

STAY OUT OF MY OFFICE:

Tips for Parents of College Students to Avoid Liability

By Attorney Richard S. Jaffe, Cohen & Jaffe LLP



As students leave home for college, be proud, but also be wary of the fact that a child away at college raises new and unique possibilities for lawsuits that could come right back to your doorstep faster than your son or daughter does.

You have worked hard to achieve your financial status and stability. Make sure you protect yourself and the college savings that funds your child's education. Don't end up in a high-stakes liability lawsuit. Don't end up in my office. And don't end up in a worse position – across the courtroom from me at the other table.



Q: Am I always liable for injuries my child causes simply because I am the parent?

A: No. Liability for your child's behavior is not based solely on the fact that a parent-child relationship exists. At a minimum, you must be negligent. In other words, you, as the parent, must have failed to do something you had a duty to do.



CARS, COLLEGE KIDS AND PARENTS' LIABILITY



A parent generally is not liable for a child's negligent operation of an automobile.

However, a parent who negligently entrusts an automobile to a child with knowledge that the child is incompetent or reckless may be liable for injuries suffered by a third party as a result of the child's negligent or reckless driving. Also, parents may be guilty of actionable negligence for failing to supervise a child who negligently injures a third party.

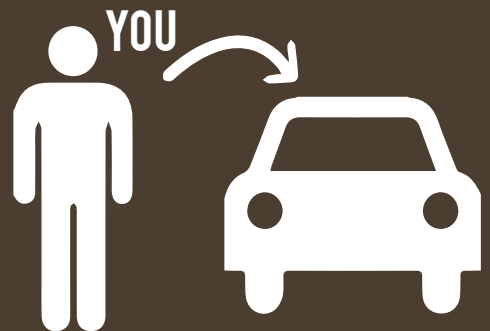
There is a term in the insurance and legal world called **"vicarious liability,"** which means as the parent and vehicle owner, you may not be free from liability.

NEW YORK STATE



In New York State, Vehicle and Traffic Law Section 388 states that every owner of a vehicle used or operated in this state shall be liable and responsible for death or injuries to person or property resulting from negligence in the use or operation of such vehicle.

Essentially, this means that as the owner of a car, you are legally responsible for the acts of the driver of any car you own, regardless of whether you are actually driving the car. Many other states have similar laws imposing liability upon the owner of a car in similar circumstances.



The bottom line is that, as parents, you need to be keenly aware that you can be held vicariously liable for any injuries or other damage your child might cause as a result of a car accident which occurs while your child is driving a vehicle that is registered in your name. Yes, parents, you, who have literally done nothing to cause the accident, can nevertheless face financial ruin simply by virtue of your ownership of a car with which your child mistakenly caused an accident.

RISKY SITUATIONS INVOLVING CARS AND COLLEGE STUDENTS

HERE ARE SOME REAL-LIFE SITUATIONS THAT I HAVE ENCOUNTERED IN MY LAW PRACTICE THAT, UNBEKNOWNST TO THE PARENTS INVOLVED, WERE HIGH RISK FOR UNAWARE PARENTS:

LENDING CARS TO FRIENDS

A parent's child at college with a car may drive responsibly, but what about friends who ask to borrow the car? Often, a college student's car even becomes the "house car" or the "dorm car," with the keys near the entryway, for anyone else's use who needs it.



Remember, liability follows the car owner. If a college student's friend borrows the car and causes an accident resulting in serious injury, the student's parents will likely find themselves first in line for a multi-million-dollar lawsuit, especially if they have substantial assets.

DRIVING ABROAD

Many college students take a semester of schooling abroad where driving laws and customs often differ greatly from those here in the U.S. Driving in those unusual conditions puts the student at greater risk for an accident.



MINIMIZING THE RISK TO PARENTS WHEN COLLEGE KIDS DRIVE

BUT, HERE'S THE GOOD NEWS: WITH SOME CAREFUL PLANNING, PARENTS CAN LIMIT THEIR LEGAL RISK OF BEING HELD FINANCIALLY RESPONSIBLE FOR THE NEGLIGENT DRIVING OF THEIR CHILDREN.

