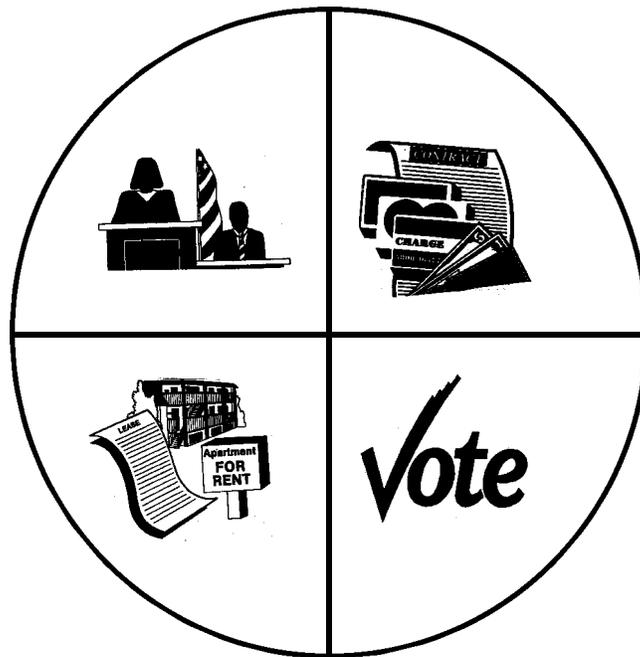


# REACHING THE AGE OF MAJORITY

*Your Legal Rights and Responsibilities*



**NEBRASKA STATE BAR FOUNDATION**



*Serving the public and profession since 1963*

## ACKNOWLEDGMENTS

The Nebraska State Bar Foundation is pleased to publish the booklet, *Reaching the Age of Majority*, for Nebraska's young adults. The Foundation is a charitable educational organization committed to improving the administration of justice as noted in its Mission Statement:

### MISSION STATEMENT

*To serve the citizens of Nebraska and the legal profession through the administering and funding of innovative and creative programs directed toward the improvement of the administration of justice and the fulfillment of the American vision of equal justice for all.*

This booklet has been reviewed by the following:

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The original edition of *On Reaching the Age of Majority* was printed in 1994. This booklet has recently undergone review and updating. Approximately 40,000 copies of the first printing have been distributed to high school seniors to help them understand their rights and responsibilities. The section on credit comes from a publication entitled, *Consumer Handbook to Credit Protection Laws*, published by the Board of Governors of the Federal Reserve System.

## TABLE OF CONTENTS

Acknowledgments	ii	Health and Human Services	13
Table of Contents	ii	Immigration	15
The Nebraska State Bar Foundation	iii	Insurance	17
Introduction	iii	Jury Duty – State Courts	19
Alcohol	1	Landlord Tenant Law	20
Alternative Dispute Resolution	3	Marriage, Divorce & Children	22
Consumer Protection	4	The Selective Service System and Military Service	24
Contracts	5	Tax Responsibilities	25
Credit	7	Voting	27
Criminal Law	9	Wills, Powers of Attorney, and Living Wills	28
Crime Victims	11	Resources	29
Employment Law	12	Order Form	36

# THE NEBRASKA STATE BAR FOUNDATION

## **History**

A vision of establishing a futuristic organization was realized by seven men on November 20, 1963. The Nebraska State Bar Foundation was incorporated as a 501(c)(3) charitable and educational organization to serve as the philanthropic arm of Nebraska's legal profession. The Bar Foundation continues to give back to the legal profession and the general community to benefit the citizens of Nebraska. The Foundation's goals are complemented by its projects and by grants awarded to other tax exempt organizations as defined under Section 501(c)(3).

## **Foundation Goals**

- Advance the science of jurisprudence;
- Promote and improve the administration of justice;
- Uphold high standards for the judiciary and lawyers;
- Facilitate understanding of and compliance with the law, promote study of the law, research and diffusion of knowledge thereof;
- Publish and distribute addresses, reports, treatises and other literary works on legal subjects, and to acquire, preserve, and exhibit rare books and documents, objects of art, and items of historical interest having legal significance or bearing on the administration of justice;
- Aid the charitable and welfare purpose of Nebraska lawyers in active practice and their families through the relief of the poverty of such lawyers and their families; and
- Provide for, furnish or manage any building, lands or grounds relative to the administration of justice and the improvement of the service rendered to the public by the judiciary.

Many lawyers, judges and interested people generously provide financial support to the Bar Foundation and this backing enables the Foundation to fund a variety of programs and projects. The support is derived from the Foundation's Fellows Program, Memorial Program, and Will and Codicil Programs for the Foundation to use as grants and Foundation programs. Members who voluntarily give Contributing Dues (\$25), Sustaining Dues (\$75), or Enhanced Fellow Dues (\$100) generate another source of revenue. Additionally, a Planned Giving Program is being developed to ensure that the Foundation's purpose will be carried out in the future. All levels of giving are essential for the Foundation to completely fulfill its mission and underwrite worthy projects and programs. Furthermore, the Foundation owns the prestigious Roman L. Hruska Law Center, and rental income supplies monies needed for major grants awarded or programs sponsored. The Foundation is exempt from Federal taxes as a 501(c)(3) corporation, and donors receive a tax deduction on all gifts.

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## INTRODUCTION

Many high school graduates will soon pass from being a minor to an adult. In Nebraska, you are considered an adult when you reach the age of 19. You will find that you have many legal rights and responsibilities when you reach 19 years of age. However, there are also some rights and responsibilities that you will want to be aware of when you turn 18.

**The booklet is not intended to serve as legal advice, but rather to inform you of rights and responsibilities. It was not possible to cover every area of the law you may encounter. If you have specific questions on the subjects covered in this publication, you can refer to the Resource section of the booklet or contact an attorney.**

### **What are some of the rights at age 18?**

- Applying for credit in your own name
- Filing a lawsuit
- Making a will
- Obtaining medical treatment without parental consent
- Voting

### **What are some of the responsibilities at age 19?**

- Becoming eligible for jury duty
- Becoming legally independent from parental control
- Making a contract (rent an apartment, buy a car, take out a loan) in your own name
- Becoming personally responsible for the obligations of contracts you make
- Becoming self-supporting (parents are no longer required to support you)

# ALCOHOL

## **What is the legal drinking age in Nebraska?**

Although 19 is the age of majority in Nebraska, some age-related restrictions continue into early adulthood. Alcohol laws are one such area. You must be 21 years of age to drink any alcoholic beverages in the State of Nebraska.

## **May the State change the drinking age?**

Yes, drinking and buying alcohol are considered privileges, rather than rights. Possession, drinking and buying may be regulated by state laws.

## **What are some ways a minor can violate Nebraska's drinking laws?**

- DWI (driving while intoxicated), because using alcohol or drugs is a crime in Nebraska.
- Refusing to take a blood, urine or breath test can be a crime.
- Possession or consumption of alcohol by a person less than 21 years of age can be a crime.

There are, however, several exceptions concerning work situations and also an exception for possession or consumption at your permanent residence.

## **What are the penalties for these violations?**

DWI (driving while intoxicated) carries enhanced penalties for each succeeding offense:

First offense DWI – Penalties include a mandatory 7-60 days imprisonment, a fine of \$400 to \$500 and a six-month suspension of your driver's license unless you are put on probation. The Court can place you on probation, but this must include a 60-day suspension and an alcohol assessment.

Second offense DWI – Penalties include a mandatory 30-90 days imprisonment, a fine of \$500 and a one-year suspension. The Court can place you on probation, but this must include a six-month suspension and 48-hours imprisonment.

Third offense DWI – Penalties include a mandatory 90 days to one-year imprisonment, a fine of \$600 and a 15-year suspension. The Court can place you on probation, but this must include a one-year suspension, seven days imprisonment, and a \$600 fine.

Fourth or subsequent offense DWI is a felony. The statute also describes the penalty of 0-5 years imprisonment and/or a \$10,000 fine and 15-year suspension. If placed on probation, you would receive seven days in jail, a \$1,000 fine and a one-year suspension. The penalties for refusal to take a blood-alcohol test are the same as for DWI, including the enhancements.

If you are in possession of alcohol, except at your permanent place of residence, you can be punished by imprisonment of up to three months, fined up to \$500 and a 15-year suspension, or both such fine and imprisonment, although there is no minimum penalty.

## **What is the ALR (Administrative License Revocation) procedure?**

When stopped by a law enforcement officer for suspicion of DWI, your license may be suspended by the DMV (Dept. of Motor Vehicles) for a period of 90 days. This suspension begins 30 days from the arrest date. A subsequent ALR suspension carries a one-year license suspension. An ALR suspension is distinct and separate from any suspension imposed by a Court.

You may apply for a probable cause hearing with the DMV within ten (10) days from the date of arrest. All information regarding this procedure is listed on the back side of the temporary license given to you. The director of the DMV is responsible for determining if probable cause existed for the stop based on testimony from the arresting officer, you, as the defendant, and any other witnesses who provide testimony. If the DMV finds probable cause did not exist, your license will be returned and the ALR suspension will not be in effect.

Once an ALR suspension is in effect, you may apply for a work permit 60 days from the date of arrest. (You may not qualify for a work permit if this is a second ALR suspension.) Contact the DMV for information on how to apply for a work permit and the costs involved. A work permit may be used to commute back and forth to work only and so long as you are not suspended by the Court.

Upon conviction for DWI, you will be given credit for any time you have served under the ALR suspension, even if a work permit has been issued.

## **Does Nebraska law say anything about blood alcohol concentration for minors?**

In addition to the criminal offenses already explained, if you are under 21 years of age, cited for some other driving offense, and found to have a blood alcohol concentration over .02, you can be fined up to \$100 and lose your license for 30 days on a first offense.

**Are there situations where an underage person may legally have contact with liquor or beer?**

Yes, Nebraska has several exceptions:

You may have contact with alcohol before your 21st birthday when the alcohol is related to a bona fide religious celebration.

If you are at least 16 years old, accompanied by a non-minor, and it is within the scope of your employment, you may carry out beer and liquor.

If you are a minor at least 16 years old and it is within the scope of your employment, you may remove, dispose of or stock alcohol beverage bottles.

If you are at least 19 years old, you may serve and sell liquor if it is within the scope of your employment.

Also, you may have contact with alcohol within your personal residence.

**If you are underage, can you be in an establishment that serves alcohol?**

Yes, that is allowed in several different situations in Nebraska:

As a minor you may be in an establishment that serves alcohol when accompanied by a parent, guardian or spouse of legal drinking age.

As a minor, you may be in an establishment that serves alcohol at times designated by the business when no alcoholic beverage will be consumed, sold, or given away.

As a minor, you may be in an establishment that serves alcohol if you work there.

As a minor, you may be in an establishment that serves alcohol to buy food or nonalcoholic beverages if you leave after the purchase.

As a minor, you may be in establishments like restaurants, hotels, bowling alleys, public buildings and sporting events that serve alcohol.

