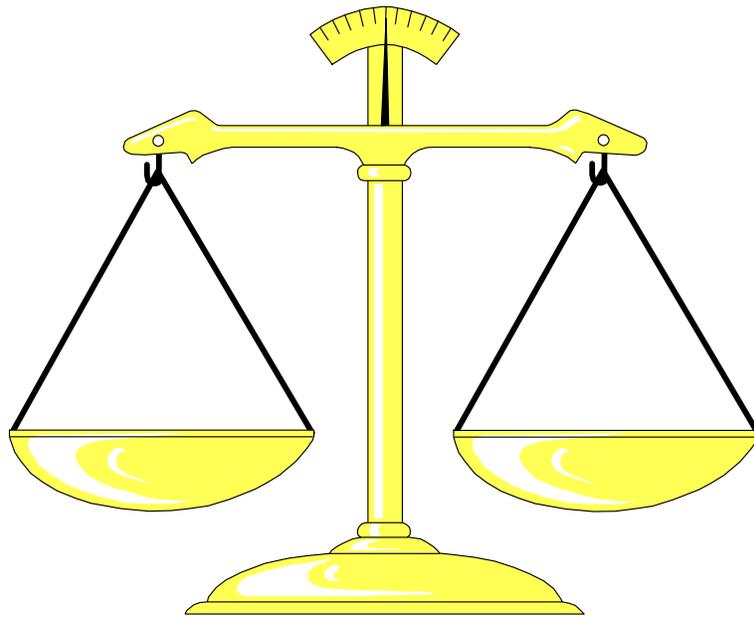


**RIGHTS AND RESPONSIBILITIES  
OF TEENAGERS  
UNDER GEORGIA LAW**



*Office of the District Attorney  
Stone Mountain Judicial Circuit  
DeKalb County, Georgia*

**OFFICE OF THE DISTRICT ATTORNEY  
STONE MOUNTAIN JUDICIAL CIRCUIT  
DEKALB COUNTY COURTHOUSE  
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DISTRICT ATTORNEY**

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**Dear Students, Parents and Teachers:**

**Over the years, the State General Assembly has enacted many laws that have had a major effect on the rights and responsibilities of children and teenagers in Georgia. This booklet is designed to answer your questions about these laws.**

**The number of young people who either have been victims of crime or have found themselves to be charged with serious crimes has troubled me both as a prosecutor and a parent. Many of these tragedies could have been avoided through education.**

**The School Safety and Juvenile Justice Reform Act of 1994 invoked strict measures to protect students and others from the violence perpetrated by a few. Consequently, more and more juveniles are being prosecuted as adults when arrested for violent crimes, and the penalties for their violent criminal behavior are severe. A teenager over age 13 who is convicted of certain violent offenses faces mandatory sentencing of ten years to life in prison, and a 17-year-old may be sentenced to death.**

**In 1997, Georgia became the sixth state to pass a law requiring graduated drivers' licenses for teenagers, and the 2000 session of the General Assembly brought about significant changes in laws governing teenage driving, including new restrictions and new requirements for obtaining a driver's license.**

**The chapter on Sexual Offenses may be uncomfortable for students as well as for their parents and teachers. It is not intended to shock, but to provide much needed education in the law as it relates to that topic. Our objective is neither to condone nor condemn teenage sexual conduct. Parents and religious leaders must address the morality of sexual behavior. The sole purpose of this book is to educate teens about the requirements of Georgia law in the many areas that have the greatest impact on their lives.**

**Educators, lawyers and parents owe it to our teenagers to inform them of the realities of the law. Children owe it to themselves to be both students and respecters of the law, because an educated and informed young person has the best chance of becoming a successful adult.**

**GWENDOLYN KEYES FLEMING  
DeKalb County District Attorney**

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## **SCHOOL SAFETY AND JUVENILE JUSTICE REFORM ACT OF 1994**

### **What is the School Safety and Juvenile Justice Reform Act of 1994?**

It is a law which was enacted by the 1994 session of the Georgia General Assembly to do two things. First, it recognizes certain rights to which all Georgia students are entitled, and prescribes means for enforcing those rights. Secondly, it drastically changes juvenile law by allowing children 13 to 17 years of age to be prosecuted in Superior Court and sentenced as adults for the commission of certain violent crimes. The sentences which may be imposed in Juvenile Courts have also been increased.

### **What are the rights to which Georgia students are entitled?**

1. Students are entitled to a safe and secure learning environment. The learning environment extends beyond the classroom to all school property and to school sponsored transportation (e.g., school bus) to and from school activities.
2. Students are entitled to have input in the preparation of the individual school safety plan for the school which they attend.

### **How are these rights enforced?**

The act provides for the establishment of a "School Safety Zone" for every public and private elementary and secondary school in Georgia. A School Safety Zone includes all property in, on, or within 1,000 feet of the school. Certain activities are prohibited within a School Safety Zone, and punishment for violators is severe.

The prohibition against certain activities within a School Safety Zone applies at all times. Although the school may be closed, the laws regarding School Safety Zones are still enforced.

### **What activities are prohibited in a School Safety Zone?**

1. It is unlawful for any person to carry, possess or control any weapon on school property, or within 1,000 feet of a school, or on a school vehicle.

Weapons include: pistol, revolver (or any weapon designed to propel a missile of any kind), dirk, bowie knife, switchblade knife, ballistic knife, other knife having a blade of three or more inches, straight edge razor, spring stick, metal knucks, blackjack, flailing instrument, or fighting chain such as a nunchaku (num-chuck); pointed or bladed discs, such as a throwing star or oriental dart; stun gun or taser.

