

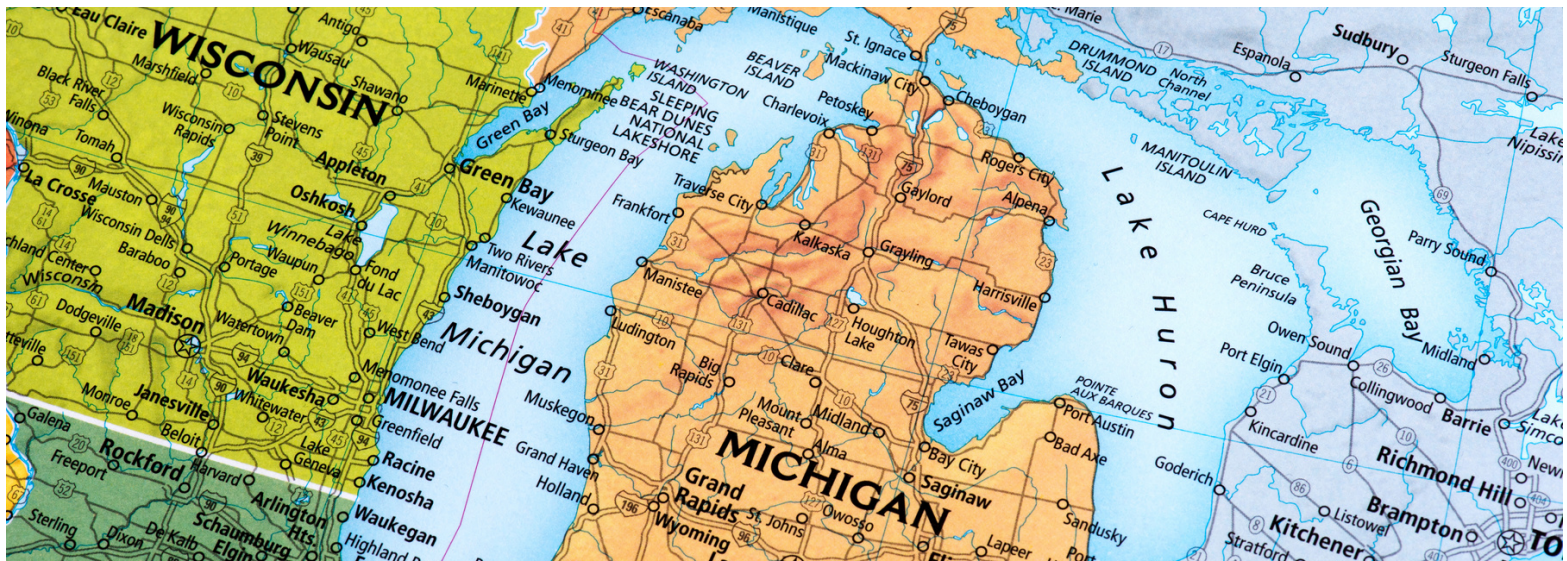
A Parent's Guide

Understanding Criminal Offenses and Law
Enforcement Interaction



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Introduction

During my 20+ years of practice, I have represented many young adults. Often times, parents and guardians are involved and supporting them throughout the legal process. Nine times out of ten, parents will ask what they could have done differently. Frequently, young adults make poor decisions due to a lack of education or simply not knowing how to handle a given situation. They do not realize or understand how serious their actions can be and the consequences that can arise as a result of them.



Attorney & Father
Barton Morris

Once an incident has occurred and law enforcement gets involved, what happens next? What should your young adult do and say moving forward? These are the types of questions this guidebook will help address.

Law enforcement's attention can be easily directed toward young adults since they are less experienced and less informed. As parents, we want our children to make smart decisions and be safe- but sometimes, they may be in the wrong place at the wrong time or spending time with the wrong people. Sometimes being charged with a criminal offense gives individuals the wake-up call to get themselves straightened up and lead a lifetime of good behavior. However, the criminal justice system can be unfair, particularly to minorities.

Whether the attention has been justifiably directed towards your young adult, they should understand how to protect and conduct themselves in situations and circumstances when they are approached by and interacting with law enforcement.