**Are there laws about tobacco like those for alcohol?**

Nebraska makes it a crime for you to use tobacco if you are under 18 years of age (in its various forms) or to misrepresent your age to obtain tobacco. In either situation, the possible penalty is a fine of up to \$100 for the minor buying the tobacco and up to 90 days in jail and/or a \$500 fine for the person selling to the minor.

# ALTERNATIVE DISPUTE RESOLUTION

## **What is Alternative Dispute Resolution (ADR)?**

Dispute resolution or conflict resolution generally refers to all types of alternatives to litigation (going to court). Although people must sometimes go to court to resolve public or private conflict, litigation is not the only choice. There are a number of options for resolving or preventing conflict that may be appropriate, depending on the parties and the type of conflict. Some examples are negotiation, collaborative problem solving, mediation, public policy facilitation and arbitration. These alternatives are often faster, less expensive and more satisfying than going to court.

Some ADR processes, like negotiation and collaboration, involve only the people in conflict. Others, like mediation and facilitation, involve a neutral person who helps the parties communicate and find a solution, but does not evaluate facts or make decisions. In arbitration and similar ADR processes, the parties ask a neutral person to listen to both sides and then make a decision for them, but the process is less formal than going to court.

## **What is the Nebraska Office of Dispute Resolution?**

The Nebraska Office of Dispute Resolution (ODR) is part of the Nebraska Supreme Court. Its purpose is to oversee the development of dispute resolution, with a focus on non-profit mediation centers and court-connected programs. There are six regional mediation centers approved by ODR and several programs established by local courts. There are also a number of independent mediators and arbitrators located throughout the state.

## **What are some examples of the ADR process and how they might be used?**

Negotiation. People in conflict discuss issues and their needs in an effort to resolve a disagreement. For example, a tenant and landlord might discuss the issue of repairing damage. Sometimes people have advocates to help them negotiate.

Collaborative Problem Solving. Parties work together to define problems, generate options and decision-making criteria, and then attempt to reach an agreement all parties can live with. This is sometimes called consensus building. An example might be a group of co-workers deciding how to implement a new program.

Mediation. With the assistance of a neutral person, parties engage in discussions to explore their interests and needs in an effort to reach an agreement. The neutral person helps the parties communicate and guides them through the problem-solving process, but does not make decisions for them. One example would be when divorcing parents ask a mediator to help them develop a parenting plan after the divorce.

Public Policy Facilitation. A neutral facilitator assists a group in solving problems by controlling the flow of discussion, setting a constructive tone, and helping the group focus on important items. This is sometimes referred to as Negotiated Rule Making. An example is when a government agency asks members of the public to participate in making policy decisions such as “how should underground storage tanks at gas stations be regulated?”

Arbitration. Arbitration is a semi-formal process of dispute resolution in which a neutral person is selected to decide the outcome for the parties. The parties may decide beforehand whether the arbitrator’s decision will be binding (enforceable) or non-binding (advisory). Parties are often represented by attorneys. An example would be when a person with insurance and an insurance company disagree about whether some expenses are covered by an insurance policy and ask an arbitrator to decide the issue.

## **Who are the mediators, facilitators and arbitrators?**

Mediators and facilitators come from a wide range of backgrounds and professions. They are located in every region of the state. They are often volunteers, although some are paid. They must take at least 30 hours of training provided by the Office of Dispute Resolution. There is also an apprentice period where they practice with more experienced mediators and facilitators. Mediators are often affiliated with one of the six ODR-approved mediation centers. There are also independent mediators.

Arbitrators are often attorneys or retired judges. They must have a great deal of experience with the subject of the dispute and often specialize, arbitrating only certain types of cases. Arbitrators are often members of organizations like the American Arbitration Association (AAA) or the Society of Professionals in Dispute Resolution (SPIDR).

See the Resources section in the back of this booklet for a listing of ADR organizations.

# CONSUMER PROTECTION

## How can you be a smart shopper?

When you are shopping for a product or service – clothes, stereos, computers or software – there are simple rules to keep in mind. If you follow them, you will get more for the money you invest.

**Shop and compare.** Do your homework. Shop around and compare products on the basis of features, warranty protection, servicing, and price. The cheapest buy is not always the best buy. Use the yellow pages and magazines such as *Consumer Reports* to help you. *Consumer Reports* and similar information can be found at your local public library. Do not rely solely on the salesperson or the seller's web page for your information.

**Deceptive advertising. Don't fall for it!!!** Advertisements can provide useful information, but too often they appeal to your emotions and desires. State laws exist to protect you from false advertising and are enforced by the Attorney General. Be aware of the contests and "get rich quick" schemes as they are usually too good to be true.

**Keep good records.** Keep copies of all contracts, receipts, warranties, leases and all notes and letters you have written regarding the product or service. Make notes of telephone calls, when they occurred and with whom you spoke. Keep records of payments (canceled checks, receipts and credit card records), maintenance, repairs and other information. It is important to maintain these records. Software is available and can be quite useful.

## What is a warranty?

A warranty is a "guarantee" or promise covering the item you have purchased. It is a statement about the manufacturer's confidence in the product. Be sure you read and understand the warranty. The merchant must make all warranties available to you before the sale. If you purchase a product "as is," you are getting no warranties or promises as to the condition of the product, your right to return it or have it repaired.

## What does a warranty guarantee?

A warranty guarantees the quality and dependability of the product or service. A warranty may seem like it promises a great deal when in fact it promises very little. A warranty may be "full" or "limited," and it may be oral, written or implied.

**Full and limited warranties.** A seller must declare whether the warranty you are receiving is full or limited and the distinction is an important one. A full warranty gives you the best protection. The dealer or manufacturer must try to fix a product within a reasonable time; and if it cannot be repaired within a reasonable time, your money will be refunded or you will be provided with a replacement without charge. If a product has a full warranty, you should not be charged for parts or labor to repair it.

**A limited warranty** is anything less than a full warranty. The seller may pay for replacement parts, but you would be required to pay for labor. If the seller cannot fix the product after a reasonable period of time, you may be entitled to return of your money or a replacement. Most warranties are limited.

**Oral, written and implied warranties.** An *oral warranty* is simply the seller's spoken promise about the product you rely on when deciding to buy. Oral warranties are binding, but hard to prove. It is best to get warranties in writing. The law does not require the seller to make a *written warranty*; however, if the seller does have a written warranty, it must be available for you to read before you purchase the item. It must be clearly written, and must include the following:

1. Name and address of the company making the warranty
2. The product or parts covered
3. Whether the warranty promises replacement, repair or refund
4. If there are any expenses (such as shipping and labor) you must pay
5. How long the warranty period is
6. Repairs not covered by the warranty
7. Action you should take if something goes wrong
8. How the company providing the warranty intends to settle a dispute
9. A brief description of your legal rights

A third type of warranty is both unwritten and unspoken. It is called an *implied warranty*. It means that the item you purchase must operate in the manner it was intended.

## What is a Lemon Law?

A Lemon Law is a good example of a guarantee provided by law (statute). The law exists in many states, including Nebraska, to provide an additional avenue for consumers who are unsuccessful with motor vehicle warranties provided by the manufacturer or dealer. Under the Nebraska Lemon Law, if the motor vehicle does not conform to express warranties and the problem has been reported to the manufacturer or dealer within one year, the manufacturer or the dealer must make repairs necessary under the terms of the warranty. If the repairs cannot be made and the condition impairs the use or market value of the vehicle, the manufacturer eventually must replace the motor vehicle with a comparable one or refund you the full purchase price, including all taxes and fees. Consult an attorney if you feel the vehicle is covered by the Lemon Law.

# CONTRACTS

## **What is a contract?**

A contract is an agreement between two people where each receives a benefit.

## **Can I make a contract before turning 19?**

Yes, minors can make contracts before turning 19. However, you can legally cancel the contract since adults typically cannot enforce it against you. This is why adults usually require a parent or other adult to co-sign contracts made with a minor. Contracting for necessities, however, presents a special case in which minors (or their parents) are liable for the value of necessities furnished to the minor.

## **Do all contracts have to be in writing?**

No. Most oral contracts are also valid. Contracts for the purchase of an item worth more than \$500 and contracts involving the sale or purchase of land must be in writing.

## **What is a sales contract?**

When you purchase an expensive item like a car or stereo, you will probably be asked to sign a sales contract. This details in writing the terms of the sale, your obligation to pay for the item and any promises made by the seller.

## **What should I do before I sign a sales contract?**

Read the contract carefully. You should know what to expect and what is expected of you. Learn what all the paragraphs mean. If you do not understand something, *ask questions!* Seek help from someone else if necessary. Be sure all the major items of the sale (for example, price, interest rate, monthly payments) are included in the contract and are correct. If the terms are different than you thought they were, do not sign the contract. You should talk to the salesperson. If certain terms are promised by the salesperson (for example, free installation) be sure they appear in the contract.

Make sure there are no blank spaces in the contract. Signing a sales contract with a blank space is like signing a blank check. Do not be taken in by friendly salespeople who tell you not to worry about it, they will fill it in later. All of the spaces should be filled in or lines drawn through them.

If changes are made to the terms of the contract, cross them out and have both parties initial the change, and if made later, date the changes. Cross out parts of the contract that conflict with your agreement, and write in parts of your agreement that are not in the contract. Do not assume a printed form contract is okay and do not be afraid to cross out, add to, or otherwise modify a form to reflect your agreement.

Always get a copy of any contract that you sign. Once you sign a contract, you are bound by its terms. You may need to refer to it as a reminder of your obligations and the seller's obligations. If you get into a dispute over the contract, you will need a copy to help resolve the dispute. It may also be used as proof that you own the product purchased.

## **What about door-to-door sales?**

The buyer has the right to cancel a sales contract within three days. If an uninvited salesperson shows up at your door, there are some very important things you should know. If you sign a contract worth more than \$25, you have the right to cancel. The contract must inform you of your right to cancel within three business days. Your cancellation must be in writing (a letter) and must be mailed before midnight of the third business day following the day you signed the contract. (If you signed the contract on Friday, the letter stating you have changed your mind must be mailed before midnight Tuesday.) If you cancel, any money you paid must be refunded within ten days of your notice of cancellation, and if anything is left with you and not picked up within 20 days, you can keep it!

**What will happen if I miss payments?**

Read the terms of your contract. You may be agreeing that if you miss one or more payments, the seller can take back (repossess) any items you purchased and/or may accelerate the payments – which means they can demand that the entire amount owed be paid immediately. Check the contract for any grace period you may have before the payments are delinquent.

The seller may have the right to repossess the item without notification. An example would be a car dealer who can take your car from a public place without warning you in advance. A seller may not trespass on your property or “disturb your peace” in order to repossess an item.

If you miss payments, you may be sued. Your contract may provide for an alternative to being sued (see the chapter concerning “Alternative Dispute Resolution,” page 4). The person who sues you will be known as the plaintiff and you will be known as the defendant. The lawsuit is decided by a judge or by a jury. Lawsuits are initiated when the plaintiff serves you with a copy of the petition (usually by mailing the papers, but occasionally a sheriff will personally deliver the papers to you).