Most school systems have adopted a "**zero tolerance**" policy in regard to weapons. That means that there are no exceptions and no excuses accepted for any weapon possession at school. As a practical matter, students should be aware that even apparent "innocent" possession of a weapon will most likely result in criminal prosecution. A weapon possessed without any intent to harm could still fall into the hands of a violent person and thus threaten the lives and safety of innocent students.

Adult violators may be punished by imprisonment from two to ten years. Juvenile violators, persons under age 17, will be subject to the "Designated Felony Act". (See discussion of **Designated Felony Act** on p. 8.)

2. It is unlawful to possess any illegal drugs on school property or within a School Safety Zone. It is unlawful to possess any drugs on school property or within a School Safety Zone. Distribution, sale, manufacture or possession with intent to distribute drugs on school property or within a School Safety Zone carry longer sentences than the same crimes would if committed elsewhere.

3. It is unlawful for any person to remain upon school property, or within a School Safety Zone, unless that person has a legitimate cause or need to be there. Any such person who refuses to leave after being instructed to do so by the principal or other designated school official is guilty of a crime. An adult convicted of this crime will receive misdemeanor punishment. A juvenile who is found guilty of violating this law will be sentenced as a delinquent child.

4. It is unlawful for any person to disrupt or interfere with the operation of any public school. Violators are sentenced as in number **2.** above.

5. Certain violent crimes committed in a School Safety Zone are punished by mandatory minimum sentences which exceed the minimum sentence for those crimes if committed outside of the School Safety Zone. For example, aggravated battery ordinarily is punished by a sentence of from one to 20 years. If that crime is committed in a school safety zone upon a student or on school personnel, the mandatory minimum sentence is five years.

School personnel are required by law to report to the police and to the district attorney any of the following activity on school property or at school functions:

- aggravated assault in which a firearm is involved;
- aggravated battery;
- sexual offenses;
- carrying deadly weapons at public gatherings;
- carrying weapons on school property, at school functions, or within 1,000 feet of school property;
- possession of a pistol or revolver by a juvenile;
- possession or other activities involving illegal drugs.

**Do school officials or police have a right to search my desk or locker for weapons and/or drugs without my consent?**

The Fourth Amendment to the U.S. Constitution prohibits unreasonable searches by government officers of areas where a citizen has an expectation of privacy without consent or without a search warrant.

The Supreme Court of the United States has ruled, however, that school officials may consent to the search of a student's desk or locker by police because officials stand in the place of parents who also can consent to this kind of search. Likewise, there are situations where school officials themselves may conduct such searches. The Supreme Court has found such searches of high school students' desks and lockers to be lawful. Evidence found in such searches may be used against a student in school disciplinary proceedings and in court.

The United States Supreme Court has also ruled that school officials may screen student athletes for illegal drug use by requiring the athletes to submit to random urinalyses. If an athlete is found to have illegal drugs in his/her body, this fact may affect his/her eligibility to play sports. This information may not be turned over to law enforcement.

### **How has the law changed regarding 13-16 year old juveniles charged with serious crimes?**

Until 1994, with very few exceptions, all juveniles charged with a crime were dealt with by the Juvenile Court, regardless of the type of crime they may have committed. (The exceptions related to some, but not all, juveniles 13 and over who were charged with capital offenses.) If found to be delinquent, these juveniles could have been sentenced up to 18 months in a youth detention facility. This has now changed.

Under the Juvenile Justice Reform Act of 1994, the Superior Courts of Georgia now have exclusive jurisdiction over juveniles ages 13-16 who are alleged to have committed any of the following offenses:

- **murder**
- **voluntary manslaughter**
- **rape**
- **aggravated sodomy**
- **aggravated child molestation**
- **aggravated sexual battery**
- **armed robbery with a firearm**

This means that juveniles ages 13-16 who are charged with any of the above offenses will be tried, and if convicted, sentenced as adults. The **minimum mandatory sentence** for the offenses of Armed Robbery, Rape, Aggravated Sodomy, Aggravated Child Molestation and Aggravated Sexual Battery is ten years. Every day of the sentence must be served in prison without any opportunity for parole. Juvenile Court no longer has jurisdiction of these cases, unless the District Attorney or Superior Court transfers the case to Juvenile Court for extraordinary reasons.

In addition to the above, the 1994 law also increased the penalties which may be imposed upon juveniles under the Designated Felony Act. ( See JUVENILE COURT -- Designated Felony Act, p. 8. )

### **What is Murder?**

Murder is the unlawful intentional killing of another person. Another form of murder is Felony Murder, which is when a person, in the commission of a felony, unintentionally kills another person. Murder and Felony Murder both carry mandatory punishments of Life in Prison.

### **What is Voluntary Manslaughter?**

Voluntary Manslaughter is the unlawful intentional killing of another person, where the intent to kill was caused by a sudden, violent, and irresistible passion resulting from a serious provocation. Voluntary Manslaughter carries a punishment of up to twenty years in prison.

**What is Armed Robbery?**

Armed Robbery is when one, with the intent to commit theft, takes property of another from the person or immediate presence of a person with the use of an offensive weapon or any device which appears to be an offensive weapon. An offensive weapon can be a working firearm, a knife, a baseball bat, a pipe, a stick, a BB gun, a rubber knife, a water gun, or anything else that is or appears to be an offensive weapon. Anyone over the age of 13 charged with Armed Robbery with a Firearm must be tried as an adult and if convicted must receive at least the minimum sentence of ten years in prison with no chance of parole, unless the District Attorney sends the case to Juvenile Court. Anyone over the age of 13 who is charged with any other form of Armed Robbery can also be tried as an adult and receive the same sentence of ten years in prison with no chance of parole, but that decision has to be made by the District Attorney.

