



Liability For Our Children

by John D. Whitaker

Ahh parenthood! Isn't it wonderful? Watching our children flourish while we take the credit for doing such a great job as parents. Well, if you are a parent, you probably know that there are times when being a parent is downright challenging.

Let's speak frankly here: how many of you parents out there will admit to feeling the compulsion to wring the neck of your precious little offspring on at least one occasion? We lawyers usually prefer to use the terms "errors in judgment" or "youthful indiscretions" rather than referring to them as what they really are, "idiotic decisions."

Whatever you call it, kids say and do the darndest things sometimes, don't they? So today's topic is: as parents, are we liable for what our children do?

The short answer to this question is maybe. Kids are generally responsible for their own mistakes. This is true even if they are just kids. In order to fairly answer this question though, we have to talk a little bit about the context of the misbehavior.

In Wyoming, we have a law that imposes liability on a parent for the "willful and deliberate destruction of property" by children over the age of 10 and under the age of 17. This law makes the parent liable for the actual damages the child causes not to exceed \$2,000. So you parents out there who have children who are running amok in the city, willfully destroying property, under Wyoming law you may have up to a \$2,000 problem. Hiding your head in the sand won't help you with this one. If you don't know what your kids are up to at night, you better find out.

A more common situation is where the child negligently causes damage; for example, if your 16-year-old child negligently causes an automobile accident. If the child is not acting willfully or deliberately to cause property damage, then you



may not be liable. Like all other cases, the devil is in the details. If your child sneaks off with your car without your knowledge and permission and while taking a joy ride slams into someone else, you would not be liable (you may also not be insured if this happens, but that is a whole different can of worms). If the child has had 3 speeding tickets and a drunk driving conviction, and you let him use the car after you watched him drink 3 beers the result may be dramatically different. The operative fact here is whether the parent contributed in some way to the ultimate damage the kid causes. Wyoming has rejected the "family purpose doctrine"

which imposes liability on a parent based solely on the relationship. Our Supreme Court requires something more than just the parent/child relationship to impose liability. The question becomes whether the parent knew of the child's proclivity or propensity for the specific dangerous activity which caused the harm. Parents are not expected to keep a constant and unremitting watch over their children, but they can't turn a blind eye toward them either.

Parents may also be subject to criminal prosecution in some instances. If the parent becomes an accessory to a crime by knowingly aiding or abetting the child in the commission of a felony, or where the parent counsels, encourages, hires, commands or procures a felony to be committed, the parent can be found guilty of the same crime the child commits. A parent may also be prosecuted as a co-conspirator in a crime committed by a child, if the crime is committed pursuant to some type of agreement with the parent.

It seems to me that these are all very good reasons to keep track of your kids. If your children are out wandering around in the middle of the night without a real good reason, make them come home. Hillary Clinton says that it "takes a village to raise a child." She is right, but it takes a lot of good parents to make a good village.

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise. This informative column is brought to you by John Whitaker who practices personal injury and criminal law throughout Wyoming. He can be reached at JDWTL@aol.com or by calling his office in Casper at 265-6204.