

JUVENILE CRIME AND CONSEQUENCES IN KANSAS

An information booklet for juveniles



by Kansas Legal Services, Inc.



Acknowledgements

This booklet was prepared by Kansas Legal Services, Inc., in cooperation with Sedgwick County Department of Corrections, with funds provided by the Center for Children's Law and Policy and the DMC / Juvenile Justice Action Network: An initiative supported by the John D. and Catherine T. MacArthur Foundation (www.macfound.org).

September 2011



*Sedgwick County...
working for you*

CENTER FOR
Children's
Law and Policy

DMC / Juvenile Justice
ActionNetwork
A Project of
Models for Change

Forward

What happens if you get in trouble as a juvenile? Will you get arrested? Have to go to court? Will the judge lock you up? What are your rights during this process? This booklet will help to answer those questions.

What about other consequences of committing a crime? Everything you do has consequences – if you act out in school you could get suspended, if you come home after curfew you might get grounded. If you get in trouble as a juvenile, how might this affect your life tomorrow, or next year, or in 10 years from now? This booklet will talk about how a crime committed now can have negative consequences later on, even after you've served your sentence and the judge has closed your case.

Knowledge is power. If you understand how the juvenile justice system in Kansas works, then you can better decide how YOU want to live your life and what YOU want your future to look like.

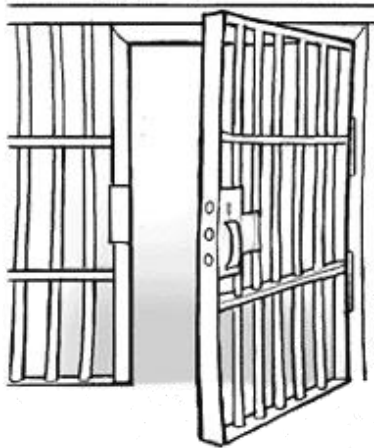


Table of Contents

What Will Happen if I Get Arrested?	1
Should I Tell the Officer What Happened?	2
If I Get Arrested, Does that Mean I've Been Charged with a Crime? ..	3
How Will I Know if I've Been Charged With a Crime?	3
What Will Happen When I Go to Court?	4
If I'm Found Guilty, Does That Mean I've Been Convicted of a Crime?	5
If I'm Found Guilty, What Will My Punishment Be?	6
What is Expungement?	8
How Do I Get a Charge Expunged?	8
How Will a Juvenile Charge Affect Me If I Commit a Crime as an Adult?	9
Will Having a Juvenile Record Make it Harder for Me to Get a Job or go to College?	10
Will I Still Be Able to Join the Military if I Have a Juvenile Record?..	10
Can My Family Get Kicked Out of Public Housing if I Get in Trouble?	11
If I'm Not a U.S. Citizen, Will a Juvenile Charge Affect My Immigration Status?	12
Will Getting in Trouble As a Juvenile Affect My Ability to Legally Carry a Firearm?	12
What Are the Consequences of Underage Drinking?	13
What Are the Laws Regarding Juveniles and Sex Offenses?	14

What Will Happen if I Get Arrested?

If you get arrested, the officer will take you to the Juvenile Intake and Assessment Center (JIAC). JIAC staff will go through an intake questionnaire with you to find out things like how you're doing in school, if you use alcohol or drugs, if you've ever been in trouble before, etc. This information helps JIAC staff determine if there are some services in the community that might help you stay out of trouble in the future, like family counseling, drug and alcohol treatment, or educational programs. JIAC staff will contact your parent or guardian and will go over this information with them as well.

At the end of the intake process, you will either be allowed to go home or you will be taken to the Juvenile Detention Facility (JDF). Which of these happens depends on why you were brought to JIAC – the more serious the offense, the more likely you are to be detained at JDF. For example, if the officer suspects you committed a **misdemeanor**, like shoplifting, you're more likely to get released than if you're suspected of committing a **felony**, like breaking into a house. If the officer suspects you committed a **person felony**, you will almost certainly be detained at JDF.

What's the difference between a felony and a misdemeanor?

They're both crimes, but a felony is more serious than a misdemeanor.

Examples of misdemeanors:

Petty Theft

Possession of Marijuana

Battery

Disorderly Conduct

Examples of felonies:

Burglary

Robbery

Aggravated Assault

Criminal Threat

*A **person felony** is a crime against a person (like threatening somebody with a gun). A **nonperson felony** is a crime against property (like stealing a car). Person felonies are generally more serious than nonperson felonies.*

Whether you get released or not also depends on other things like how many times you've been brought to JIAC before and if there are concerns about the safety of you or the community if you were to get released.