**What are Rape, Aggravated Sodomy, Aggravated Child Molestation, and Aggravated Sexual Battery?**

See **CRIMES RELATING TO SEXUAL OFFENSES UNDER GEORGIA LAW**, pg. 18.

**JUVENILE COURT**

**What is the purpose for juvenile courts?**

Juvenile Courts in Georgia were established for the protection, supervision, treatment and rehabilitation of children in need.

Children "in need" are those who have been found to be "delinquent", "unruly" or "deprived."

**What is a delinquent child?**

A delinquent child is one who has committed an act which, if committed by an adult, would be a crime under the laws of the state or federal government; for example, it is a crime in Georgia to steal. An adult who is convicted of stealing is a criminal. A child who steals is a delinquent child.

**What happens to delinquent children?**

The Juvenile Court judge will consider many factors in sentencing a delinquent child. For example, the judge will consider the severity of the offense; the juvenile's physical, emotional or educational needs; the family or community resources available; and the child's prior juvenile record, if any.

A delinquent child may be placed on probation, placed in protective custody (foster home or group home), or committed to the custody of the Department of Children and Youth Services. The Court may also sentence a delinquent to confinement in a Youth Development Center for up to 90 days. In addition, the Court may suspend the driver's license of any child adjudicated delinquent for any period of time up until that child's 18th birthday. If a juvenile does not have a driver's license at the time he is adjudicated delinquent, the Court may prohibit the issuance of a driver's license to that juvenile until he or she reaches age 18. Under certain circumstances a delinquent child may be sentenced under the "Designated Felony Act" as discussed below.

### **What is the Designated Felony Act?**

The Designated Felony Act provides for sentencing of juveniles (in Juvenile Court) who have reached their 13th birthday but who are under 17 and who commit certain serious offenses. The following list names some, but not all, of the many serious offenses included in the Designated Felony Act:

- possession of any weapon or explosive compound in a School Safety Zone, at a school event, or on a school bus
- aggravated assault, aggravated battery, and other such violent acts which threaten the life and/or safety of others
- any battery upon a teacher or other school official
- trafficking in drugs
- certain street gang activity

Juveniles who are sentenced under the Designated Felony Act are committed to the State and may be placed in restrictive custody for up to five years.

### **Are there any other offenses created by the "School Safety and Juvenile Justice Reform Act of 1994" which affect teenagers?**

Yes. It is now against the law for a minor (a person under the age of 18) to possess a pistol or revolver except in limited circumstances. A pistol or revolver is defined as a firearm where the length of the barrel does not exceed 12 inches. A minor may possess a pistol or revolver if he or she is attending a hunting course or firearms course, is target shooting at an established range, during licensed competition, is hunting with a valid hunting license and with the permission of the landowner, or is in possession of a firearm on the property of a parent or guardian with the permission of the parent or guardian.

The first offense is prosecuted as a misdemeanor and, if convicted, the offender can be sentenced up to 12 months in jail. Upon a second or subsequent conviction, the offender can receive up to three years in prison.

### **What is an unruly child?**

An unruly child is one who commits an act which is not unlawful for an adult, but which is unlawful for those under age 17. Some examples of acts which are unlawful only for juveniles are running away from home, truancy from school (for ages 7-15), violation of curfew, and habitual disobedience of the lawful commands of parents or guardians.

### **What happens to unruly children?**

If a child is found to be unruly, the Court may make any disposition authorized for a delinquent child, except sentencing under the Designated Felony Act.

### **What is a deprived child?**

A deprived child is one who has no parent, guardian, or custodian; or who has been abandoned by his parents or guardian; or who is not receiving the proper care necessary for his physical, mental, or emotional health or morals.

### **What happens to deprived children?**

If a child is found to be deprived, the Judge may take certain prescribed actions which are best suited to the protection and physical, mental, and moral welfare of the child. For example, the child may be permitted to remain in the home of his or her parent or guardian under supervision of the Court. Or the child may be placed in the custody of the State and placed in another home or institution. The placement of a deprived child is reviewed regularly by the Court to make sure that the best interests of the child are being met.

### **Does the Juvenile Court have any other authority?**

The Juvenile Court also has a traffic court for routine traffic cases where the violator is under the age of 17. Routine cases involve violations of the rules of the road. They do not include serious offenses such as homicide by vehicle, serious injury by vehicle, hit and run, racing, and other such offenses which are dealt with as delinquent acts in Juvenile Court.

The Juvenile Court also has jurisdiction over mentally ill and mentally retarded children under certain circumstances. It may also grant or refuse a minor's request for an abortion. (See section below on **PARENTAL NOTIFICATION OF ABORTION** (p. 23).

### **Do juveniles have the same rights as adults if arrested by the police?**

Yes. A juvenile has the right not to give any statements or answer any questions if arrested by the police; the right to have an attorney present when being questioned by the police; and the right to be represented by an attorney at trial. Furthermore, a juvenile can exercise any of these rights at any time, which means if you agree to answer questions by the police, but during the questioning you change your mind and want a lawyer, you can stop answering the police questions.

