

# 銘傳大學導師電子公報(第 007 號)

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**Intended Audience: all students**

### 銘傳大學學務處軍訓室宣導少年參與詐欺車手相關法律規定通報

**MCU Military Training Office Notice of Legal Regulations regarding Juvenile  
Participation in Fraud Crimes**

### 少年參與詐欺車手相關法律規定

#### Legal Regulations regarding Juvenile Participation in Fraud Crimes

問：少年參與詐欺集團涉及哪些法律責任？

Q: What legal responsibilities do juveniles bear for involvement in fraud groups?

答：

A:

#### 一、行為人（少年）之法律責任

##### Liability of the offender (juvenile)

- (一) 刑法第 339 條詐欺罪規定「意圖為自己或第三人不法之所有，以詐術使人將本人或第三人之物交付者，處五年以下有期徒刑

刑、拘役或科或併科五十萬元以下罰金。」同條第 2 項規定「以前項方法得財產上不法之利益或使第三人得之者，亦同。」

Criminal Code Article 339 states this about Offenses of Fraud: “A person who by fraud causes another to deliver to him property belonging to such other or to a third person for purpose to exercise unlawful control over other’s property for himself or for a fourth person shall be sentenced to imprisonment for not more than five years or short-term imprisonment; in lieu thereof, or in addition thereto, a fine of not more than NTD five hundred thousand may be imposed.” 339-2 also states: “A person who takes an illegal benefit in property for him or causes a third person to take it by means specified in the preceding paragraph shall be subject to the same punishment.”

## (二) 少年事件處理法相關規定

### Juvenile Delinquency Act

1、第 3 條第 1 項規定「少年有觸犯刑罰法律之行為者，由少年法院依本法處理之。」

Article 3, paragraph 1 states: “Where a juvenile’s behavior violates the criminal laws, he/she shall be dealt with pursuant to the Law (by Jurisdiction of the Juvenile Court).”

2、第 42 條第 1 項規定「少年法院審理事件，除為前二條處置者外，應對少年以裁定諭知下列之保護處分：

(1) 訓誡，並得予以假日生活輔導。

- (2) 交付保護管束並得命為勞動服務。
- (3) 交付安置於適當之福利或教養機構輔導。
- (4) 令入感化教育處所施以感化教育。」

Article 42, paragraph 1 states: “The juvenile court may, besides dispositions in the preceding 2 articles, pronounce a ruling of the following protective measures when hearing a case:

1. To pronounce a warning and may order weekend life counseling;
2. To place a juvenile on probation and supervision and may order labor services;
3. To send a juvenile to an appropriate welfare or training institute;
4. To send a juvenile to a correction institute for corrective education.”

## 二、利用人（詐欺集團）之法律責任

Second, the legal responsibility for taking advantage of people (fraud groups)

詐欺集團吸收少年參與、擔任車手之行為

Fraud group seduces juvenile to participate fraud crimes

- (一) 刑法第 339 條詐欺罪規定「意圖為自己或第三人不法之所有，以詐術使人將本人或第三人之物交付者，處五年以下有期徒刑、拘役或科或併科五十萬元以下罰金。」同條第 2 項規定「以前項方法得財產上不法之利益或使第三人得之者，亦同。」

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person who by fraud causes another to deliver to him property belonging to such other or to a third person for purpose to exercise unlawful control over other's property for himself or for a fourth person shall be sentenced to imprisonment for not more than five years or short-term imprisonment; in lieu thereof, or in addition thereto, a fine of not more than NTD five hundred thousand may be imposed." 339-2 also indicates: "A person who takes an illegal benefit in property for him or causes a third person to take it by means specified in the preceding paragraph shall be subject to the same punishment."

## (二) 兒童及少年福利與權益保障法相關規定

### Welfare and Rights Act for the Protection of Children and Youth

- 1、第 49 條規定「任何人對於兒童及少年不得有下列行為」，其中第 15 款規定「其他對兒童及少年或利用兒童及少年犯罪或為不正當之行為」，所列之「利用兒童及少年犯罪之行為。」
- 2、第 97 條規定「違反第四十九條各款規定之一者，處新臺幣六萬元以上三十萬元以下罰鍰，並得公布其姓名或名稱。」

1. Article 49 states "No one will do the following to children and youth": From paragraph 15 "utilize children and youth to commit crimes or behave abnormally" and "behave abnormally or commit crimes against children and youth or utilize children and youth to commit crimes or behave abnormally."

2. Article 97 indicates: "Anyone who violates one of the regulations described in any paragraph of Article 49 will be fined a sum of no less than NT\$ 60,000 and no more than NT\$ 300,000 and their

names or titles will be publicized.”

### 三、 行為人（少年）家長之法律責任

#### Liability of the offender (juvenile)'s parents

- (一) 兒童及少年福利與權益保障法第 102 條第 1 項規定「父母、監護人或實際照顧兒童及少年之人有下列情形者，主管機關應命其接受 4 小時以上 50 小時以下之親職教育輔導」，其中第 4 款規定「違反第 49 條各款規定之一者。」

#### Welfare and Rights Act for the Protection of Children and Youth

Article 102, paragraph 1 states: “Parents, guardians or other

people looking after children and youth who meet one of the

following conditions will be ordered by the authorized agencies to

accept guidance of parental education for no less than four hours

and no more than fifty hours.” and paragraph 4 indicates: “Those

who violate the regulations described in any paragraph of Article

49.”

- (二) 依民法第 12 條規定，滿二十歲為成年。由於少年詐欺集團車手為同法第 184 條第 1 項規定「因故意或過失，不法侵害他人之權利者，負損害賠償責任」之侵權行為時未滿二十歲，依同法第 13 條第 2 項規定屬於限制行為能力人，且於犯罪行為時具有辨識能力；因此，除了詐欺集團成員需負侵權行為損害賠償以外，依同法第 187 條第 1 項規定「無行為能力人或限制行為能力人，不法侵害他人之權利者，以行為時有識別能力為限，與其法定代理人連帶負損害賠償責任」，惟若行為時無識別能力，由其法定代理人負損害賠償責任。

Civil Code Article 12 states “Majority is attained upon reaching the twentieth year of age.” Juvenile fraud group members who have not yet reached their twentieth year of age when committing wrongful acts in Article 184 “A person who, intentionally or negligently, has wrongfully damaged the rights of another is bound to compensate him for any injury arising therefrom”, has a limited capacity to complete juridical acts and for judgment in a crime. Therefore, not only should the fraud group be required to bear the damages, according to Article 187 paragraph 1, “A person of no capacity or limited in capacity to make juridical acts, who has wrongfully damaged the rights of another, shall be jointly liable with his guardian for any injury arising therefrom if he is capable of discernment at the time of committing such an act. If he is incapable of discernment at the time of committing the act, his guardian alone shall be liable for such injury”, if the offender is incapable of discernment at the time, his guardian alone shall be liable for such injury.

**有任何疑問或尋求協助歡迎來電軍訓室：**

**台北校區軍訓室(02-28829595)**

**桃園校區軍訓室(03-3509495)**

**我們全天候 24 小時竭誠樂意為您服務。**

**學務處軍訓室敬上 107.9.4**

If you have any questions, please feel free to contact MCU Military Training Office:

Taipei Campus: 02-28829595

Taoyuan Campus: 03-3509495

We are here to assist you 24/7.

Military Training Office, Ming Chuan University

September 4, 2018