I am a DUI Defense Lawyers Association Faculty Member and past President of the Michigan Association of OWI Lawyers. I am proud to be 1 of 60 lawyers nationwide to have earned the distinction of Forensic Lawyer-Scientist by the American Chemical Society and remain the only lawyer in the State of Michigan with this distinction.

I hope you share this information with others and that we can help guide and keep our children safe together.

Yours respectfully,

Barton Morris

General Law Enforcement

It is common for law enforcement to be drawn to young adults because they believe that they are more likely to commit criminal offenses, regardless if this is true or not. It is very possible that young people will be approached by the police, even if they are doing nothing wrong. Any suspicious behavior in a variety of situations could prompt law enforcement officials to approach and ask questions.

The general rule is to be polite while not cooperating with their investigation. This means not admitting to using illegal substances such as drugs or alcohol and not consenting to a personal or vehicle search. Additionally, it is wise to refrain from making any statements to the official, especially if you feel you could potentially incriminate yourself.

Every person has the right to remain silent and to have an attorney present. Understandably, this can be difficult under certain circumstances. However, if a person feels as though they are a suspect in a crime the police are investigating, it is best to remain silent and ask for an attorney to be present before answering any questions.

Someone who has been pulled over does not have the right to an attorney, but they certainly have the right to remain silent. The right to have an attorney present during questioning occurs after an arrest has been made. An arrest is defined as a situation when the police have detained a suspect to the degree that they are no longer allowed to leave.

Asserting the right to an attorney forces the police to stop asking questions as a matter of law. They cannot continue to ask questions once a person has asserted their right to an attorney.

If you are under arrest, an officer must read your miranda rights * to if he/she is going to interrogate you.



Just as you see in movies, police officers are required to read or recite your rights if they are asking questions that could incriminate you. Do not volunteer information, or this may not apply to you. *"Miranda Rights" comes from a historic 1966 U.S. Supreme Court case called *Miranda vs. Arizona*. The court held that if the police want to question (interrogate) a person in police custody, they must tell them of the Fifth Amendment protection against self-incriminating statements and their right to an attorney. If police use questions they asked you, against you, and did not recite your miranda rights, the information can be suppressed.

"You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak with me?"

Traffic Tickets

Under Michigan's graduated licensing system, a 16-year-old teen driver with a level 2 graduating licensing status "shall not operate a vehicle between the hours of 10:00 p.m. and 5:00 a.m. These rules do not apply to a level 2 teen driver when they are driving:

- with a parent, legal guardian, or driver over the age of 21
- going to or from work
- going to or from an authorized activity, such as school, church, sporting activity or extracurricular event, or transporting an individual in immediate need of emergency care.

The penalty for violating the 16-year-old driving curfew is a civil infraction, which could result in the extension of the 6-month minimum requirement for having a level 2 permit, as well as an extension in driving restrictions. Remember, as of June 30, 2023, it is illegal to hold or use a cell phone (mobile device) while driving. A police officer can ticket you if they perceive any driver as "distracted".

We always recommend parent's know where their young drivers are at, and supply a note in case teen is driving past curfew hours.



Teens and young adults often do not disclose the fact that they have received traffic tickets. Sometimes, they ignore them altogether, which allows their license to become suspended as a result. Parents should never allow this common issue to go unnoticed. Not only will this course of action lead to a license suspension, but it will likely lead to additional penalties should a driver get pulled over while driving with a suspended license. Driving with a suspended license is a misdemeanor.

If arrested, a police officer has the right to search a vehicle, which could lead to further charges. It is essential to handle traffic tickets seriously and wisely.

Every ticket should be negotiated in court. Hiring an attorney to take care of traffic violations is usually relatively inexpensive and will often save time and money, especially when it comes to car insurance rates. It is recommended that these types of matters be handled with a formal hearing whenever possible, as a witness (typically the police officer who issued the ticket) will need to appear in court at your scheduled hearing. Often, the witness will miss the hearing resulting in the charge being reduced or the case being dismissed entirely.

