnancy. This is a difficult decision to make, so it is important to talk **immediately** with an adult, such as a parent, a doctor or nurse. Waiting to make a decision can have negative consequences, such as greater health risks and increased cost as the pregnancy continues.

## Judicial bypass

Ohio law requires that one parent, custodian or guardian of a person under 18 must consent to a minor's abortion.<sup>90</sup> If a parent will not give consent, or if the minor does not feel comfortable seeking such consent, the minor can seek a judicial bypass.<sup>91</sup> A minor must go to juvenile court and convince a judge that she is mature enough or that there is another

## Abortion law in Ohio

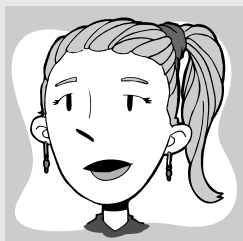
A minor faces many difficulties in obtaining an abortion in Ohio. A significant court decision at the end of 2006 changed the law governing teens under 18 seeking abortions. [*Cincinnati Women's Servs. v. Taft*, 468 F.3d 361 (6<sup>th</sup> Cir. 2006).]

Young women under 18 are now required to obtain parental consent or seek a judicial bypass in order to obtain an abortion. Ohio law requires that one parent, custodian or guardian of a person under 18 must consent to a minor's abortion. If a parent will not consent to an abortion, the minor can seek a judicial bypass.

The minor, like any woman, should plan to have two appointments at a clinic or doctor's office, spaced at least 24 hours apart.<sup>99</sup>

In the first meeting, the patient must be informed about the purpose and risks of the abortion procedure, which includes providing state-published literature describing abortions, listing agencies that provide alternatives to abortion, and providing an estimate of the probable age of the fetus at the time of abortion.<sup>100</sup>

A woman **does not** have to inform the father of her decision to have an abortion if she does not want to do so.<sup>101</sup>



*Rebecca is 16. She is from New York but is staying in Ohio for the summer for a music program. She has found out that she is pregnant and wants to terminate the pregnancy. Does she need to tell her parents?*

Yes. Although teens may undergo abortions in New York without parental consent, Rebecca is subject to Ohio law while she is visiting the state. A parent, custodian or guardian of a person 17 or younger must consent to a minor's abortion. If a parent will not consent to an abortion, the minor can seek a judicial bypass.

compelling reason to make her own decision without involving a parent.<sup>92</sup> Most service providers can assist with this process.

## **The abortion procedure**

A minor, after involving her parents or getting a judicial bypass, can choose to have a surgical<sup>93</sup> or medical abortion.

A medical abortion uses RU-486 (also known as Mifeprex, mifeprestone, or "the abortion pill") to cause an abortion. The pill terminates pregnancy by blocking the hormone progesterone. After taking it in the doctor's office, the woman then takes a second pill at home (or sometimes during a follow-up visit) to induce contractions and trigger miscarriage. A follow-up visit to the doctor two weeks later will ensure that the procedure was effective.<sup>94</sup> This medicine is not the same as emergency contraception because emergency contraception does not cause an abortion. The abortion pill, RU486, can be used to have an abortion for up to seven weeks after conception.<sup>95</sup> Since seven weeks is not a long time, it is important to get help quickly.

## Funding

In most cases, a woman must pay for her abortion without assistance from the state.<sup>96</sup> If at any time a woman decides not to have an abortion, she cannot lose any public assistance benefits or any other rights or privileges.<sup>97</sup> No one,<sup>98</sup> not even a court or her parents, can force a woman to have an abortion.

# VI. Minors and Mental Health

The teenage years can be the most difficult and confusing time of a person's life. The body is changing, new emotions are emerging and new responsibilities seem to crop up every day. With all these changes, even the most well-adjusted and outgoing teen can feel overwhelmed. Teens can cope with the pressures of young adulthood by talking to friends and family, but sometimes it helps to seek professional counseling.

Mental health professionals, such as counselors and psychiatrists, can help a teen get through many crises, from an ended

relationship, to concerns about school and life, to depression and thoughts of suicide. And, in Ohio, teens can seek some counseling without having to let anyone know about it.

## Did you know . . .

Suicide is the **third** leading cause of death among young people ages 15-24.<sup>102</sup>

## Outpatient counseling

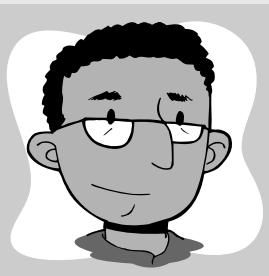
A minor who is at least 14 years old can request outpatient care without notifying a parent as long as the treatment does not include medication.<sup>103</sup> However, such care is limited to six sessions or 30 days, whichever comes first.<sup>104</sup> After that, the care must stop or the parents must be informed and must consent in order for treatment to continue.<sup>105</sup>

During the first six sessions or 30 days, the parents will not be informed of the treatment unless the teen consents or the care provider feels the minor is likely to harm someone. Still, before the parents can be informed, the care provider must first notify the teen that the parents will be notified.<sup>106</sup>

## Depression and suicide

There are no laws in Ohio specifically addressing mental health care for depression and suicide. But these topics are a big issue for teens today. Less than half of those suffering from clinical depression seek treatment. Depression has many symptoms and can lead to several types of self-destructive behavior, such as self-injury, eating disorders, and drug abuse. Other symptoms of clinical depression include feelings of helplessness, withdrawal from past activities, drug abuse, and outbursts of anger.<sup>107</sup>

If their depression worsens, teens sometimes turn to suicide as the answer. Gay and lesbian teens are especially at risk for committing suicide due to increased negative social pressure. It has been widely reported that gay and lesbian youth are two to three times more likely to commit suicide than other youth and that 30 percent of all attempted or completed youth suicides are related to issues of sexual identity.<sup>108</sup>



*Rahim is 15. He is severely depressed and wants mental health treatment. His parents, however, refuse to allow it. The physician believes that he needs to be treated. Can the doctor treat Rahim?*

Yes — if Rahim consents to the treatment.