### **What rights are juveniles entitled to in Juvenile Court?**

Confidentiality laws protect some first time juvenile offenders. Ordinarily, the name and photograph of first time juvenile offenders will not be released to the media. However, the name and photograph of repeat offenders, and of juveniles charged with a designated felony, may be released to the media. Also, law enforcement personnel may have access to the fingerprints of juvenile offenders for use in investigating other crimes.

Ordinarily Juvenile Court proceedings are not open to the public. However, the law requires that school superintendents be notified when current or future students have been adjudicated guilty of certain

offenses. Also, the Department of Children and Youth Services must now notify victims of certain crimes committed by juveniles when such juveniles are released from custody.

A person may have his or her juvenile record "sealed" under certain circumstances. When two years have passed since a child's last contact with Juvenile Court, he or she may petition the Juvenile Court to have the record sealed. It must be shown that the person has not committed any other delinquent acts or crimes. If the Court seals the record, all reference to the juvenile's involvement with the Court will be deleted. It will be as if the proceedings involving that child never happened. Those persons who have had their juvenile records sealed may lawfully and properly reply that no such records exist.

There is no right to a jury trial in Juvenile Court proceedings. However, juveniles whose cases are prosecuted in Superior Court are entitled to a trial by jury.

## TRAFFIC LAWS IN GEORGIA

### **When can I start to drive?**

When you are 15, you are eligible to apply for an instruction permit. This permit allows you to drive a motor vehicle while a licensed driver who is at least 21 years old is in the front seat with you. You may use this permit for two years. If you are under 18 years of age, you must have your parent's consent in order to apply for your permit.

### **Where can I apply for an instruction permit?**

You can apply for an instruction permit at any of the Georgia Exam Stations in the state.

### **Do I have to have driver education or driving experience before applying for a permit?**

Effective January 1, 2002, before applying for a permit you must:

1. Complete an approved driver education course in a licensed private or public driving training school as well as have a cumulative total of at least 20 hours of other supervised driving experience with 6 of those hours completed at night. The supervised driving experience must be provided by a licensed driver at least 21 years of age and must occupy the front passenger seat.

**OR**

2. Complete a cumulative total of at least 40 hours of supervised driving experience with at least 6 of those hours completed at night. The supervised driving experience must be provided by a licensed driver at least 21 years of age and must occupy the front passenger seat.
1. Either of the above choices must be verified in writing and signed by you or a parent/guardian (if you are under 18) in the presence of a person authorized to administer oaths.

### **How do I apply for an instruction permit? Will I be tested?**

In order to obtain your permit, you must successfully pass three tests:

1. The Vision Test -- Your eyesight will be tested.
2. The Road Sign Test -- You will be required to identify signs, signals, and markers. You must answer 15 out of 20 questions correctly in order to pass.
3. The Road Rules Test -- You will have to answer questions concerning driver responsibility and your knowledge of the traffic laws and driver safety.

### **How can I prepare for the tests?**

You can pick up the Georgia Driver's Manual at any of the Georgia Exam Stations. The manual is free of cost and discusses Georgia driving laws and gives a description of the road signs. Study this manual thoroughly in order to be prepared for the tests.

### **Once I have passed the tests, how do I obtain my learner's permit?**

When you have passed the tests, you must pay a required fee. You will receive a receipt which you may use as your temporary permit until you receive your permit in the mail.

### **When can I apply for a driver's license?**

When you are 16, you may apply for a driver's license. This license allows you to drive a car without the presence of another licensed driver in the car with you.

To qualify you must have a valid instruction permit which is not in suspension, and for a period of 12 months prior to making application, you must not have been convicted of certain enumerated traffic offenses such as Driving Under the Influence, Racing, Reckless Driving, and other serious traffic violations.

### **Where do I apply for a driver's license?**

As with the learner's permit, you can apply for a driver's license at any of the Georgia Exam Stations in the state.

### **How do I apply for a driver's license? Will I be tested?**

You must pass a road test in order to acquire your driver's license. You will be expected to perform several different maneuvers while driving, such as quick stops, parallel parking, turning, passing, signaling, etc.

### **Once I pass the driving test, how do I obtain my driver's license?**

When you have passed the tests, you will be required to pay a fee. You will receive a receipt which you may use as your temporary license until you receive your permanent license in the mail. Remember to always carry your license with you when you drive.

### **Once I receive my driver's license, what restrictions apply?**

Effective January 1, 2002, upon receipt of your license, you will be subjected to the following restrictions:

1. If you are 16 or 17 years of age, you may not drive between midnight and 6 a.m. NO EXCEPTIONS.
2. During the first six months after receiving your license, you may not have any passengers that are not members of your immediate family.
3. Any time after the first six months, you are not permitted to have more than three passengers in the car who are under the age of 21 and not members of your immediate family.

### **When can I obtain the next higher license level?**

You may move to the next higher license level when you have reached the age of 18, and 12 consecutive months have passed in which you have not been convicted of certain enumerated traffic offenses such as Driving Under the Influence, Racing, Reckless Driving, and other serious traffic offenses.

### **In order to obtain a driver's license or instruction permit, must I be enrolled in school?**

If you are under the age of 18, an instruction permit or a driver's license will not be issued unless you are attending a public school or a private school and have satisfied the attendance requirements or you are enrolled in a home education program. In addition, a learner's permit or a driver's license can be obtained if you present proof that you have received a high school diploma, a general educational development (GED) equivalency diploma, or a certificate of high school completion; have received permission of your parent or guardian to withdraw from school; or have enrolled in a postsecondary school.