Traffic Accidents

Should an accident occur, it is best to stop and identify yourself. It is a misdemeanor to leave the scene of a traffic accident without identifying who you are. Once you have informed the proper authorities of your identity, the penalty of leaving the scene becomes far less. Failure to report an accident is only a civil infraction.

Should anyone involved in the accident suffer a personal injury, the paramedics should be contacted immediately. It is ethical that a person summons medical attention and aid to the injured individual. By doing so, the police will be alerted.

It may not be your or your child's first inclination to report an accident when it occurs because of the adverse effects on car insurance premiums, potential fines, tickets, and the resulting investigation of the accident. Often, people believe exchanging information is sufficient. However, this is not necessarily always true. By contacting authorities, you may unnecessarily open yourself up to potential personal or vehicle searches. However, the benefits outweigh the negatives.

A police report of the accident will strengthen your case should you seek compensation for damages or sustained injuries. It will also provide your insurance company with evidence for a potential claim. During and after the accident, the body surges with adrenaline. After the shock has worn off, you may experience symptoms of injury you had not noticed while dealing with the wreck's immediate after-effects. Not all injury symptoms present immediately. You may experience pain later, but having a police report ensures you can seek medical attention when needed.



Alcohol, Drugs, and Driving



*"These are only statistics until it happens to you
or someone you love"*

Combined with a lack of experience, driving while intoxicated becomes a common cause of teen motor vehicle accidents. 35% of young drivers were speeding at the time of the incident. Male teens are especially at risk for being involved in fatal reckless driving accidents.

An analysis from the Zebra Group, which evaluates insurance information, concluded that Michigan is "the most dangerous state for teen drivers." Motor vehicle crashes, the group said in their March 2023 report, are a leading cause of death for teenagers in the United States.



When young adults get into trouble, it is usually centered around the use of alcohol, drugs, or reckless driving.- frequently involving operating a vehicle. When people consume alcohol or drugs, their judgment becomes impaired and can easily lead to criminal offenses. The most common violation of young adults is driving under the influence or reckless driving. Not only are they putting themselves at risk, but other drivers on the road. This is very dangerous, and the consequences could be deadly.

The best way to avoid a DUI is to avoid drinking altogether and avoid getting behind the wheel if one has been consuming alcohol. As a minor, there is no exception to the law that states you must be 21 years of age to purchase and consume alcohol and marijuana. If convicted, a young adult can lose hard-earned opportunities such as academic or athletic scholarships or jobs, and the consequences can last a lifetime. Although we never condone a minor drinking or using cannabis, we are here to defend your child should this happen. Call us immediately.

Alcohol, Drugs, and Driving

How should someone respond if they get pulled over by the police and have consumed alcohol and/or drugs?

If the police are conducting an investigation where you are the suspect, it is best not to assist them by giving them all the evidence necessary to charge you. Do not admit to any consumption of drugs or alcohol. Also, please don't submit to or attempt to take a field sobriety test. No law in Michigan states that a driver being investigated for driving while intoxicated must take the field sobriety test. Politely refusing to take this test is within everyone's rights. More times than not, whether a person has been drinking alcohol or not, they are likely to do poorly on the test.



People almost always agree to take the test because they believe they have to. The same can be said about taking a breathalyzer administered on-site. This is called a preliminary breath test, which could lead to an arrest depending on the results.

The only reason to take the preliminary breath test would be to demonstrate that someone's blood alcohol content is lower than 0.08. An overwhelming majority of people that take the test are likely to be above the legal limit. Again, the goal is not to assist the police in obtaining evidence against you.

Alcohol, Drugs, and Driving

The best course of action is to politely refuse and see what happens next. The penalty for not taking the test is a civil infraction, which does not result in a license suspension. In some instances, the police will request that the vehicle be parked somewhere and releases the driver to walk away. The police cannot arrest someone without probable cause. When a person submits to field sobriety test and a preliminary breath test it almost always results in probable cause to arrest.



The breath test administered after an arrest is the breath test that counts. If the driver is arrested and then offered a breath test, it is recommended that the test be taken at the police station. The penalty for refusing the breath test at the police station is a one-year license suspension, which is not worth it in most cases.



