

Contracts: Contractual Capacity

Contractual Capacity

- Minority
- Incompetence
- Intoxication

Minority

- Minors
 - Has not reached age of majority
 - 18 in most states
 - Contracts voidable by minors (not guardian) until reach majority except contract for necessities (food, shelter, medical care) even if misrepresents age
 - Upon disaffirmance minor must return whatever is left of property or proceeds (new law in TN)
 - Upon reaching majority, contract can be disaffirmed or ratified

Mental Incapacity

- Void if adjudication of incompetence
- Voidable if made before the declaration of incompetence
 - return of consideration and restitution necessary
- Test:
 - Did the person understand consequences of action
 - Was the person able to act in a reasonable manner

Intoxication

- Temporary Incompetence
 - Did the person understand the consequences of their actions
 - Was the person able to act in a reasonable manner
- Voidable
 - Must disaffirm and return consideration
 - Lack of disaffirmance equals ratification