National Hopeline Network: 1-800-SUICIDE;  
www.hopeline.com. Spanish speakers can call  
1-800-SUICIDA.

National Suicide Prevention Lifeline: 1-800-273-  
TALK; www.suicidepreventionlifeline.org/

To find Ohio help lines by city, visit <http://suicidehotlines.com/ohio.html>.



## What to do, how to help

When dealing with a person who may be depressed or suicidal, the most important thing to do is to listen carefully to what she says. Also, pay attention to what she does. Ask her how she's doing; ask what her future plans are. Express your concern for her health and well-being. Suggest that she seek professional counseling. If she refuses that idea, suggest that she talk to a teacher, a coach, a family member, a religious advisor or a school counselor. Don't take "no" for an answer; stick with her until she gets some help — it could save her life.<sup>56</sup>

For more information call **Self-Abuse Finally Ends (SAFE)** at 800/DON'T-CUT (800/366-8288) or visit <http://www.selfinjury.com>.



## Self-injury

Cutting and other forms of self-injury are more common among teens today than in the past. Cutters often have open cuts, scars and/or burns on the legs, arms or stomach. Cutting is an abnormal way of handling depression or stress. It can lead to infection or permanent scarring; there is also a danger of cutting too deep or inflicting major burns. These injuries could require stitches and/or hospitalization.<sup>109</sup>

## Eating disorders: anorexia and bulimia

In an effort to look like top models and movie stars, too many teens, both girls and boys, obsess about their weight and appearance. Sometimes, this can lead to unhealthy eating habits, such as vomiting after meals, starving or eating large quantities of food in secret.

These unhealthy eating habits are signs of an eating disorder, such as anorexia and/or bulimia. Again,

there is no law in Ohio dealing with eating disorders, but they are such a concern for young adults that it is very important to know the warning signs. Recognizing the symptoms of an eating disorder, and then seeking help to recover, can save a person's health and life.

### Did you know . . .

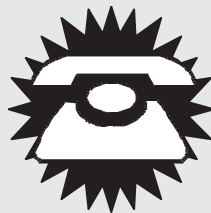
A person with anorexia is **12** times more likely to die than a person of the same age without an eating disorder.<sup>110</sup>



*Dominique's friend Beth has stopped eating lunch with their group of friends at school. Beth goes to the bathroom after lunch every day, and yesterday Dominique heard her vomit. Dominique is worried that Beth might have an eating disorder. What can Dominique do for Beth?*

Dominique can talk to Beth privately about why she is worried. If this does not help Beth, Dominique can go to a school guidance counselor, a nurse or Beth's parents.<sup>111</sup> Telling an adult may feel like betraying a friend, but an eating disorder can become life threatening if a person does not receive help. Like other mental health services, counseling regarding an eating disorder is confidential unless the situation is life threatening. If it is life threatening or an emergency, a guidance counselor is required to tell Beth's parents.<sup>112</sup>

For additional information or help call **Anorexia Nervosa and Associated Disorders (ANAD)** at 847/831-3438, [www.anad.org](http://www.anad.org) (all services are free) or the **National Anorexia Aid Society** at 614/436-1112.



## VII. Minors and Substance Abuse

**D**rug and alcohol abuse by teenagers is prevalent,<sup>113</sup> and its effects can be devastating. Alcohol-related car crashes are the leading cause of death among teens. Many more teens will die later from drug- and alcohol-related diseases such as lung cancer and cirrhosis of the liver.

Although many young adults turn away from drugs, others struggle to find treatment and make their way through an unfamiliar legal system.

In order to navigate the courts and laws regulating teen drug use, teens must know their basic rights.

### Alcohol and drugs

#### *Treatment*

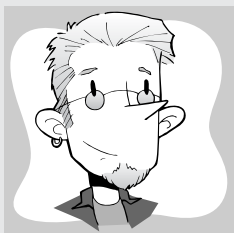
A minor can receive alcohol or substance abuse treatment without parental consent or notification.<sup>114</sup> If the parents do not consent to the treatment, they are not liable for payment.<sup>115</sup>

Minors being treated for drug or alcohol addiction retain their civil rights, including the confidentiality of their health and medical records.<sup>116</sup> Although the State Department of Alcohol and Drug Addiction Services



### Did you know . . .

Nearly one-fourth of American students smoke by the time they leave high school.<sup>117</sup>



*Lee is 16. He is thinking about talking to a school counselor about his drinking problem but is scared that his parents will be notified. Can he receive counseling without parental consent?*

Yes. A minor does not need parental consent to receive counseling. Whether or not the counselor decides to treat Lee, his parents cannot be informed without his permission.

compiles statistics on the treatment of Ohio citizens, state law requires that these reports not reveal the identity of any person seeking aid.<sup>118</sup>

### *Drunk driving*

It is illegal in Ohio for anyone under the age of 21 to drink alcoholic beverages.<sup>119</sup> In an attempt to curb underage drinking, Ohio legislators have mandated that the minimum blood alcohol level necessary for convicting a person of drunk driving is lower for people under 21 than for those of legal drinking age.<sup>120</sup>

There are three body substances police can test to see if a driver is driving while intoxicated: blood, breath and urine.<sup>121</sup>

The penalties for DUI (Driving Under the Influence) are harsh, especially if the driver is under the age of 18. These penalties may include revocation of the teen's license as well as time in a detention facility.<sup>122</sup>

If pulled over for drunk driving, it is important to know that under certain circumstances you could be forced to give a blood sample. However, if a person refuses to take an alcohol test within two hours of arrest, the officer may suspend that person's driving privileges and confiscate his or her license.<sup>124</sup>

### **Did you know . . .**

A 2006 study found that 25% of teen drivers who died in auto accidents were intoxicated.<sup>123</sup>

## Cigarettes and tobacco

Due to the well-documented negative effects of tobacco use on a person's health, and since most tobacco users begin smoking during their teenage years, teenage smoking is strictly regulated by the state of Ohio.

