

# REACHING THE AGE OF MAJORITY

Legal Rights &  
Responsibilities  
of Adults



**The Nebraska State Bar Foundation**

# ACKNOWLEDGEMENTS

The Nebraska State Bar Foundation would like to acknowledge the generous financial support of Marvin Schmid, the late Past President, and his wife, Virginia, through their substantial underwriting of the Age of Majority Booklet.

*"I became interested in the Nebraska State Bar Foundation when Tom Davies was President and he asked me to be a candidate for Vice President. . . Tom held the view that both the membership and contributions should be enlarged and he set a course to implement this view. . . This (Roman L. Hruska Law Center) truly was the catalyst for the program upon which today's highly respected and successful Foundation was built. What the Foundation is today is a happy and persuasive illustration of what can be done by members of the Bar Foundation. . . in pursuit of meritorious programs under dedicated, able, imaginative leadership. I am proud to be a member of the Bar Foundation."*

As quoted by  
Marvin G. Schmid, President (1977-1979)  
In September 1998

## The Marvin and Virginia Schmid Law-Related Education Endowment supports teaching Nebraska youth their rights and responsibilities as they enter the age of majority.

The Bar Foundation, through its State Center for Law-Related Education (LRE) for the Public, serves thousands of our state's citizens through its LRE programs. In 2003, the Foundation began its Legacy of Liberty program to promote and create support or LRE. Virginia Schmid is a member of the Legacy of Liberty Let Freedom Ring Society. Some of the programs include the State High School Mock Trial Project, *Reaching the Age of Majority* booklet, the ABA award-winning Law Day Essay Contest for 9th through 12th graders, Law Day Job Shadowing for fifth graders, We the People: The Citizen and the Constitution, Constitution Day, Teen Parents and the Law (TPAL), and You the Juror Orientation video.

*Reaching the Age of Majority* is an incredible resource to benefit families and schools while educating Nebraska youth. The book can be used to begin a discussion on the effects of your credit, landlord tenant laws or the laws surrounding technology, etc.

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



Virginia and Marvin Schmid

## Mission Statement

To serve the citizens of Nebraska and the legal profession through the administration 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 Nebraska State Bar Foundation gratefully acknowledges the outstanding efforts of **Kara J. Ronnau** who served as chair of the *Reaching the Age of Majority* revision team.

The Foundation expresses its appreciation to Kristina Peters, Nebraska Department of Education, who assisted with efforts to make the booklet available in iBook format.

The original edition of *Reaching the Age of Majority* booklet was printed in 1994. This booklet has recently been reviewed and updated to reflect Nebraska's current law and policy. Approximately 110,000 copies 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.



# 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. After 50 years, 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 Law-Related Education projects.

## 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 therein and the diffusion of knowledge thereof
- Publish and distribute addresses, reports, treatises and other literary works on legal subjects and 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
- Do and perform all acts and things that are legitimate and are reasonably calculated to promote the interest and carry out the purposes of this organization.

Many lawyers, judges, and interested people generously provide financial gifts to the Bar Foundation and this support enables the Foundation to fund a variety of Law-Related Education programs and projects. The support is derived from the Foundation's Fellows Program, Memorial Program, Legacy of Liberty program and the Infinity Fund. Members who voluntarily give Contributing Dues (\$25), Sustaining Dues (\$75), or Enhanced Fellow Dues (\$100) generate another source of revenue. Additionally, the Foundation's Infinity Fund<sup>SM</sup> will 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 to underwrite worthy Law-Related Education projects and programs. The Foundation is a 501(c) (3) corporation, and donors receive a tax deduction on all gifts as allowed by law.

### Nebraska State Bar Foundation

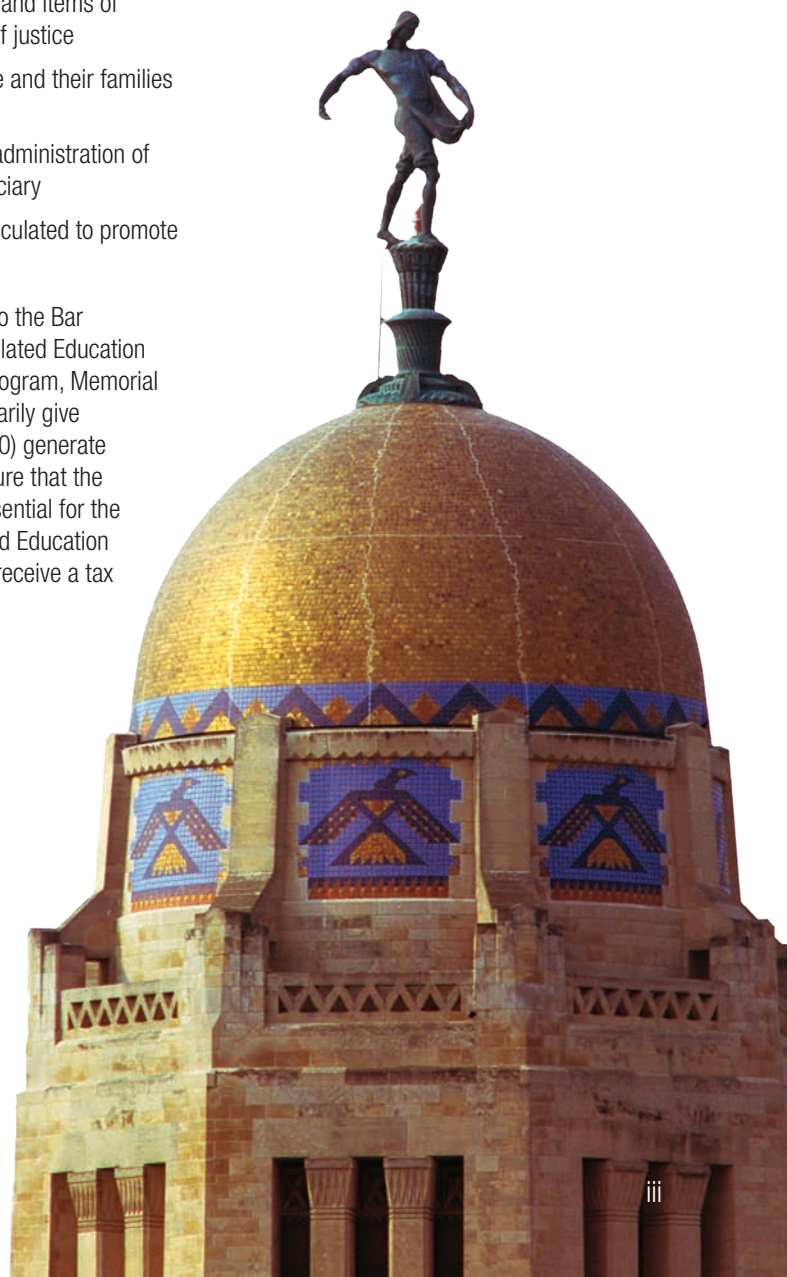
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## INTRODUCTION

Many high school graduates will soon become an adult. In Nebraska, you are considered an adult for most purposes 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.

This 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 Resources 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
- Voting
- 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

### What are some of the rights at age 19?

- Making health care decisions
- Becoming eligible for jury duty
- Becoming legally independent from parental control
- Becoming self-supporting (parents are no longer required to support you)

## What is the legal drinking age in Nebraska?

You must be 21 years of age to drink alcoholic beverages in the State of Nebraska.

## What is DWI and what are the penalties for it?

In Nebraska, it is illegal to operate or be in control of a motor vehicle while under the influence of alcohol or drugs, and any person discovered to be doing so will be cited for DUI (driving under the influence).

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

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

The ALR procedure allows a law enforcement officer to seize the license of a drunk driver under certain conditions. An ALR is separate and distinct from any penalties imposed by a court for a conviction of DUI.

If, after a police officer stops a suspected drunk driver, the driver acts drunk or performs poorly on field sobriety tests, the officer will arrest the driver for DUI. The driver will then be asked to take a breath, blood, or urine test. If the driver fails or refuses the test, the officer will immediately impound the driver's license and tell the driver that the license will be revoked in 15 days. The officer will also provide the driver with a 15 day driving permit and information about scheduling an administrative hearing and applying for an ignition interlock permit.

If the driver requests an administrative hearing, the driver will be allowed to present evidence that the driver did not fail or did not refuse to take the test.

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

In addition to the criminal offenses already explained, if you are under 21 years of age and found to have a blood alcohol concentration over .02, you can lose your license for 30 days on a first offense.

## When is a minor considered to be in possession of liquor or beer?

A minor may not sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor. This includes situations where a minor's blood alcohol concentration is greater than .02. If a minor is found to be in possession of alcohol, he or she may be punished with up to three months imprisonment and/or a \$500 fine.

## 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 part of a bona fide (authentic) religious celebration.
- If you are at least 16 years old and accompanied by a non-minor, you may carry out beer and liquor from an establishment.
- If you are a minor at least 16 years old and it is within the course of your employment, you may handle, 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 course of your employment.
- Also, you may consume or possess alcohol within your permanent place of residence.



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

There are currently no state laws or regulations restricting the age of a person permitted in businesses that serve alcohol. However, it is important to be aware that there may be local laws that restrict such activity.

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

Misrepresenting your age in an effort to obtain alcohol is punishable up to three months imprisonment and/or a \$500 fine.

Also, creating or altering any form of identification that may be used to establish age for purposes of purchasing alcohol is punishable up to one year imprisonment and/or a \$1000 fine.

When a minor is charged with either of these crimes, the police officer is required to make a reasonable attempt to notify the minor's parent or guardian of the arrest.

