



WEEK 35

ASSIGNMENT PACKET

This week we'll look at **CAPACITY** in a contract, which is the ability to understand that a contract is being made and its general meaning. Certain parties to contracts are assumed by the law to lack the maturity, experience or ability to protect their self-interests; the law grants these parties special contractual rights designed to protect them from being cheated:

1. Minors (usually well defined – varies state-by state – typically under 18)
2. Mental Incapacity (can party understand the consequences of the K?)
3. Intoxication (same standard, but courts are typically reluctant to disaffirm for intoxication unless the intoxication level is extreme or involuntary)

Capacity Rights (two basic protections granted to those who lack capacity, which depend on whether the contract is for necessities or unnecessaries):

- People lacking capacity (like minors) may disaffirm contracts for non-necessaries (things that for them are relative luxuries) during their minority
- But people lacking capacity cannot disaffirm contracts for necessaries (basic food, clothing, shelter, transportation)

RESOURCE: BLAW 3 Chapter (on class website) ... specifically, sections 3-4 and 3-5.

There are two projects this week ... (1) Google Slides on Minors & Their Rights and (2) You're the Judge. You will definitely need to refer to the BLAW 3 chapter on the class website to help with the work this week!

Please reach out to me with questions!

MINORS AND THEIR RIGHTS

The Age of Majority

The age at which a child becomes an adult is known as the age of majority. For most purposes, a person is considered an adult at age 18. Persons under 18 are called children, minors or juveniles. While minors have many personal rights, they do not have all the rights of adults. Under federal law, every person is allowed to vote at age 18. In Ohio, 18 is the age of majority for voting and most other purposes. The major exception to that rule is found in the liquor control laws. Persons under 21 are not permitted to purchase any alcoholic beverage.

TODAY'S ASSIGNMENT

1. Read over the material in this worksheet.
2. Summarize the information in **5 PowerPoint / Google Slides ...**
 - The Age of Majority
 - Minors in General
 - Constitutional Rights of Minors
 - Contractual Rights of Minors
 - Emancipation
3. Email/share the finished slides.

Minors in General

In Ohio, a minor is someone who has not yet reached the age of 18, and, as such, is supported by a parent or guardian who is responsible for his or her actions. A minor has neither the rights nor the responsibilities of an adult. For example, a minor cannot vote, serve on a jury, or get credit in his or her own name. Someone who is 18 years old, but continues to be a full-time student at a recognized high school, is no longer a minor and has the legal rights and responsibilities of an adult, but the responsibility for his or her support usually remains the duty of a parent or guardian until graduation.

Under the law, minors are treated differently from adults in many situations, since it is generally assumed that minors lack the knowledge, experience and judgment to truly fend for themselves. It is unrealistic to expect minors to behave as adults, and therefore unfair to treat minors as adults. Certain rights and obligations may not apply to minors the same way that they apply to adults. Very young children are not criminally liable, and older children are accorded different treatment from adults for criminal acts in most cases.

Apart from the criminal law, minors may be subject to more, and different, controls on their behavior than adults. Minors must have parental permission to do certain things. For example, minors generally need parental permission to marry, or to obtain medical treatment. While minors can own property, it is often necessary that a guardian hold and manage such property. The right of minors to enter into contracts also is limited. Minors are barred from certain occupations, and their employment in other occupations is subject to legal limits on child labor. For example, minors may not engage in occupations that are hazardous or detrimental to their health and safety, and certain employment licenses cannot be granted to minors.

Parents can be held responsible or liable for up to \$10,000 if their children willfully damage property or willfully and maliciously assault another person. Moreover, an adult who signs for a minor's driver's license may be held liable for any amount of damage the minor causes in an accident, if the minor is driving without insurance.

Constitutional Rights of Minors

While minors do have rights under the constitution, they are somewhat restricted. For example:

- Minors do not have complete freedom of speech and assembly under the First Amendment to the U.S. Constitution. Ohio law places restrictions on matter that is not obscene from an adult viewpoint, but is considered unsuitable for juveniles.
- Minors cannot freely keep and bear arms. Under federal and Ohio law, a minor cannot buy any kind of firearm and a person under 21 cannot buy a handgun. A minor under 16 cannot hunt without an accompanying adult. Except for lawful hunting, no minor of any age can possess a firearm unless it is used for instruction in firearms safety, care, handling, or marksmanship under competent adult supervision.

MINORS AND THEIR RIGHTS

- Searches and seizures that would be unconstitutional if they involved an adult may be constitutional when they involve a juvenile. For example, it may be proper, under certain circumstances, to search a school locker. Schools have a duty to take weapons, drugs and other dangerous items away from students.
- A minor does not have the right to bail in a juvenile proceeding. A minor accused of juvenile delinquency may be held without bail before trial if the court finds there is a serious risk that the minor may commit an act that would be a crime if committed by an adult.
- A minor may lose his or her liberty for actions that would not be criminal if committed by an adult. For example, a minor who stays out late, runs away from home or refuses to obey their parents may be committed to a juvenile institution as an unruly child.
- A minor does not have the right to a jury trial in juvenile proceedings.

