

## **Juvenile Crimes**

Under California law when a person under the age of 18 is alleged to have committed a crime, the judicial process under which the child is prosecuted, called a delinquency proceeding, is a civil action rather than a criminal matter. During these proceedings, the juvenile may be found unfit for juvenile court proceedings, in which case, the juvenile will be transferred to adult criminal court. This is mandatory when the juvenile has been charged with murder with special circumstances and for certain sex offenses, *and* the juvenile is at least 14 years old.

For other crimes it is up to the juvenile court to decide whether the juvenile case is transferred to adult criminal court. The factors the court will consider include the gravity of the offense charged, the criminal sophistication of the crime, and the juvenile's previous delinquent history. If the case is transferred to adult court, the juvenile is subject to the law in the same manner as an adult.

Sometimes charges against a juvenile are prosecuted directly in adult court. This is called a "direct filing" and the juvenile courts tend to rubber stamp these filings. It is an unfortunate fact that the justice system is treating more and more juveniles as adults and punishing these children as adults despite the overwhelming evidence that a teenager's brain is not yet fully developed. Without fully developed brains, juveniles are known to be impulsive, to take risks, and to be unable to anticipate the consequences of their actions. Because teenagers do not have adult brains, they take stupid risks, are often very impulsive, and are unable to anticipate the consequences of their actions.

There are many laws and cases that question whether a child has the ability to form criminal intent at all. A qualified juvenile justice attorney can make a determination about the minor's abilities to understand the process and ability to form criminal intent in anticipation of the defense of a juvenile in adult court.

If the juvenile remains subject to the juvenile court's jurisdiction, it is not considered a criminal matter. Therefore, the juvenile does not have some of the due process rights afforded to an adult charged with a crime. For example, the juvenile does not have the right to a jury trial or to bail. However, the juvenile does have the right to be represented by an attorney, the right to cross-examine witnesses, and the right to assert the Fifth Amendment privilege against self-incrimination.

### **Understanding the Juvenile Court Process**

In a delinquency proceeding, the court determines whether the facts as charged against the juvenile are true. This is called a jurisdiction hearing. The standard of proof is, as it is in a criminal trial, "beyond a reasonable doubt." However, unlike an adult criminal trial, the juvenile proceedings are not designed to ascertain the guilt or innocence of the juvenile, but rather if the facts are found to be true to preserve and promote the welfare of the child, to provide care, treatment, and guidance to the child and to promote public safety. The juvenile proceedings are intended to treat the juvenile crime as a sociological problem with a mandate to ensure resources to the juvenile dedicated to the juvenile's rehabilitation rather than punishment. That does not mean the juvenile won't be punished if the court finds the allegations against the juvenile are

true. Depending upon the severity of the offense and the juvenile's prior delinquent history, the court may subject the juvenile to probation, detention, incarceration, treatment, or community supervision.

Parents are often surprised to discover that they can be held legally responsible for delinquent acts of their child in cases where the evidence establishes that the parent failed to provide reasonable supervision and control over their child. If a parent "causes or tends to cause or encourage" his or her child's delinquency (or any juvenile's delinquency for that matter), the parent can be charged with a misdemeanor under Penal Code section 272. For example, let's say a dad decides to have a few beers with his 16-year-old son and then gives him the keys to the family car. The son then causes a collision and is also charged with driving under the influence. The father, under these circumstances, would be criminally liable for his son's acts.

Sanford and Christy Horowitz are experienced juvenile justice attorneys who understand the ins and outs, with all its intricacies, of juvenile law. They are here to vigorously defend your juvenile son or daughter in either juvenile court or in adult court.