It can be strategic to do so if a repeat offense would be of concern, in which case, a license suspension would occur regardless. However, in almost every situation where the official on-site breath test is declined, the police will obtain a warrant for a person's blood, which will result in a chemical test being performed, and it could be even more difficult to challenge. That is why it is generally best practice to submit to the breath test offered at the police station.

Search Requests

When a police officer asks to search an individual's home, person, or car- it should be understood that they are a target in an investigation and the officer does not have the legal right to perform that search. If they did, then they would not be asking in the first place. Even if there is nothing to hide, allowing an officer to search your property is not a good idea. It is everyone's constitutional right to be free from unreasonable searches.

Denying consent does not require a good reason. Further, law enforcement agents cannot coerce consent. We also have a constitutional right to be free from coercion. A repetitive request could be construed as coercion. Again, as much as you may wish to comply, it is always best to politely decline.



Theft and Property Crimes

Entering another person's home without permission is called home invasion, and it is one of the most serious felony offenses that exist. Yet, for some reason, it is often not taken seriously by young people. A felony is an offense where the maximum possible sentence is greater than two years. Entering a person's home and taking anything of value from inside of it is a higher degree of home invasion and carries serious penalties and potential charges.



Even taking something from a building or a home in which someone is lawfully present is a felony-called larceny. For instance, if an individual were at a neighbor's house, with the neighbors permission and decided to take something of value, like a piece of jewelry, even if the value is nominal such as \$10, this act could result in a felony charge that could be punishable up to five years in prison. Young adults often equate this type of theft to that of taking an item from a retail store. Retail fraud is considered a misdemeanor, which is when the maximum possible penalty is less than two years.

Dealing Drugs



Minors that use controlled substances often resort to selling them to others with the intent to get theirs for free or at a cheaper price. The intent to make money has to do with the penalties associated with the distribution and trafficking of illegal drugs or controlled substances. Even the sale of marijuana is still a criminal offense if it is intended for the exchange of money. This is particularly true if the person it is being sold to is under the age of 21.

The more dangerous the drug, the penalties become more severe. Again, since young people may distribute to others for social purposes, in their minds, they may not feel what they are doing is wrong, or because they are "young," they will not get into much trouble. If a person they gave a drug to overdoses, has a seizure, has a medical issue, or dies, they will be held criminally responsible.

Narcotic pills and other hard drugs such as cocaine, heroin, methamphetamines, and fentanyl are hazardous and are examples of what young adults may associate serious charges with. But the consequences are serious... regardless of the drug type.



Sexual Assaults



Unfortunately, in today's society, with the rise of social media, there is a tendency to encourage the objectification and sexualization of young men and women. Individuals with social media accounts might post provocative images with the intent of increasing their followers. Revealing photos are proven to increase the number of likes, engagement, and a visual depiction of a minor that is or appears to be engaging in sexually explicit conduct is considered child pornography.

Receiving or distributing any pornographic material containing a minor is an extremely serious federal crime with a mandatory minimum prison sentence of five years. Imagine if a young person were to have a relationship with a minor who texts or uses any social media platform to send sexually explicit photos. Possessing such a photo, even temporarily, is a severe offense. Sending it to another person is a felony and almost certainly guarantees a prison sentence.

One of the scariest and most serious criminal offenses that young people are most misinformed about is sexual assault. First, they come with the most severe penalties, which can include long periods of incarceration, and registering as a sexual offender for the rest of your life. Young adults often do not realize that some behaviors can be considered sexual criminal offenses.

Sexual Assaults

Did you know that the simple act of slapping another person's backside with sexual intent, when unwanted, is a criminal sexual assault? The intent can be demonstrated with words that suggest a sexual attraction.

While many may think this is innocent, others may not. You never know when something will be reported to the police. It is not uncommon to give enough alcohol or drugs to another person that it reduces their defenses or lowers their inhibitions. If a person has consumed enough alcohol that they cannot consent to a sexual act or "say no," and a sexual act occurs, it quickly becomes a criminal sexual assault. Even someone who attempts to have sex with someone intoxicated can be found guilty of intent to commit a criminal sexual assault. If an individual is convicted, these offenses almost always carry jail time and sex offender registration. Further, any sexual contact with a person under the age of 15 is considered statutory sexual assault, regardless of the other party's age or their lack of knowledge of the minor's age.