Contractual Rights of Minors

Minors do not have full rights to enter into contracts. If a minor enters into a contract with an adult, the minor has the option to either honor or cancel the contract before he or she complies with the terms of (or performs) the contract. By complying with the terms, the minor is acting in a way that honors the contract, so the contract will be binding on the minor as well as the adult.

If a minor chooses to cancel a contract because he or she is not 18 years of age, the minor should take action to cancel the contract before becoming 18 (or within a reasonable time after). However, a minor cannot cancel a contract if the cancellation would cause an unfair result, or allow the minor to benefit from his or her own wrongdoing. For example, a minor cannot purchase a car, wreck it, then cancel the contract and expect not to have to pay for the car. Finally, in some situations, a minor can enter into a binding contract and not have the right of cancellation. These situations generally involve contracts for necessities such as food, clothing, shelter and medical care. The minor's parents may be held liable on contracts for necessities.

Emancipation

As a general rule, a child is "emancipated," or freed from parental control, care and custody, upon reaching the age of 18 or upon graduation from high school if a child turns 18 in his or her senior year. In Ohio, emancipation also can occur before that time if the child gets married or joins the military service. While many people think that someone under 18 can go to court and "get emancipated," Ohio law does not provide for such a court order. Rather, circumstances determine whether or not a person is emancipated in the eyes of the law.

If you are still a minor or have not yet finished high school, your parents have a duty to support you and can be held responsible for your actions (such as your failure to attend school, or for contracts you might make such as for telephone service or an apartment). If you marry or join the military service while still a minor, however, you would be considered emancipated. In such a case, your parents would no longer be responsible for supporting you financially; nor would they be liable for your actions. While getting married generally constitutes emancipation, becoming pregnant and having a child does not. The difference is that a person who marries generally intends to substitute the parents' support and responsibility with the spouse's support and responsibility. However, if a minor becomes pregnant and has a child but does not marry, her parents continue to be responsible for her and she may continue to rely on their support. Please note that the baby's father also may have support obligations in such a situation.

A person who wishes to "become emancipated" cannot do so by petitioning the court, as there is no provision for such a petition in Ohio. If a court has previously issued a child support order, parents may ask the court to relieve them of their duty to support a minor child financially, but this does not constitute that child's emancipation. As explained above, the parents still may be held responsible for the child's actions even though they no longer support the child financially.

You're the Judge

Capacity



For each of the following cases, circle Yes or No to indicate your decision. Then, in your own words, state the legal principle or legal reason that applies to the facts of the case. **Your reasons should be two sentences in length.**

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1. Pete Moss, a 17-year-old high school graduate, applied for a job with a local landscaping business. The manager of the business, Forrest Ranger, hired Pete and gave him a one-year employment contract. Nothing was said about Pete's age, but when Forrest discovered that he was only 17, he fired him on the spot. Did Forrest have a legal right to do this?

Yes or No?

Legal Principle:

2. Hal O'Three, a 14-year old, bought a video game at a store. A sign said: "No Returns – All Sales Final". After using the game for a week, he returned it to the store and asked for a refund. Is Hal legally entitled to a refund?

Yes or No?

Legal Principle:

3. Ivana Takitback bought a CD player on the day before her 18th birthday. Two days later, she changed her mind and sought to return it and get her money back. She claimed that she was still able to disaffirm the contract. Was she correct?

Yes or No?

Legal Principle:

4. Geri Attrick was 92 years old and suffered from severe senility. He wandered away from the Happy Hills Nursing Home where he lived, and walked to Biggaz TVs where he bought a 60" plasma TV. When the TV was delivered to Happy Hills, Geri couldn't remember ordering it and the nursing home refused the delivery. Can Biggaz TVs enforce the sale?

Yes or No?

Legal Principle:

5. On a whim, Oliver Sutton, who is 17, bought a tent trailer from Leisure Time Inc. When he pulled up to his house with the trailer, his parents weren't too happy. They told him to return it to the dealership and get his money back. Can he?

Yes or No?

Legal Principle:

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6. Chris P. Cream, an adult, entered into a contract to pay Bell E. Flopp, a minor, \$50 a week to clean his pool for the entire summer. The next day, Chris changed his mind and wanted to disaffirm the contract stating that either party could disaffirm when a minor signs a contract. Is he correct? Yes or No?

Legal Principle:

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7. Anita Bath is 16 and has a small business, Smell Ya Later. She sells Bea O'Problem, a 15-year old, a one-year subscription to Smell Ya Later's "Deodorant-of-the-Month Club". The deodorant is very necessary! Bea decides that she wants to cancel the subscription after only 1 month. Is she legally able to do so? Yes or No?

Legal Principle:

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8. Let's say that Bea decides to keep her subscription in #7 above. As a minor, could Anita choose to disaffirm the contract after a couple months? Yes or No?

Legal Principle:

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9. Scott Free is an 18 year-old high school senior in Cincinnati. His parents kick him out of the house and tell him he's on his own now. Can they legally do this? Yes or No?

Legal Principle:

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10. Scott's younger sister, Wanda B., doesn't like the way that her parents treat her brother (see #9 above). She is 17 and wants to become emancipated so she can move out of the house and live her own life. Can she go to court to do this? Yes or No?

Legal Principle:

Are there other ways that Wanda B. can become emancipated in Ohio? What are they?