### **When will my license expire?**

Your license expires on your birthday in the fourth year following issuance. It may be renewed on or before its expiration after you have completed an application, paid the fee, and passed the vision test.

### **If I fail any or all of the tests, may I retake them?**

Yes. You will be permitted to retake any tests required for your permit or license; however, there are waiting periods between re-testing.

### **What is the organ donor card?**

There is an Organ Donor Card on the back of your driver's license. An organ donor is one who agrees, in the event of his/her death, to allow his/her body parts to be used for medical transplant purposes for those in need. If you wish to become an organ donor, fill out and sign the donor card in the presence of two witnesses. The two witnesses must also sign the card. You are not required to become an organ donor, nor are you required to sign the organ donor card. It is strictly voluntary.

### **Once I obtain my driver's license, do I have it for good, or can it be taken away?**

Driving in Georgia is a privilege, not a right. When you operate a motor vehicle in Georgia, you must comply with the rules of the road. Failure to do so endangers your life and the lives of others.

Your privilege to drive can be taken away from you. The Juvenile Court may suspend the driver's license of any juvenile who is found to have committed a delinquent act. In addition, the Department of Public Safety will suspend the license of any person convicted of the following offenses:

- HOMICIDE BY VEHICLE
- USING A MOTOR VEHICLE DURING THE COMMISSION OF A FELONY
- HIT AND RUN, OR LEAVING THE SCENE OF AN ACCIDENT
- RACING ON HIGHWAYS AND STREETS
- USING A MOTOR VEHICLE IN FLEEING OR ATTEMPTING TO ELUDE A POLICE OFFICER
- FRAUDULENT OR FICTITIOUS USE OF OR APPLICATION FOR A LICENSE
- DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
- POSSESSION, DISTRIBUTION, MANUFACTURE, CULTIVATION, SALE, OR TRANSFER OF ANY CONTROLLED SUBSTANCE OR MARIJUANA
- RECKLESS DRIVING
- PURCHASING OF AN ALCOHOLIC BEVERAGE BY A MINOR

Your license will be revoked for six months for the first offense and 12 months for the second offense.

**The Department of Public Safety will also revoke the license of any person who has been identified as an habitually negligent or dangerous driver.** To identify habitually negligent or dangerous drivers, Georgia has established a point system. The Department of Public Safety assesses points for convictions of certain traffic violations. Such violations include, but are not limited to, reckless driving, exceeding the speed limit, and possessing an open container of an alcoholic beverage while driving. For each such offense a certain number of points is assessed against a driver's record. If a driver accumulates 15 or more violation points within a 24 month period, his/her driver's license will be suspended for one to three years.

**Effective January 1, 2002:** If any driver under the age of 18 accumulates four or more points in any consecutive 12 month period, that driver's license will be suspended for 6 months.

**The Department will revoke for a period of five years the license of any person who is declared an habitual violator.** An habitual violator is one who has been convicted three or more times within a five year period of serious traffic offenses listed in 1 through 7 above.

The Department will also suspend the license or instruction permit of any minor, if that minor:

1. has dropped out of school without graduating and has remained out of school for ten consecutive days;
2. has in any semester or two consecutive quarters been absent, unexcused, for more than ten consecutive school days;
3. has been suspended from school for:
  - a. threatening, striking, or causing bodily harm to a teacher or other school personnel;
  - b. possession or sale of drugs or alcohol on school property;
  - c. possession or use of a weapon on school property.

**D.U.I. (DRIVING UNDER THE INFLUENCE)**

### **What is the law in Georgia regarding driving under the influence?**

It is unlawful in Georgia for any person to operate a moving vehicle while:

1. under the influence of alcohol to the extent that it is less safe for the person to drive;
2. under the influence of any drug to the extent that it is less safe for the person to drive;
3. under the influence of any glue, aerosol, or other toxic vapor to the extent that it is less safe for the person to drive;
4. under the combined influence of any two or more substances enumerated in 1-3 above, to the extent that it is less safe for the person to drive;
5. with a blood alcohol concentration (BAC) of .08 or more, for drivers over age 21, **or with a BAC of .02 or more for drivers under the age of 21;**
6. while there is any amount of marijuana or any controlled substance in the person's urine or blood.

### **Why is the legal BAC limit lower for people under 21 years of age?**

Teenagers are still growing both physically and emotionally and therefore are particularly vulnerable to the effects of alcohol. One can of beer can have a greater effect on a teenager than on an adult. This law has been written to protect and assure the safety of people on the road, not to discriminate against young people.

### **How would alcohol affect my driving?**

Alcohol causes poor judgment, loss of concentration, vision problems, impaired reaction time, and other physical and mental effects. Alcohol-impaired drivers constitute a major threat to the safety of the people using the roads.

**If I have been drinking alcohol, at what point is it unsafe for me to drive? At what point could I be convicted of D.U.I.?**

Consumption of alcohol in any amount can be dangerous. Alcohol affects people in different ways. Some people have a greater tolerance for alcohol than others. Factors such as your weight, the type of drink you have, the amount of food in your stomach, and how quickly you drink the alcohol affect your BAC. **The consumption of just one drink may affect your driving to the extent that it is less safe for you to drive, regardless of your BAC. In that case, you may be guilty of driving under the influence of alcohol, even though your BAC may be under .02.**

**What is the "implied consent" law?**

Any person who operates a motor vehicle in the state is deemed to have given consent to a chemical test or tests of his/her blood, breath, urine, or other bodily substances for the purpose of determining the presence of alcohol or of any other drug, if that person is arrested for D.U.I. or is involved in a traffic accident resulting in serious injury or death. The tests are administered at the request of the arresting officer as soon as possible after the arrest or accident.