It is important to take conversations with your children seriously. It is often the hardest for kids of any age to share personal information or experiences about events they perceive as embarrassing. It is also important to assure your child that they did not cause the actions another person did to them. We suggest hiring an attorney before you go to the police to ensure your child is properly protected.

Cyber Bullying

Did you know that 95% of Teenagers are online, and 60% have witnessed online bullying?

Cyberbullying is a pervasive issue that can affect anyone with internet access, and it is particularly prevalent among children and teenagers. Research indicates that approximately 1 in 4 teens and 1 in 5 tweens have experienced cyberbullying. This form of bullying involves using technology to demean, harm, or cause pain to another person, often through social media, online games, discussion boards, or text messaging. Cyberbullying can have severe psychological consequences, including increased stress, anxiety, depression, and even thoughts of self-harm or suicide. It can also impact a student's academic performance, attendance, and self-esteem.

As parents, engaging in open and regular conversations with your children about online safety and cyberbullying is important. This includes monitoring their online activities, setting rules about interactions on social media, familiarizing yourself with the signs of cyberbullying, and creating a game plan to address it if it occurs. Please encourage your child to report cyberbullying to a trusted adult, such as a teacher or parent, and ensure that they won't get in trouble for speaking up. Taking screenshots of incidents, blocking cyberbullies, and contacting the relevant social media platforms for post removal are steps that can be taken. In severe cases involving threats or illegal activities, it may be necessary to involve law enforcement. By actively addressing and preventing cyberbullying, we can protect the well-being of our children in the digital age. We have included an anonymous tip-line for minors 18 and younger on our resources page.



In the State of Michigan, The Michigan Cyberbullying Law, also known as Public Act 457 of 2018, which came into effect in March 2019, criminalizes cyberbullying. Under this legislation, cyberbullying can result in a misdemeanor charge, punishable by a maximum of 93 days in jail and a fine of up to \$500. Additionally, there are felony provisions within the law. If an individual engages in a "pattern of repeated harassment," they may face felony charges, which carry a fine of up to \$5,000 and a potential prison sentence of up to five years.

In the most severe cases where cyberbullying leads to a person's death, the perpetrator can face up to ten years in prison and a fine of \$10,000. The Michigan Cyberbullying Law aims to address the severe consequences of cyberbullying and promote a safer digital environment.

Athletes Under the Age of 18



As parents, we know that any child involved in competitive sports runs the risk of injuries and exposure to aggressive sports parents, coaches, or unfamiliar people within an organization. This is especially true for those kids on competitive travel teams or on a circuit that becomes competitive for college recruitment, athletic scholarships, or programs such as USA Junior Hockey League, Canadian Junior Hockey League, USA Hockey National Team Development Program, Elite Level Gymnastics and Figure Skating or programs that are similar for Football, Baseball, Lacrosse, Cheerleading, or opportunities where athletes are billeted.

As parents, this is an exciting time for the years of effort they and their child have dedicated to sports and academics, and seeing an end goal towards college or other advanced programs can be a fulfilling moment.

Unfortunately, it is also a moment when a parent must entrust their child to another person or people within a program that they not only have no control over but with people they are unfamiliar with in that program.

Predators are at an all-time high. As parents, we never want to hand our children to a sexual predator or an abusive authority figure. It is imperative to learn the signs of sexual abuse, grooming, and abusive behavior and have an open conversation with your children. Sexual abuse and grooming have no sexual orientation preference, nor does it have any age limits. If a coach, team doctor, or any member of an athletic program verbally abuses a child, or your child shows signs of anxiety when around a member of an organization, or fellow teammate, signs of behavioral changes, such as weight loss, sleeplessness, depression, loss of appetite, to name a few, deserves immediate attention.

