

STUDENT LEGAL RIGHTS & CAPACITIES – BY AGE

AMAA – Age of Majority & Accountability Act
 CAS – Children’s Aid Society
 CCC – Criminal Code of Canada
 CFSA – Child & Family Services Act
 CLRA – Children’s Law Reform Act
 CNA – Change of Name Act
 Ed Act – Education Act

FLA – Family Law Act
 HCCA – Health Care Consent Act
 HRC – Human Rights Code (Ontario)
 HTA – Highway Traffic Act
 LLA – Liquor License Act
 MA – Marriage Act
 MFIPPA – Municipal Freedom of Information and Protection of Privacy Act

MHA – Mental Health Act
 OWA – Ontario Works Act
 POA – Provincial Offences Act
 SLRA – Succession Law Reform Act
 SDA – Substitute Decisions Act
 YCJA – Youth Criminal Justice Act

6 & OVER

School Attendance Required [Ed Act, s. 21(1)] unless excused under s. 21(1)

Testimony can be accepted in court [Common Law; *Ontario Evidence Act*, s. 18(1)]

7 & OVER

Consent to be adopted required [CFSA, s. 137(6)] but a court may dispense with consent s.137 (9). Exceptions: unless obtaining consent would cause the person emotional harm or if they are not able to consent because of a developmental disability. s. 137(9)

UNDER 12

Can be apprehended by CAS for serious criminal behaviour if the child’s guardian cannot

or will not provide the services or treatment necessary to prevent a recurrence of this behaviour [CFSA, s. 37 (2) (j) & (k)]

Can be the subject of a secure treatment order only with Minister’s consent [CFSA, s.117 (2)]

12 & OVER

Can be prosecuted for provincial offences such as truancy [Ed Act, s. 30(5); see POA, s.93 (a)]

Can be charged with a criminal offense [YCJA, s. 2(1)]

Consent of child required for voluntary care agreements with CAS and voluntary child protection proceedings [CFSA, s. 29(2)(b); s.37(2)(1)]

Can consent on one’s own to counseling by service provider [CFSA, s.28]

Possesses right to consent to or refuse disclosure of a voluntary counseling record [CFSA s. 184]

If in CAS care, can apply to have status reviewed [CFSA, s.64 (4) (a)]

Can be the subject of a secure treatment order [CFSA, s.117]

Right to have any recommendation of a residential placement advisory committee reviewed by CFSA board, and be a party to the hearing [s.36]

Consent required to change name [CAN, s. 5(2)(c)].

Can consent to sexual activity only with a person who is less than 2 years older [CCC s.150 1-153]

14 & OVER

Can stop attending school or attend part time in accordance with the regulations governing the excusal of persons who are at least 14 years old from compulsory attendance at school. [Ed Act, s.11 (8), O.Reg 308/90] (Regulated by the Supervised Alternative Learning for Excused Pupils Committee)

Can reside with third party or non-custodial parent without criminal repercussion to the parent or third party [CCC ss.281, 282] however, the third party must not have assisted the person in leaving the parent/guardian or any other

person who has the lawful care or charge of that person unless the person is over the age of sixteen years [s.280 (1)]

Can be transferred to adult court for prosecution of a criminal offense [YCJA, s.62]

Can consent to sexual activity with a person who is less than 5 years older, except with a person in position of authority or trust [CCC, s. 150.1, 153.1]

UNDER 16

Not permitted in a public place without parents (or other adult arranged with parents) between midnight and 6am [CFSA s.79 (5)]

Can be apprehended and taken to place of safety; and can be the subject of child protection proceedings [CFSA, s. 37(1); 40(2); and CLRA, s.36]

Parents/legal custodians' obligation to provide financial support is absolute and not dependent on child's residence or why child left home [FLA, s.31] unless the parent/legal custodian is financially incapable of doing so

Deemed competent to appoint counsel in proceedings for admission into a psychiatric facility [MHA s.43]

Legal custodian may exercise child's rights to privacy and access to information on child's behalf [MFIPPA, s.54(c)]

16 & OVER

Considered an adult under the POA [s.93 (b)]

Can consent to sexual activity except with a person in position of authority or trust [CCC s. 150 1-153]

Can work during school hours [Ed Act, s.30(3)]

Entitled to participate in decision identifying whether special needs student and subsequent placement [Ed Act, O.Reg 181/98, s.5 (1) & s. 6(2)]

Once 16 and withdrawn from parental control, parents no longer obligated to enforce attendance. [EA 30 (1)]

Can voluntary withdraw from parental control but may lose right to parents' financial support [FLA, s.31]. May

declare independence from parent; place of residence does not alter the status of independence [CLRA, s.65]

Can no longer be apprehended by the CAS unless subject to a court order [CFSA, s.37]

Can apply for secure treatment [CFSA, s.114]

May apply to terminate wardship [CFSA, s.64]

Can refuse emergency treatment [HCCA, s.26]

Can be or appoint a substitute decision maker in medical treatment and personal care matters [HCCA, s.33; SDA, s.43]

Must provide consent for use of invasive medical or psychological procedure [CFSA, s.27]

Must provide consent for disclosure of a CAS counseling record to a parent [CFSA, s.184 (2)]

Substitute decision maker must give effect to patient's treatment wishes made after

patient turned 16 years [HCCA, s.21]

Can marry with parents' consent, court order or Minister's permission [MA, s.5, 6] Only a judge can dispense with the requirement of consent [s.6]; consent is not required if the minor was previously married and whose marriage was terminated by death or divorce [s .5(3)]

Can change name with parents' consent or court order [CNA, s.43 (3); (4)]