You have the right to answer in writing. If you do not answer in the time allowed, the plaintiff may win by default. If you do not answer or if the plaintiff wins the lawsuit at a trial, the plaintiff obtains a judgment against you. To satisfy the judgment (collect money or regain the property), the plaintiff is allowed to garnish your wages or sell your property. Until the judgment is paid in full, interest is incurred, which you must also pay.

You can also be a plaintiff if you feel someone has failed to honor a contract with you. Whether you want to sue someone or someone is suing you, it is probably best to contact an attorney to explore your rights and responsibilities. There is, however, a small claims court for small disputes, including contract problems where neither side has an attorney.

**What is the Better Business Bureau Arbitration Service?**

If you have a dispute about a contract and cannot resolve it yourself, check with your local Better Business Bureau to find out if they have an arbitration service. If so, you may want to use it. Arbitration may be a faster way to settle a dispute and may be less expensive than going to court. Many communities also have a mediation service available. Check the yellow pages or contact the Nebraska Mediation Services. You may be able to mediate a settlement of the dispute.



# CREDIT

## **What is credit?**

You get credit by promising to pay in the future for something you receive in the present. With credit you can enjoy your purchase while you are paying for it – or you can make a purchase when you are lacking available cash. There are obligations to having credit. It usually costs something, and money borrowed must be paid back.

## **What laws apply to credit?**

Two laws help you compare the costs of credit: **TRUTH IN LENDING** requires creditors to give you certain basic information about the cost of buying on credit or taking out a loan. **CONSUMER LEASING** disclosures can help you compare the cost and terms of one lease with another and with the cost and terms of buying for cash or on credit.

## **What information does Truth in Lending require the creditor to give me?**

Under Truth in Lending, the creditor must tell you – *in writing* and before you sign any agreement – the finance charge and the annual percentage rate.

The finance charge is the total dollar amount you pay to use credit. It includes interest costs, and other costs, such as service charges and some credit-related insurance premiums. Some creditors have an annual fee for credit cards. This annual fee must be disclosed in the written information.

The annual percentage rate (APR) is the percentage cost (or relative cost) of credit on a yearly basis. This is your key to comparing costs, regardless of the amount of credit or how long you have to repay it.

Because of the competitive nature of the credit card industry, you may have an opportunity to negotiate an APR based upon your credit rating. One way to obtain a good credit rating is to pay the credit card bill in full every month.

## **What is the best use of credit?**

The best use of credit is to have no interest accrue.

## **How do I get a good credit rating?**

On your first attempt to get credit, you may face a common frustration: sometimes it seems you have to already have credit to get credit. Some creditors will look only at your salary and other financial information you put on the application. Most creditors want to know about your record of handling credit – how reliably you have repaid past debts. Creditors review records kept by credit bureaus or credit reporting agencies whose business is to collect and store information about borrowers that is routinely supplied by many lenders. These records include the amount of credit you have received and how faithfully you have paid it back.

Here are several ways you can begin to build up a good credit history:

1. Open a checking or savings account, or both. These do not begin your credit file, but may be checked as evidence that you have money and know how to manage it. Canceled checks can be used to show you pay utility bills or rent regularly, a sign of reliability.
2. Apply for a department store credit card. Repaying credit card bills on time is a plus in credit histories.
3. Ask whether you may deposit funds with a financial institution to serve as collateral for a credit card; some institutions will issue a credit card with a credit limit usually no greater than the amount on deposit.
4. If you are new in town, write for a summary of any credit record kept by a credit bureau in your former town. (Ask the bank or department store in your old hometown for the name of the agency to which they report.)
5. If you do not qualify on the basis of your own credit standing, offer to have someone co-sign your application.
6. If you are turned down, find out why and try to clear up any misunderstandings.

## **What is collateral?**

Collateral is property or money offered to support a loan, and subject to seizure if you default (fail to repay the amount required).

## **Can a creditor turn me down for a loan because of my age?**

No. The Equal Credit Opportunity Act protects you. The Act does not guarantee that you will get credit. You must still pass the creditor's tests of creditworthiness. The creditor must apply these tests fairly, impartially, and without discriminating against you on any of the following grounds: age, gender, marital status, race, color, religion, or national origin.

**What if I buy a television or stereo on installments and have problems getting it fixed? If the store refuses to repair the set, can I refuse to make payments?**

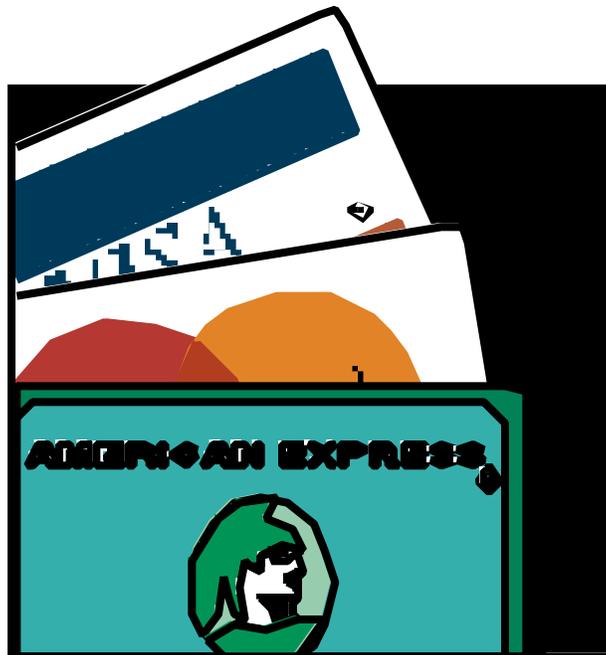
The Fair Credit Billing Act allows you to withhold payment on any damaged or poor quality goods or services purchased with a credit card, as long as you have made a real attempt to solve the problem with the merchant.

**What about maintaining my good credit report?**

A creditor may not threaten your credit rating while you are resolving a billing dispute.

Once you have written about a possible error, a creditor must not give out information to other creditors or credit bureaus that would hurt your credit reputation. Until your complaint is answered, the creditor may not take any action to collect the disputed amount.

After the creditor has explained the bill, if you do not pay in the time allowed, you may be reported as delinquent on the amount in dispute and the creditor may take action to collect. Even so, you can still disagree in writing. Then the creditor must report that you have challenged your bill and give you the name and address of each person who has received information about your account. When the matter is settled, the creditor must report the outcome to each person who has received information. Remember that you may also place your own side of the story in your credit record.



## **What is a crime?**

Typically, a crime consists of bad behavior accompanied by an intention to act illegally; however, not all bad behavior is criminal. There are some offenses, such as sexual assault of a minor or driving on a suspended license which do not require a specific intent to act illegally. All crimes in Nebraska are described in the United States Code, Nebraska statutes or in city or village ordinances.

Criminal behavior can include agreeing to commit a crime with another person (Conspiracy), hiding or helping a fugitive (Accessory), or holding the proceeds of a crime (Aiding Consummation or Receiving). Aiding, abetting, procuring, or causing another to commit a crime can mean you are as responsible for a crime as being the actual wrongdoer (and, therefore, you may receive the same punishment). Nebraska makes burglary, theft, assault, murder, littering, writing bad checks, selling drugs and many other actions criminal.

## **What punishments can happen to someone who commits a crime?**

Both the United States and State of Nebraska have criminal penalties including the death penalty after 18 years of age, life in prison without parole, a term of imprisonment, fines, probation and restitution. Nebraska also has offenses that may attach a driver's license suspension as a penalty. Persons convicted of sex-related offenses are required to register with law enforcement authorities for up to ten years.

## **What is the difference between a felony and a misdemeanor?**

Under Nebraska law, a felony is any offense where the penalty can include imprisonment for a period of one year or more. A misdemeanor is any other criminal offense. Nebraska also has several infraction offenses, such as possession of marijuana.

## **What are my rights?**

You have different rights at various times during the criminal process. Generally, you have the right to be left alone. This means that the police cannot stop you without a reason. This also means that the police do not have the right to search you or your car without a good reason. You may consent to a stop or search, but you are not required to do so. On the other hand, the police may stop you and ask questions or search your car if they have a good reason or if they have a warrant issued by a judge.

If you are arrested, you have the right to remain silent. If you choose to speak, anything you say could be used against you. You have the right to have an attorney. If you do not have the money to hire an attorney and you ask to talk to an attorney, the police must arrange for you to speak with an attorney before questioning, at no cost to you. You may give up these rights but you are not required to do so. You have a right to be promptly taken before a judge.

## **What about juvenile court?**

At age 19, you are an adult and cannot go to juvenile court. You may be punished as an adult even before your 18th birthday under some circumstances. Technically, juvenile court has the power to hear any case which happened when you were less than 18 years old. However, as a practical matter, the closer you are to adulthood (graduation from high school, living away from your parents, working, more than 17 years old, etc.) the less likely the court is to transfer your case to juvenile court. In Nebraska, the authority of Juvenile Court ends at age 19.

## **When and where can the authorities search?**

If you are lawfully arrested, authorities can search you personally or any place within your reach. If the police have "probable cause" to believe they will find evidence, they can search your vehicle. If the police get a warrant from a judge, they can search your house, papers, or any other place the judge authorizes.

## **What is bond?**

A bond is an agreement used to assure your appearance at trial. Often, courts require no bond or a personal recognizance bond for less serious cases, especially if you do not have a history of failing to appear in court. More serious cases or cases where you have a history of failing to appear for court can call for a cash bond. Usually such bonds are percentage bonds, meaning that you must post ten percent of the face amount of the bond. Except in certain murder and sexual assault cases, you have the right to a reasonable bond. You do not have the right to be released just because you cannot post the bond.

## **What if I cannot afford an attorney?**

During questioning, the police must provide a free attorney if you cannot afford to hire your own and you ask for one. All questioning must stop until you have had an opportunity to speak with an attorney. In court, you have the right to a free attorney only if you cannot afford to pay for one yourself and if you are going to lose your freedom. The judge may ask the prosecutor if the case is likely to call for a jail sentence; if so, the court will appoint an attorney. Some cases are usually handled by a fine and the court will not appoint an attorney, even if you cannot afford to hire one of your own choosing. You always have the right to hire an attorney of your own choosing.

### **Do I have any other rights?**

At a critical stage in a criminal case, you have the right to have the assistance of a competent attorney. You have the right to have any charges against you tried by a judge (called a bench trial) or if the charges are serious enough, tried by a jury. In either case, you have the right to a speedy public trial. At the trial, you have the right to meet the witnesses against you face to face and to confront them. You have the right to have your attorney cross examine the witnesses (there are limited exceptions). You have the right to have your witnesses come to court to testify for you. If they are unwilling to come to court, you can ask the court to force them to come to court. This is called compulsory process.

Finally, if you are dissatisfied with the outcome of your trial, you have the right to appeal. It may be possible to seek further appeals in special circumstances. You have the right to the effective assistance of an attorney during your appeal.