If you are booked into JDF rather than released, you will have a **Detention Hearing** within a couple of days. You will get to talk to the judge, and he or she will decide if you should be released until your next court date (assuming charges are filed) or if you should continue to be detained at JDF. You will get to meet with a lawyer before this hearing, and they will represent you when you go in front of the judge. If you get released, the judge will usually order that you follow certain conditions, like going to school every day, following a curfew, obeying the rules at home, etc. If you don't follow the conditions, you can be brought back to JDF and may have to stay there until your next court date.

*What's the difference between an **attorney** and a **lawyer**?
Nothing. They're just two words for the same thing. Like soft drink and soda pop.*

Should I Tell the Officer What Happened?



If you've been arrested, the police officer has to read you your **Miranda Rights** before they can ask you questions about what happened. The point of reading you your rights is to warn you that you could be entering dangerous territory! What you say now may come back to bite you later. The best thing to do is to tell the officer you want to talk to an attorney. *You're never going to get into MORE trouble if you ask for a lawyer.* There will be plenty of time to tell your side of the story later.



Your Miranda Rights:
"You have the right to remain silent. Anything you say or do can and will be used against you in a court of law. You have the right to speak to an attorney, and to have an attorney present during any questioning. If you cannot afford an attorney, one will be appointed for you at government expense."

You **DO** need to tell the police officer basic information about you, like your name, your address, and your parents' names.

Also, when the officer brings you to JIAC, you **DO** need to answer questions from JIAC staff. JIAC staff are not police officers, and what you say to them cannot be used against you in court.

If I Get Arrested, Does that Mean I've Been Charged with a Crime?

Not necessarily. It's the police officer's job to arrest you and bring you to JIAC, but they're not the ones who decide whether to charge you with a crime. That's the prosecutor's job. Sometimes it takes awhile for the prosecutor to make a decision whether to charge you or not. For example, the police may still be investigating the crime – talking to witnesses, looking for suspects, and gathering evidence like fingerprints or DNA. For most crimes, the prosecutor has to make a decision whether to charge you within 2 years after the incident occurred. This is called the **statute of limitations**. For some very serious crimes, like rape or murder, the statute of limitations is longer.



How Will I Know if I've Been Charged With a Crime?

Say the police officer brings you to JIAC because you were caught shoplifting, but then JIAC releases you to your parent or guardian. How will you know if the prosecutor later charges you with theft?

If the prosecutor charges you with a crime, they will file a **Complaint** against you. The Complaint will tell you what crime you're being accused of. A court date will be set called an **Initial Appearance** (sometimes called a "**First Appearance**"). You will be notified of this court date by being "served" with a summons. Being served means that you are personally notified of the charge and when the court date is. Usually this is done by having a sheriff's deputy come out to your house and giving you or your parent the paperwork. If you're not home, sometimes they'll leave it at the door and then also mail you a copy.

*It's the **prosecutor's** job to file charges against someone who the police suspect has committed a crime. The prosecutor is sometimes called the **District Attorney** ("DA") or **County Attorney**.*

If you don't show up to your court date, a **warrant** may be issued for your arrest. That means the next time you come into contact with law enforcement, like at a traffic stop, you will be arrested.

What Will Happen When I Go to Court?

When you go to court, you'll meet with the attorney who has been assigned to your case (you can also hire your own attorney). They'll talk to you about the incident, what your options are, and what the possible punishments are. You can meet with your attorney in private, and everything you say to them is confidential. This is called the **attorney-client privilege**. It means that your attorney can't tell anyone what the two of you talked about – not even your parent or guardian – without your permission.