It is also illegal for a person of any age to have an open container of alcohol in a vehicle while on a public highway or parking area.

In addition, cities and counties are allowed to pass and enforce local laws to control the consumption and possession of alcohol by minors.

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

Nebraska makes it a crime for you to use tobacco (in its various forms) if you are under 18 years of age or to misrepresent your age to obtain tobacco. In either situation, the possible penalty is a fine of up to \$100 for the minor using or buying the tobacco and up to 3 months in jail and/or a \$500 fine for the person selling to the minor.

## Additional Resources:

### Administrative License Revocation

<http://www.dmv.ne.gov/frd/susprev/alr.html>

### Ignition Interlock Permit Alternative

<http://www.dmv.ne.gov/frd/interlock.html>

### Tobacco Free Nebraska – Youth Prevention

[http://dhhs.ne.gov/publichealth/Pages/tfn\\_yop.aspx](http://dhhs.ne.gov/publichealth/Pages/tfn_yop.aspx)

### Nebraska State Bar Foundation Mock Trial

#### – State of Nebraska v. Chris Byrd

In a criminal case, Chris Byrd is charged with procuring alcohol for a minor  
<http://www.nebarfnd.org/images/pdf/mocktrial/2008/b2008case.pdf>

	1st Offense		2nd Offense		3rd Offense	
License Revocation	BAC > .08	BAC > .15	BAC > .08	BAC > .15	BAC > .08	BAC > .15
	6 months	1 year	1 year	1 to 15 years	15 years	15 years
Fine	\$500	\$500	\$500	\$1,000	\$1000	up to \$10,000
Jail Time	7 to 60 days	7 to 60 days	30-90 days	90 days to 1 year	90 days to 1 year	180 days to 5 years
If Placed on Probation (revocation/fine/jail or community service)	60 days \$500	1 year/\$500/ 2 days jail or 200 hours CS	1 year/\$500/ 10 days jail or 240 hours CS	1-15 years/ \$1000/ 30 days jail	2-15 years/ \$1000/ 30 days jail	5-15 years/ \$1000/ 60 days jail
	4th Offense		5th Offense		<b>Note:</b> BAC = Blood Alcohol Content CS = Community Service  If a person refuses to be tested, the penalties for a BAC > .15 will apply.  In some cases, the court may also order immobilization of a vehicle, installation of an ignition interlock device or an alcohol monitoring device.	
License Revocation	BAC > .08	BAC > .15	BAC > .08	BAC > .15		
	15 years	15 years	15 years	15 years		
Fine	up to \$10,000	up to \$25,000	up to \$25,000	N/A		
Jail Time	180 days to 5 years	1 to 20 years	2 to 20 years	2 to 50 years		
If Placed on Probation (revocation/fine/jail or community service)	15 years/\$2,000/ 90 days jail	15 years/\$2,000/ 120 days jail	15 years/\$2,000/ 180 days jail	15 years/\$2,000/ 180 days jail		



# ALTERNATIVE DISPUTE RESOLUTION OR MEDIATION

## What is Alternative Dispute Resolution (ADR) or “mediation”?

People who are having a conflict with others sometimes go to court to try to have a judge solve the problem. However, going to court, also called “litigation,” can be time consuming, costly, and doesn’t always solve the underlying problem between the people themselves.

Alternative dispute resolution (ADR) or “mediation” is a term used for alternative ways to handle conflict outside of court that are often less stressful, less costly, and more convenient. One common ADR approach is called “mediation.” In mediation, a neutral mediator meets with each person in the conflict to learn about the problem and how it affects the person. The mediator helps each person identify possible solutions. The mediator helps the people decide whether to meet face-to-face or one-at-a-time in a safe place to talk through the problem. The mediator then listens, asks questions, and assists each person to come up with possible solutions. The mediator, unlike a judge, does not tell people what to do and does not impose a decision. Rather, the decision to agree or disagree, to apologize or not, is entirely up to each person in the mediation. If the people want the mediator to help them write up an agreement, that can be done.

While some court cases use mediators, mediation is also used before a court case is filed. Individuals, family members, co-workers, or neighbors can call a mediation center or a mediator to ask for help early on – way before a conflict has to go to court. Some schools have taught students to be peer mediators who help classmates resolve disputes. The list of Nebraska’s approved mediation centers can be found at this link: <http://supremecourt.ne.gov/5942/office-dispute-resolution>

Other types of ADR include negotiation, arbitration, and facilitated rule making. Those are described below.

## What is the Nebraska Office of Dispute Resolution?

The Nebraska Office of Dispute Resolution (ODR) is part of the Administrative Office 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 a few 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** Negotiation is basically a one-to-one discussion. People in conflict talk about their problems between each other to try to resolve the disagreement.

For example, a tenant and landlord might discuss issues about repairing building damage to see if those issues can be resolved. Sometimes people have advocates to help them negotiate. Examples of people who may serve as advocates include attorneys, consumer advocates such as the Better Business Bureau, or advocates for particular groups such as the Hispanic Center.

- **Mediation** Mediation has been described briefly above. In mediation, people use help from a neutral person to engage in discussions to explore their interests and needs in an effort to reach an agreement. The neutral person helps the people 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 shared parenting plan during a divorce. Another example would be a dissatisfied customer and a business owner asking a mediator to help them resolve a dispute over a broken product.

There are several different types of mediators, and you will want to choose one whose style fits your needs. Mediator styles include facilitative and evaluative. The facilitative-style mediator provides a joint meeting where two or more people can comfortably talk about their conflicts or problems and cooperatively work together toward an agreement. The evaluative-style mediator evaluates the strengths and weaknesses of each person’s legal case and is more directive about what might be a good settlement, and often does this through the use of private meetings or “shuttle diplomacy.”

- **Public Policy Facilitation** A neutral facilitator helps a group solve problems by controlling the flow of discussions, 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 the city allocate resources between city parks and businesses?”
- **Arbitration** Arbitration is a semi-formal process of dispute resolution in which a neutral person is selected to act like a judge and 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. Some are volunteers, and some are paid. Most mediators take at least 30 hours of mediation training approved 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 and mediators who work in court-connected programs. The Nebraska Mediation Association (NMA) has lists of mediators. A list of parenting mediators is available on the Nebraska Supreme Court website.

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 Association for Conflict Resolution (ACR).

## Additional Resources:

<http://supremecourt.ne.gov/5942/office-dispute-resolution>



# BANKING

## May I open a bank account?

Yes. Nebraska law does not prohibit a person of any age from holding a bank account. However, as a practical matter, most banks require a co-signer on an account until the account holder reaches the age of majority.

## What things should one consider before opening a bank account?

- What is the minimum balance on the account?
- What is the interest rate of the account?
- Is there a monthly service charge on the account?
- What are the fees for ATM and check usage?

## What happens when a check bounces?

A person who writes a bad check knowing that he or she does not have sufficient funds in or credit with the bank for payment commits the offense of issuing a bad check. Issuing a bad check is classified as a misdemeanor or a felony depending on the amount of the check. A person may also be ordered to make restitution and pay any reasonable handling fee and \$10. Neb. Rev. Stat. § 28-611.

## Additional Resources:

### FDIC Money Smart for Young Adult

<http://www.fdic.gov/consumers/consumer/moneysmart/young.html>

## Are there any laws concerning cell phones?

Drivers under the age of 18 with a learner's permit or an intermediate license are prohibited from using cell phones (handheld or hands-free) for any reason while driving. Furthermore, all drivers, regardless of age, are prohibited from texting while operating a motor vehicle. The violation results in fines and points on a driver's license. Using a cell phone is a great way to keep in touch with your family and friends, but you must follow a few safety and etiquette rules to be a good cell phone citizen.

## The following tips may be useful:

- Do not dial, text, or talk while driving. In Nebraska, it is illegal for any person with a POP license, learner's permit, or school permit to drive while using a cell phone. While it is not illegal in Nebraska for a person with an operator's license to use a cell phone while driving, it is very dangerous and is illegal in some states.
- Keep calls short and avoid talking too loud in public.
- Refrain from talking on your phone as a courtesy in places such as churches, restaurants, movie theaters, and anywhere else where it would be a nuisance. It may be necessary to turn off your phone or place it on silent or vibrate.
- Be aware of your surroundings and avoid talking about private issues on a cell phone.
- Never interrupt a face-to-face conversation by answering your cell phone.
- Always check for cell phone regulations in any public places such as museums, doctor offices, sporting events, hospitals, libraries, and elevators.

## What if my cell phone has a built-in camera?

If your phone has a built-in camera, you may not be able to enter certain buildings, such as a courthouse or your school. You should check with the local officials concerning any city ordinances prohibiting cell phones with cameras. You should never take a picture of anyone with your phone without his or her permission.

## Can I carry my cell phone anywhere?

You can usually take your cell phone anywhere, but as a student, the possession of a cellular phone or pager may not be allowed. Check with your school's code of conduct for the specific local policy.

## Am I at risk of identity theft while using my cell phone?

Yes, any form of wireless communication can lead to identity theft or access to your personal information. To prevent this risk, follow these guidelines:

- Only give your cell phone number out to people you know and trust.
- Never reply to a text message from someone you do not know.
- Learn how to block unwanted callers.
- Keep your phone in a secure place at all times to prevent theft.