## CRIME VICTIMS

### **If someone commits a crime against me, what should I do?**

You should report the crime to a law enforcement agency in your area immediately. If you are injured, seek medical attention and find a safe place. Tell the truth about what happened. You may be asked to give a taped statement. Law enforcement officers will generally write a report about the crime. If they have enough evidence, someone may be arrested in your case.

### **If someone is arrested in my case, do I have to hire my own attorney?**

No. When a crime is committed in Nebraska, the County Attorney's Office prosecutes the crime. The County Attorney or in some counties, the City Attorney, represents the State once someone is charged with a crime, as it becomes a crime against the State. You, as a victim, become a witness in the prosecution. If you are subpoenaed by the court to testify at a trial, you must do so. If you do not, the judge could issue a warrant for your arrest.

### **What are my rights as a crime victim?**

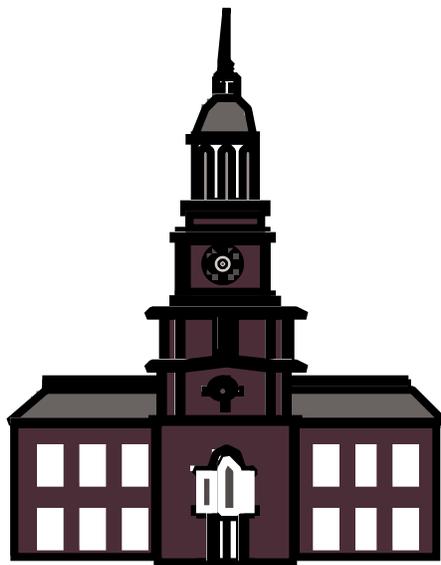
Crime victim is narrowly defined by Nebraska law. Generally, in Nebraska, you have a right to be protected from harm arising out of your cooperation with law enforcement and with the prosecution; to be notified that a court proceeding that you have been subpoenaed for will not go on as scheduled; to be informed by the County Attorney of the final disposition (sentencing of the defendant) of your case; and to be informed of all subpoenas or notices to appear in court, you are entitled to apply for and may receive a witness fee. These are only a few of your rights. Contact the County Attorney or the Victim Assistance Program in your area for more information.

### **What if I am injured as a result of the crime and cannot afford to pay the medical bills?**

If you are an innocent victim of crime, report the crime within 72 hours and cooperate with law enforcement, you may qualify for victim compensation. The Victim Reparation Program is administered by the Nebraska Crime Commission. Applications are available through them or your local Victim Assistance Program. There is a \$10,000 maximum award. The program does not pay for property damage. Another way you may receive restitution is if the judge orders the defendant to pay it as part of sentencing. Contact your local County Attorney's Office for more information about restitution.

### **If I am being stalked or am in a dating relationship and am being physically abused, what can I do?**

If this is happening to you, you have a right to call law enforcement to report this. If you are 18 or younger, your parent or guardian may apply for a harassment protection order on your behalf. These orders can vary as to what type of restrictions will be placed upon the person doing this to you. They could legally forbid the person from imposing any restraint upon you or your liberty; harassing, threatening, assaulting, molesting, attacking, or otherwise disturbing your peace; and/or telephoning, contacting, or otherwise communicating with you. Contact the District Court Office or Victim Assistance Program in your area for more information.



## EMPLOYMENT LAW

### **Will I have a written contract with my employer?**

Most employment contracts are verbal. There are some occupations that may use written contracts, and unionized jobs traditionally have written contracts. A verbal contract can be binding, but is often very limited in its terms and hard to prove.

### **How and why can I be fired?**

Nebraska is an "at will" employment state. This means that, unless you have a contract which regulates your employment, you work "at the will" of your employer. Without a contract, your employer may fire you at any time for any reason. No warnings or explanations need to be given.

The only meaningful limit on the employer's right is that you may not be fired because of your race, sex, religion, disability, color, national origin or marital status. (An employer also may not refuse to hire you for these reasons, nor may an employer treat you differently at work for these reasons.) Some companies may also have personnel manuals which place limits on reasons for firing, and which may outline the process to be followed.

### **What do I do if I believe that I have been discriminated against?**

If you think your employer is discriminating against you because of your race, color, sex, religion, national original, marital status or disability, your first contact should be with the Nebraska Equal Opportunity Commission (NEOC) or a lawyer. The NEOC is very helpful, and there is no charge for the commission's assistance. The NEOC has three offices in the state. Addresses are also listed in the Resource section in the back of this booklet:

<b>Lincoln</b>	301 Centennial Mall South, 5th Floor Toll Free Number – 800-642-6112
<b>Omaha</b>	1313 Farnam-on-the-Mall 402-595-2028
<b>Scottsbluff</b>	Panhandle Office Complex P.O. Box 1500 308-632-1340
<b>NEOC Website:</b>	<a href="http://www.nol.org/home/NEOC/">www.nol.org/home/NEOC/</a>

### **Do I have the right to vacation or sick leave?**

You only have the right to these items if you and your employer have agreed to them, or if you have a contract which provides them.

### **Am I entitled to any leave for the birth or adoption of a child?**

Each employer's policies and/or labor contract will vary as to whether you receive any **paid** leave following the birth or adoption of a child, and this will be outlined in sick leave or maternity/paternity clauses. If you work for a larger employer, you will probably be covered by the Family and Medical Leave Act of 1993. Under the Act, men and women are legally entitled to up to 12 weeks **unpaid** time off following a birth or adoption.

### **Can I demand work breaks?**

You are only entitled to the breaks which you and your employer have agreed on, or which are provided by a contract.

### **Will I be paid overtime?**

Most, but not all, employers are covered by the federal Fair Labor Standards Act. Under this law, they are required to pay you at least one and one-half times your regular rate of pay for any hours that you work in excess of 40 per week. This law provides for the minimum pay you must receive, but you may be entitled to more if you have a contract.

The rules governing the Fair Labor Standard Act may sometimes be confusing, so if you have any questions, you should call an attorney or the U.S. Department of Labor, Wage and Hour Division. This federal agency can be very helpful. The number in Lincoln is 402-437-5096, and in Omaha it is 402-221-4682.

### **What happens if I get hurt at work?**

Nebraska law requires that almost all employees must be covered by Workers' Compensation. This means that if you are injured at work, your medical bills should be paid, and you should receive pay (but not the full amount) for lost time, if you are off work more than seven days. If you have a contract, you may be entitled to more than these minimums.

### **What happens if I lose my job?**

Depending upon the type of job you had, and the reason you lost your job, you may very well be entitled to unemployment compensation. You should contact your local unemployment office for more details.

## HEALTH AND HUMAN SERVICES

### **What is the Department of Health & Human Services?**

The Nebraska Department of Health and Human Services (DHHS) has offices located across the state, administering 26 major social programs.

### **What programs are administered by the Department of Health & Human Services?**

The programs and activities of the Department are directed at four basic outcomes or goals: 1) access to health care; 2) economic support; (3) family preservation and protection of children and adults; and 4) services to support self-sufficiency and independence.

### **What is ADC (Aid to Dependent Children)?**

The ADC Program provides financial and/or medical assistance to families with minor children (i.e., children under the age of 19). The family must also meet certain income and assets criteria. Long-term assistance is available to those unable to work. However, those who are employable are entitled to only temporary assistance of up to two years.

A family receiving ADC benefits may be entitled to increased benefits with the birth of a child in the first ten months of assistance. After that period, the birth of another child will not increase the cash benefit amount.

Minors age 15 and younger who have not graduated from high school and who are dependent children in an ADC family are required to attend school. If the minor quits school without good cause, the family cash benefit will be reduced. A minor in an ADC household that has a child is required to attend school through their 19th birthday or graduation from high school, whichever occurs first.

### **Will the Department of Health and Human Services help me find a job?**

Persons with children who are able to work and are applying for or receiving assistance from ADC, may be required to participate in the **Employment First** program. In this program, a self-sufficiency contract will be developed between the ADC recipient and a caseworker for the Nebraska Department of Health and Human Services. This contract outlines things the case manager and ADC recipient will do to prepare the recipient for employment.

The Department can assist with basic education such as G.E.D. classes and ESL (English as a Second Language) classes, job skills training, micro-enterprise assistance, apprenticeships, job search, and on-the-job training.

In order to promote self-sufficiency, an ADC recipient in the **Employment First** program may receive other benefits. Child care assistance, Medicaid health insurance, and other services needed for self-sufficiency are among those benefits.

### **What is Medicaid and who is eligible for this program's benefits?**

Medicaid is a program of medical assistance to eligible needy people. The Medicaid Program is designed to provide coverage for medical care to families and individuals receiving cash assistance through ADC, Supplemental Security Income (SSI) or the State Supplemental Program. Also, people and families, whose income is sufficient to cover living expenses but not medical expenses, may receive Medicaid coverage if they meet the eligibility criteria. To qualify, a person or family must have limited income and resources.

There are additional groups covered under the Medicaid Program in Nebraska, including low-income aged, blind and disabled persons, institutionalized persons, children and pregnant women.

### **What services does Medicaid cover?**

Medicaid covers most routine and necessary medical expenses such as hospital care, doctor visits, dental care, eye care, family planning, laboratory and radiology services, most prescription drugs, medical equipment, home health services and nursing home care.

Medicaid coverage is limited in many areas. Prescription coverage is generally limited to three prescriptions per month. Eye care limits the amount that can be spent on frames and how often new eyewear can be obtained with Medicaid coverage.

Medicaid provides 100% coverage for doctors visits and hospitalization, including prenatal care and hospitalization for pregnant women.

### **What is the purpose of the Food Stamp Program?**

The Food Stamp Program provides coupons to low-income persons and families, redeemable for food items at retail outlets. The purpose of the program is to increase the purchasing power and food security of low-income households. The Nebraska Department of Health and Human Services administers the Food Stamp Program.

### **Who is eligible to obtain and use food stamps?**

Eligibility for this program is determined using three criteria. The household must meet income criteria, have limited available resources, and meet work requirements of the program. The Food Stamp Program restricts access to food stamps for some non-citizens, college students, and those who voluntarily quit their job. The amount of food stamps given to a family depends on the family income as well as the number of eligible persons in the household. Food stamps come in the form of coupons, which can be redeemed for covered food items at any retail establishment authorized to accept food stamps.

### **How can food stamps be used?**

All food items sold for human consumption can be purchased with food stamps. Items that cannot be purchased include cleaning and paper products, toiletries, diapers, clothes, alcohol or tobacco. **IT IS A CRIME TO SELL FOOD STAMPS.**

### **What is the WIC (Women, Infants and Children) Program?**

The WIC program is similar to the Food Stamp Program in that it provides food vouchers to low-income, pregnant, postpartum or breast-feeding women, and children under five years of age who have a nutritional need. However, only certain food items can be purchased with this voucher. These items include baby formula, milk and milk products, cheese, grains and cereals, dried beans and peas, eggs, fruit juice, tuna fish, and peanut butter. By contacting your local office of the Department of Health and Human Services, you can find out where to apply for WIC benefits in your community. Low-income pregnant women or families with children under the age of five are encouraged to apply.