Generally, you have 3 options when a Complaint has been filed against you. Your attorney will help you decide which of these options is best for you:

1. **Diversion** – this option is available only if this is the first time you've been charged with a crime, and if it's a relatively minor crime. The benefit of diversion is that at the end of the process, the charge against you gets dismissed. At your Initial Appearance, your attorney can tell you if you qualify for diversion and how to apply. The diversion program is strict and often requires more effort than probation. Diversion also costs more than the fees involved in the regular court process. If you don't complete the diversion program (which usually lasts about 6 to 12 months), your diversion will be revoked, you will have to go to court, and you will be sentenced as though you never did diversion to begin with. For these reasons, you should make sure that you are committed to completing the entire diversion program before you sign up.
2. **Trial** – you always have the right to have a trial, either in front of a judge or in front of a jury. At a trial, the state (meaning, the prosecutor) has to prove that you committed the crime beyond a reasonable doubt. They'll do this by having witnesses (like police officers, store employees, neighbors, etc.) testify as to what they saw or heard. You (through your attorney) will also have a chance to ask these witnesses questions, and can have other people testify on your behalf. You can testify at your trial, but you don't have to. You have a constitutional right to refuse to answer questions if your answers could get you into trouble. If you decide not to testify, the judge or jury isn't allowed to consider your silence as a sign of guilt.
3. **Guilty or "No Contest" Plea** – if you don't want to have a trial, you can plead **guilty** or **no contest** to the charge. When you plead guilty, you're admitting that you committed the crime. When you plead no contest, you're not saying you did it and you're not saying you didn't do it, but you're agreeing not to fight the charge. It doesn't make a whole lot of

difference whether you plead guilty or no contest – in either case, the judge will find you guilty. Why would you give up your right to a trial by pleading to a charge? There are several reasons why it might make sense to do this. For example, if it's a slam-dunk case against you there might be no point in having a trial because you know you'll be found guilty. Another common reason is that the prosecutor might be willing to offer you a “deal” if you plea – like a reduced charge or a recommendation for a lighter sentence. This is called a **plea bargain**.



If I'm Found Guilty, Does That Mean I've Been Convicted of a Crime?

No. If you're found guilty at a trial (or if you plead guilty or no contest to the charge) you will be **adjudicated** – not **convicted** – of that crime. In Kansas, “convicted” is the word used when an adult (18 or older) is found guilty of a crime. “Adjudicated” is the word used when a juvenile (17 or under) is found guilty of a crime. (There is an exception to this – if you're MAP'ed. See box below.) This is an important difference, because there are a lot of situations where you're better off with an adjudication than a conviction.

Conviction = Adults (18+)

Adjudication = Juveniles
(17 or younger)

What happens if you turn 18 while your juvenile case is still open? For example, say you commit a crime when you're 17 and you turn 18 while you're in the middle of serving your sentence. Does your adjudication get converted to a conviction since you're now 18? No. As long as you were under 18 when you committed the crime, it will always be considered an adjudication.

What's a MAP?

MAP = Motion for Adult Prosecution

If you've been MAP'ed, that means the prosecutor is asking the judge to treat you as an adult instead of a juvenile. If you're treated as an adult then you can be punished like an adult, which could mean going to prison for a long time. MAPs are usually only done when it's a very serious crime, or when the juvenile has a long history of criminal activity. If the judge agrees that you should be prosecuted as an adult, and you are found guilty, you will have a criminal conviction rather than a juvenile adjudication.

What's Extended Juvenile Jurisdiction Prosecution (EJJP)?

EJJP is somewhere in between the regular juvenile court process and the MAP process. Like MAPs, it is also used in more serious cases. If you're sentenced under EJJP, you will be given both a juvenile sentence and an adult prison sentence. If you successfully complete the juvenile sentence, you will never have to serve the adult sentence. But if you violate even a minor condition of your juvenile sentence, the adult sentence will be imposed.

If I'm Found Guilty, What Will My Punishment Be?

After you've been adjudicated, the judge will **sentence** you. There are several possible sentences you could get:

1. **Standard probation** – you'll report to a probation officer regularly for a period of time, like 6 months, a year, or even 2 years. Your probation conditions might include: having a curfew, doing community service, writing an apology letter to the victim, doing UAs (urinalysis – peeing in a cup to check for drugs or alcohol), having no unexcused absences at school, maintaining a "C" average in school, taking classes like Anger Management or Thinking for a Change, and going to individual or family counseling. You might also be placed on house arrest with an ankle bracelet (electronic monitoring device, or "EMD") that will notify your probation officer whenever you leave your house.
2. **Intensive supervised probation (ISP)** – this is like standard probation, except you'll report to your probation officer more often and, in general, you will be supervised a lot more closely than someone who is on standard probation. Many of your probation conditions will also be stricter. For example, a daily curfew of 6:00 P.M. is typical.