## Additional Resources:

**Riley v. California** – Summary of United States Supreme Court Decision of June 25, 2014. The Court's unanimous decision essentially indicates that law enforcement searching cell phones without a warrant violates Fourth Amendment rights.  
[http://www.oyez.org/cases/2010-2019/2013/2013\\_13\\_132](http://www.oyez.org/cases/2010-2019/2013/2013_13_132)

# CELL PHONES



# CONSUMER PROTECTION



## How can you be a smart shopper?

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

- **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. 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 sales-person 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. If you run across a contest or "get rich quick" scheme that seems too good to be true, it probably is.
- **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 to help you organize records, and it 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, nor do you have a 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. Be aware that 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 problems with the product within a reasonable time. 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. For example, 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 that you rely on when deciding to buy a product. 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?

Lemon Laws exist in many states, including Nebraska, to provide an additional protection 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 (or within the term of the express warranties, whichever date comes first), 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 (with a reasonable deduction for your use of the vehicle). The Nebraska Lemon Law does not apply to used vehicles sold without a warranty, because those vehicles are sold entirely "as is." Consult an attorney if you feel the vehicle is covered by the Lemon Law.

## Attorney General Consumer Protection Division

The Nebraska Attorney General has a Consumer Protection Division. This division enforces some laws to protect consumers. The Attorney General represents the state and not individuals. The Consumer Protection Division can be reached by phone at 402-471-2682, or toll free at 800-727-6432.

## Additional Resources:

**American Bar Association - Legal Issues of the Internet: What Legal Protections Are There for Buying Online?**

[http://www.americanbar.org/groups/public\\_education/resources/law\\_issues\\_for\\_consumers/internet.html](http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/internet.html)



# CONTRACTS

## What is a contract?

### What is a contract?

A contract is a legally enforceable agreement between two people where each person receives a benefit.

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

Yes, minors can make contracts before turning 19. A person 18 or older may enter into a binding contract or lease. Contracting for certain "necessaries," however, such as food or shelter, presents a special case in which minors (or their parents) are responsible for the value of necessities furnished to the minor.

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

No. Most oral contracts are 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 laptop/tablet/cell phone, 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 you purchased.

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

The buyer has the right to cancel a sales contract within three days. If an uninvited sales person 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!

### Additional Resources:

**American Bar Association – Buying, Selling, or Leasing a Vehicle**

[http://www.americanbar.org/groups/public\\_education/resources/law\\_issues\\_for\\_consumers/vehicle.html](http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/vehicle.html)



## What will happen if I miss payments?

### 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 accelerate the payments – which means they can demand that the entire amount you owe be paid immediately. Check the contract for any grace period you may have before the missed payments cause repossession, acceleration, or other consequences.

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"). The person who sues you will be known as the plaintiff and you will be known as the defendant. The lawsuit will be decided by a judge or a jury. Lawsuits are initiated when the plaintiff serves you with a copy of the complaint (usually by mailing the papers, but occasionally a sheriff will personally deliver the papers to you).

You have the right to answer the complaint 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 will obtain a judgment against you. To satisfy the judgment (in other words, to collect money or regain the property), the plaintiff can 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. Contact the Nebraska Mediation Association at 402-781-2011 or 877-342-2004. 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. The new CARD ACT passed in 2009, which is formally known as the “Credit Card Accountability Responsibility and Disclosure Act,” has new regulations regarding credit card holders under the age of 21.

## 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.

## How does the Card Act affect my ability to hold a credit card?

The Card Act will require people under the age of 21 to either document their ability to repay the debt or have a co-signer before being granted credit. This law also prevents unfair increases in interest rates and changes in terms, and it prohibits exorbitant and unnecessary fees. Increases in credit limits are not allowed on joint accounts without the permission of all individuals on the account. The Card Act also regulates and restricts aggressive credit card marketing to students, including college students on university campuses.

## What is my “credit score,” and how is it used?

Credit scoring is used to help creditors evaluate your ability to repay a loan. It is a number that represents your credit history that includes your outstanding debt, age of your accounts, and bill-paying and collection history. Using a statistical program, points are awarded for each of these areas. A total number of points becomes your credit score

and predicts how creditworthy you are. It is viewed as being more reliable and less judgmental than other methods. (Source: Federal Trade Commission)

Why should I care about having a good credit history? How you handle credit at a young age will affect your access to credit when you are older. Banks, future employers, credit card companies, most utility companies, and property management companies run credit reports when you apply for a credit card or loan, apply for a job, purchase a car or home, rent an apartment, or sign up for utilities.

## What is the best use of credit?

The best way to use credit is to use it without having interest accumulate.

## 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, which is a sign of reliability.
2. 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.
3. If you are new in town, write for a summary of any credit record kept by a credit bureau in your former town. (For example, ask the bank or department store in your old hometown for the name of the credit agency to which they report.)
4. Become an authorized user on your parent's credit card. The activity on the account is reported to the credit bureau in both the parent's and student's name, thus allowing the student to build a credit file.
5. If you choose to obtain your own credit card, you still have options. With any of the following, you should still decide to put a limit on your line of credit, preferably a low limit.
  - a. Department Store Credit Card. Repaying credit card bills on time is a plus in credit histories.
  - b. Secured Credit Card. This type of card requires a cash collateral deposit which then becomes your line of credit. However, these types of cards also come with high fees.
  - c. Traditional Credit Card. If you feel you have demonstrated the ability to handle credit, you may choose a traditional credit card. Be sure to limit the credit line and always, always pay on time (preferably pay off the balance each month) as an irregular payment history will damage your credit rating, defeating the purpose of obtaining the card in the first place.
6. If you do not qualify on the basis of your own credit standing, offer to have someone co-sign your application.
7. 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 it is subject to seizure if you default. (In other words, if you fail to repay the amount required, you lose your collateral).

### 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 laptop 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 (for example, if you are discussing with the creditor an error on your credit card billing statement).

Once you have written about a possible error concerning your credit, a creditor must not give out information to other creditors or credit bureaus that would hurt your credit reputation. Until your

complaint about the bill 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 submit your own side of the story in your credit record.

### How do I get a copy of my credit report?

All U.S. consumers are entitled to a free copy of their credit report every 12 months. It can be ordered online at [www.annualcreditreport.com](http://www.annualcreditreport.com)

### Additional Resources:

#### American Bar Association – Checking Your Credit Record

[http://www.americanbar.org/groups/public\\_education/resources/law\\_issues\\_for\\_consumers/creditrecord\\_repairinghistory.html](http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/creditrecord_repairinghistory.html)

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

You should immediately report the crime to a law enforcement agency in your area. 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 recorded 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 because once someone is charged with a crime, it becomes a crime against the State. You, as a victim, become a witness for the prosecution. If you are subpoenaed by the court to testify at trial, you must do so. If you do not, the judge could issue a warrant for your arrest for contempt of court. It is not unusual for the prosecutor assigned to your case to ask to interview you prior to your appearance as a witness at trial. You should cooperate with the County Attorney so that you will be properly prepared to testify. You should notify the prosecutor if the defendant or anyone associated with the defendant contacts you.

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

The term "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 when 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 (the sentencing of the defendant) in your case; and to be



informed that on all subpoenas or notices to appear in court, you are entitled to 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 online at the Nebraska Crime Commission's website or by writing or calling the Nebraska Crime Commission. 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. If the defendant is convicted of the crime against you, the judge may order that person to pay you for damage. Contact your local County Attorney's Office for more information about restitution in your case.

### 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 restrictions will be imposed upon the offending person. 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.



# CRIMINAL LAW



## 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. Also, 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 Nebraska crimes are described in Nebraska statutes or in city or village ordinances.

All federal crimes are described in the United States Code. 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 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 the 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 15 years for a misdemeanor and 25 years or life for a felony as determined by the offense and the court.

## 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. In addition to felonies and misdemeanors, Nebraska also has several infraction offenses, such as possession of marijuana and most traffic offenses.

## 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 a right to have an attorney assist you and to be present during questioning. If you ask for an attorney, the police must stop questioning you until an attorney is present. If you cannot afford to hire your own attorney, the police must stop questioning you until you have an opportunity to talk with an attorney appointed by a court. You have a right to be promptly taken before a judge. You may give up these rights and talk with the police if you want to.

## What about juvenile court?

Even though the age of majority is 19 years old, any crime committed after 18 years old must be filed in adult 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 before you turned 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.) and the more serious the offense, 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 and any place within your reach. Even without an arrest, police may search your vehicle if they have "probable cause" to believe that they will find evidence or that you have broken a law. Probable cause means a legitimate reason allowing a reasonable person to believe that a crime has been or is about to be committed and that evidence of that crime is located where they want to search.

## 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 10 percent of the face amount of the bond. You do not have the right to be released just because you cannot post the bond.

## What if I cannot afford an attorney?

Once a charge is filed 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 if you are found guilty. 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 your own attorney.

## Do I have any other rights?

At every critical stage in a criminal case, you have the right to have the assistance of a competent attorney. You have the right to have a trial on the charge. If the criminal charge is filed under the municipal code, you will be tried by a judge (bench trial). Otherwise, you can choose to have a bench or a jury trial. 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 (there are limited exceptions). You have the right to have your attorney cross examine the witnesses (again subject to 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.



# DEPARTMENT OF HEALTH AND HUMAN SERVICES

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

The Nebraska Department of Health and Human Services ("DHHS") is a state agency. DHHS provides a wide variety of important and oftentimes life-sustaining services to Nebraskans.

What types of programs are administered by DHHS? DHHS educates and protects people through public health efforts; assists the elderly, the poor and those with disabilities; provides safety to abused and/or neglected children or vulnerable adults; and serves those in need of 24-hour facility care. There are challenges to meet and successes to celebrate. In the end, the Department serves, and is accountable to, the public.