It is illegal for anyone in Ohio under the age of 18 to use, buy or in any other way obtain cigarettes (including clove cigarettes) or other tobacco products.<sup>125</sup> This law also means that it is illegal for a person under 18 to smoke cigarettes or other tobacco products. Ohio law also prohibits students from smoking, possessing or using any tobacco product in any area under the control of a school district or at any activity supervised by school.<sup>126</sup>

For additional information or help call the **National Drug Abuse Hotline** at 800/662-4357. You do not have to give your name and the call is free.



## VIII. Minors and Violence

**V**iolence can have a devastating effect on a person's quality of life, especially when that person is a child or a teenager. Experiencing, witnessing or even feeling threatened by violence can turn an outgoing person into a person who is withdrawn and afraid. Unfortunately, most acts of violence are not reported to the police, so very little can be done to stop them. This is especially true when the victim of the violence is a teenager or child.

Remember, the violence is **never** the victim's fault. Ohio lawmakers know this and have passed laws that seek to protect minors who may be the victims of violence. It is important that teens be aware of these laws so they can protect themselves, their family and their friends, and so that they can break the cycle of violence.

### Did you know . . .

Youth ages 12-17 are **three** times more likely than adults to be a victim of a serious violent crime.<sup>128</sup>

Youth violence is a serious teen health issue since violent injury and death disproportionately affect children, adolescents and young adults in the United States. According to the U.S. Department of Justice, teens have the highest rate of being the victim of homicide.<sup>127</sup>

For information on youth violence and strategies to prevent it, you can contact the National Youth Violence Prevention Resource Center (NYVPRC) through their bilingual (Spanish/English) toll-free telephone information line, 866/SAFEYOUTH (866/723-3968), or their web site, [www.safeyouth.org](http://www.safeyouth.org).



For additional information or help call the **National Domestic Violence Hotline** at 800/799-SAFE or visit <http://www.ndvh.org>.



## Domestic violence

Domestic violence is defined as violence committed between members of the same household or family.<sup>129</sup> Many people try to end the violence by simply leaving the abuser and going to live with friends, other family or in a shelter. Sometimes this a good solution, and the abuse will stop. In many other cases, however, the abuser will continue to follow and harass his or her victim. In these cases, it is important to know that the legal system may be able to help.

There is also growing awareness that violence can occur between teens who are dating. Research shows that as many as 1 in 3 high school relationships involve an element of violence.<sup>130</sup> Although violence within a dating relationship is not included in the legal definition of "domestic violence," there are other laws in place to protect people from violent intimate relationships.

If you, or a friend, are dating someone who abuses you physically, sexually, or mentally, help is available. Contact the **National Teen Dating Abuse Helpline** at 866/331-9474 or visit <http://www.loveisrespect.org>.



## Child abuse

Child abuse, also called “endangering,” occurs when an adult with custody of a minor harms the minor, or allows the minor to be in a situation in which it is likely that he or she would be hurt.<sup>131</sup> Unlike domestic violence, child abuse focuses on a parent’s or caretaker’s treatment of a minor. If you believe that an adult has abused you or a friend, tell a teacher, nurse or police officer. You cannot get into trouble criminally for telling other people that you believe that someone has been abused. However, under the Child Abuse Prevention and Treatment Act (CAPTA), you can be prosecuted for knowingly lying about abuse.<sup>132</sup>

### Did you know . . .

Approximately **65%** of rape victims knew their rapist.<sup>134</sup>

## Sexual violence

Sexual violence is perhaps the most devastating type of violence. Sexual violence is more than a violation and abuse of a person’s body; it is also a gross invasion of a person’s privacy. The most common forms of sexual violence are rape and sexual assault.

Most cases of sexual violence occur between people who know each other.<sup>133</sup> Victims of sexual assault or rape often are afraid to seek help. They need to know that there are people who can help them. They also need to seek medical care as soon as possible.

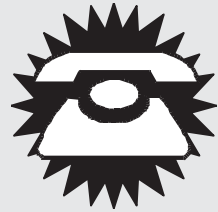
### *Words to know:*

**Rape:** Rape is usually defined as any forced penetration, including intercourse, oral sex and anal sex. Rape is always wrong and should be reported immediately.<sup>135</sup>

**Sexual assault:** This type of assault includes inappropriate touching, especially of sexual organs.<sup>136</sup>

Sometimes victims do not know their attacker. In order to have the best chance of catching and punishing an attacker, it is crucial for a victim of sexual violence to seek immediate medical attention. A hospital will be able to gather the necessary evidence and give the victim any other medical or emotional support that is needed.<sup>137</sup> In Ohio, a minor who is a victim of sexual violence can consent to an examination by a hospital physician for the purpose of gathering physical evidence.<sup>138</sup> The consent of a parent is not required. But the hospital must give the parents written notification that the examination has taken place. Also, Ohio law provides free emergency room exams to all victims of sexual assault offenses.<sup>139</sup>

For additional information or help call the **Rape, Abuse and Incest National Network (RAINN)** at 800/656-HOPE or visit <http://www.rainn.org>. RAINN is a free 24-hours-a-day, 7-days-a-week national hotline for victims of sexual assault that refers callers to a rape crisis center in their area. You do not have to give your name to get help.



*Renee is 16 years old. Her uncle has repeatedly raped and assaulted her. Renee's parents will not consent to medical treatment for their daughter because they fear the doctor will report the abuse to the police. Can Renee obtain treatment without her parents' consent?*

Yes. A minor can consent to treatment if it is considered a "necessity." Also, by prohibiting treatment, Renee's parents may be charged with neglect or child endangerment. The health care provider may report the incident to the authorities if abuse is involved. Depending on the circumstances, the parents may also be responsible for the costs of the treatment.

## Sexual harassment

Sexual harassment is a form of sex discrimination and is illegal under federal law.<sup>140</sup> It can occur in school or the workplace, and it is illegal in both places.<sup>141</sup> The law requires that schools and businesses have sexual harassment policies and complaint procedures in place. This way, a student or employee will know what constitutes harassment and will know what steps to take to stop the harassment.