HERE ARE SOME SUGGESTIONS ON STEPS TO TAKE:

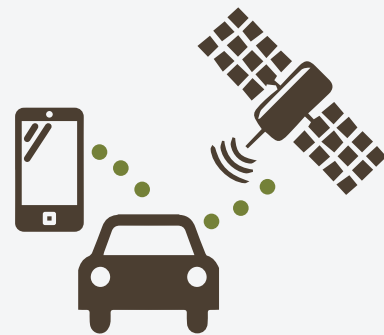
EDUCATION

Making your child aware of dangerous situations provides the first line of defense. **Sit down with your son or daughter and explain the risks** involved with lending a car to friends, borrowing a car and driving in unfamiliar and dangerous places.



MONITORING

“Trust, but verify.” To assure your son or daughter’s safe driving, parents should consider many new devices that monitor driving behavior. Some wirelessly transmit maximum speed, distance traveled and hard braking after each trip, allowing parents to catch bad driving habits and put the college student on notice. Moreover, if an unfortunate accident does occur, such data can be used to help show your child was not at fault.



OVERSEAS COVERAGE

If your son or daughter plans to drive a rented or borrowed vehicle while studying abroad, **be sure to purchase liability coverage in that country.** Liability coverage from American auto policies may not extend to the foreign country for rented or borrowed cars where your child drives.

FOREIGN LIABILITY COVERAGE

NAME COLLEGE RESIDENCES ON POLICIES

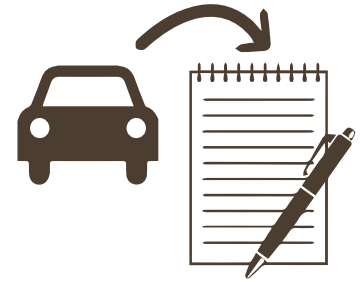
While a dorm or off-campus landlord will likely have their own protection, it may not be applicable or suffice in all circumstances.

Naming the college student's residence as an insured location on the parent's homeowner's and umbrella policies adds another level of protection. It usually costs next to nothing, if anything at all.



REGISTER THE CAR IN YOUR CHILD'S NAME

If your son or daughter is legally an adult (**18 years or older**), he or she is able to register a car in his or her own name. Without you as the owner of the car, the laws imposing vicarious liability (such as *New York Vehicle and Traffic Law Section 388*) will not apply to you.



While it may be easier to hand off one of your cars to your college student, try not to do so without transferring ownership of the car into your son or daughter's name on the car registration.

Generally and statistically speaking, college students are more likely than other types of drivers to get into car accidents. Recognizing this, insurance carriers may very well charge more to insure your son or daughter.

Here are some tips on how to defray the added costs:

DRIVER'S EDUCATION

=% OFF

DRIVER'S EDUCATION PROVIDES DISCOUNTS.

GOOD GRADES

=% OFF

MOST INSURANCE CARRIERS OFFER DISCOUNTS FOR GOOD GRADES.

LIABILITY ISSUES WHEN COLLEGE KIDS HOST PARTIES



Q: Are parents responsible for the consequences of underage drinking in their home? If so, how serious are those consequences?

There's no way around it at college: parties happen. If the student lives off campus and hosts a party, the parent could be held responsible for a variety of tragic outcomes. In one case, a teen suffered permanent brain damage due to overdosing on prescription medications during a party at a friend's house. The parents were held partly responsible for a \$4.1 million settlement.



**PERMANENT
BRAIN DAMAGE**

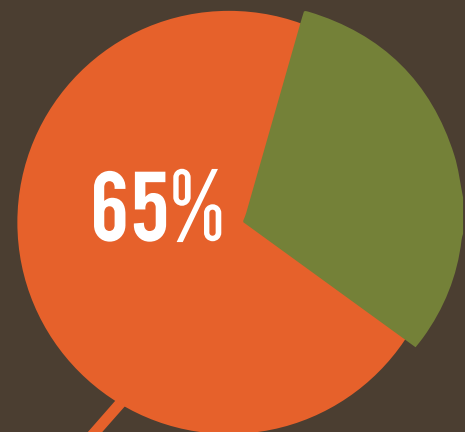
\$4.1 MILLION



When your son or daughter comes home from college on breaks, don't be lulled into a false sense of security that underage drinking and house parties won't happen in your house. College students can get hurt or they can unintentionally hurt someone else in such situations.