Athletes Under the Age of 18

Parents need to vet the programs their children are participating in properly. With the number of predators in organized sports programs, it's always best to know the program's policies and ask whether they perform thorough background checks on every person your child may be spending time with. This includes coaches, volunteers, medical staff, and other adults with access to your child. Learn to recognize grooming behaviors and carefully observe your child's behavior. Have regular conversations with your child and ensure they have the space to voice what makes them uncomfortable around specific people. Open and safe dialogue with your child will help when assessing a child's safety. Make sure to teach your children boundaries they should enforce about their bodies assuring the child they can tell an adult no, if a personal boundary is breached by another person.



If you suspect your child is a victim, we highly recommend hiring an attorney since they would be familiar with the state laws. Also, make sure the organization is following its policies and bylaws. This is because, as a rule, only a volunteer who has repeated access to youth is in a position to groom them for molestation. Whether background checks are required or not, a lot can be accomplished by educating the team/league, volunteers, and parents on inappropriate boundary invasions.

It is also interesting to note that litigation for sexual abuse and molestation can occur decades after the incident. This is because this type of behavior has no statute of limitations.

Furthermore, the alleged abuser, the legal entity, and respective directors and officers will all be sued for failure to screen, failure to respond to an allegation, or failure to implement policies and procedures to prevent occurrences. In addition, the past administration will be held accountable for its lack of oversight.

If you suspect your child is a victim of sexual abuse or of being groomed, call an attorney. You and your child must be appropriately represented when initiating a claim. Mistakes made early on could jeopardize your child's case.

WHEN YOUR TEEN TURNS 18 YEARS OF AGE

It is essential to prepare you and your teen, whether traveling for fun, activities/competitive team opportunities, or college; when they turn 18 and are officially out of high school, they are now considered a legal adult.

That means you are no longer a parent with full access to your child. We highly recommend you hire an attorney to draft the following legal documents to be signed upon your teen's 18th birthday:

1. Health Care Power of Attorney

This authorizes a parent, legal guardian, or entrusted person to make medical decisions on behalf of your teen should they become ill, have an accident, become unconscious, can't speak, and can no longer make decisions for themselves. This document gives the appointed designee(s) the Medical Power of Attorney to make medical decisions on their behalf. It also allows the designee(s) the ability to move the patient to another hospital, access all medical records, speak with the doctors, and be responsible for the patient's welfare, making all decisions necessary in their best interest.

When your teen turns 18, it is essential to discuss the "what if's" and to give "scenarios" where this would be necessary to have and allow your teen to decide whom to name. They can name multiple people. Without this document, you cannot, under no circumstance, due to HIPAA, be allowed to speak with the doctors, make any decisions, or move your teen to another location, without a court order.

Often, we see this happen to teens who have an accidental overdose in college. A parent is not given an explanation as to why the teen is in the hospital or the condition of the teen. It could be too late if this document is not in place during a catastrophic event. The hospital will always protect itself and its staff first. This is an essential document for everyone to have.



This is an important document that all parents should consider for kids under 18 that travel often with family, friends, or organizations that will be responsible for their welfare, even if it's temporary.

2. HIPAA (Health Insurance Portability and Accountability Act) Authorization aka HIPAA Release

This is recommended as a safeguard against insurance carriers or hospital policies that might require one at your most vulnerable time. This narrower document permits healthcare providers and insurance companies to disclose your teen's healthcare information to you or anyone specified on the document. This document can also stipulate what your teen may not want to disclose, information such as sexual activities or treatments, drugs, mental health, or other details they prefer to keep private. Respecting your teen's privacy and wishes is important, as this is only for catastrophic purposes. We recommend this document as a secondary line of protection, as some hospitals within the state or outside the state may require it, in addition to the Health Care Power of Attorney.

3. Durable Power of Attorney

This document grants an appointed person (parent, legal guardian, etc.) the power to make financial decisions on your teen's behalf. If your teen becomes unconscious or incapacitated, the designee(s) can make financial decisions in the teen's best interest. This includes managing bank accounts, paying bills, breaking or applying for a lease, scholarships, or loans. You are conducting your child's financial and legal affairs if they are unable. This applies to their respective jobs, programs, or university where an extended leave of absence would be necessary for an incident that may have left your teen unable to speak for themselves.