Whether you're on standard probation or ISP, if you don't follow all the probation conditions, your probation officer can file a **probation violation** report ("PV"). If this happens, you will have to go back in front of the judge. As a consequence for getting a PV, the judge might order that you serve a sanction at the juvenile detention facility, do extra community service, extend your probation, or impose some other kind of consequence. The judge can also **revoke** your probation. If your probation is revoked, you can be ordered to serve a more serious sentence like JJA Custody or even a direct commitment to a juvenile correctional facility, if you qualify.

3. **Juvenile Justice Authority (JJA) Custody** – if you’re placed in JJA Custody, this means you’ll be put in a group home or, less often, in a foster home. At the group home or foster home, you’ll be expected to go to school, get along with the other residents, do chores, and participate in activities. You might also go to counseling or drug and alcohol treatment. You will have to stay at the group home or foster home placement until you successfully complete the program (often about 3 to 6 months). If you successfully complete the program, you’ll be placed back at home and monitored like someone who’s on probation. If going home is not a good option, you may be placed at an independent living program that will help you transition into living on your own. If you do well at home or at the independent living program and stay out of trouble, eventually you will be released from JJA Custody and your case will be closed. If you get in trouble at your placement, refuse to participate in the program, or run away, you will be “unsuccessfully discharged.” If this happens, you will have to start all over again at a new placement. The judge could also change your sentence from JJA Custody to Direct Commitment to a Juvenile Correctional Facility (if you qualify). The maximum amount of time you can be in JJA Custody is until your 21st birthday.

4. **Direct Commitment to a Juvenile Correctional Facility** – if you’ve committed a serious felony, or if you’ve had several previous adjudications, the judge can send you to a juvenile correctional facility. This is called a **Direct Commitment**. There are two juvenile correctional facilities in Kansas – the Kansas Juvenile Correctional Complex (KJCC) in Topeka, and Larned Juvenile Correctional Facility in Larned, KS. The length of time you’re there will depend on the particular crime you committed, and can range from 3 months to several years, with a maximum age of 22½ years old. After you’re released, you’ll be put on **Conditional Release**, (also called “Aftercare”) which can mean going to a group home or going home to your parent or guardian and being monitored like someone who’s on probation. The maximum amount of time you can be on Conditional Release is until your 23rd birthday.



5. **Sanction house commitment** – as part of your punishment, the judge might order that you serve a certain number of days (called a **sanction**) at the juvenile detention facility. Usually a sanction is ordered in addition to a sentence like probation, or is ordered as a consequence of violating probation.

No matter what your sentence is, you will have to pay court costs, UA fees, and possibly EMD (house arrest) fees. You may also have to pay **restitution**. The judge will order that you pay restitution if your crime caused the victim to have to pay money, or if they lost something that will cost money to replace. For example, if you hurt somebody and they have to go to the hospital, you may be ordered to pay their medical bills. If you stole something and the victim doesn't get the item back, you may have to pay back what it was worth. If you caused damage to someone's property, you may have to pay to have it repaired.



What is Expungement?

When you get an adjudication **expunged**, it gets erased from your record. Once a charge has been expunged, it's as if it never happened (for most purposes). That means when you're filling out an application and it asks if you've ever been found guilty of a crime as a juvenile, you can answer "no".

Once an adjudication is expunged, it won't show up if somebody (like an employer) does a background check on you. There are a few exceptions to this - employers like the government or the military will be able to see it even if it's been expunged.

Most juvenile adjudications can be expunged. There are a few exceptions for very serious crimes like murder, manslaughter, and certain sex offenses.

How Do I Get a Charge Expunged?

You must wait two years after completing your sentence. If you've stayed out of trouble during those two years (no new charges except traffic tickets), you can ask the court to expunge your adjudication. For example, say you are found guilty of shoplifting when you are 14 years old and are sentenced to 1 year of standard probation. When you are 15 years old, you successfully complete your probation and your case is closed. You would then have to wait 2 years, until you're 17, before you could ask that your charge be expunged.



How do you do this?

1. You will need to fill out paperwork for a **Juvenile Adjudication Expungement**. You get can this paperwork from the Juvenile Court Clerk's Office or online (in Sedgwick County: www.sedgwickcounty.org/da/, in other counties: www.kansasjudicialcouncil.org/Forms). You don't need an attorney to do this. The forms are fill-in-the-blank and instructions are included.
2. Turn the paperwork in to the Juvenile Court Clerk's Office, along with the required fee.
3. The prosecutor's office will review the paperwork. This step can take several weeks.
 - If they approve the paperwork, the judge will sign it and a copy of an Order of Expungement will be sent to you.
 - If the prosecutor's office objects to the expungement, you can request a hearing in front of a judge. The judge would then decide whether to approve the expungement or not.