Information about some of the programs of most interest to high school students is provided below. Information about many more programs can be found on the Department's website at <http://dhhs.ne.gov/Pages/default.aspx>

## What is TANF (Temporary Assistance to Needy Families)?

The TANF program (previously known as Aid to Dependent Children or ADC) provides cash assistance to low-income families with minor children. TANF assistance may be used to pay for family expenses like rent, utilities, food, clothing, and other necessities. TANF is often the only source of cash assistance for a family. Families may receive cash assistance for a total of 60 months in a lifetime.

## What is Employment First?

To encourage self-sufficiency, TANF recipients are required to participate in the Employment First program. Employment First is Nebraska's welfare reform program, which aims to help families and individuals achieve economic self-sufficiency through job training, education, and employment preparation. Employment First is designed to assist persons through the transition from welfare to the work force. Under Employment First the client and a case manager jointly develop a self-sufficiency contract. The contract and accompanying service plan outlines the activities, services and responsibilities of the individual and the State so that the individual can achieve economic self-sufficiency. Services available under a self-sufficiency contract include support for employment, Work Experience and Community Service, on-the-job training, and a variety of educational activities.

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

Nebraska Medicaid pays for medical services for certain individuals with low incomes, including parents and their children, pregnant women, and people who are aged, blind, or disabled. To receive medical benefits you must apply for Medicaid and meet specific eligibility requirements.

## What services does Medicaid cover?

Nebraska Medicaid covers many routine and necessary medical services, from health providers who participate in the Nebraska Medicaid program, such as hospital care, doctor visits, dental care, eye care, laboratory and radiology services, emergency and non-emergency medical transportation, prescription drugs, mental health and substance abuse disorder services, medical equipment, home health services, and nursing home care. Some preventive services, such as well child check-ups and childhood vaccinations, are also covered.

## What is the Food Stamp Program or SNAP?

The Food Stamp Program, which is now known as the Supplemental Nutritional Assistance Program, ("SNAP"), is designed to increase the purchasing power and food security of eligible low-income households. SNAP participants receive their benefits in the form of an electronic account that can be accessed with an Electronic Benefits Transfer (EBT) card. EBT cards are accepted by most grocery stores.

## Who is eligible for SNAP?

Eligible households must meet income criteria, have limited resources, and meet work requirements as set forth by the SNAP program. Non-citizens, some college students, and individuals who voluntarily terminate their employment may be ineligible for SNAP. Persons in the country illegally are not eligible.

## What type of food can be purchased with SNAP benefits?

All food items sold for human consumption can be purchased with SNAP benefits.

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

The WIC program provides food vouchers to low-income, pregnant, postpartum or breast-feeding women and to children under five years of age who have a nutritional need. However, only certain food items can be purchased with this voucher.

## What is the Child Support Enforcement Program?

The Child Support Enforcement Program provides services to improve the well-being of children and their families by promoting the financial responsibility of parents through locating parents, establishing paternity, as well establishing and enforcing child and/or medical support court orders.

A parent receiving Temporary Assistance to Needy Families ("TANF") benefits is required to assign his or her rights to child support payments to the State of Nebraska and must participate in the process of obtaining a child support court order. This requires a mother receiving TANF to identify the father and participate in genetic testing if necessary, in order to establish paternity. A failure to assist in this process may result in the loss of TANF benefits.

In addition, a custodial parent cannot receive child support for a child who is receiving TANF benefits, unless the amount of child support is greater than the amount that is being received in TANF benefits. Child support will instead be paid to the State of Nebraska to reimburse the State for TANF benefits paid. The custodial parent is entitled to receive child support payments when the TANF benefits end.

Child Support Enforcement services are also available to families not receiving Public Assistance. Child Support services may help these families remain self-sufficient.

A call to the Nebraska Child Support Customer Service Call Center at 1-877-631-9973, Option #2, will assist you in beginning the process of establishing or enforcing child support.

## How does DHHS help protect children and vulnerable adults?

When a person suspects that a child or vulnerable adult is being abused or neglected, such persons are required by law to report that information to law enforcement or to DHHS's Adult and Child Abuse and Neglect Hotline. DHHS is responsible for investigating such reports. Your report will remain confidential. Abuse and neglect can happen in families of any economic status. To report abuse or neglect of a child or vulnerable adult, contact law enforcement or call the DHHS 24-hour Hotline: 1-800-652-1999.

## What happens if DHHS determines that a child is abused or neglected?

If evidence of abuse or neglect is found, DHHS will take immediate steps to address child safety. DHHS may be able to develop a safety plan with the family to allow the children to safely remain at home or recommend that the county attorney file a juvenile petition, which may result in removal of the child from the home. In addition, law enforcement has the authority to make an immediate removal from a home.





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

Yes. DHHS assists families in developing a plan to eliminate or minimize the problems underlying the abuse or neglect. Services available include parent education, mental health services, substance abuse services, mentoring and support, connecting families with community supports i.e., faith communities, behavioral health services, community action programs, domestic violence services and more.

## Where can victims of domestic violence get help?

DHHS funds community-based groups across the state which offer services to victims of domestic violence. Services include emergency shelter, victim advocacy, supportive services such as transportation, support groups, protection orders, employment training, services for children and batterer intervention programs.

# DOMESTIC ABUSE

## What is domestic abuse?

Domestic abuse is when the following occurs between intimate partners: one attempts to cause or causes bodily injury, fear of imminent bodily injury, threatens in a menacing manner, or engages in sexual contact without consent. Neb.Rev.Stat. §§ 42-901, 28-323. See Sex Crimes on page 25 for more information on sexual assaults and the criminal penalties.

## What is an intimate partner?

Intimate partner means a spouse, a former spouse, or persons who have a child in common whether or not they have been married or lived together at any time, and persons who are or were involved in a dating relationship. Neb. Rev.Stat. § 28-323.

## Can a victim press criminal charges against the abuser?

Yes. Domestic violence is a crime. Depending on the information contained in the police report, the County Attorney may decide to file misdemeanor charges or felony charges against the abuser. If you have been abused, call local law enforcement or the prosecuting attorney's office.

## Can a victim later decide not to pursue criminal charges?

No. Once a police report has been made and the county attorney has filed charges, the prosecutor controls the outcome of the case.

## What happens after police are called?

The alleged abuser will be arrested or a warrant will be issued for his or her arrest. If there is a warrant issued for your arrest, contact an attorney immediately to resolve the matter.

## What are the criminal penalties for a crime of domestic violence?

- Domestic Assault first offense is a Class I misdemeanor and carries a possible penalty of up to one (1) year incarceration, a \$1,000.00 fine, or both. Subsequent domestic assault offenses will be prosecuted as a Class IV felony and carries a possible penalty of up to five (5) years incarceration, a \$10,000.00 fine, or both.
- Domestic Assault with a dangerous instrument first offense is a Class IIIA felony which carries a possible penalty of up to five (5) years incarceration, a \$10,000.00 fine, or both.
- Domestic Assault with a dangerous instrument second (or more) offense is a Class III felony which carries a possible penalty of a minimum one (1) year incarceration and a maximum of up to 20 years imprisonment or a \$25,000.00 fine, or both.
- Strangulation is a Class IV felony which carries a possible penalty of up to five (5) years incarceration, a \$10,000.00 fine, or both. Subsequent strangulation offenses, strangulation offenses where a dangerous instrument was used, or strangulation that results in serious bodily injury to the

victim will be prosecuted as a Class III felony which carries a possible penalty of a minimum one (1) year incarceration and a maximum of up to 20 years imprisonment or a \$25,000.00 fine, or both. Neb.Rev.Stat. §§ 28-323, 28-310.01, 28-105.

## What civil remedies may a victim pursue?

A victim may pursue a protective order and a personal injury action against the abuser. A court may issue a protective order without requiring a bond upon filing a petition and an affidavit. Neb.Rev. Stat. § 42-924. A petition for a protective order may be filed using the form located in the office of the clerk of the district court. Neb.Rev.Stat. § 42-924.02. The victim should see an attorney for the filing of a civil lawsuit for personal injuries to discuss the facts and what remedies and damages the person may seek.

## What is a protective order?

A protective order is a court order preventing the alleged abuser from the following: (1) contacting or communicating with the victim in any manner (via person, text message, email, or phone); (2) threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the victim; (3) placing any restraint upon the victim; (4) owning or possessing firearms; or (5) residing with the victim. The protective order may also order that minor children be removed from the alleged abuser's custody. Neb.Rev.Stat. §42-924.

## Is violation of a protective order a crime?

Yes. Violation of a protective order is a crime. If there is an active protective order against you, and you violate any of its terms or conditions (regardless of consent from the other party), you could be arrested. Violation of a protective order first offense is a Class I misdemeanor and carries a possible penalty of up to one (1) year incarceration, a \$1,000.00 fine, or both. Violation of a protective order second (or more) offense is a Class IV felony and carries a possible penalty of up to five (5) years incarceration, a \$10,000.00 fine, or both. Neb.Rev.Stat. § 42-924. If you have a protective order against your intimate partner and that order has been violated, call local law enforcement or the prosecuting attorney's office.

## What are collateral consequences to a domestic violence or violation of a protective order conviction?

If you are convicted of a crime involving domestic violence, you may be prohibited under State and Federal law from owning, possessing, and/or purchasing a firearm. If you are convicted of a felony, you may be denied the right to vote, serve on a jury, run for or hold a public office or employment, or receive State and/or Federal employment or military benefits. If you are not a permanent legal resident of the United States, you could face deportation or denied naturalization.