As parents, we get caught up in the excitement of preparing our teens for life on their own. In doing so, we forget that these documents are THE most important in continuing to safeguard our loved ones. All families should have these documents in place, but more so for teens moving away from home for the first time. It is already too late if an accident occurs and these forms are not in place. We strongly recommend that all families make an appointment with an estate planning attorney as soon as possible.

We are offering all visitors a customized package of these 3 documents plus an added FERPA document, allowing parents access to university records. All these documents can be finalized with a remote notary at a discounted rate. Please fill out the contact form if you are interested.



Resources

Alcoholics Anonymous

AA Michigan, a state-wide recovery resource devoted to supporting people who need help. AA Michigan helps individuals struggling with alcoholism find the help they need on a local basis. Visit www.alcoholicsanonymous.com/aa-meetings/michigan* or call **800-839-1686** for more information.

Basic Driver's Improvement Course (BDIC)

Basic Driver Improvement Courses are courses offered by sponsors approved by the State of Michigan. Passing a BDIC permits drivers with an opportunity to avoid points on their records and the ticket information from being sent to insurance companies. The driver must be eligible to take the course and may only avoid points once under this program. Visit www.michigan.gov/sos/faqs/license-and-id/basic-driver-improvement-course for more information.*

Substance Abuse and Mental Health Services Administration (SAMHSA)

Behavioral health treatment services locator is an easy and anonymous way to locate treatment centers in your area. The Hopeline also offers a live chat feature for those who don't want or are unable to call and can dispatch emergency help to your location if necessary. **1-800-662-HELP (4357)** or visit www.findtreatment.samhsa.gov*

National Hopeline Network: 1-800-SUICIDE (784-2433)

This national hotline is a valuable resource for people whose depression has escalated to suicidal or other harmful thoughts. This network of crisis centers provides emotional support and guidance to those in distress and are available via chat as well. Visit www.hopeline.com

National Youth Crisis Hotline: 1-800-446-4663

This resource provides brief interventions for youth who are dealing with sexual abuse, pregnancy, child abuse, depression, and suicide. They provide referrals to local counseling, treatment centers, and shelters.

Michigan Okay 2 Say: 855-565-2729

This resource is geared toward students in K-12 schools, to allow them to speak up when they become aware of safety issues within their schools. There are 5 different ways that students can tip in to OK2SAY, Phone: 855-565-2729, Text: 652729, Email: OK2SAY@mi.gov* and Apps available on Google Play and App Store.

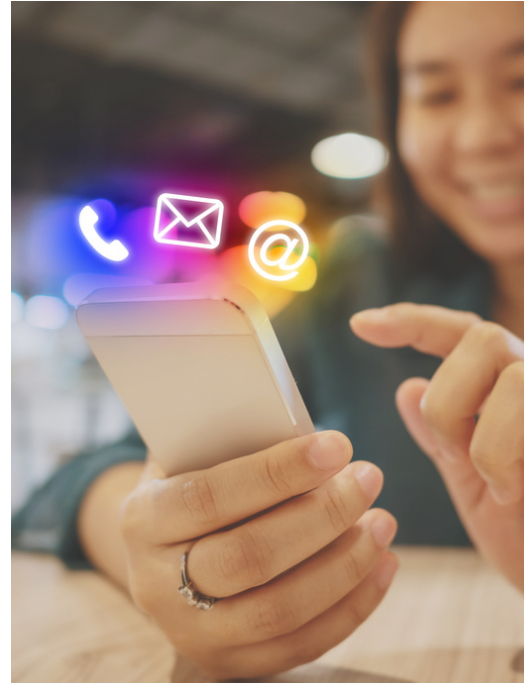
*Third-Party Disclaimer, the following links are not affiliated with The Law Offices of Barton Morris

How to Contact Us

The Law Offices of Barton Morris offer reliable legal counsel for your family and business needs.

If your child gets in trouble with the law, we urge you to call us.

We are a trusted resource for parents and kids across Michigan.



248-283-4982



www.bartonmorris.com



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