How Will a Juvenile Charge Affect Me If I Commit a Crime as an Adult?

When an adult commits a crime, the punishment they get depends on two things:

1. The seriousness of the crime they commit.
2. Their **criminal history**.

This means that someone with a felony in their past is going to go to prison longer than someone with only a misdemeanor in their past, someone with two felonies in their past will go to prison longer than someone with only one felony, and so on.



Your criminal history consists of every charge you've been found guilty of – whether it's a juvenile adjudication or an adult conviction. *Even charges that have been expunged count as part of your criminal history.* There are a couple of exceptions to this: misdemeanor adjudications and certain less serious felony adjudications won't count as part of your criminal history once you turn 25, whether they've been expunged or not.

Will Having a Juvenile Record Make it Harder for Me to Get a Job or go to College?



Yes, it might make it harder. However, this is a situation where you're better off with a juvenile **adjudication** than an adult **conviction**. Many job applications, for example, will ask if you've ever been *convicted* of a felony or misdemeanor. If all you have is a felony or misdemeanor *adjudication*, then the answer to this is "no."

What if the employer does a background check on you? Unless your charge has been expunged, your juvenile adjudication will probably come up, so they're likely to find out about it. For this reason, you might want to answer a question that asks about convictions by saying something like, "No, but I have a juvenile adjudication for burglary" (or whatever the crime is). That way they won't think you're trying to hide it. This is why it's important to get your charge expunged as soon as you can – that way you can answer "no" to questions about convictions or adjudications, and you know it won't show up on a background check.

College applications are similar. Many times they will ask only about convictions, so you don't need to mention any adjudications you might have. If you're applying to college and need financial aid, you'll have to fill out the Free Application for Federal Student Aid (FAFSA). There is a question on the FAFSA that asks if you were ever convicted for possessing or selling illegal drugs while you were receiving federal student loans or grants. You can answer "no" to this question, even if you were adjudicated of a drug crime as a juvenile, because the question only asks about convictions.

If you do mention your adjudication on an application, you should also mention the things you've done *right* since then – for example, did you do community service? Did you pay back restitution? Did you complete a class like Anger Management or Thinking for a Change? Did you successfully complete probation? How else have you turned your life around since the adjudication happened? That way they will see the adjudication as a mistake in your past, and not who you are now.

Will I Still Be Able to Join the Military if I Have a Juvenile Record?

It depends. Each branch of the military (Army, Navy, Air Force, Marine Corps, Coast Guard) has their own rules and standards when it comes to deciding which

applicants to let in. They all require that the applicant be of “good moral character.” Your juvenile record will be looked at when they are deciding whether you meet their moral character standards.

Even if you’re told that you are not eligible to join the military because of your criminal history, you can apply to get a **waiver**. A waiver is where they’ll make an exception for you, if they think your strengths and good qualities outweigh your past mistakes.

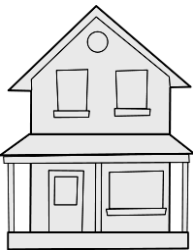
If you’re interested in joining the military, the best thing to do is to contact a recruiter.

Note that getting an adjudication expunged won’t make it go away as far as the military is concerned. For the military’s purposes, every adjudication and conviction is part of your record, whether expunged or not. Unlike most job applications, where you can answer “no” to a question about adjudications or convictions if you’ve gotten the adjudication or conviction expunged, you **MUST** disclose everything on a military application.



Can My Family Get Kicked Out of Public Housing if I Get in Trouble?

It’s possible. There are several ways your actions could cause your family to get evicted from government-subsidized housing, including:



- Engaging in drug-related criminal activity, whether on or off the property.
- Engaging in any violent criminal activity.
- Engaging in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants.

It doesn’t matter whether the “criminal activity” is by an adult or juvenile member of the household.

If I’m Not a U.S. Citizen, Will a Juvenile Charge Affect My Immigration Status?