**What happens if the person refuses to be tested?**

If the driver refuses to submit to these chemical tests, then his/her driver's license is suspended for a period of one year.

**What are the penalties for D.U.I.?**

Depending on the circumstances and the prior record of the offender, a person convicted of D.U.I. may be fined from \$300 to \$5,000, imprisoned from 10 days to 12 months, and required to complete several hours of community service. In addition, the offender's license is suspended.

**What is the "open container" law?**

It is unlawful in Georgia for any person to possess an open container of alcohol while driving a motor vehicle, unless the container is locked in the glove compartment, trunk, or some other locked area of the vehicle. Violators are subject to a fine of \$200.

**D.U.I. while transporting a child under 14:**

A person who is driving under the influence of alcohol or drugs while transporting in a motor vehicle a child under the age of 14 years is guilty of the separate offense of endangering a child while driving under the influence of alcohol or drugs.

**What is the penalty for this offense?**

Depending on the circumstances and the offender's prior record, the penalty may be a fine of \$200 to \$5,000, and/or imprisonment from 30 days to three years.

**ALCOHOL**

Until you reach the age of 21, it is unlawful for you to purchase, knowingly possess, or consume any alcoholic beverage unless for medical purposes prescribed by an authorized physician or for a religious ceremony.

**What if my parents will allow me to consume alcohol?**

You may consume alcohol when your parent gives you the alcoholic beverage and while the possession is in your parent's home while your parent is present.

**What happens if I am convicted of consuming, purchasing or possessing alcohol?**

Juveniles through age 16, if found guilty of this offense, are sentenced as delinquent children in Juvenile Court. Those ages 17 through 20, if convicted of this crime, are sentenced for a misdemeanor.

**EMPLOYMENT**

**When can I get a job?**

There are many laws which regulate the employment of teenagers. Many of these statutes were enacted for the protection of young people at a time when unscrupulous employers exploited children with jobs requiring long hours and low pay. Today teenagers are protected by federal minimum wage standards. In addition, state law limits the number of hours a child 15 or under may be employed. If you are age 17 or younger and you want to get a job, you are required to get a work permit. Contact your school office for more information on obtaining this certificate and for certain rules that may apply to your employment.

**MARRIAGE**

**At what age can teenagers marry?**

Generally, juveniles in Georgia can lawfully contract marriage at age 16.

**Is parental consent required for teens to marry?**

Parental consent is required before anyone under the age of 18 can be granted a marriage license.

**Are there any exceptions to these rules?**

Yes. There are two situations in which a person under age 16 can marry and in which parental consent is not required for those under age 18. One is where the female is pregnant. The other is where the couple are the parents of a living child born out of wedlock.

**EDUCATION**

**For how long must I attend school?**

You are required to attend a public or private school, or an approved home-study program, from age seven through age 15. Once a child attains age 16, there is no legal requirement to attend school. However, if a 16- or 17-year-old is convicted of a crime or delinquent act, a Court may require some form of school attendance as a condition of probation.

**PARENTAL POWER**

**How long do my parents have control of me?**

If both of your parents have custody of you, they both have control of you and are entitled to your services and the proceeds of your labor until you reach the age of 18. If only one parent has custody of you, only the parent who has custody of you is entitled to your services and the proceeds of your labor.

**If my parents are separated or divorced, do I have any right to decide which parent I want to live with?**

Georgia law gives to minors 14 years of age and older the legal right to choose their custodial parent when the parents are divorced or separated. Unless the parent chosen by the child is found to be unfit, the Court must honor the child's wishes. This same rule applies to the child's wishes concerning visitation with the parent who does not have custody.

**Is it possible for parents to lose their parental control?**

Yes. A parent can voluntarily give up parental rights. An example of this is when a parent consents to the adoption of a child. In addition, a parent's rights may be taken away by a court of law because of misconduct or unfitness on the part of the parent.

**What are parents' obligations to their children?**

It is the duty of each parent to provide for the maintenance, protection, and education of his or her child until the child attains age 18, or marries, or otherwise becomes emancipated.

**At what age will I become an adult with all the rights and privileges of adults?**

The age of majority in Georgia is age 18. When you become age 18 you will have the right to vote, to enter into contracts, and to enjoy all the rights and to bear all the responsibilities of adulthood. The only exception to this is the prohibition against purchasing, possessing and using alcohol until you reach 21.

**Do I have to wait until I am 18 before I can join the army or other branch of the armed forces?**

If you have the permission of your parent or guardian, you can join the armed forces at age 17.

**CRIMES RELATING TO SEXUAL OFFENSES UNDER GEORGIA LAW**

**What are the most frequently reported sex offenses committed by juveniles?**

In recent years, there has been a noticeable increase in the following crimes committed by teenage offenders:

- Rape**
- Statutory Rape**
- Aggravated Sodomy (continued on next page)**
- Sexual Battery**
- Public Indecency**
- Child Molestation**
- Aggravated Child Molestation**

## **What is Rape?**

Rape is defined as carnal knowledge of a female, forcibly and against her will. Carnal knowledge, most commonly referred to as sexual intercourse, is any penetration of the female sex organ by the male sex organ. Thus, there are three elements of the crime of rape: carnal knowledge, force, and lack of consent on the part of the female.