### **What is the Child Support Enforcement Program?**

The Child Support Enforcement Program provides services to ADC and Medicaid recipients to establish paternity and orders for child support and medical support. It can also assist in enforcing support orders by establishing wage withholdings and attaching tax refunds if the non-custodial parent does not pay child support. The program's goal is to assist single parents in attaining self-sufficiency and to reduce the dependence on ADC and Medicaid benefits.

A parent receiving ADC benefits must assign his or her rights to child support to the State of Nebraska. A parent receiving ADC benefits must assist in the process of obtaining a child support order. This requires a mother receiving ADC to identify the father and participate in genetic testing where so required. A failure to assist in this process may result in the loss of ADC benefits. Child support received on behalf of a child receiving ADC will not go to the custodial parent unless the support is greater than the amount received in ADC benefits. Support received will instead go to the State of Nebraska to reimburse the state for benefits paid. Once the ADC recipient is no longer receiving ADC benefits, then the recipient is again eligible to receive child support payments.

Child Support Enforcement services are available to families not receiving ADC. By assisting them, it is hoped that such families can avoid becoming public assistance recipients. A call to the local office of the Department of Health and Human Services will let you know where to start the process of establishing child support.

### **What is Child Protective Services (CPS)?**

When a person suspects that the health or welfare of a child is endangered by the action (or inaction) of a parent or other adults, such persons should report such suspicion to CPS at the Nebraska Department of Health and Human Services. An investigation will be conducted when CPS finds that there is reason to believe the report. Reporting is confidential. Many professionals (including health care professionals, social workers, teachers, and day care providers) are obligated to report suspected child abuse.

### **What happens if a CPS worker determines that a child is abused or neglected?**

If abuse or neglect is found, a CPS worker may recommend that the child, or children, be removed from the home. A CPS worker cannot remove a child from the home. Only a law enforcement officer can remove a child. However, the removal may be based on recommendations from CPS or the County Attorney.

Child abuse or neglect can happen in families of any race or economic status. **Help is just a phone call away.**

### **Is there help for families of abused and neglected children?**

CPS workers assist families in developing a plan to eliminate or minimize the problems underlying the abuse or neglect. Services include referrals to parenting classes, counseling, psychological evaluations, assistance to victims of domestic violence, anger management, drug and alcohol counseling, as well as other services to improve parent abilities. Services are available regardless of income.

### **Where can victims of domestic violence get help?**

The Department of Health and Human Services funds community-based groups across the state which offer services to victims of domestic violence. Services include crisis hot lines, referrals, crisis counseling and assistance in helping victims obtain protection orders.

# IMMIGRATION

## **Does immigration law vary from state to state?**

No. Because it is a federal law, the Immigration and Naturalization Act applies nationwide. Therefore, no matter where you live in the United States, immigration law is the same.

## **Does immigration law treat adults differently from minors?**

Yes, in some cases. Although many provisions of immigration law apply the same way to both adults and minors, there are some crucial ways in which a minor (known as a “child” under the Immigration Act) is treated differently from an adult.

## **Who is a “child” for purposes of immigration law?**

It depends. A person can be a “child” for some purposes under immigration law but not for other purposes. Generally speaking, for immigration purposes a “child” is an unmarried person under the age of 21. However, because the definition of “child” in the Immigration Act varies depending on the situation involved, one may, under certain circumstances, no longer be a “child” even as early as age 16. A person can be a “child” under the Immigration Act even if he/she is not the biological child of his/her parents. Some examples of this are listed below.

Adopted Children. If you were adopted, you are a “child” of your adoptive parents for most purposes under immigration law so long as you were adopted before you turned age 16. In some cases, you must also have been living with your adoptive parents for at least two years before you can get any immigration benefits from them. If you were adopted after turning age 16, then you are not considered to be a “child” for immigration purposes.

Stepchildren. In most cases, so long as the marriage between your biological parent and stepparent took place before you turned 18, you also qualify as a “child” of your stepparent under the Immigration Act. One area in which this is not true is naturalization (becoming a United States citizen). As a stepchild, you do not gain any citizenship benefits directly through your stepparent.

Children Born Out of Wedlock. Even if you were born when your parents were not married to each other, you are always a “child” of your mother for immigration purposes until you marry or turn age 21. You will be considered a “child” of your biological father if, generally speaking, the law officially recognizes the parent-child relationship between your biological father and you before you turn age 18. Usually such recognition takes place because your biological father marries your mother or is declared by a court to be your father.

## **If I get married while the Immigration Act still considers me a “child,” what will happen?**

Generally speaking, once you marry, you are no longer considered to be a “child” for purposes of immigration law.

## **What is the main effect on me if I am no longer a “child” under the Immigration Act?**

If you are not a “child” under the Immigration Act, you may not be able to gain immigration benefits automatically from your parents. In most situations, children automatically have the same immigration status as their parents do, or are able to get such status more easily than someone who is not a “child.” Once you are no longer a “child,” you generally will have to qualify for immigration benefits on your own, or will have to wait longer to get immigration benefits through your parents. Also, once you are no longer a “child,” until you become a United States citizen, you may be subject to more severe penalties for violations of the Immigration Act.

## **What are some examples of the way things will change under the Immigration Act once I am no longer a “child?”**

There are several ways in which things might change. The following are a few examples.

Children of United States Citizens. If you are the child of a United States citizen and if you have no immigration status in the United States, you are eligible to become a legal permanent resident (get a “green card”) because of your family relationship to the United States citizen. In such cases, you are called an “immediate relative” of a United States citizen under the Immigration Act. Once you marry or reach the age of 21, however, you are considered to be either a “son” or “daughter” under the Immigration Act, and receive less favorable treatment in terms of getting immigration benefits from your parents. In mid-2001, for example, unmarried “sons” or “daughters” of United States citizens had to wait about two years longer than children of United States citizens to get “green cards” through their parents. Married “sons” or “daughters” of United States citizens had to wait about five years longer than children of United States citizens to get their “green cards.”

Children of Non-United States Citizens. Generally speaking, if your parents are not United States citizens but are coming to the United States, you get the same immigration status as your parents. This is true whether your parents are coming to the United States as immigrants, or are only coming to the United States for a limited period of time as non-immigrants. However, once you turn age 21 or marry, then you will no longer get the same immigration status as your parents just because they are your parents. Instead, you will have to qualify on your own.

Children of Refugees or Asylees. If your parents are classified as refugees before entering the United States, or receive asylum after entering the United States, normally you will receive the same immigration benefits as your parents. If you marry or turn age 21 before your parents became refugees or received asylum, then you are not eligible to receive those benefits through your parents.

Children of Parents Who Naturalize. If your parents were not born in the United States but “naturalize” (become United States citizens), you automatically become a United States citizen yourself if: 1) you become a legal permanent resident (get a “green card”), and 2) your parents naturalize, so long as both of these things happen before you turn age 18. If you turn age 18 before either of these two things happen, then you will have to qualify to become a United States citizen on your own.

Conviction of Crimes. If you are convicted of certain crimes, you may be “removable” from the United States; that is, the Immigration and Naturalization Service (INS) may seek to deport you from the United States. Generally speaking, if you are convicted of a juvenile offense, that conviction will not make you removable from the United States. However, if you are charged with a crime as an adult and are convicted of such a crime, you may be removable. Under the guidelines used by the INS, there are three categories of people who have been convicted of crimes: 1) anyone under the age of 16 who is convicted of a crime is considered to be a juvenile, and such conviction will not make the non-citizen removable from the United States, regardless of the crime; 2) anyone between the ages of 16 and 18 who is charged as an adult with serious crimes (felonies with a maximum punishment of ten years or more, life imprisonment or death) will most often be removable if convicted; and 3) the INS will try to remove from the United States anyone over age 18 who is convicted of a crime that makes him/her removable from the United States under the Immigration Act.

**If I am not a United States citizen, must I still register with the Selective Service when I turn 18?**

Yes, if you are a male person and are legally residing in the United States on your 18th birthday, you must register with the Selective Service, even if you are not a United States citizen. You need not register with the Selective Service if you were admitted to and are living in the United States as a non-immigrant.

# INSURANCE

## **What is an insurance policy?**

A policy of insurance is a contract. In exchange for a fee (the premium), the insurance company promises to pay a person (the “insured”) if a certain insurable event happens. Remember...the right policy for you is one that covers your needs and meets your budget.

## **What kinds of insurance are available?**

There are several kinds of insurance available, four of which you may want to consider: automobile, renters’, health and life.

## **Am I required to purchase automobile insurance?**

Yes, you are required to purchase auto liability insurance if you intend to drive. Liability coverage protects you against damages you cause to others if you are at fault in an accident. It does not pay for your own losses. There is a minimum amount of liability insurance that you must purchase; however, you may purchase a policy that will pay more than the minimum amount of liability. The cost to increase the limit is usually reasonable.

Liability coverage is divided into two types, bodily injury and property damage. The bodily injury liability coverage pays for injuries to other persons, including medical payments and lost wages. The property damage liability coverage pays for damage done to the property of another person.

You will also need to include underinsured/uninsured coverage. This part of the insurance policy pays for your medical bills if an uninsured or underinsured driver causes you injury.

## **Are there other types of automobile insurance coverages?**

Yes, you may want to consider collision/comprehensive; medical payments; and/or rental car coverage.

## **What is collision/comprehensive coverage?**

If you own a newer car, your bank may require that you buy comprehensive or collision coverage. You may wish to consider these coverages to protect your own vehicle. Collision coverage pays for damage caused to your vehicle when you collide with another vehicle or object. Comprehensive coverage pays for other kinds of damage to your vehicle, such as that caused by theft, falling objects, fire, rocks thrown up by passing vehicles, etc. Your policy will identify all of the perils that may apply under this coverage.

## **What is medical payments coverage?**

This coverage pays medical expenses for you and residents of your household when involved in an auto accident whether as a driver, a passenger, or a pedestrian, regardless of who is at fault.

## **What does renters’ insurance cover?**

Most companies sell a renters’ insurance policy – sometimes referred to as a tenants’ homeowners policy – which protects the renter’s property in the event of a covered loss such as fire, lightning, theft, etc. Renters’ insurance also provides bodily injury and property damage liability protection for certain instances in which the renter is at fault in causing damages. The policy may include medical payments, without regard to fault, for persons who are accidentally injured while on your premises.

## **How do I choose the best health insurance policy?**

Health insurance protects you from unexpected expenses associated with an illness or an accident, and is available from most insurance companies. Shop carefully for health insurance because most policies and plans differ in cost, coverage, and claims service. Students who attend school full-time are usually eligible for health insurance benefits under their parents’ policy. All basic health insurance policies stop paying benefits when certain time limits or dollar limits are reached. If you need to purchase health insurance, know what insurance or other benefits you already have in order to avoid duplicate coverage and to determine if you have enough coverage.

## **What is individual health insurance?**

Individual health insurance covers one person or all the members of a family under one policy and is usually purchased by people who do not have access to group insurance.

## **What is group health insurance?**

Group health insurance covers a number of people under one policy, and is usually available through an employer, a union, an association, or other organization.