Every policy is a little different, but one thing about sexual harassment is always true — the sexual conduct must be unwelcome in order for it to be considered sexual harassment.<sup>142</sup> Some examples of sexual conduct include:

- sexual advances;
- touching of a sexual nature;
- displaying or distributing sexually explicit drawings, photographs or literature;
- sexual or dirty jokes; and
- pressure for sexual favors.<sup>143</sup>

Sexual harassment in the workplace can occur between two or more employees or between employees and the management.<sup>144</sup> Until recently, sexual harassment in schools was only recognized when it was between teachers/administrators and students. But in May of 1999, the U.S. Supreme Court ruled that, in limited situations, a school can be forced to pay for harassment that occurs between students.<sup>145</sup>

It is important to report sexual harassment immediately. If the harassment is taking place at school, tell a teacher, the principal, a dean or the superintendent. In the workplace, tell a supervisor or manager. It is also a good idea to write down the dates and details of the harassment so that you can recall specific details later.

## IX. Minors and Body Art

From flowers on their ankles to political or religious tattoos on their backs, from belly rings to tongue piercings, many teens add art to their bodies. The practice of skin painting and piercing can carry serious health risks, however. Unclean needles may carry blood-borne diseases like hepatitis and the virus that causes AIDS. Tattoos can also trigger allergic reactions. Tattoos and piercings also carry a risk of infection, like any surgical procedure.<sup>146</sup>

Teens must therefore choose the tattoo or piercing procedures they undergo carefully. Also, Ohio law strictly regulates body piercing and tattooing among minors.

### *What the law says*

Parental consent is required before a minor can get a tattoo, a body piercing or even an ear piercing with an ear-piercing gun.<sup>147</sup> In order to give consent, the parent must go with the child to the business where the procedure will be performed and sign a document that describes the tattoo or

### Did you know . . .

Body piercing carries with it the risk of life threatening blood viruses such as HIV and Hepatitis B and C.<sup>148</sup>



**Amber is 17. She wants to get her belly button pierced but knows that her parents will not give their consent. She asks her grandmother to take her to get pierced instead. Can Amber's grandmother consent to the piercing in place of a parent?**

No. Amber's grandmother is not her parent or guardian, so she has no legal ability to make decisions for Amber. Amber will have to get one of her parents to consent before she can get her belly button pierced.

piercing procedure and explains how to take care of the affected body area following the procedure.<sup>149</sup>

Parental consent is strictly required in all cases. The law forbids a minor from lying about his age or forging his parent's or guardian's signature in order to get a tattoo or body piercing. It is also illegal for a person to impersonate a minor's parent or guardian in order to assist the minor in obtaining a tattoo or body piercing.<sup>150</sup>

For more information on body piercings, visit [www.safepiercing.org](http://www.safepiercing.org), the web site of the **Association of Professional Piercers**.



# X. The Rights and Responsibilities of Adults and Their Teen's Health

**A**s we have seen, the law gives parents and guardians the power to make decisions for their teen's health care, but this power is not absolute.

As outlined in the preceding pages, there are some health care decisions that a minor can make on his or her own. In other cases, if the parent's health care decision is in conflict with the wishes of the child or the care provider, the child or care provider may ask the courts to decide what decision is in the best interest of the child's health. Also, a parent is not allowed to make medical decisions that would unnecessarily risk the life or health of his or her child. Lastly, if the parents are separated or divorced, only the parent with custody can consent.<sup>151</sup>

Along with the right to make health care decisions for their minor children comes the responsibility of paying for that care. Parents must pay for all the health care to which they consent for their child. Parents are also responsible for paying for necessary emergency medical care.

Ohio courts have ruled that health care is a necessity which parents must provide for their children. The failure to provide proper or necessary medical care may constitute child neglect in Ohio.<sup>152</sup> For this reason and others, it is important that parents pay close attention to the overall health of their children.

# Conclusion

The lives of teens are complex. They have enough to think about without also having to wonder about their health care rights. This booklet offers some broad guidelines on those rights and some places to turn for help regarding some specific issues.

The American Civil Liberties Union of Ohio Foundation has always been committed to educating people about their legal rights. We hope that this handbook will raise awareness of minors' health care rights and will increase the likelihood that they will receive the proper medical treatment when they need it.

While every effort has been made to ensure the information in this handbook is up to date and correct, the law is always changing. Therefore, it is important to consult an attorney for advice when faced with a complex issue of health care.

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# Footnotes

## Introduction

- 1 Karen G. O'Connor, et. al., Barriers to Providing Healthcare to Adolescents: The Pediatrician's View, *Abstr Acad Health Serv Res Health Policy Meet.* 2000.
- 2 Jocelyn A. Lehrer, et. al., Forgone Health Care among U.S. Adolescents: Associations between Risk Characteristics and Confidentiality Concern, *J. Adolesc. Health*, 2007; 40: 218-226; C. D. Brindis and A. English, Measuring public costs associated with loss of confidentiality for adolescents seeking confidential reproductive health care: how high the costs? how heavy the burden?, *Arch Pediatr Adolesc Med.*, 2004;158:1182–1184; D. M. Reddy, et. al., Effect of mandatory parental notification on adolescent girls' use of sexual health care services, *JAMA*, 2002; 288:710–714.