## Additional Resources:

**Nebraska Domestic Violence Sexual Assault Coalition**  
<http://ndvsac.org/>

**Nebraska Department of Health & Human Services – Domestic Violence**  
[http://dhhs.ne.gov/children\\_family\\_services/Pages/nea\\_domestic.aspx](http://dhhs.ne.gov/children_family_services/Pages/nea_domestic.aspx)







# DRUGS, NARCOTICS, TOBACCO, & ALCOHOL



## Where are non-smoking areas?

Smoking is prohibited in indoor public places and places of employment. The only exemptions to this are designated hotel rooms, research areas, tobacco retail outlets, and cigar bars. Neb.Rev.Stat. § 71-5716. Violation of this regulation is a crime. A person who smokes in a place of employment or a public place can be charged with a Class V misdemeanor (punishable by up to a \$100.00 fine) or, for subsequent offenses, with a Class IV misdemeanor (punishable by a fine of \$100.00 to \$500.00).

## How old must you be to smoke cigarettes?

Smoking is prohibited for any individual under the age of eighteen (18) years. A person under the age of eighteen who smokes or obtains cigarettes can be charged with a Class V misdemeanor punishable by up to a \$100.00 fine. Neb. Rev.Stat. §§ 28-1418, 28-1427. A person who sells or furnishes tobacco in any way in any form to an individual under the age of eighteen can be charged with a Class III misdemeanor punishable by up to three (3) months incarceration, a \$500.00 fine, or both. Neb.Rev.Stat. § 28-1419. A place of business that sells tobacco to an individual under the age of eighteen could lose its tobacco license. Neb.Rev.Stat. § 28-1425.

## Is marijuana or K2 legal in the State of Nebraska?

No. Neither Marijuana nor K2 is legal in the State of Nebraska.

- Possession of marijuana or K2 less than an ounce first offense is punishable by a \$300.00 fine. A second offense of possession of marijuana or K2 less than an ounce are punishable by a \$100.00 to \$500.00 fine. A third or subsequent offense of possession of marijuana or K2 less than an ounce is a Class IIIA misdemeanor and is punishable by a \$500.00 fine and up to seven (7) days incarceration.
- Any person possessing marijuana or K2 weighing more than one ounce but less than one pound can be charged with a Class III misdemeanor punishable by up to three (3) months incarceration, a \$500.00 fine, or both.
- Any person possessing marijuana or K2 weighing more than one (1) pound can be charged with a Class IV felony punishable by up to five (5) years incarceration, a \$10,000.00 fine, or both.
- Any person possessing or manufacturing marijuana or K2 with the intent to deliver, distribute, or dispense the substance can be charged with a Class III felony punishable by a minimum one (1) year incarceration and a maximum of up to 20 years incarceration, a \$25,000.00 fine, or both.

## What are some dangerous drugs?

The Uniform Controlled Substances Act provides a lengthy list of the names of the drugs that are defined as controlled substances. Neb.Rev.Stat. § 28-405. You should consider any drug not prescribed to you as dangerous. Illicit drugs are often placed into the following categories:

- **Hallucinogens** - Substances which affect the central nervous system distorting the perception of objective reality. Common examples are angel dust, PCP, LSD, marijuana, K2, mushrooms, and bath salts.
- **Stimulants** - Substances that temporarily increase the function of the central nervous system which produces alertness, elation, and a variety of adverse reactions. Common examples are speed, crack, cocaine, crank, crystal meth, and yellow jackets.
- **Sedatives** - Substances that depress or slow down the body's functions inducing sleep or sedation, often called downers or sleeping pills. Common examples are Valium, Quaalude, Nembutol, Tranxene, and Heroin.
- **Inhalants** - Substances that are inhaled through the nose or mouth that give the user an immediate high or rush. Common inhalants are aerosols and cleaning supplies.

## What are the types of drug crimes?

Drug crimes include possession, distribution, and the manufacturing of controlled substances. Neb.Rev.Stat. § 28-416. Depending on the evidence obtained by police (e.g., the amount of drugs involved, the amount of cash involved, and whether gun(s) were found), you could be federally indicted. Federal drug charges generally carry harsher punishments and longer sentences.

- **Possession** - Any person who knowingly or intentionally possesses a controlled substance commits felony possession, unless such substance was properly prescribed to you. Possession of a prescribed medication belonging to someone else is not a defense to this charge. Possession of a controlled substance is a Class IV felony punishable by up to five (5) years incarceration, a \$10,000.00 fine, or both.
- **Distribution** - Any person who knowingly and intentionally possesses a controlled substance with intent to distribute is guilty of a felony. The type of controlled substance and the amount confiscated determines the severity of your punishment. Distribution can be charged as a Class III felony punishable by a minimum one (1) year incarceration and up to a maximum of 20 years incarceration, a \$25,000.00 fine, or both; or Distribution can be charged as a Class II felony punishable by a minimum one (1) year incarceration and up to a maximum of 50 years incarceration.
- **Manufacture** - Any person who knowingly and intentionally manufactures a controlled substance is guilty of a felony. The type of controlled substance and the amount confiscated determines the severity of your punishment. Manufacturing can be charged as a Class III felony punishable by a minimum one (1) year incarceration and up to a maximum of 20 years incarceration, a \$25,000.00 fine, or both; or Manufacturing can be charged as a Class II felony punishable by a minimum one (1) year incarceration and up to a maximum of 50 years incarceration.

## Are there civil penalties to drug convictions?

Yes. If you are convicted of a felony, you may be prohibited under State and Federal law from owning, possessing, and/or purchasing a firearm. You may also be denied the right to vote, serve on a jury, run for or hold a public office or employment, or receive State and/or Federal employment or military benefits. If you are not a permanent legal resident of the United States, you could face deportation or denied naturalization. If a person eighteen (18) years of age or younger is convicted of possession or distribution of a controlled substance, his or her driver's license or permit may be impounded. If the person does not have a license or permit, he or she may be prohibited from obtaining a license or permit.

## What is a "date rape" drug?

These are colorless, odorless drugs which render a person unconscious for the purpose of committing a sexual offense or other crime against that person. Common examples are GHB, GBL, ecstasy, and roofies. If you have been the victim of a sexual assault, call local law enforcement or the prosecuting attorney's office. Sexual assault is a crime. See Sex Crimes on page 25 for more information on sexual assaults and the criminal penalties.

## What about prescription drugs?

It is legal to take prescription drugs only as prescribed to you. It is illegal to possess or ingest prescription medications prescribed to someone other than yourself. Each prescription must be dispensed in a properly labeled container and the label must not be removed. Neb.Rev.Stat. § 28-415.

## Additional Resources:

**Nebraska Department of Health & Human Services – Alcohol and Substance Abuse**

[http://dhhs.ne.gov/behavioral\\_health/Pages/sua\\_suaindex.aspx](http://dhhs.ne.gov/behavioral_health/Pages/sua_suaindex.aspx)

# EMPLOYMENT LAW



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

Most employees have no contract at all. Most employment contracts are verbal. Some employees may have verbal contracts with their employers. 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 its terms are 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 that covers your employment, you work “at the will” of your employer.

In other words, without a contract that limits the reasons that you may be fired, 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 may outline the process to be followed before an employee is fired. The personnel manual may provide some protections, but they are much more limited than those provided by a real contract.

## 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 origin, 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:

### Lincoln

301 Centennial Mall South, 5th Floor  
(State Office Building)  
Toll Free Number – 800-642-6112  
Lincoln Number – 402-471-2024

### Omaha

1313 Farnam-On-the-Mall, 3rd Floor  
(Downtown Education Building/State  
Office Building)  
Toll Free Number – 800-382-7820  
Omaha Number – 402-595-2028

### Scottsbluff

Panhandle State Office Complex  
505 A Broadway, Suite 600  
P.O. Box 1500  
Toll Free Number – 800-830-8633  
Scottsbluff Number - 308-632-1340

### NEOC Website

[www.neoc.ne.gov](http://www.neoc.ne.gov)

## 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. If you have a serious medical condition and work for a larger employer, you will probably be covered

by the Family and Medical Leave Act, and you will then be eligible for up to 12 weeks unpaid time off for the serious medical condition.

## 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 Standards 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 402-437-5790, 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. If you are fired or voluntarily quit, you will probably have a waiting period before you are eligible for unemployment compensation. If you need to file a claim for unemployment compensation, you should go to <https://uibenefits.nwd.ne.gov/BPSWeb/jsp/BPSClaimantWelcome.jsp>

## Additional Resources:

### American Bar Association – The Law and Your Job

[http://www.americanbar.org/groups/public\\_education/resources/law\\_issues\\_for\\_consumers/job.html](http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/job.html)



# GRAND JURY

## What is the difference between a trial jury and a grand jury?

A grand jury is impaneled to establish whether the evidence against a criminal suspect warrants an "indictment." A grand jury indictment gives officials the authority to charge and arrest criminal suspects for certain offenses. When a criminal suspect is arrested on the basis of a grand jury indictment, the suspect becomes a criminal defendant. If a criminal defendant asserts his innocence, a trial jury is eventually impaneled to render a verdict as to the guilt or innocence of the defendant based on evidence presented at trial.

## What functions do grand juries perform?

Grand juries have two primary responsibilities: (1) indictment, and (2) investigating criminal activity. As noted above, grand juries are responsible for deciding whether an indictment should be issued for the arrest of a criminal suspect. Grand juries will typically hear witness testimony relating to the suspect's conduct, as well as other evidence, in order to make a decision

regarding whether an indictment should be issued. Nebraska grand juries also investigate the condition of local confinement facilities, such as jails and prisons.