## **What is a Certificate of Creditable Coverage?**

You will receive a Certificate of Creditable Coverage when you leave a health plan. It will describe the length of time you were covered under that plan. If you enroll in a group health plan within 63 days of losing your last plan, you can give a copy of the Certificate to your new plan. The number of months you were covered under your old plan can be credited to your new plan. This will reduce the period of time the new plan would ordinarily require you to wait before it will pay for medical problems that exist before you start the new plan.

**What is COBRA?**

COBRA is a federal law that allows employees and their dependents to continue a group health plan after they lose eligibility in the plan. Specific types of events will allow a person to continue coverage, such as a termination of employment, death of the employee, or loss of dependent status (whether due to age or failure to maintain full-time student status). Under COBRA, coverage can be continued for up to a specific amount of time, usually 18 months. Only certain employers are required to offer COBRA coverage, and they are not required to contribute any money to the cost of the premium.

**Is all life insurance the same?**

Ordinary life insurance provides a specified amount of money at the time of your death to the persons you have named as your beneficiaries. Keep in mind that coverages provided will vary. It is worthwhile to shop around for a policy that fits your needs. Life insurance benefits can be used for the expenses of final illness, burial, taxes, and other expenses. It is a good idea to periodically review your policy and the selection of your beneficiary and update them whenever necessary.

**What is term life insurance?**

Benefits are payable to a beneficiary only when an insured dies within a specified period.

**What is whole life insurance?**

Benefits are payable to a beneficiary at the death of the insured whenever that occurs.

**What is universal life insurance?**

This is a flexible premium life insurance policy in which the policyholder may change the death benefit from time to time and vary the amount or timing of premium payments.

**What is an annuity?**

A contract that provides for periodic payments (benefits) starting from a particular date and continuing for a period of time.

**How can I cut my insurance costs?**

Deductibles. The higher your deductible, the less you will pay in premiums. However, never select a deductible higher than you can afford.

Collision/Comprehensive (Automobile). If the value of your car is such that you could afford to fix it without insurance, you could consider not carrying this coverage.

Shop around. Insurance premiums vary greatly. Take the time to shop around and compare.

**What types of insurance am I required to have?**

Automobile liability insurance and underinsured/uninsured motorist coverage are the only types of insurance listed above, which are required by law. When you register your vehicle, you must provide proof of insurance, which will be furnished to you by your insurance company upon payment of your insurance premiums.

## JURY DUTY – STATE COURTS

### **Who is eligible for jury duty in Nebraska?**

Citizens of the United States who reside in Nebraska, are over the age of 19, are able to read, can speak and understand the English language and are physically and mentally capable of serving on a jury, are eligible for jury duty in Nebraska.

### **How do jurors get selected?**

Jurors are selected at random from a combined list of registered voters and licensed drivers in a particular county.

### **If I am called for jury duty, do I have to go?**

Yes. You must appear for jury duty unless the judge postpones your jury service because you show undue hardship, extreme inconvenience or public necessity. You may be found in contempt of court if you fail to appear for jury duty without good cause.

### **How are jurors selected to sit on a particular case?**

Names are called at random from those who have been summoned for jury duty. The judge and lawyers for the parties ask questions to determine if there are any individuals who should be excused from jury duty.

### **Will I be paid for jury duty?**

Yes. For each day you serve, you will receive \$35, plus mileage.

### **Will I lose my job if I serve on a jury?**

No. State law prohibits your employer from firing you or penalizing you by loss of pay, sick leave or vacation time. Your employer may, however, reduce your pay by the daily amount you receive for jury duty.



# LANDLORD-TENANT LAW

## **What law governs Landlord-Tenant problems?**

The Uniform Residential Landlord and Tenant Act governs oral and written agreements for residential property in Nebraska.

## **What is a lease?**

A lease is a contract between a landlord and a tenant. Once the parties enter into a lease, they are usually legally bound by its terms, as long as these terms are not contrary to the landlord-tenant law. An oral lease may be legally binding but it is better to have a lease in writing so the parties' obligations and rights are clearly spelled out. The lease should state who is responsible for paying the utility bills and should spell out each party's responsibility for caring for the premises. Do not sign a lease with blank spaces, and do not rely on promises made by one party but not included in the lease. If you have any questions about the provisions of a lease, talk to your attorney before you sign. You should be provided a copy of the lease; keep it in a safe location for five years after you move out of the property.

## **What are a landlord's rights?**

The landlord has the right to receive rent and collect damages for misuse or negligent destruction of the property, including damages in excess of the tenant's deposit. You do not have the right to withhold rent even if the landlord does not repair the property. In that case, you must give the landlord a 14-day notice to repair or you will vacate in 30 days.

A landlord may charge whatever rent the landlord desires and may charge a security deposit not in excess of one month's rent and a pet deposit not in excess of one-fourth of one month's rent.

The landlord may establish terms and conditions governing the tenant's conduct. Rules must be applied to all tenants in a fair manner and notice of those rules must be given to the tenant at the time the lease is signed. Rules adopted after the tenant signs the lease are enforceable if notice is given to the tenant, and if the rule does not substantially change the rental agreement.

The landlord's right to establish such rules does not give him or her the right to discriminate against prospective tenants on the basis of such factors as race, religion or national origin.

The landlord may enter a rental unit to inspect the premises, make repairs, supply services or exhibit the property to workers, prospective tenants or purchasers. In these instances, the landlord must give the tenant at least one-day's notice that he or she intends to enter, and should enter only at reasonable times. The landlord may enter without the tenant's consent only if there is an emergency, or if the tenant has abandoned the premises.

If the tenant abandons the rental unit, the landlord may take immediate possession. The landlord may require tenants who intend to be away from their rental unit for more than seven days to notify the landlord, so the landlord does not assume the property has been abandoned.

The landlord must give you notice of selling your abandoned property; if it is worth \$250 or more, the net proceeds are sent to you or the State Treasurer for you to claim. If your property is worth less than \$250, the landlord may keep, sell or destroy the property if you don't claim it by the stated date.

## **What are a landlord's duties?**

The landlord has the duty to deliver possessions of the premises to the tenant according to the terms of the rental agreement.

The landlord has a duty to make repairs and to put and keep the premises in a fit, clean and safe condition after receiving written notice from the tenant.

The landlord has a duty to maintain in good working order all facilities and appliances supplied by the landlord.

The landlord has a duty to provide running water and heat.

The landlord has a duty to provide for the removal of garbage and other waste.

If the property was built before 1978, the landlord must give a prospective tenant the EPA's pamphlet on Lead Hazards (lead-based paints used before 1978 are hazardous to children and babies even before they are born). The lease must include a Lead Warning Statement; the landlord must disclose all information about known lead-based paint hazards on the premises and the landlord must provide you with copies of any relevant records.

## **What are a tenant's rights?**

The tenant may have possession of the rental property until the lease expires, as long as he or she performs all legal obligations. The tenant may use the property in any lawful way, subject to the restrictions in the lease. A common restriction is to use the premises for residential purposes only.

The tenant may deliver a written notice to the landlord specifying the acts and omissions constituting any breach of the rental agreement and the rental agreement will terminate upon a date 30 days after receipt of the notice if the breach is not remedied in 14 days.

If the landlord fails to supply essential services such as heat or water, the tenant may give written notice to the landlord stating the nature of the failure and may deduct the cost of obtaining such services from the rent or find reasonable substitute housing during the period services were not available.

The tenant may sub-let the property unless prohibited by the lease. The original tenant must fulfill his or her obligations (including being responsible for the rent if the sublettor fails to pay) under the original lease agreement, even if the property has been sub-let.

**What are a tenant's duties?**

The tenant has the duty to comply with all obligations imposed by the lease and pay rent when it is due.

The tenant has the duty to keep the rental unit in a clean and safe condition and upon termination of the tenancy leave the unit in as clean condition excepting ordinary wear and tear, as when tenancy began.

The tenant has the duty to dispose of all waste from the rental unit in a clean and safe manner.

The tenant has the duty to use all facilities and appliances in the premises in a reasonable and safe manner.

The tenant has the duty to not destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so.

The tenant has the duty to conduct himself/herself in a manner that will not disturb their neighbors' peaceful enjoyment of the premises.

The tenant has the duty to not unreasonably withhold consent for the landlord to enter the rental unit to inspect the premises.

**How do I end a lease?**

For a monthly lease, at least 30-days notice before the rent due date is required but notice must be given for the first of the month. For example, if rent is due on the first, notice given on June 15 is effective for ending the lease on July 31, not for ending it on July 15. If you have a lease for a fixed period of time, it usually converts to a month-to-month lease after the fixed period has expired. If the tenant leaves before the lease has expired, the landlord has an obligation to try to rent the unit; but if he or she cannot do so, the tenant signing the lease is responsible for the full term of the lease.

If one of the parties violates the conditions of the lease or the landlord-tenant law, the lease may sometimes be terminated.

If the tenant fails to pay the rent, the landlord may notify the tenant the lease will end if the rent is not paid within three days. For failure to comply with terms and conditions other than payment of rent, the tenant must be given 14 days to correct the offending behavior.

If the tenant believes the landlord is not fulfilling duties under the lease, the tenant must give the landlord notice of the problem and 14 days to correct it.

In the case of serious or repeated violations, either party may choose to end the lease. Depending upon the circumstances, either the landlord or the tenant may be able to recover damages and reasonable attorney fees. All notices should be in writing between the landlord and tenant. The parties should date the notice and keep a copy.

The landlord cannot withhold personal property of the tenant, shut off utilities to the rental unit, change keys to lock the tenant out of the rental unit, nor forcibly remove the tenant. The landlord must go through court, and the sheriff then moves or locks the tenant out. The tenant cannot withhold rent except under very limited circumstances.

**What happens to the property left behind?**

When personal property is left behind in the premises which were previously leased by the tenant, the landlord must give notice to the tenant and to any other person the landlord reasonably believes to be the owner of the property. The landlord must describe the property in a manner to permit the owner of the property to identify it. If the property is in a locked or otherwise secured container which deters access, the landlord may describe the container and not the contents. The notice must state that reasonable costs of storage may be charged before the property is returned, where the property may be claimed, and the date on or before which such property must be claimed. The date must be not less than seven days after the notice is personally delivered, or if mailed, not less than 14 days after the notice is deposited in the mail. The notice must be given within six months of the expiration of the lease of the property or the date of discovery of the abandonment, whichever is later.

The landlord must release the personal property to the tenant or the person believed by the landlord to be the owner IF the landlord is paid reasonable costs of storage and advertising and the person takes possession of the property on or before the date specified in the notice.

If the property is not claimed and is worth less than \$250, the landlord may retain the property for his or her own use or dispose of it as he or she sees fit. If the property is worth more than \$250, it must be sold at public sale by competitive bidding. The landlord can bid on the property at the public sale. The costs of storage, advertising, and the sale are paid from the proceeds of the sale. The former tenant or property owner has 30 days after the sale to claim the remaining proceeds. If the tenant or owner does not claim the proceeds within the 30-day period, the proceeds are sent to the State Treasurer for disposition pursuant to the Uniform Disposition of Unclaimed Property Act.