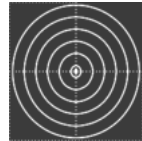
A juvenile adjudication is not considered a criminal conviction for immigration purposes. That means you won’t face the same immigration consequences that an adult who commits a crime might. For example, if an adult who’s not here legally tries to become legal, a criminal conviction in their past may cause their application to be denied. Or an adult immigrant who is here legally could find themselves facing deportation if they’re convicted of a crime.

Nevertheless, there could still be immigration consequences for someone who is adjudicated of a crime as a juvenile. This is because certain “bad acts” can trigger immigration consequences, even if they don’t result in a conviction.

What should you do if you’re not a U.S. citizen and you’ve been charged with a crime? Make sure your attorney at juvenile court knows that you’re not a citizen. You may also want to talk to an attorney who specializes in immigration law.

Will Getting in Trouble As a Juvenile Affect My Ability to Legally Carry a Firearm?

If you’ve been adjudicated of a crime, this could make it illegal for you to possess a gun. The rules depend on the type of crime you were adjudicated of:



Type of Crime	Effect
Person felony involving a firearm	You may NEVER possess a firearm again.
Nonperson felony involving a firearm	You may not possess a firearm for TEN YEARS after you’ve been adjudicated.
Other serious felonies not involving a firearm	You may not possess a firearm for TEN YEARS after you’ve been adjudicated.
All other felonies	You may not possess a firearm for FIVE YEARS after you’re adjudicated.
Misdemeanor	No effect on your ability to legally possess a firearm.

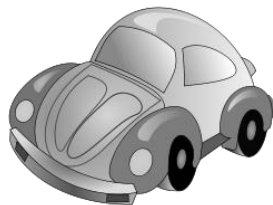
What Are the Consequences of Underage Drinking?

If you're under 21, it is illegal for you to consume, possess or purchase alcohol. If you're caught in possession of and/or drinking alcohol, you can be charged with "Minor in Possession of Alcohol" (MIP) or "Minor in Consumption of Alcohol" (MIC). You'll have to go to juvenile court like you would with any other crime. But in addition to the regular punishment if you're found guilty, you'll also have to pay a fine of \$200 or more, your driving privileges will be suspended for 30 days, and you will likely have to attend a drug and alcohol treatment program.



Drinking and Driving

It takes a breath or blood alcohol content (BAC) of only 0.02 for you to be found guilty of a DUI (Driving Under the Influence) if you're under age 21. That's about half a beer if you're a 120 pound female, or about one beer if you're a 180 pound male.



One of the consequences of getting a DUI is that your driving privileges will be affected:

- If your BAC is between 0.02 and 0.08, your driving privileges will be suspended (meaning you can't drive at all) for at least 30 days, and restricted (meaning you can only drive to and from school or work) for another 330 days.
- If your BAC is 0.08 or more, your driving privileges will be suspended for one year.

The penalties for getting a 2nd DUI are even more severe. Another consequence is the amount you pay for auto insurance may go up.

What Are the Laws Regarding Juveniles and Sex Offenses?

Sex offenses include Rape, Indecent Liberties, Aggravated Indecent Liberties, Criminal Sodomy, Aggravated Criminal Sodomy, Indecent Solicitation of a Child, Aggravated Indecent Solicitation of a Child, Lewd and Lascivious Behavior, and Unlawful Voluntary Sexual Relations, among others.

In Kansas, the age of consent for sexual activity is 16. Engaging in sexual activity, even fondling or touching, when the other person is 15 or younger, can result in you being charged with a crime. If the person is 13 or younger, it's an even more serious crime. Even if the other person agrees to the sexual activity, it's still a crime! All that matters for you to be found guilty is how old they were at the time of the offense. Not how old you *thought* they were or how old they *told* you they were, but how old they *actually* were.

Examples of sex offenses:

You drop your pants in class and expose yourself to others – this is lewd and lascivious behavior.

You are 16 and have consensual sex with your 15 year old girlfriend – this is aggravated indecent liberties. If your girlfriend is 13, this is rape.

One of the most serious consequences of committing a sex offense is that the judge can order that you register as a sex offender. There are two kinds of registration:

1. **Public registration**, where your name, picture, and other information is posted on a public website that anyone can access.
2. **Private registration**, where only law enforcement knows that you are registered.

In most cases, a juvenile found guilty of a sex offense will have to register as a sex offender for five years (on either the public or private registry). But some of the more serious sex offenses, like rape, may result in the juvenile having to register publicly as a sex offender for the rest of their lives.