If single, entitled to social assistance in special circumstances [OWA, s.11, O.Reg.134/98, amended to 31/06, s.10]

Considered an adult for the purposes of MHA [MHA s. 36.1, 36.2]

Protected from discrimination based on age respecting housing [HRC, s.4]

Eligible for novice driver's license in graduated licensing scheme [HTA, s.37 (2)]

May make decisions regarding their own health care, nutrition, shelter, clothing or safety [SAD

s.45 and s.2 (2)] May become the guardian of another person (e.g. parent, sibling, spouse) if person is or becomes incompetent [s.44]

AGE 17

May register for service in Canadian Armed Forces

If 17th birthday falls between first day of school and December 31, can quit school at the end of that school year [Ed Act s. 21 (b)]

UNDER 18

Parents may be civilly liable for damages caused by their minor children. Liability based on failing to supervise and depends on maturity of child [Common Law; AMAA, s.1]

Litigation Guardian required to sue or be sued civilly unless court orders otherwise [Rules of Civil Procedure, R. 7.02 & AMAA. S.1]

If a student, entitled to reduced minimum wage under ESA regulations [325/90, s.5 (1)]

Can be sued on contracts for necessities (such as housing). May be sued on contracts for

non-necessities if beneficial to the minor [Common Law]

Considered a child under the United Nations Convention on the Rights of the Child [Article 1] unless under the law applicable to the child, majority is attained earlier

18 & OVER

Age of majority, ceases being a minor [AMAA, s.1].

If 18th birthday falls between January 1 and the end of August, can quit school on 18th birthday [Ed Act s. 21 (a)]

Considered an adult under the CCC, will be tried as an adult (no longer a “young person” under the YCJA) [YCJA, s.2 (1)]

Can sue or be sued in their own name as no longer a minor under Rule 7.02 [AMAA, s.1]

Eligible to vote [Election Act, s.10 (1); 15 (1)]

Adult for the purposes of the Ed Act [S.1 (2)]

Protection from age discrimination [HRC, s.10]

Can appoint or be a substitute decision maker with respect to property matters [SDA, s.4]

Cannot be the subject of child protection orders. Existing protection orders may or may not be extended by CAS [CFSA, s.71]

Can no longer be the subject of custody or access orders [CLRA, s.18 (2)]

Parents obligation to provide financial support ceases, unless in school full time unless the parent is incapable of doing so [FLA, s.31 (1)]

Eligible for social assistance, if in need [OWA]

Entitled to earn full minimum wage [ESA, O.Reg. 325/90, s.5 (1)] except in certain circumstances where liquor is directly served to patrons and where a lower wage is permitted

Can enter into contracts for real estate and items not essential to preservation of life [Common Law and Substitute Decisions Act, s.2]

Can conditionally make a will [SLRA, s.8]

Can change name [CAN, s.1; 4(3)]

Can marry without permission [MA, s.5]

Legal custodian requires student’s consent to access information contained in OSR [Ed Act, s.266]

Student can appeal own suspension/expulsion [Ed Act, s.311]

Can buy a lottery ticket [OLGCA S. 13 (1)]

19 & OVER

Can consume alcohol [Liquor License Act, s.30 (1)]

Can purchase tobacco [Tobacco control Act, s.3]

Eligible for GST refund credit [ITA]

Non Age-Based Milestones

Every individual is equal before and under the law and has the right to the equal protection and benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin,

colour, religion, sex, age or mental or physical disability. [*Canadian Charter of Rights and Freedoms*, s.15 (1)]

All rights or powers conferred on a person by MFIPPA (e.g. request information or a change of information) may be exercised, if the person is less than sixteen years of age, by a person who has lawful custody of the individual [s.54 (c)] however when the student reaches age of majority (age 18) the student takes full responsibility for those rights and powers.

NOTE: s. 16(5) of the Divorce Act and s.20(5) of the Children's Law Reform Act allow that unless there is a court order to the contrary, custodial and non-custodial parents retain the right to make inquiries and to be given information concerning their child's health, education and

welfare. This ceases at age 18.

Under the Child and Family Services Act [CFSA] every child, regardless of age, has the following rights:

- to speak in private with independent legal counsel;
- right to speak in private with Ombudsman, MP or MPP;
- right to send and receive mail that is not read, examined or censored by another person [Enumerated rights of children in care, s.103(1)]
- may request a residential placement advisory committee hearing and participate in same [Review is mandatory when requested by a child 12 and over [s.36(6)(b), discretionary otherwise 36(7)]
- right to be consulted in development of his/her individual plan of care and

any changes made to it [s.105]

- right to be consulted and to express his/her views to the extent that it is practical given the child's level of understanding, regarding significant decisions [s.107]
- assessment (psychological, education or social) ordered by a court cannot be used in any other context or proceeding without consent of the child (no proxy permitted) [s.54(8)]

Right to see school records [Ed Act, s.266]

Entitlement to attend school depends on residence of parent or tenancy of pupil in school board area [Ed Act, s.36]

Consent to medical treatment depends on mental capacity not age [HCCA]. Person of any

age may grant or refuse consent to medical treatment if they are able to understand the consequences of the decision [Common Law]

Federal HRC and Charter protect all ages from age discrimination [*Canadian Human Rights Act, Charter*]

Single parents of any age are eligible for social assistance, if needed [OWA]

Parents or married persons of any age are eligible to claim GST refund credit [ITA]

Can consume alcohol at home or other private place if supplied by parent at that location [LLA s. 30 (13)]

Civil liability of minors depends on maturity not age (no known case ascribing liability to a child of "tender years" i.e. under 6 years) [Common Law]