## Basic Definitions

- 3 O.R.C. § 3109.01
- 4 *Id.*
- 5 *Parkwood OB/GYN Inc. v. Hess*, 70 Ohio Misc. 2d 32, 33, 650 N.E.2d 533 (Mun. Ct. 1995).
- 6 See *Muller v. CES Credit Union*, 161 Ohio. App.3d 771, 777, 832 N.E.2d 80, 85 (Ohio App. 5 Dist. 2005) providing concise summary of “necessaries doctrine” allowing a minor to contract for those things considered reasonably essential, including medical care).
- 7 O.R.C. § 3109.01
- 8 O.R.C. § 2131.02
- 9 O.R.C. § 2317.54
- 10 *Bedel v. Univ. of Cincinnati Hosp.*, 107 Ohio App. 3d 420, 669 N.E.2d 9 (10th Dist. Franklin County 1995).
- 11 O.R.C. § 2317.53; Rachael M. Kane, Consent procedure, 67 Ohio Jur. 3d Malpractice § 72 (2008).
- 12 Alan Miesel & Mark Kuczewski, Legal & Ethical Myths about Informed Consent, 156 Archives Internal Med. 2521, 2523(1996).
- 13 Kane, *supra*, note 11.
- 14 O.R.C. § 3701.17
- 15 O.R.C. § 4731.22; Eleanor L. Grossman, Disclosure of professional information or communications, 74 Ohio Jur. 3d Physicians, Surgeons and Other Healers § 212 (2008).

## General Rules

- 16 O.R.C. § 2317.02(c)
- 17 Danny R. Veilleux, Medical practitioner's liability for treatment given child without parent's consent, 67 A.L.R.4th 511, § 5 (2007).
- 18 O.R.C. § 5122.04; See also, Angela G. Carlin, Outpatient treatment of minors – Availability, duration, and costs of services, 2 Baldwin's Oh. Prac. Merrick-Rippner Prob. L. § 101:15 (2007).
- 19 O.R.C. § 3719.012; See also, Thomas Jacobs, Drug and alcohol treatment, 2 Children & the Law: Rights and Obligations § 10:10 (2008).
- 20 O.R.C. 3701.242(b); See also, Karen Moulding, et. al., AIDS and adolescents – Testing – Consent to testing and treatment, 2 Sexual Orientation and the Law § 12:21 (2008).
- 21 A facility receiving federal funding through Title X of the Public Health Service Act, must provide family planning services to minors without requiring parental consent. See Eleanor L. Grossman, Validity of restrictions on minors' access to abortion or birth control services under

federal funding program, 1 Am. Jur. 2d Abortion and Birth Control § 88 (2008); Glenn A. Guarino, Validity of regulations promulgated pursuant to Title X – Regulations requiring parental notification of provision of family planning services to minors, 71 A.L.R. Fed. 961, § 4[a] (2007). The state of Ohio, however, has no general policy specifically covering all types of family planning services. See Cynthia Dailard & Chinué Turner Richardson, *Teenagers' Access to Confidential Reproductive Health Services*, Guttmacher Rep. on Pub. Pol'y 8 (2005), available at <http://www.guttmacher.org/pubs/tgr/08/4/gr080406.pdf>.

22 See Grossman, *supra*, note 15.

23 *Id.*; O.R.C. § 4731.22.

24 See *Biddle v. Warren Gen. Hosp.*, 86 Ohio St. 3d 395, 401-403, 715 N.E.2d 518, 524-525 (1999) (providing summary of situations in which Ohio statutes and common law allow a physician to disclose otherwise confidential information).

25 See Susan O. Scheutzow, *Ohio Health Care Provider Law*, Baldwin's Ohio Handbook Series, Banks-Baldwin Law Pub. Co. (1994).

26 See, generally, Rebecca Gudeman, Adolescent Confidentiality and Privacy under the Health Insurance Portability and Accountability Act, J. of Nat. Center for Youth L., July – Sept. 2003. (HIPAA does not provide any protection against insurance communications for the purpose of billing other than requiring that disclosures are limited to the “minimum necessary to accomplish the intended purpose of the disclosure.”).

27 U.S. Department of Health and Human Services, Your Health Information: Privacy Rights, [http://www.hhs.gov/ocr/hipaa/consumer\\_rights.pdf](http://www.hhs.gov/ocr/hipaa/consumer_rights.pdf) (May 2008) (If contact at home would put a person in danger, patients may make reasonable requests that health care providers and insurers contact them at another location, so long as the request is reasonable.)

28 Gudeman, *supra*, at note 26.

29 *Id.*

### **Paying for Health Care Services**

30 Ohio Legal Rights Service, Important Benefits for Medicaid Eligible Children: Early and Periodic Screening, Diagnosis and Treatment (January 2006).

31 *Id.*

### **Emancipated Minors**

32 Lawrence Schlam and Joseph P. Wood, Informed Consent to the Medical Treatment of Minors: Law and Practice, 10 Health Matrix 141 (2000).

33 Danny R. Veilleux, Medical Practitioner's liability for treatment given child without parent's consent, 67 ALR 4<sup>th</sup> 511, § 6 (2007).

34 *Perry v. Perry*, 21 Ohio Law Abs. 577 (Ohio App. 2<sup>nd</sup> Dist. 1936).

35 *Nuckols v. Nuckols*, 12 Ohio App. 3d 94, 467 N.E.2d 259 (6<sup>th</sup> Dist. Wood County 1983).

36 *Omohundro v. Omohundro*, 8 Ohio App. 3d 318, 320, 457 N.E.2d 324, 326 (1982).

37 This has not been determined in Ohio and other states are split over whether incarceration or other state custody of a minor triggers emancipation. See Alice M. Wright, What voluntary acts of child, other than marriage or entry into military service, terminate parent's obligation to support, 55 ALR 5<sup>th</sup> 557, § 14 (2008).

38 *Dudziak v. Dudziak*, 81 Ohio App. 3d 361, 611 N.E.2d 337 (1992).

39 *Perry v. Perry*, *supra*, at 34.

40 *Bagyi v. Miller*, 3 Ohio App. 2d 371, 210 N.E. 2d 887 (1965).

41 See, generally, Laura Hunter Dietz, Power of state – Medical procedures performed over parents' objections, 59 Am. Jur. 2d Parent and Child § 19 (2008).

42 *Geringer v. Heinlein*, 11 Ohio Dec. Reprint 787 (Ohio Com. Pl. 1893).

43 Ohio School Boards Association, What Schools Need to Know About Adult Students and

Emancipated Minors, <http://www.osba-ohio.org/Files/Emancipated.pdf> (last visited 06/05/08).