## **What does the law mean by force?**

Force may consist of threats alone. Force does not necessarily mean acts of violence such as hitting or the use of a weapon. It does not mean that the female must be physically injured. If the male's words or actions place the female in fear of bodily harm to herself or to others, that is sufficient to show force.

## **What does the law mean by lack of consent?**

Lack of consent means that the female does not freely consent to the intercourse. It is not necessary that the female physically resist the male. Consent which is brought about by fear or intimidation is, in law, no consent at all. Sexual intercourse with a female who cannot give her consent because of intoxication, or because of some mental impairment, is presumed to be without consent.

The bottom line is that sexual intercourse which is not knowingly and freely consented to by the female is rape. Sexual intercourse that is accompanied by any threat, any coercion, or any use of force is rape. Sexual intercourse with a person who is too intoxicated or too mentally impaired to give consent is rape.

## **What is the penalty for Rape?**

Except for extraordinary circumstances, juveniles who are charged with Rape are prosecuted as adults in Superior Court and, if convicted, are sentenced as adults. The maximum sentence for Rape is life in prison. The mandatory minimum sentence is 10 years in prison without parole.

## **What is Statutory Rape?**

Statutory Rape is an act of sexual intercourse with a person under the age of 16. The crime has only two elements: intercourse and a victim under the age of 16. It does not matter if the victim consents. It does not matter if the perpetrator is unaware of the victim's age. It does not matter if the victim looks older than age 16. The bottom line is that any act of sexual intercourse with a person under age 16 is Statutory Rape.

## **What is the penalty for Statutory Rape?**

A juvenile who is charged with the crime of Statutory Rape is prosecuted in Juvenile Court, and if found guilty, is sentenced as a delinquent child. The maximum penalty for adults convicted of Statutory Rape is 20 years incarceration. However, in the situation where the victim is 14 or 15 years old, and the offender is no more than three years older than the victim, then the case is treated as a misdemeanor which carries a sentence of up to 12 months.

### **What is Aggravated Sodomy?**

Aggravated Sodomy is the commission of an act of sodomy forcibly and against the will of the other person involved. Sodomy is defined as a sexual act involving the sexual organs of one person with the mouth or anus of another. Thus, there are three elements of the crime of Aggravated Sodomy: an act of sodomy, force, and lack of consent of the other person.

The same factors discussed above in the section on Rape regarding force and lack of consent apply to Aggravated Sodomy as well.

The bottom line is that an act of sodomy not knowingly and freely consented to is the crime of Aggravated Sodomy. An act of sodomy accompanied by threats, coercion or the use of force is the crime of Aggravated Sodomy. An act of sodomy committed on a person who is too intoxicated or too mentally impaired to give consent is the crime of Aggravated Sodomy.

### **What is the penalty for Aggravated Sodomy?**

Except for extraordinary circumstances, juveniles charged with Aggravated Sodomy are prosecuted as adults in Superior Court and, if convicted, are sentenced as adults. The maximum sentence for Aggravated Sodomy is life in prison. The mandatory minimum sentence is 10 years in prison without parole.

### **What is Child Molestation?**

Child Molestation is defined as any immoral or indecent act to or in the presence of a child under the age of 16 with the intent to arouse or satisfy the sexual desires of the child or of the molester. There are three elements of the crime: an immoral or indecent act, a victim under the age of 16, and the intent.

### **What is an immoral or indecent act?**

The law does not define "immoral or indecent act." The following acts have been found sufficient to convict a person of the crime of Child Molestation: fondling or touching a child's genitals, whether over or under the child's clothes; engaging in sexual acts in the presence of a child; masturbating in the presence of a child; displaying sexually explicit movies, books, or pictures to a child.

### **How can you tell what the person intends?**

The intent to satisfy or arouse the sexual desires of the child or of the molester can be inferred from the circumstances surrounding the crime. If there is no legitimate reason to do the act to or in the presence of the child (for example, a parent often has a legitimate reason to touch a child's genitals for the purpose of hygiene), then the wrongful intent can be inferred. If the act is done in the dark, or secretly to avoid witnesses, the wrongful intent can be inferred.

### **What is the penalty for Child Molestation?**

A juvenile who is charged with Child Molestation is prosecuted in Juvenile Court and, if found guilty, is sentenced as a delinquent child. The maximum penalty for adults convicted of Child Molestation is 20 years. There are additional penalties for repeat offenders.

### **What is Aggravated Child Molestation?**

Aggravated Child Molestation is an act of Child Molestation where the immoral or indecent act either physically injures the victim or where it involves an act of sodomy. Thus, Aggravated Child Molestation has the same three elements as Child Molestation plus the added element of either physical injury to the victim or an act of sodomy.

### **What if the child consents to the act?**

Issues of force and consent are not relevant in Child Molestation and Aggravated Child Molestation. Even if the victim consents to the act, it is still a crime.

### **What is the penalty for Aggravated Child Molestation?**

Except in extraordinary circumstances, juveniles who are charged with the offense of Aggravated Child Molestation are prosecuted as adults in Superior Court and, if convicted, are sentenced as adults. The maximum sentence for Aggravated Child Molestation is 30 years incarceration. The mandatory minimum sentence is 10 years without parole.

### **Will children who are victims of child molestation be punished?**

No. Children who have been molested have done nothing wrong. They are victims of crime, and the Juvenile and Superior Courts will do everything possible to help and protect them. They are not criminals, and they will not be punished.