Kids – especially college students – love to celebrate. Whether at a family graduation party or a spontaneous late-night get together, college students often celebrate with alcohol. What's worse, 65% of kids under age 21 who say they drink admit they get alcohol from family and friends. That means they get it from their parents, their friends' parents or older siblings.

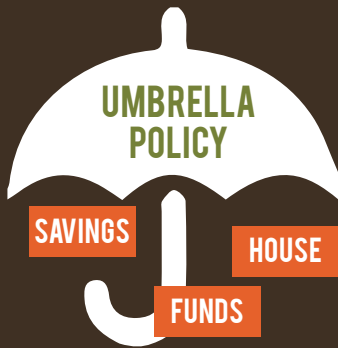
kids under age 21 who say they drink admit they get alcohol from family and friends



Make no mistake about this: If you provide alcohol, directly or indirectly, to someone under the legal drinking age, you can be held responsible for what happens after they have consumed it. It doesn't matter what you did when you were younger. And it doesn't matter what you think your personal privacy entitles you to do.

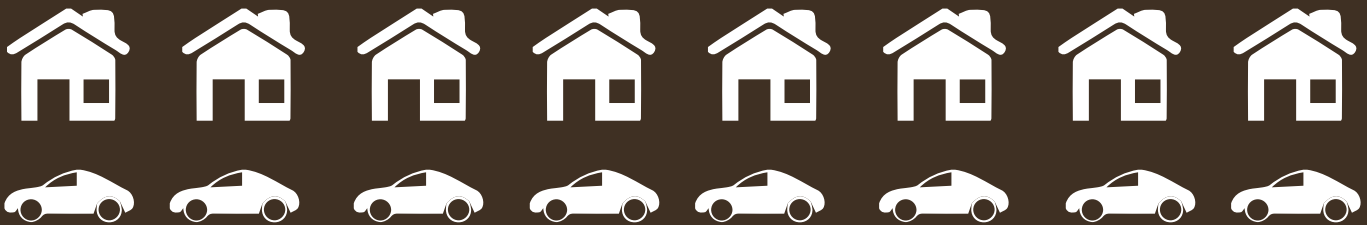
HERE'S HOW TO PROTECT YOURSELF:

GET AN UMBRELLA POLICY



An umbrella policy creates an extra buffer to protect your assets – like your **house, your son or daughter's college fund and your retirement savings**. Umbrella coverage is a supplement to, and above, whatever homeowner and vehicle coverage you already have.

Usually, the policy is based on the number of homes and cars you own, and the number of drivers in your family. Typically, such policies cost less than \$500 per year for about \$2 million in extra coverage. As a general rule, if you have more than \$1 million in assets, you should have an umbrella policy.



COSTS

<\$500 PER YEAR

FOR EVERY

\$2MILLION

IN EXTRA COVERAGE

**GENERAL
RULE**

**IF YOU HAVE
> \$1 MILLION
IN ASSETS**

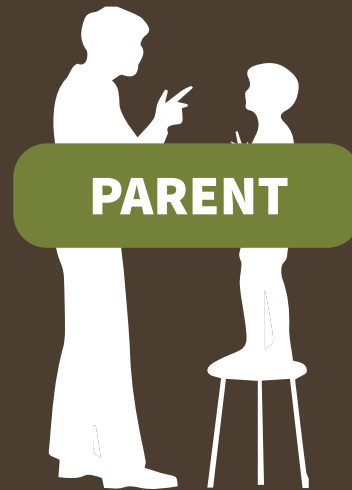
**= YOU SHOULD HAVE AN
UMBRELLA POLICY.**

BE A PARENT, NOT A FRIEND

Zero tolerance for providing alcohol to anyone under 21 at any time is the only way for you to be safe.

Don't worry about being a friend or a buddy. Be a parent. If you leave your children on their own, give them some backup with neighbors or with family. Even safer, don't leave them alone in the first place. It is a hard, unpopular position.