- 44 Diane M. Palos, Termination of support obligation – Emancipation, Baldwin’s Oh. Prac. Dom. Rel. L. § 19:22 (2007-2008); See also, *Powell v. Powell*, 676 N.E.2d 556, 111 Ohio App. 3d 418 (4th Dist. Athens County 1996).
- 45 O.R.C. § 3101.01(A)

## Minors and Sexuality

- 46 Centers for Disease Control and Prevention, *Fact Sheet for Public Health Personnel: Male Latex Condoms and Sexually Transmitted Diseases*, Atlanta: Department of Health and Human Services (2003). A copy is available at <http://www.cdc.gov/condomeffectiveness/condoms.pdf> (last visited 06/05/08).
- 47 National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (A Division of the Centers for Disease Control and Prevention), 2008 *National STD Prevention Conference, Press Release*, Atlanta: Department of Health and Human Services (March 11, 2008). A copy is available at <http://www.cdc.gov/STDConference/2008/media/release-11march2008.htm> (last visited 06/05/08).
- 48 O.R.C. § 3709.241 allows minors to consent to testing and treatment for “venereal diseases,” and O.R.C. § 3701.242(B) permits minors to consent to testing for HIV.
- 49 O.R.C. § 3709.241
- 50 Department of Health and Human Services, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, *supra* at note 47.
- 51 *Mussivand v. David*, 45 Ohio St. 3d 414, 544 N.E. 2d 265 (1989).
- 52 Family Planning Services & Population Research Act of 1970, 84 Stat. 1504 (1970), codified at 42 US § 300, et. seq. (1991 & Supp. 2000).
- 53 42 C.F.R. § 59.11
- 54 Deborah Friedman, America’s Family Planning Program: Title X, Katharine Dexter McCormick Library, Planned Parenthood Federation of America (2003, 2007).
- 55 *Carey v. Population Services International*, 431 U.S. 678, 97 S. Ct. 2010, 52 L. Ed. 2d 675 (1977).
- 56 *Carey*, 431 U.S. at 689, 690.
- 57 42 C.F.R. §§ 440.250(c), 59.5(a)(4); 42 U.S.C. § 300(a).
- 58 National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (A Division of the Centers for Disease Control and Prevention), *HIV/AIDS in the United States*, Atlanta: Department of Health and Human Services (March, 2008). A copy is available at <http://www.cdc.gov/hiv/resources/factsheets/PDF/us.pdf> (last visited 06/16/2008).
- 59 National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (A Division of the Centers for Disease Control and Prevention), *HIV/AIDS Surveillance Report, 2004*, Vol. 16, Atlanta: Department of Health and Human Services (2005).
- 60 O.R.C. § 3701.242(B)
- 61 *Id.*
- 62 Rehabilitation Act of 1973, 29 U.S.C. § 701; *Local 1812, American Federation of Government Employees v. U.S. Dept. of State*, 662 F. Supp. 50 (D.D.C. 1987); see also, Kenneth W. Biedzynski, et. al., AIDS policies and testing, generally, 45A Am. Jur. 2d Job Discrimination § 405 (2008).
- 63 8 U.S.C. §§ 1222, 1182(a); 42 C.F.R. § 34.3(b).
- 64 O.R.C. § 3901.46
- 65 O.R.C. § 3701.242(D)
- 66 Centers for Disease Control and Prevention, National Prevention and Information Network, National HIV and STD Testing Resources: Definitions for Services Offered, available at <http://www.hivtest.org/popups/definitions.cfm> (last visited 06/18/2008).

- 67 O.R.C. § 3701.242(B)
- 68 O.R.C. § 3701.243; see also, State statutes or regulations expressly governing disclosure of fact that person has testing positive for Human Immunodeficiency Virus (HIV) or Acquired Immunodeficiency Syndrome (AIDS), 12 A.L.R.5th (2007).
- 69 O.R.C. § 3701.243(F)
- 70 O.R.C. § 3701.242
- 71 Studies suggest that rates of suicide among LGBT teens is 20-30% higher than among non-LGBT teens. R.L. Kitts, *Gay adolescents and suicide: Understanding the association*, *Adolescence*, 40, 621-628 (2005); S.T. Rusell, *Sexual minority youth and suicide risk*, *American Behavior Scientist*, 46, 1241-1257 (2003). In one study, 26% of LGBT teens who disclosed their sexuality to their parents were forced to leave their homes. Ray, N. (2006). *Lesbian, gay, bisexual and transgender youth: An epidemic of homelessness*. New York: National Gay and Lesbian Task Force Policy Institute and the National Coalition for the Homeless.
- 72 Survey of various statutes and ordinances throughout Ohio; see also, Brian DeWitt, *Over half the nation will be covered by an equality law: Almost a quarter of Ohio included; TG measures will protect a third of U.S.*, *Gay People's Chronicle*, (May 11, 2007), available at <http://www.gaypeopleschronical.com/stories07/may/0511071.htm> (last visited 06/19/2008).
- 73 A. Chandra, et. al., *Fertility, family planning, and reproductive health of U.S. women: data from the 2002 National Survey of Family Growth*. *Vital Health Statistics* (2005), 25.
- 74 U.S. Teenage Pregnancy Statistics: National and State Trends and Trends by Race and Ethnicity, New York: Guttmacher Institute (September 2006).
- 75 The national average cost for one prenatal visit to a doctor's office is \$133 and the average mother makes 14 such visits during her pregnancy. In addition, a vaginal delivery without any complication costs an average of \$6,200, not including doctors' fees. Claire Vande Polder, *The True Cost of Prenatal Care and Delivery*, Revolution Health Group (Jan. 2, 2006). Available at <http://www.revolutionhealth.com/healthy-living/pregnancy/planning-pregnancy/financial-planning/cost-prenatal-care-delivery> (last visited 06/23/2008).
- 76 Although there is no case law on these specific facts, other cases indicate generally that the more serious the medical emergency, including considerations of threat to the patient's life, the less need there is to obtain parental consent. The risks associated with childbirth, especially if undergone without medical assistance, would likely be sufficient to waive the consent requirement altogether. See Danny R. Veilleux, *supra*, note 17.
- 77 NOT-2-LATE.COM, *The Emergency Contraception Website*, <http://ec.princeton.edu/questions/index.html> (last visited 6/23/2008).
- 78 *Id.*
- 79 Minors need a prescription to obtain EC in Ohio. Jaime Miracle, *Access 2007: An Update on the Availability of Emergency Contraception in Ohio's Emergency Rooms*, NARAL Pro-Choice Ohio (2007).
- 80 Because EC is a form of contraception, teens have a privacy right to obtain it without parental consent. See *Carey*, 431 U.S. 678, *supra*, note 55.
- 81 "Adoption Factbook IV: The most comprehensive source for adoption statistics nationwide." Lee A. Allen and Virginia C. Ravenel, Eds. Alexandria: National Council for Adoption (2007).
- 82 O.R.C. § 3107.01, et. seq.
- 83 O.R.C. § 3107.60, et. seq.
- 84 O.R.C. § 3107.011(A)
- 85 O.R.C. § 3107.08(A)
- 86 O.R.C. § 3107.082
- 87 O.R.C. § 3107.06(A)

