

## **Parental Liability**

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Recently an agent called to discuss a parent's liability for actions of their children. He had a client who had a son who was determined to drive. He would take the parents' car with out permission and they seemed to have no control over him. They finally excluded from their auto policy, but since he was under eighteen, they were concerned about the possibility of being drawn into a lawsuit for an accident caused by the son. The parents were aware that since they signed for the license of the minor, it was possible for liability to be "imputed" to them for actions of the minor.

Black's Law Dictionary defines "imputed." "As used in legal phrases, the word means attributed vicariously; that is an act, fact, or quality is said to be "imputed" to a person when it is ascribed or charged to him, not because he is personally cognizant of it or responsible for it, but because another person is, over whom he has control or for whose acts or knowledge he is responsible. Imputed liability is also called vicarious liability.

"Imputed negligence" is defined this way: "the negligence of one person may be chargeable to another depending upon the relationship of the parties, as for example, the negligence of an agent acting within the scope of his employment is chargeable to the principal. Negligence which is not directly attributable to the person himself, but which is the negligence of a person who is in privity with him, and with whose fault he is chargeable. There are many situations that involve imputed negligence: parents for children; employers for employees; contractors for subcontractors; or landowners for tenants.

According to Ohio Revised Code section 4507.07, the registrar of motor vehicles cannot approve the application for a temporary permit or a probationary license of any minor under eighteen unless an adult signs the application. The adult must be one of the parents, the legal guardian, a person having custody of the applicant, or if there is not parent or guardian, a responsible person who is willing to assume the obligation imposed by the law. When a minor applies for a temporary permit or probationary license, the registrar will give the adult who signs the application a notice of potential liability that may be imputed and a notice of how the adult may prevent any liability from being imputed.

A negligence, or willful or wanton misconduct, that is committed by the minor will be imputed to the person who signed the application. The person will be jointly and severally liable with the minor for any damages caused by the negligence or willful or wanton misconduct. Joint and several liability means that the adult is jointly liable with the minor

as well as separately liable in his own right. Certainly, the adult is exposing his personal assets to claims from parties injured by the minor child.

There is not imputed liability to the adult if the minor has proof of financial responsibility, in the amounts specified by Ohio law, with respect to a vehicle owned or operated by the minor. An insurance policy or a financial responsibility bond can provide the proof. The minor can be insured on the parent's policy or on a separate policy.

The adult who signed the application may surrender the permit or license of the minor and request that the license or permit be canceled. When the registrar cancels the license or permit, the adult is relieved from imputed liability. The minor can reapply for a license or permit by producing another adult whom is willing to sign the application.

So it would seem that all the agent's client has to do is turn in their son's license and their problems are over, right? Well, turning in the license does relieve the parents of imputed liability, but does not relieve them of their own liability. For example, if the son takes the car after his license has been canceled, the parents could be held liable for negligent entrustment. They would probably want to take steps to hide the keys or otherwise make them unavailable to the son since he had a habit of "borrowing" the car.

There are a couple of other situations in which a parent can be held liable for the acts of a minor child:

Ohio Revised Code Section 3109.09 deals with parental liability for destructive acts or theft by their children. Any property owner may maintain a civil action to recover compensatory damages, not exceeding \$10,000 and court costs, from the parent of a minor if the minor willfully damages property or commits theft.

Ohio Revised Code Section 2307.70 deals with vandalism, desecration or ethnic intimidation. Any person who suffers injury or loss to person or property as the results of an act committed by a minor child has a civil action against the parent and may recover compensatory damages not to exceed \$15,000, court costs, reasonable expenses incurred in maintaining the action, and reasonable attorney fees. The parent and child are jointly and severally liable.

The moral is, if you're going to be a parent, be prepared to accept responsibility for your child's action.

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