### **What is Sexual Battery?**

Sexual Battery is the intentional physical contact with the intimate parts of another person without the consent of the other person. Intimate parts are the genitals, anus, groin, inner thighs, and buttocks of a male or female, and the breasts of a female. The two elements of the crime are: physical contact with intimate parts and lack of consent of the other person.

A juvenile who is charged with the offense of Sexual Battery is prosecuted in Juvenile Court and, if found guilty, is sentenced as a delinquent child.

### **What is Aggravated Sexual Battery?**

Aggravated Sexual Battery is the intentional penetration with a foreign object of the sexual organ or anus of another person without the consent of the other person. A foreign object is defined as any object other than the sexual organ of a person. Thus, there are three elements of Aggravated Sexual Battery: penetration of the sexual organ or anus of another, foreign object, and lack of consent on the part of the other.

The discussion of consent in the question on Rape on Page 19 applies to Aggravated Sexual Battery as well.

### **What is the penalty for Aggravated Sexual Battery?**

Except in extraordinary circumstances, a juvenile who is charged with the offense of Aggravated Sexual Battery is prosecuted as an adult in Superior Court and, if convicted, is sentenced as an adult. The maximum sentence for Aggravated Sexual Battery is 20 years incarceration. The mandatory minimum sentence is 10 years in prison without parole.

### **What is Public Indecency?**

Public Indecency is the commission of any one of the following four acts in a public place:

1. an act of sexual intercourse;
2. a lewd exposure of the sexual organs; (continued on next page)
3. a lewd appearance in a state of partial or complete nudity;
4. a lewd caress or fondling of the body of another person.

### **What is a public place?**

Public place is defined as any place where the conduct may reasonably be expected to be seen by anyone other than one's own family or household.

### **What is the penalty for Public Indecency?**

A juvenile charged with Public Indecency is prosecuted in Juvenile Court and, if found guilty, is sentenced as a delinquent child.

### **Are there any other sex crimes which teens should be aware of?**

Yes.

**Sexual Exploitation of Children** is a felony in Georgia. A person commits the crime of Sexual Exploitation of Children when he or she uses, persuades, employs, entices or coerces a minor under the age of 18 to engage in any type of sexual conduct, or the lewd display of genitals or pubic area, for the purpose of photographing the minor. Photographing refers to all kinds of cameras, including still-shot cameras, camcorders, movie cameras or any other method of photographic reproduction. If you are under age 18, and you are solicited or exploited by anyone in violation of this law, you should immediately report the offender. It is the exploiter, not the child, who is in violation of the law. A child who is enticed or exploited by another in violation of this law will not be charged with a crime.

**Incest** is also a crime in Georgia. A person commits the crime of Incest when he or she engages in sexual intercourse with a family member as follows:

1. Father and daughter or step-daughter;
2. Mother and son or step-son;
3. Brother and sister of the whole or half blood;
4. Grandparent and grandchild;
5. Aunt and nephew;
6. Uncle and niece.

### **How are crimes against children reported?**

Many children who are victims of physical or sexual abuse confide in parents, teachers, friends, counselors, pastors, neighbors, doctors, etc. In addition, Georgia law requires certain professionals to report any suspected abuse to social services, to police or to the district attorney. Those people who must report suspected abuse are: doctors, nurses, dentists, or other or medical personnel; psychologists, school teachers, counselors, principals and administrators; others who work with children, such as Scout leaders, and Boys' Club or Girls' Club personnel.

### **Does this law require that consensual sex acts between teens be reported to authorities?**

No. As long as both minors are at least 16 years of age, and they both knowingly and freely consent to the act, there is no requirement that it be reported.

## **PARENTAL NOTIFICATION OF ABORTION**

### **Does a minor female need her parents' consent to get an abortion?**

The general rule is that no abortion may be performed on a minor who has not been emancipated unless:

1. the minor signs a written consent form that she freely and voluntarily consents to the abortion,
- AND**
2. the minor furnishes a statement signed by her parent or guardian that the parent or guardian has been informed that an abortion is about to be performed on that minor.

### **What happens if the parent or guardian refuses to sign the statement?**

If, for any reason, the minor cannot furnish the required statement signed by her parent or guardian, then the abortion may be performed if:

1. the doctor gives at least 24 hours actual notice (e.g., in person or by phone) to the minor's parent or guardian of the pending abortion and the name and address of the place where the abortion is to be performed,
- OR**
2. the physician gives at least 72 hours notice to the parent or guardian by mail addressed to his or her usual place of abode.

**What if the parent or guardian cannot be found, or the minor does not want her parent or guardian to know about the abortion?**

If the minor or the physician chooses not to notify the parent or guardian as provided above (or if the parent or guardian cannot be found), then the minor may file a petition in any Juvenile Court in the state for permission to proceed with the abortion without parental notification. Such petition and all proceedings in connection with it are sealed and provide complete anonymity to the minor. Parents and guardians are not notified of the petition or of the proceedings.

The Juvenile Court is required to grant the minor's request for an abortion without parental notification if the Court finds:

1. that the minor is mature and informed enough to elect to have an abortion without consulting her parent or guardian,
- AND**
2. that it would not be in the child's best interest to notify the parent or guardian.

No filing fees are required to file this petition. The Juvenile Court is required to provide assistance to the child in filing the necessary petition in order to get her request heard by a judge as quickly as possible.

**What is an emancipated minor?**

An emancipated child is one who is no longer subject to the parental power of a parent or guardian. Most commonly a child becomes emancipated when he/she marries. A child may also be emancipated by consent of the parent or by abandonment.