- 88 O.R.C. § 3107.06(B)  
89 O.R.C. § 3107.084(A)  
90 O.R.C. § 2151.85  
91 *Id.*  
92 See John A. Glenn, et. al., Permission for abortion without notice to parents – Requirements for granting permission, 47A Ohio Jur. 3d Family Law § 1469 (2008) (summarizing Ohio case law on judicial bypass and discussing what factors tend to influence courts' determination of sufficient maturity for abortion without parental notification).  
93 There are several types of surgical abortion procedures. For a detailed explanation of the procedures and answers to commonly-asked questions about surgical abortion, visit the Planned Parenthood website at <http://www.plannedparenthood.org/health-topics/abortion/abortion-procedures-4359.htm>.  
94 Rob Stein, "As Abortion Rate Drops, Use of RU-486 is on the Rise," *The Washington Post*, A01, Jan. 22, 2008.  
95 Patient Brochure 2007, Danco Laboratories, available at <http://www.earlyoptionpill.com> (last visited 08/04/2008).  
96 O.R.C. § 5101.55(C) and O.R.C. § 5101.56 (State and local public funds may not be used to pay for abortions, except in cases involving risk of death of the mother, rape, or incest.); *Harris v. McRae*, 448 U.S. 297, 100 S. Ct. 2671, 65 L. Ed.2d 784 (1980) (Although Due Process grants women protection against governmental interference with freedom of choice, it does not entitle them to funding that allows them to take advantage of that right.); *Rust v. Sullivan*, 500 U.S. 173, 111 S. Ct. 1759, 114 L. Ed.2d 233 (1991) (The government may choose to allocate public funds to medical services for childbirth but not abortion.); see also, Tracy Bateman Ferrell, Validity Of State Statutes And Regulations Limiting or Restricting Public Funding for Abortions Sought by Indigent Women, 118 A.L.R.5th 463 (2008) (surveying various states' laws sometimes permitting public funding when mother's life is in danger or in cases of rape or incest).  
97 O.R.C. § 5101.55(B)  
98 O.R.C. § 5101.55(A) (No person or public agency may order a person to have an abortion.); O.R.C. § 27014.15 (Courts may not order an abortion.).  
99 O.R.C. § 2317.56(B)  
100 *Id.*  
101 *Bryant v. Hacker*, 1116 Ohio App.3d 860, 689 N.E.2d 609 (1996) (A "nonmarital sex partner has no right to compel or forbid abortion".); see also, Jack K. Levin, Abortion & Birth Control; Family Planning, 1 C.J.S. Abortion & Birth Control § 6 (2008).

## Minors and Mental Health

- 102 National Center for Injury Prevention and Control, Division of Violence Prevention, (A Division of the Centers for Disease Control and Prevention), *Suicide Trends Among Youths and Young Adults Aged 10—24 Years — United States, 1990—2004*, Atlanta: Department of Health and Human Services (Sept. 7, 2007), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5635a2.htm> (last visited 08/07/2008).  
103 O.R.C. § 5122.04(A)  
104 O.R.C. § 5122.04(B)  
105 *Id.*  
106 O.R.C. § 5122.04(A)  
107 See generally, Depression and Bipolar Support Alliance, <http://www.dbsalliance.org> (last visited 08/07/2008).  
108 Kevin Jennings, *Always My Child: A Parent's Guide to Understanding Your Gay, Lesbian, Bisexual, Transgendered or Questioning Son or Daughter* (Simon & Schuster, 2002).

- 109 Timothy F. Kirn, "Kids and Self-Injury: Pain Makes Them Feel Alive," *Pediatric News*. Vol. 41, Issue 4 (April 2007), 36; Karen Skegg, "Self-harm," *The Lancet*, Vol. 366, Issue 9495 (22 Oct. 2005), 1471-1483; *see also*, Vanessa Vega, *Comes the Darkness Comes the Light: A Memoir of Cutting, Healing, and Hope*, New York: AMACOM (2007).
- 110 P. F. Sullivan, "Mortality in Anorexia Nervosa," *American Journal of Psychology*, 115:2: 7 (1995), 1073-1074.
- 111 Nemours Foundation, Teen's Health: I Think My Friend May Have an Eating Disorder. What Should I Do?, [http://kidshealth.org/teen/your\\_mind/problems/friend\\_eating\\_disorder.html](http://kidshealth.org/teen/your_mind/problems/friend_eating_disorder.html) (last visited 08/08/2008).
- 112 O.R.C. § 5122.04