But nowhere near as hard as standing by a hospital bed. Or a gravesite.



MAKE A GUEST LIST

Of course your college-bound son or daughter is a **"really good kid."** You brought them up that way, to your credit. They get good grades. They listen to you.

They get along with everyone. But what happens when you leave them in the house alone is not all within your son or daughter's control.



They invite two or three friends over to the house while you are gone. You know these friends. But then those friends invite other college students over.

One of them brings beer and another brings a bottle of vodka. And the situation easily spins out of control. Make a guest list with your son or daughter before you leave them alone.

And make it clear that no one other than the friends on the guest list are permitted into the house.

LIMITING YOUR RESPONSIBILITY FOR YOUR COLLEGE STUDENT'S CREDIT CARDS

The Credit Card Act made it much harder for college students to establish credit. Under the act, a parent **MUST** be involved in the credit card application process by co-signing for their child if the child is **under 21 years old** and **has no income**. Gone are the days of credit card representatives on campus giving away freebies such as mugs, shirts and even iPads in exchange for filling out a credit card application.

As the co-signer, parents have the power (and some would say the responsibility) to review their child's spending habits while in college. Furthermore, credit limits cannot be raised without the knowledge of the parents.

**UNDER 21 YEARS OLD
AND HAS NO INCOME**



NO PARENT CO-SIGNS



CREDIT CARDS

Nonetheless, if your son or daughter does spend too much on their credit card, the co-signing parent will be responsible for the balance. Their credit history – and yours – can suffer irreparable damage.

**KEEP LIMITS LOW
\$500-\$1,000**

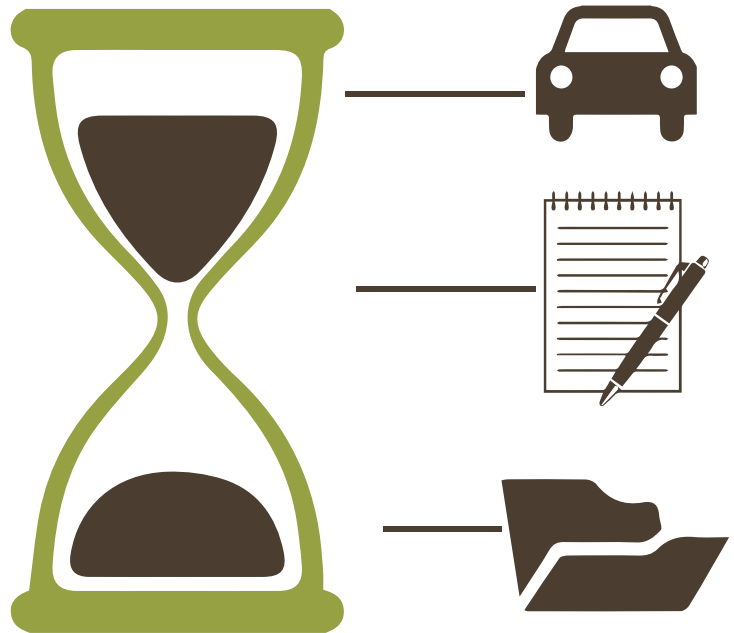
Co-signing parents should keep their college-bound child's credit limits low – say **\$500-\$1,000**. Furthermore, parents should make clear to their college-bound children that the credit card is to be used in cases of emergency only or for very specific purposes, such as buying books.

Arranging for your college-bound child to have their own credit card helps students establish and build credit, which in turn will make it easier in the long run for you to cut the cord, as opposed to having your kids be financially dependent on you.

ACT NOW TO PROTECT YOUR FINANCES AND YOUR CHILD'S FUTURE

Sending a child away to college is a landmark event in the lives of many families. It often marks the transition from childhood to adulthood. While college students take on more and more grownup responsibilities, it's important for parents to remember that they may still be liable for what their children do even after they have left the nest.

A little time spent reviewing **insurance policies, car registration, credit card and other legal and financial documents** may be very worthwhile if something unfortunate befalls your college student. Taking the advice spelled out above may mean the difference between protecting your assets and your child's college fund – or facing serious financial consequences.



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