## MARRIAGE, DIVORCE AND CHILDREN

### **When can I marry without parental consent?**

You may marry without parental or guardian consent once you reach the age of majority, which is 19 years old in Nebraska.

### **What is the youngest age at which I could marry with parental consent?**

In Nebraska, both males and females must be 17 years or older to be able to marry with written consent of their parents or guardians which must be presented to the county clerk before you may get a license.

### **What happens if we get married too young?**

The marriage is voidable. This means that the marriage is valid; however, either party may get an annulment before reaching the legal age.

### **Is marriage a contract?**

Yes, marriage is considered to be a contract. It is a contract in which the state has an interest. Among other things, the State can determine how to get married, what rights you have as a married person and how to end a marriage.

### **How do I get a marriage license?**

You and your fiancé must go down to the county clerk's office together to apply. You must both have identification with you, either a driver's license or birth certificate. The blood test is no longer required. Both must know the birthplaces of their parents and their mothers' maiden name. There is no waiting period; therefore, you may get married immediately after receiving your license. However, you must use the license within one year or it will expire. There is a \$15 fee for the marriage license.

### **What is required for a valid marriage?**

There must be a solemnization of marriage, in any form, which includes a solemn declaration in front of a magistrate or minister and at least two witnesses that the couple takes each other as husband and wife. The marriage is void when either party has a husband or wife living at the time of the marriage (bigamy), when either party is mentally incompetent, when the parties are related as family (incest), or when either of the parties has full knowledge that they have a venereal disease.

### **Is a wife required to take her husband's last name?**

Although it is customary for the wife to take her husband's last name, it is not required by law. If the wife does take his name, she should change her name on her Social Security card, driver's license, credit cards, bank accounts and notify other interested people or businesses.

### **Who has to provide support in a marriage?**

In Nebraska, each spouse has the duty by law to provide for the reasonable support and maintenance of the other as well as minor children and stepchildren, during the continuance of the marriage relationship. What is considered "reasonable" is decided by the court, but generally includes food, shelter and medical expenses, (i.e. the necessities of life).

### **What happens in a divorce?**

A judge will consider child custody, child support, financial maintenance of either spouse (alimony), and property division. As a general rule, most assets are divided equally, regardless of marital misconduct. After the judge has granted a divorce, you must wait for six months before you can remarry.

### **What are the grounds for divorce?**

Nebraska is a "no fault" divorce state. That means that there is no longer any requirement of bad behavior (adultery, mental or physical cruelty). All that is necessary is to show the judge that the marriage is "irretrievably broken" such that there is no chance for the husband and wife to reunite.

### **If I get a divorce, how is my property divided?**

Nebraska is an "equitable distribution" state. This means that whenever a marriage is dissolved, the marital property (any property acquired during the marriage, generally excluding gifts and inheritance) will be "equitably" divided between the parties. The court decides how the property and debts will be divided, if the parties have not reached an agreement themselves or that agreement is not acceptable to the court.

### **Can a father be required to support his child if he is not married to the mother?**

Yes, the father of a child whose paternity has either been determined by the court or if the father admits it, can be required to support his child as if he were married to the mother.

**Can a father get custody of his child if he is not married to the mother?**

Yes. It is not necessary for the parents to have been married for the father to try to gain custody.

**What if a man denies that he is the child's father?**

The child, mother, guardian or the State may bring a paternity action to decide whether he is the father. Generally, if the father does not admit paternity, then blood tests can be used to provide evidence that he is the father. He is entitled to a jury trial on the question of his paternity.

**May a parent's rights be terminated?**

Yes, the court may terminate parental rights if it finds that the best interests of the child require it. Some reasons to terminate are: abandonment by one or both parents, neglect, the parents are dangerous to the child because of their conduct (immoral, alcoholic, drug abuse), or mental illness of one or both parents.

**What does "termination" mean?**

Termination of parental rights means that the former parent is no longer legally considered the child's parents and no longer has any of the rights or responsibilities of a parent, including the right to see the child and the duty to pay for the child's expenses.

**If I am being abused by my spouse, do I have to file for divorce to get help from the courts?**

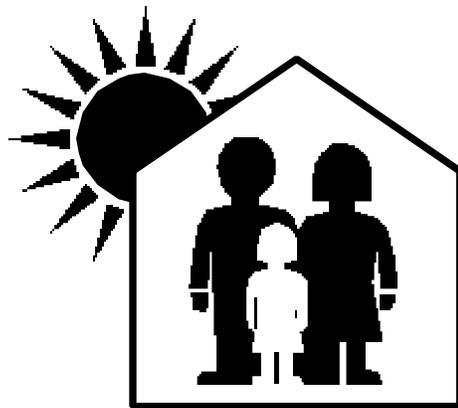
No, if you are abused, you can get a protection order from the court. Protection orders are available for everyone, not only battered spouses. The protection order should prevent any further abuse from occurring and, if not, a person violating the protection order can be arrested and charged with a crime.

**If I'm being abused, can the state's attorney bring criminal charges against my spouse?**

Yes, it is important to call the police immediately and seek medical attention, if necessary. It is also important to make sure there are records of the event, injuries and any possible witnesses to assist the police.

**Can I sue my spouse for personal injuries resulting from the abuse?**

Yes, it is necessary to seek medical attention and make records of all important information. Then you need to visit an attorney.



# THE SELECTIVE SERVICE SYSTEM AND MILITARY SERVICE

## **What is the Selective Service System?**

The Selective Service System is a federal agency in charge of providing manpower to the Department of Defense in the event of a national emergency.

## **Who is required to register for the Selective Service System?**

All male citizens and male immigrant aliens residing in the United States, who were born after December 31, 1959, must register within 30 days of their 18th birthday.

## **How do I register for the Selective Service System?**

The easiest method of registration is on the Internet at web site [www.sss.gov](http://www.sss.gov). As an alternative, in many cases Selective Service will contact potential registrants by direct mail with forms that need to be completed and returned by mail. Also, United States Post Offices stock registration forms which can be completed and mailed to Selective Service. Only one method of registration should be used by an individual.

## **Will I receive proof of registration when I register?**

If registering on the Internet, you will be assigned a registration number immediately. With all methods of registration you will receive an acknowledgment form within 90 days. You should keep this form in a safe place as it serves as official proof of registration.

## **What happens if I don't register?**

Failure to register may violate the Military Selective Service Act. A conviction could result in imprisonment for up to five years and/or a fine of up to \$250,000. In addition to these penalties, individuals failing to register may not be allowed access to federally guaranteed student loans, federal jobs, and federal job training. Further, if the individual is not yet a citizen, citizenship may be denied. An individual cannot register after he reaches age 26, possibly resulting in permanent forfeiture of these rights.

## **How old do I have to be to enlist in the military?**

You must be 18 years old to enlist without parental consent. You may enlist at age 17 with parental consent.

## **How can I get more information on the Selective Service System?**

Visit the Selective Service System web site at [www.sss.gov](http://www.sss.gov). Most libraries and schools have Internet accessible computers which can be used for this purpose. You can also contact Selective Service at 888-655-1825 and information can be sent to you.

## TAX RESPONSIBILITIES

### What services are provided by the taxes I pay?

Citizens of every community receive benefits and services that are provided by the government. These services include police and fire protection, public schools, public parks, street and highway systems to name a few. These services are paid for by the businesses and citizens of the community through the taxes they pay to city, county, or state government.

### What taxes are you as a citizen of the community required to pay to the government?

**Individual Income Tax:** When you enter the work force, the wages paid to you become subject to income tax. Normally, employers will withhold the tax from the wages paid to each employee. However, if you are self-employed, you are responsible for sending the tax directly to the government through estimated income tax payments.

On or before April 15 of each year, you will be required to file a state income tax return, in addition to your federal income tax return, to report your earnings and income tax due for the preceding calendar year. The tax withheld by your employer or your estimated tax payments are used to offset any tax liability computed on the return.

If you should become an employer, you will be responsible for withholding income tax from the wages of your employees.

**Social Security and Medicare Taxes:** These are withheld from your paycheck along with federal and state income taxes. The social security tax pays for old age, survivor, and disability payments when you become eligible for them. The Medicare tax pays for basic Medicare insurance coverage. Your employer will match the amount taken from your paycheck.

**Property Taxes:** When you purchase a house, you will be required to pay property tax on the value of the property. A motor vehicle tax is paid on your car at the time the vehicle is licensed. Property taxes on houses are due twice each year and are paid to the County Treasurer. Many banks collect a portion of the tax each month along with the monthly house mortgage payment. They in turn remit the tax to the local government on behalf of the homeowner.

**Sales Tax:** As a consumer of goods, you have probably noted the sales taxes which you have paid on your clothing, school supplies, and entertainment purchases. Sellers of merchandise are required to obtain a sales tax permit from the State and must collect the sales tax when they make a sale. This tax is then sent into the State on a monthly, quarterly, or annual basis.

**Other Taxes:** In addition to income, property, and sales taxes, there are a number of other taxes which may be collected from you. For example, a tax is imposed on gasoline that you put into your motor vehicle and this tax is included in the price. If you open a business of your own, there may be additional taxes for which you are responsible. You should contact your local and state authorities to determine which tax programs apply to your business.

### What types of income are taxable?

Most people know that wages and salaries are taxable income. What about cash received for repairing a neighbor's car, additional stock received under a dividend reinvestment plan, or illegal income such as stolen or embezzled funds? All of these have one thing in common. They are taxable income. No matter what it is called, income is taxable unless the tax law specifically states that it is not. Income is not limited to money. It can be property or services bartered for other property or services. It can be income from a hobby, a second job or from self-employment, even if the worker does not have a formal company.

### Is there any income that is not taxable?

Examples of income that are not taxable include gifts, inheritances, certain payments received as compensation for discrimination or physical injury, black lung benefits and workers' compensation.

For more information on taxable and non-taxable income, call 800-829-3676 and ask for Publication 525, *Taxable and Nontaxable Income*.

### What about tips I receive? Are these taxable?

Tips that workers receive are taxable income. If tips total \$20 or more a month while working for one employer, workers must report them to the employer. Employers must withhold income, Social Security and Medicare taxes on those tips. Then employers must file Form 941 to report the withholding to the IRS. Get all the details by calling 800-829-3676 and asking for free Publication 15, Circular E, *Employer's Tax Guide*.

### What is a W-4?

It is Form W-4, "Employee's Withholding Allowance Certificate." It could spell the difference between writing Uncle Sam a large check, a small one, or getting a refund when filing a federal income tax return.

The information you give your employer on Form W-4 helps determine the amount of tax that is withheld from your pay. To make sure tax withholdings will be the right amount, you should consider both personal and financial situations. Changes in either of these, and, of course, in the tax law, could affect withholding.

Each allowance claimed on Form W-4 decreases the amount of tax withheld. There is no limit to the number of legitimate allowances you can claim, but if the number is more than ten, the employer must send a copy of the W-4 to the IRS. The IRS may ask you to justify the number claimed.