### Minors and Substance Abuse

- 113 In a 2006 survey, early 50 million Americans acknowledged using prescription drugs for a nonmedical use and 9.8% of teens used an illegal drug within one month of the survey. These figures represented an increase over previous years. Todd Zwillich, "Teen Drug Abuse Rates Stay Steady: But Government Report Shows Rise in Prescription Drug Abuse," *WebMD Health News*, Sept. 6, 2007, available at <http://www.webmd.com/mental-health/news/20070906/us-drug-abuse-rates-stagnate> (last visited 08/08/2008).
- 114 O.R.C. § 3719.012(A)
- 115 O.R.C. § 3719.012(C)
- 116 O.R.C. § 3793.14
- 117 According to the most recent CDC survey, approximately 23% of high school students are currently cigarette smokers. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, (A Division of the Centers for Disease Control and Prevention), *Youth and Tobacco Use: Current Estimates* (Dec. 2006), available at [http://www.cdc.gov/tobacco/data\\_statistics/Factsheets/youth\\_tobacco.htm](http://www.cdc.gov/tobacco/data_statistics/Factsheets/youth_tobacco.htm) (last visited 08/08/2008).
- 118 *Id.*
- 119 O.R.C. § 4301.69
- 120 O.R.C. § 1547.11(B)
- 121 O.R.C. § 1547.11
- 122 O.R.C. § 5411.19(G)
- 123 National Highway Traffic Safety Administration, Youth Traffic Safety Statistics, available at <http://nhtsa.gov> (last visited 08/13/2008).
- 124 O.R.C. § 4511.192, 4511.192
- 125 O.R.C. § 2151.87; *see also* O.R.C. § 2927.02 (making it illegal to sell or distribute tobacco products to minors).
- 126 O.R.C. § 3313.751(B)

### Minors and Violence

- 127 Bureau of Justice Statistics, U.S. Department of Justice, Homicide trends in the U.S., available at <http://www.ojp.usdoj.gov/bjs/homicide/teens.htm> (last visited 08/13/2008).
- 128 U.S. Department of Justice, National Crime Victimization Survey: Juvenile Victimization and Offending, 1993-2003, <http://www.ojp.gov/bjs/pub/ascii/jvo03.txt> (August 2005).
- 129 O.R.C. § 2919.25
- 130 The National Domestic Violence Hotline, "Teens and Dating Abuse," available at <http://www.ndvh.org/educate/teen.html> (last visited 08/18/2008).
- 131 O.R.C. §§ 2919.22 and 2151.031
- 132 Ohio laws also make filing a false report of child abuse a misdemeanor offense. O.R.C. § 2921.14
- 133 Criminal Victimization in the United States," U.S. Department of Justice, Bureau of Justice

Statistics (2005), available at <http://www.ojp.usdoj.gov/bjs/abstract/cvusst.htm> (last visited 08/21/2008).

134 *Id.*

137 "What To Do If You're Sexually Assaulted," Cleveland Rape Crisis Center, available at <http://www.clevelandrapecrisis.org/home/>

What%20to%20do%20if%20you're%20sexually%20assaulted.asp, (last visited 08/21/2008).

138 O.R.C. § 2907.29

139 O.R.C. § 2907.28

135 O.R.C. § 2907.02; *see also*, Edward K. Esping, et. al., "Rape, generally." 27 Ohio Jur. 3d Criminal Law § 1157 (2008).

136 Under Ohio laws, "sexual assault" includes the crimes of rape, sexual battery, corruption of a minor, sexual imposition, importuning, voyeurism, and public indecency. O.R.C. §§ 2709.02, et. seq.

140 42 U.S.C.A. §§ 2000e et seq. (Title VII of the Civil Rights Act of 1964, as amended).

141 The Civil Rights Act was originally interpreted as applying only to discrimination and harassment occurring in the work place. However, the right to be free from discrimination and sexual harassment was extended to schools through Title IX of the Education Amendments Act, 20 U.S.C.A. §§ 1681, et. seq.

142 29 C.F.R. § 1604.11(a)(1)(2) (EEOC Guidelines on Discrimination Because of Sex); *see also*, Kenneth W. Biedzynski, et. al. "Terminology of harassment – Demonstrating that conduct is 'unwelcome,'" 45B Am. Jur. 2d Job Discrimination § 834 (2008); Grace S. Ho, Not Quite Rights: How the Unwelcomeness Element in Sexual Harassment Law Undermines Title VII's Transformative Potential, 20 Yale J.L. & Feminism 131 (2008).

143 Sara L. Johnson, "When is work environment intimidating, hostile, or offensive, so as to constitute sexual harassment in violation of Title VII of Civil Rights Act of 1964, 78 A.L.R. Fed 252 (2008).

144 *Id.*

145 *Davis Next Friend LaShonda D. v. Monore County Bd. of Educ.*, 529 U.S. 629 (1999); *see also*, Belinda Bean, "Right of Action Under Title IX of Education Amendments Act of 1972 Against School or School District for Sexual Harassment of Student by Student's Peer," 141 A.L.R. Fed. 407 (2008).

## Minors and Body Art

146 Mayo Clinic Staff, "Tattoos: risks and precautions to know first," Mayo Foundation for Medical Education and Research, (Feb. 16, 2008), available at <http://www.mayoclinic.com/health/tattoos-and-piercings/MC00020> (last visited 08/21/2008); "Body Piercing: A Guide for Teens," Center for Young Women's Health, Children's Hospital, Boston (Aug. 1, 2006), available at <http://www.youngwomenshealth.org/body-piercing.html> (last visited 08/21/2008).

147 O.R.C. § 3730.06(A)

148 "*Id.*" or "*Ibid.*", at note #<sup>n</sup> MAYO

149 O.R.C. § 3730.06(B)

150 O.R.C. § 3730.07

151 *See, McFarland v. McFarland*, 2001 WL 1468920 (Ohio Ap. 5 Dist. 2001) (interpreting "care, custody, and control" language in Ohio parental custody statutes as including right to make medical decisions for minor).

152 *See* O.R.C. § 2919.21 (making it a crime to fail to support one's dependant minor); O.R.C. § 3109.05 (requiring divorced or separated parents to financially support children, and specifically including medical needs of the child).

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