## How many jurors constitute a grand jury in Nebraska?

The number of jurors needed to impanel a full grand jury differs from state to state. In Nebraska, 16 jurors constitute a full grand jury. However, only 12 jurors are needed to conduct business, such as deciding whether to issue formal charges in an indictment against a criminal suspect.

## Do Nebraska grand juries use alternate jurors?

Yes. In Nebraska, the court chooses three alternate jurors when it impanels a grand jury.

## What grand jury reforms are being considered?

The rules of evidence, as well as some Bill of Rights protections, do not apply in grand jury proceedings. Moreover, defense counsel is not allowed in federal grand jury proceedings. Accordingly, courts and commentators alike have considered affording grand jury witnesses and criminal suspects more rights than they currently have.

## Does Nebraska require a grand jury to be impaneled for a felony prosecution?

Nebraska does not require a grand jury to be impaneled for every felony prosecution. Thus, Nebraska grand juries are typically only convened for special purposes, such as impeachment of public officials. As a result, in Nebraska the use of indictments to charge offenses is optional.

## Additional Resources:

### Nebraska Supreme Court – Serving on a Grand Jury

<http://supremecourt.ne.gov/sites/supremecourt.ne.gov/files/misc/jury-service/grand-jury.pdf>

## Where do I go to find information hunting and fishing regulations in Nebraska?

You can download fishing and hunting guides and purchase permits through the Nebraska Game and Parks Commission's ("Game and Parks") website at <http://outdoornebraska.ne.gov>. Violation of Game and Parks regulations carry potential penalties, so take that into account before doing any hunting or fishing.

## What are some of the requirements I should be aware of before hunting?

All hunters ages 12 through 29 must receive a Hunter Education Certification from Game and Parks. You can sign up for education courses through the Commission's website. Before doing any hunting, you should make sure you know the current Game and Parks regulations regarding seasons, bag limits, lawful methods of take, permitted shot type, etc. These requirements are subject to change each year, so it is important to verify each season's rules.

Nebraska Residents who are sixteen or older need to obtain Nebraska Hunting Permits and Habitat Stamps in order to lawfully hunt upland game or furbearers. Hunting waterfowl requires a Nebraska Waterfowl Stamp in addition to the Nebraska Hunting Permit and Nebraska Habitat Stamp. Waterfowl hunting also requires a Federal Migratory Bird Stamp which can be purchased from the U.S. Post Office. Big game hunters must have a species-specific Nebraska Hunting Permit for deer, antelope, elk, or bighorn sheep in addition to the Habitat Stamp. The species-specific permits are issued according to specific areas of the State, so be certain that you are permitted in the areas you are planning on hunting.

## Are there similar requirements for fishing?

Nebraska Fishing Permits and Aquatic Habitat Stamps are required for all fishing activity occurring on non-private bodies of water in Nebraska. Game and Parks regulations should be referenced to determine harvest and bag limits, minimum length limits, and hook-and-line regulations each year before fishing.

# HUNTING & FISHING





# IMMIGRATION



## Does immigration law vary from state to state?

No, for the most part. Because it is a federal law, the Immigration and Naturalization Act applies nation-wide. Therefore, no matter where you live in the United States, immigration law is the same if you are trying to get an immigration benefit, such as a green card or some other form of immigration status. However, in recent years, some states and localities have passed laws that affect immigrants. For example, in Nebraska at least one city has passed a local law that prohibits landlords from renting to those in the U.S. without documentation. At the state level, Nebraska has indicated it will not provide driver's licenses to immigrants who are entitled to remain in the U.S. and work under the Deferred Action for Childhood Arrivals (DACA) program. Although there have been court challenges in both of these cases, as of the time of this update (November, 2013) both of these non-federal provisions are in effect.

## What is the Deferred Action for Childhood Arrivals (DACA) program?

The DACA program was created as the result of an announcement made by the Department of Homeland Security (DHS) on June 15, 2012. Briefly, DACA allows qualifying undocumented immigrants to remain in the United States for a period of up to two years and get a work card. In order to qualify for DACA, an immigrant must:

1. Have been under the age of 31 as of June 15, 2012;
2. Have come to the United States before reaching his or her 16th birthday;
3. Have continuously resided in the United States since June 15, 2007, up to the present time;
4. Have been physically present in the United States on June 15, 2012, and at the time of making his or her request for consideration of deferred action with United States Citizenship and Immigration Services (USCIS);
5. Have entered the U.S. without inspection before June 15, 2012, or his or her lawful immigration status must have expired as of June 15, 2012;
6. Currently be in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or have been honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
7. Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety; and
8. Be at least 15 years or older, unless she or he is currently in removal proceedings or has a final removal or voluntary departure order.

It is important to understand that immigrants who receive a grant of deferred action under DACA do not have any permanent status in the U.S., nor do they have any way to gain permanent status in the U.S. Rather, DACA is a temporary program only. It is an exercise of discretion by DHS not to begin deportation proceedings against those who qualify under DACA. Initially, a grant of deferred action under DACA is good for a period of two years unless it is revoked sooner by DHS. Since DACA is an administrative policy, whether it is extended after two years is up to DHS. You should check the web site for United States Citizenship and Immigration Services (USCIS) for the most current information on DACA. The web site is located at [uscis.gov](http://uscis.gov).

## What About College?

In Nebraska, there are two ways in which immigrants can qualify for in-state tuition rates at state colleges and universities.

The first is if an immigrant has applied to or has a petition pending with USCIS to attain lawful status under federal immigration law and has established a home in Nebraska for a period of at least one hundred eighty days where he or she is habitually present with the bona fide intention to make Nebraska his or her permanent residence. There is some question about what "lawful status under federal immigration law" means, but it may very well mean something less than being an applicant to get a green card.

Even those immigrants who are undocumented can qualify for in-state tuition at Nebraska's public colleges and universities. Such students can qualify to pay in-state tuition if they resided with their parent, guardian, or conservator while attending a public or private high school in Nebraska and:

- (i) Graduated from a public or private high school in Nebraska or received the equivalent of a high school diploma in Nebraska;
- (ii) Resided in Nebraska for at least three years before the date the student graduated from the high school or received the equivalent of a high school diploma;
- (iii) Registered as an entering student in a Nebraska postsecondary educational institution not earlier than the 2006 fall semester; and
- (iv) Provided to the Nebraska postsecondary educational institution an affidavit stating that they will file an application to become a permanent resident at the earliest opportunity they are eligible to do so.

Although undocumented immigrants will qualify for in-state tuition rates, they are not eligible for federal financial assistance, such as federal student grants or loans. However, individual colleges and universities may have non-federally funded grants or scholarships available for those not eligible for federal assistance. Check with your high school guidance counselor and the financial aid departments of individual colleges for more information.

## 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 when a person is a "child" under immigration law 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, generally speaking, if 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 through your parents, and even if you can still get immigration benefits through your parents, the wait to get such benefits may be longer. In some 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,” and 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 your United States citizen parent. In such cases, you are called an “immediate relative” of your United States citizen parent under the Immigration Act. Once you marry or reach the age of 21, however, you are considered to be either a “son” or “daughter” of your parent under the Immigration Act, and receive less favorable treatment in terms of getting immigration benefits from your parents.  
In November, 2013, for example, unmarried “sons” or “daughters” of United States citizens had to wait between six and twenty 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 between five and twenty 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, Immigration and Customs Enforcement (ICE) may seek to deport you from the United States. Generally speaking, if a court finds that you have committed 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 ICE, there are three categories of people to consider for this purpose: 1) anyone under the age of 16 who has been 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) ICE 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.
- **Special Immigrant Juvenile Status** Under certain circumstances, you may be able to get immigration benefits even if you have no immigration status in the U.S. You are eligible to remain permanently in the U.S. (i.e., get a “green card”) if you 1) are a “child,” 2) are present in the U.S., 3) have been declared dependent on a “juvenile court,” which can include a court that enters a guardianship order or even a divorce court, 4) have been abused, neglected, or abandoned, and 5) it is not realistic to expect that you will be able to be reunited with one or both of your parents. If these circumstances exist, and if the “juvenile court” finds that it would not be in your best interest to return to your home country, then you can apply for a Special Immigrant Juvenile Status (SIJS) visa, which, if granted, gives you permanent resident status in the U.S. (i.e., a “green card”). If all the above requirements apply to you, you will still be eligible to ask for a SIJS visa until you are age 21, even though you are not considered a “child” for purposes of Nebraska law once you turn age 19, so long as you were declared dependent on a juvenile court before turning age 19.

### **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 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 and even if you are not in the United States legally. You need not register with the Selective Service if you were admitted to and are living in the United States as a non-immigrant.