Form W-4 is valid until another one is filled out, with one exception: If you meet the qualifications for exemption from withholding, you must fill out a new W-4 each year you are eligible for the exemption. Otherwise, just give the completed Form W-4 to your employer and only revise it when your personal or financial status changes.

Publication 919, *Is My Withholding Correct for 1999?* explains how to complete the W-4 worksheet and form. Call 800-829-3676 to order a free copy.

### **What can I do if I have continuing tax hassles with the IRS?**

If you have not been able to solve your tax problem after repeated attempts through normal Internal Revenue Service channels, you should ask for the Problem Resolution Program (PRP) office. This office was specifically set up to give immediate attention to chronic tax situations that other IRS personnel have not been able to correct. And people who need PRP help usually deal with one person who keeps them informed of the progress of their case.

Examples of problems the PRP office handles include helping to get delayed refunds, resolving incorrect billing notices and stopping enforced collection when appropriate.

To contact the PRP office, call the IRS at 877-777-4778 and ask to be referred to the Problem Resolution Office. Hearing-impaired taxpayers who have a telecommunication device for the deaf (TDD) can call 800-829-4059.

### **What about keeping records?**

Keeping good records can save you money and time. Filing taxes can be a lot easier when you have a clear-cut place to start, even if that means hauling out the shoebox filled with receipts and canceled checks. Being able to find these records can help later if you need to file an amended return, if the IRS selects your return for examination, or if you get a bill for additional tax. Not having the right receipt can cost money.

Usually you should keep copies of your returns for at least three years. Past years' tax returns can be used as guides for filing out current year returns. Another important reason for keeping copies of tax returns is because you need to show copies of your returns when you apply for different types of loans, like student financial aid.

### **Need help preparing your taxes?**

Publication 17, *Your Federal Income Tax*, takes you step by step through the tax return. It explains the credits you may be able to take to reduce your tax and gives examples of how tax laws apply to typical situations. Call 800-829-3676 for your free copy.

### **How do I choose a tax preparer?**

Choosing the income tax preparer that is right for you may be easier if you answer a few questions first. How complicated is your tax situation? Will the preparer be there later in the year, or in a year or two, to answer questions on your return? Do you know others who have gone to the preparer and could tell you about the preparer's service? Finding the answers to these questions may help you make the right choice.

### **How can I obtain information concerning my federal and state taxes?**

In addition to contacting the IRS for information regarding federal taxes at 800-829-3676, you may obtain federal tax information and download federal tax forms by accessing the IRS Internet Web Site, located at [www.irs.gov/](http://www.irs.gov/). If you need to contact the IRS by fax, the number is 703-321-8020.

If you have questions regarding state taxes, including income or sales taxes, you may contact the Nebraska Department of Revenue's Taxpayer Assistance number, 800-742-7474 (in Lincoln, 402-471-5729). Hearing-impaired persons who have a telecommunication device for the deaf (TDD) can call Taxpayer's Assistance at 800-382-9309 (in Lincoln, 402-471-5740). The fax number for the Nebraska Department of Revenue is 402-471-5608. You may obtain state tax information and download state tax forms by accessing the Nebraska Department of Revenue's Internet Web Site, located at [www.nol.org/home/NDR/](http://www.nol.org/home/NDR/).



# VOTING

## **Who is eligible to vote?**

In Nebraska, a resident who is 18 years old may register to vote. In addition, if you are 17 and will be 18 by the first Tuesday following the first Monday in November, you may also register during the calendar year you turn 18.

## **Where do I register to vote?**

You may register to vote in person at the Election Commissioner's office or County Clerk's office in your county. You may also register to vote when applying for or changing an address on your driver's license. Registration is also offered when applying for state provided public assistance or services to the disabled.

You may register to vote by mail. Mail applications are available from the local election official's office, the Secretary of State's office, and many counties provide applications at locations such as banks, post offices and libraries. Mail applications may also be obtained from the Secretary of State's Internet web site [www.nol.org/home/SOS/](http://www.nol.org/home/SOS/).

## **When do I register to vote?**

If you register to vote in person at the Election Commissioner or County Clerk's office, the deadline is the second Friday before an election. If you register at a state agency such as Department of Motor vehicles or if you register by mail, the deadline is the third Friday before an election. If the application is sent by mail, it must be received by the deadline.

## **Where do I vote?**

If your application is complete, you will receive a notification by mail indicating that you are a registered voter and the location of your polling place. When your application is received, if required information is missing, you will be notified by mail that your application is incomplete and some additional information is needed. If you are unsure of your polling place, contact the local Election Commissioner or County Clerk.

## **I am going out of town to college and won't be back on election day. Can I still vote?**

Yes. If your address at school will be your permanent residence, you may re-register at that address. If you maintain your permanent residence at your hometown, you may vote by absentee ballot. You should contact the Election Commissioner or County Clerk to request an absentee ballot.

## **Do I ever have to re-register to vote?**

You should re-register to vote whenever you change your name, your permanent residence or your political party.

# WILLS, POWERS OF ATTORNEY AND LIVING WILLS

## **Who may make a will in Nebraska?**

Nebraska law permits any individual who is 18 years of age or older and of sound mind to make a will.

## **How do I make a will?**

It is suggested an attorney be used in making a will whenever possible due to the training and expertise they bring to the subject. A will is much more than just a statement of the individuals you want to receive your property.

An attorney will assist you by discussing the nature and extent of your property, the tax consequences of what you want to do, where trust arrangements may be beneficial for younger beneficiaries or those incapable of managing their own assets, selection of a guardian and conservator for children, and selection of a personal representative and trustee to gather assets, pay bills, and distribute assets to those entitled. The attorney will generally provide comprehensive powers of administration in a will in order to simplify estate proceedings and may provide for a waiver of the requirement that a personal representative or trustee be bonded.

In Nebraska, you may make your own will (called an "holographic will") if it includes a description of what you want done with your estate, the date on which you wrote the will, and your handwritten signature. Holographic wills should generally only be completed when there is a situation of urgency and it is not possible to visit with your attorney about completion of a will.

## **When do I need a will?**

Any individual who has children or has acquired more than a minimal amount of assets should have a will.

With young children, you should have a will in order to select the guardian and conservator you would want raising your children and looking after their inheritance if something should happen to you. In the absence of your selection, a court will try to do what is in the best interests of your children.

Additionally, with young children, you may want to provide for a trust arrangement for management of their inheritance from you. A trust arrangement will generally provide much more flexibility than a court-supervised conservatorship, and a trust arrangement may also be drafted to continue past the age of 19.

Normally, a young married couple will own all property in joint tenancy with right of survivorship or have the spouse as designated beneficiary on life insurance or retirement plans. This is usually fine between spouses and this type of ownership passes outside the will provisions. If children are involved, it is then desirable to change at least the contingent beneficiary designations on insurance policies and retirement plans in order for the assets to pass through the will and to any trust arrangement provided for the children.

If you do not have a will, any property not owned in joint tenancy with right of survivorship or with a designated beneficiary, state law will provide who inherits your property. This may not always coincide with whom you want to inherit your property.

## **What is a power of attorney and should I have one?**

A power of attorney is a document that must be executed in a formal manner in the presence of a notary public and is used to appoint an agent (called an attorney in fact) to do things for you. The power of attorney may be either very broad (called a general power of attorney) or very narrow (called a limited power of attorney).

A power of attorney may be drafted to be a "durable" power of attorney in which case the authority granted will continue even if you become incapacitated by accident, illness or otherwise. With a durable general power of attorney, your financial matters can generally be handled without court proceedings in the event of incapacity.

Attorneys generally recommend you have a durable power of attorney if you have someone you have sufficient confidence in to manage your financial affairs without court supervision in the event of incapacity. This recommendation is even true when you own all property jointly with another individual because there are some items of property which will require both signatures rather than only one of the joint owners.

## **What is a "living will" and should I have one?**

Living wills are variously referred to by that name or as health care powers of attorney or health care directives. A living will is a document that is meant to be a written statement of your wishes respecting the maintenance of artificial life support under certain medical conditions.

Living wills are authorized by state law and are a method for you to express your instructions on these matters instead of relying only upon family members and the medical community to determine the nature and extent of treatment and maintenance of artificial life support measures.

State law in Nebraska also permits you to designate which individuals you may want to make health care decisions for you if you are unable to make your own health care decisions. Designating an individual to make your health care decisions and providing a living will as a statement of your wishes is the best method to assure your wishes, whatever they may be, are carried out.

Frequently, the statement regarding medical care (living will) and the appointment of a health care decision-maker will be made in the same document. As state law does have some stringent requirements regarding these documents, it is recommended you have one prepared by an attorney to reflect your wishes.

## **How do I make an anatomical gift?**

Organ donation can be designated at the time a motor vehicle operator's license is issued. The applicant's signature must be witnessed by Drivers Examining Personnel.

## RESOURCES

**American Arbitration Association**

[www.adr.org](http://www.adr.org)

(800) 559-3222

**American Bar Association Section on Dispute Resolution**

[www.abanet.org](http://www.abanet.org)

(202) 662-1690

**Association for Conflict Resolution**

[www.acresolution.org](http://www.acresolution.org)

(202) 667-9700

**Attorney General's Office**

State Capitol Building

Lincoln, NE 68509

(Consumer Protection)

(402) 471-2682

**Better Business Bureau**

3633 "O" Street, Suite 1

Lincoln, NE 68510

(402) 436-2345

**Crime Commission**

301 Centennial Mall South, 5th Floor

P.O. Box 94946

Lincoln, NE 68509-4946

(402) 471-2194

**Equal Opportunity Commission**

301 Centennial Mall South, 5th Floor

P.O. Box 94934

Lincoln, NE 68509-4934

(800) 642-6112

**Equal Opportunity Commission–Omaha**

1313 Farnam-on-the-Mall

Omaha, NE 68102-1836

(402) 595-2028

**Equal Opportunity Commission–Scottsbluff**

P.O. Box 1500

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Lincoln, NE 68508

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[www.irs.ustreas.gov](http://www.irs.ustreas.gov)

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P.O. Box 95103  
Lincoln, NE 68509  
[www.nebarfnd.org](http://www.nebarfnd.org)  
[doris@nebarfnd.com](mailto:doris@nebarfnd.com)

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Lincoln, NE 68508  
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Lincoln, Nebraska 68508  
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555 South 10th Street  
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Lincoln, NE 68509-4789

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**Nebraska Office of Dispute Resolution**

State Capitol, Room 1220 (402) 471-3148  
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<http://court.nol.org/odr/>

**Revenue, Nebraska Department of**

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Lincoln, NE 68509-4818  
[www.nol.org/home/NDR/](http://www.nol.org/home/NDR/)

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**Secretary of State**

State Capitol Building, Suite 2300  
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Lincoln, NE 68509-4608  
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(888) 655-1825

**Supreme Court**

State Capitol, Room 2413  
P.O. Box 98910  
Lincoln, NE 68509-8910

(402) 471-3730

**Victims of Crime, Nebraska Coalition for**

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Lincoln, NE 68501

(800) 944-NCVC

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