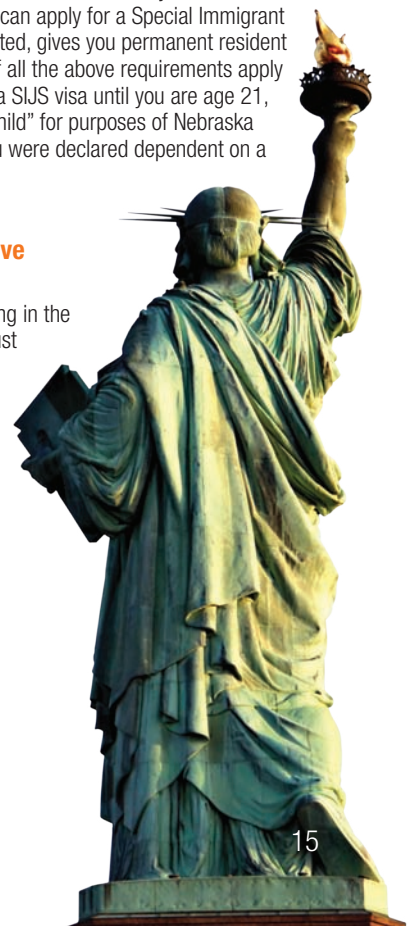
### **Additional Resources:**

**iCivics Online Game with Teacher Guide – Immigration Nation**

<https://www.icivics.org/node/4474/resource>

**Nebraska State Bar Foundation Mock Trial – Kev Inruser A23 571 113 In removal proceedings**

[http://www.nebarfnd.org/images/pdf/mocktrial/2009/2009case\\_d.pdf](http://www.nebarfnd.org/images/pdf/mocktrial/2009/2009case_d.pdf)



## What is impeachment?

Impeachment is a formal process in which an official is accused of unlawful activity, the outcome of which may include the removal of that official from office as well as criminal or civil punishment.

## What state officials can be impeached in Nebraska?

Pursuant to the Nebraska Constitution, all civil officers in Nebraska are subject to impeachment for any misdemeanor committed while in office.

## What happens if the governor is impeached?

If the governor is impeached, the Nebraska Constitution provides that the Lieutenant Governor be designated as Governor for the remainder of the impeached Governor's term. If the Lieutenant Governor is impeached in the same proceedings, the Speaker of the Legislature is the next to assume the impeached Governor's responsibilities.

## Who can move to impeach a civil officer?

The Legislature has the sole power of impeachment and motion for impeachment must be upheld by a

# IMPEACHMENT

majority of its elected members. A trial of impeachment is conducted by the Nebraska Supreme Court, unless impeachment involves a Justice of the Nebraska Supreme Court.

## Can a civil official invoke his privilege against self-incrimination during impeachment proceedings?

Generally, no, except as otherwise applicable in a general civil case.

## How many votes are needed to convict a civil official being tried for impeachment?

Two-thirds of the court must vote in favor of impeachment to convict. The Legislature must prove by clear and convincing evidence, that the person being impeached is guilty of an impeachable offense.

## If a civil official is impeached and convicted, what are the consequences?

If a civil official is impeached and convicted, he or she is removed from office and can be disqualified from holding any future office in the state. While impeachment does not itself result in civil or criminal liability, an impeached official may nevertheless be separately prosecuted for the unlawful acts leading to impeachment.

# 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. Beginning in 2014, if you do not have health insurance, you may have to pay a fee when filing your federal income tax return.

## 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 coverage?

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 this coverage 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. If you are a full-time college student and your parents have homeowners insurance, ask them to check with their insurance agent to determine whether your possessions at college are covered.

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

Health insurance protects you from expenses associated with an illness or an accident and is available from most insurance companies. The federal Patient Protection and Affordable Care Act of 2010 requires you to have health insurance or be subject to a tax, starting in the year 2014. Your parent's policy may cover you until age 26 under federal law and age 30 under Nebraska law depending upon certain circumstances, so be sure to ask your parents' health insurer about continued coverage. Shop carefully for health insurance because most policies and plans differ in cost, coverage, and claims service. 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 an employer-based 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. A person's need for life insurance often increases when they have children or other persons that depend on them for financial support.

## What is term life insurance?

Benefits are payable to a beneficiary only when an insured dies within a specified period. Premium rates may periodically increase as you get older.

## What is whole life insurance?

Benefits are payable to a beneficiary at the death of the insured whenever that occurs. Premium rates usually remain level as you get older.

## 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. A deferred annuity can be used to accumulate funds for later use.

## 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 that 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.

## Additional Resources:

### Affordable Care Act

<http://www.hhs.gov/healthcare/rights/>

**Burwell v. Hobby Lobby Stores – Summary of United States Supreme Court decision of June 30, 2014, exempting closely held corporations from covering some types of contraception in employee insurance plans**  
[http://www.oyez.org/cases/2010-2019/2013/2013\\_13\\_354](http://www.oyez.org/cases/2010-2019/2013/2013_13_354)

# INTERNET SAFETY

## Are online forums safe?

No, public chat rooms are not safe places to be while online. A great deal of negative things can result from chat rooms, such as bullying, stalking, kidnapping, rape, and murder. Not all chat or instant messaging is bad. Ask your parents to help you find safe areas to communicate with your peers. You should try to communicate only with people you know personally.

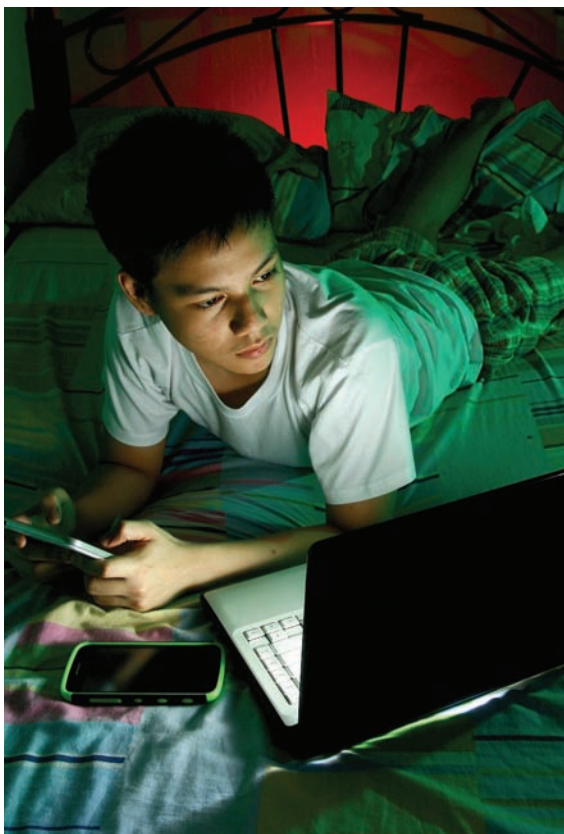
## What if I get harassing emails or instant messages?

You should report any harassing emails or instant messages to your parents, teachers, counselor, and anyone else who might be able to help you. These forms of harassing communication are commonly known as cyberbullying.

## What is cyberbullying?

Cyberbullying involves the use of technology (email, instant messaging, websites, cell phones, Facebook, Twitter, Snapchat, Instagram, Reddit, etc.) to harass or annoy another person. Cyberbullying is a form of harassing communication and is a crime.





### Can I do or say anything online?

Don't assume you are anonymous online. Anything you do on your computer can be tracked back to the computer you are using. Eavesdropping can occur at any point during the delivery of your messages. Even if you delete your email, messages may remain on servers or backup devices for unlimited periods of time. If you are suspected of a crime, law enforcement officials can seize all your email. In certain situations, your Internet Service Provider (ISP) may also be able to legally review the contents of your email.

At work, employers are not required to inform you if they monitor your email. Your boss has a legal right to review all email you send from work, even if you send it through a private account. If your company is involved in a lawsuit, the opposing side has a legal right to inspect all of your email. You have no reasonable expectation of privacy when it comes to email and instant messaging while at work.

You can expect even less privacy if you choose to create online profiles or personal web pages like those available on "Facebook," "Twitter," or similar websites. It's important to understand your privacy settings and use them. While these privacy protections are useful, much of the information on such websites is accessible for investigation, and has been the basis of school suspensions, rejection by potential employers, and arrests for illegal activity. Almost anything you do online may be subject to public knowledge.

### What if I get email from someone I don't know?

It is not a good idea to open email from unknown persons or businesses. Many of these emails are called spam. Spam is unsolicited bulk email, also known as electronic junk mail. Never open any attachments associated with Spam or any other email from unknown sources. Another form of spam is called phishing and it consists of sending email to a user falsely claiming to be a legitimate organization (examples: banks, Ebay accounts, Internet provider services, etc.) asking for the user's password, Social Security number, bank account numbers and credit card accounts. This information is then used for the purposes of identity theft.

A new variation of phishing is to call a consumer and request such information to "update" or "verify" records. Some "phishers" will ask for the information over the phone, and others will direct the unsuspecting consumer to a legitimate looking website to enter the information. The best approach is to always be careful about giving out your personal information. When such solicitations are made in the name of an institution you already have a business relationship with (bank, credit card company, utility company), it is a good idea to verify the need for such information by personally contacting the company with a phone number that you already know is valid, and not with any contact information provided by the person who called or in the email you received.

### What about shopping on the Internet?

Online purchases are becoming increasingly common as a convenient way to shop. Use common sense and caution particularly when dealing with unfamiliar vendors. Do not give your credit card number or personal identifying information to anyone unless you trust that they are a legitimate merchant or vendor. You may find additional information on the Nebraska Attorney General's website, [www.ago.ne.gov/consumer\\_protection](http://www.ago.ne.gov/consumer_protection).

The Internet offers convenience and accessibility to shoppers, but you should be careful to ensure you receive the items you order and are not a victim of fraud.

When purchasing an item from online retailers that allow individuals to sell items through their sites, such as Ebay or Amazon, be careful to use only the official websites. Do not respond to emails or "second-chance" auction offers that come from private email addresses, especially if they ask for personal information such as credit card numbers or passwords.

Buy from reputable retailers and be sure you only enter credit card numbers and other sensitive information on secure pages. You will sometimes see a "padlock" icon at the bottom of your screen and the address at the top of your browser will begin with "https" rather than "http." This ensures the information you enter is encrypted. When in doubt, purchase the item elsewhere. Ebay, Amazon, and other retailers have a vested interest in protecting their customers and appreciate reports of suspicious emails or sellers.

The Federal Trade Commission's ("FTC") Mail or Telephone Order rule covers products you order by mail, telephone, Internet, or fax. The rule requires that goods you buy through these means must be shipped within the time the seller has advertised. If no time period is specified, the goods must be shipped within 30 days of your order. If the items cannot be shipped on time, you should be notified of any delay and told when to expect delivery. The seller must also offer to cancel your order and send a refund within one week if you choose not to wait. For more information visit the American Bar Association's site: <http://www.safeshopping.org/>.

### What else can I do to stay safe online?

Be aware that some websites are created to hurt people by spreading dangerous, hateful, or false information. Never try science experiments found online without carefully checking with your science teacher and parents. [www.safekids.com](http://www.safekids.com) offers this list of safety tips for the Internet:

- Do not give out personal information such as your name, address, telephone number, or the name and location of your school without your parent's permission.
- Tell your parents or teacher right away if you come across any information that makes you uncomfortable.
- Never agree to meet with someone you have met online without first checking with your parents.
- Never send anyone your picture or anything else without first checking with your parents.
- Do not respond to any messages that are mean or in any way make you feel uncomfortable. If you get a message like this, tell your parents or teacher so that they can contact the Internet Service Provider.
- Talk to your parents about general computer and Internet rules. Teachers will also have school computer and Internet rules.
- Never give your password to anyone (even your best friend) other than your parents.
- Check with your parents or teacher before downloading or installing software or doing anything that could possibly hurt the computer or jeopardize your privacy.
- Always be a good online citizen and never do anything that hurts other people or is against the law.
- Adapted from the brochure, "Child Safety on the Information Highway," by [www.safekids.com](http://www.safekids.com) founder Larry Magid. (©2004 National Center for Missing and Exploited Children).

### Additional Resources:

**Nebraska State Patrol Internet Crimes Against Children Task Force**

<https://statepatrol.nebraska.gov/ICAC.aspx>

**Nebraska Attorney General – Internet Safety**

[http://www.ago.ne.gov/consumer\\_protection/internet\\_safety](http://www.ago.ne.gov/consumer_protection/internet_safety)



# JURY DUTY STATE COURTS



## **To qualify as a juror you must:**

- Be physically and mentally capable and at least 19 years of age

## **You may be disqualified from serving on a jury for the following reasons:**

- If you have been convicted of a crime punishable by imprisonment in an adult correctional facility when the conviction has not been set aside or a pardon issued
- If you are a judge, clerk of a district court, a sheriff, or a jailer
- If your spouse has been summoned for the same jury panel
- If you or your spouse are a party to a lawsuit pending for trial to the jury panel for which you are summoned

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

Jurors are selected to serve on a jury from a county voter registration, state I.D., or driver's license list. An impartial, random method of selection from these lists is required by law.

## **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.

If your request for postponement is granted, it will be for a limited period. Persons claiming either physical or mental disability as an excuse for jury service may be required to supply a physician's statement of disability. You may be found in contempt of court if you fail to respond to a jury summons without good cause, if you fail to answer the qualifications form, or if you misrepresent anything on the form.

## **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 penalizing you. You cannot be fired, lose pay (except that your employer may reduce your pay by the \$35 per day you receive for jury duty), lose sick leave, or lose vacation time. You must give your employer reasonable notice that you have received a jury summons.

## **What should I do if I have an illness or an emergency during jury service?**

Should an illness or an emergency arise during your jury service, inform the judge, bailiff or court clerk immediately and explain the situation.

## **Additional Resources:**

**iCivics Online Game – We the Jury**

<https://www.icivics.org/games/we-the-jury>





# 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 and obligations?

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. 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 must deliver possession of the property to the tenant according to the terms of the rental agreement. The landlord must provide running water and heat and for the removal of garbage and other waste. The landlord is obligated to make repairs and to maintain the premises in a fit, clean and safe condition after receiving written notice from the tenant about such problems, and to maintain in good working order all facilities and appliances supplied by the landlord. However, 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.

If the apartment building or house was built before 1978, your landlord must give you informational materials on lead based paint and let you know of any lead paint dangers in the unit. This information does not need to be in the lease, but must be given to you. You should contact the local health department if your landlord has not given you this information.

The landlord may establish rules 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 on the basis of such factors as race, religion, national origin, color, familial status, sex, or handicap.

The landlord may enter a rental unit to inspect the property, make repairs, provide services, or show the property to workers, prospective tenants, or purchasers. Before entering, the landlord must give the tenant at least one day's notice that he or she intends to enter, and the landlord 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 property. If the tenant abandons the property, 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. If property has been abandoned, the landlord must give you notice about selling your abandoned personal property. If the abandoned

property is worth \$1,000 or more, the money earned from the sale, less expenses, is sent to you or the State Treasurer for you to claim. If the landlord thinks the property is worth \$1,000 or less, and you have not picked it up and paid the fees on time, then he can keep the property for himself or dispose of it.

## What are a tenant's rights and obligations?

You have the right to possess the rental property until the lease expires, as long as you perform all legal obligations. You 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. If the landlord fails to supply essential services such as heat or water, you 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.

You must comply with all obligations imposed by the lease and pay rent when it is due. You must keep the unit clean, safe and follow the local housing code; get rid of garbage in a clean and safe way; fix any damages caused by you or your guests; not bother neighbors with noise or other behavior; and may not unreasonably withhold consent for the landlord to enter the rental unit to inspect the premises.

You may sublet the property unless prohibited by the lease. This means that you can lease the property to another, new tenant. However, it is important to note that you are still responsible for all obligations under the original lease agreement, even if the property has been sublet. For example, you are responsible for the rent if the new tenant, or sublettor, fails to pay rent.

## 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 of the lease 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 to evict a tenant, and the sheriff then moves or locks the tenant out. The tenant cannot withhold rent except under very limited circumstances.

## Am I entitled to receive the security deposit upon termination of the lease?

Your landlord may keep your deposit money after you move out only if it is necessary to cover damages that were done by you or to cover back rent not paid by you. If you move out and leave the place a mess, the landlord may deduct the costs of cleaning the unit from your deposit. Normal wear and tear caused to the unit is not damage for which the landlord may keep your deposit. If your landlord doesn't send all of your deposit back, you have a right to know: a) exactly why the money is being held; and b) receive an itemized list of what the money was spent

on. If your landlord does not send you a letter explaining these things, you can sue him for the return of the deposit.

To ensure you will get your deposit back, do the following:

- Leave the unit clean, make sure you have witnesses who can say the place was clean when you left, and take pictures.

- If there is damage to the unit when you move in, make sure the landlord knows it and list any damages in writing.
- If anything happens to the unit while you are renting it, report it immediately to the landlord. Write a note or letter and keep a copy for yourself. Be sure it is dated and be sure the landlord knows that it was not your fault.

### Additional Resources:

#### American Bar Association – Renting a Home

[http://www.americanbar.org/groups/public\\_education/resources/law\\_issues\\_for\\_consumers/rentinghome\\_fairhousing.html](http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/rentinghome_fairhousing.html)

#### Nebraska State Bar Foundation Mock Trial – Chris Deeds v. Syl Wifferspoon

A civil case involving discrimination against an apartment renter, due to his keeping a comfort dog on the premises.

[http://www.nebarfnd.org/images/pdf/mocktrial/2013/mock\\_trial\\_2013\\_case\\_v4.pdf](http://www.nebarfnd.org/images/pdf/mocktrial/2013/mock_trial_2013_case_v4.pdf)



## MARRIAGE, DIVORCE, & 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. A standard consent form is available through the county clerk's office in your county.

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

The marriage is voidable. This means that the marriage is valid but 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 to the county clerk's office together to apply. You must both have identification with you – either a driver's license or a certified copy of your birth certificate. You must also provide the clerk with both of your Social Security numbers.

The blood test is no longer required. Both must know the birthplaces of their parents (the city and state or foreign country) 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 fee for the marriage license and a fee for a certified copy of the license which the bride will need in order to change her name.

### 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, and 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, parenting time, child support, financial maintenance of either spouse (alimony), and property or debt division. As a general rule, most assets and debts 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?

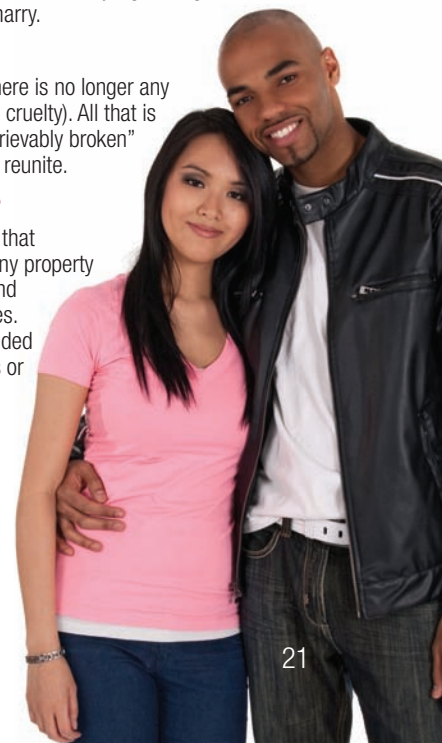
Nebraska is a "no fault" divorce state. That means that there is no longer any requirement of bad behavior (adultery, mental or physical cruelty). All that is necessary is to show the judge that the marriage is "irretrievably broken" such that there is no chance for the husband and wife to reunite.

### 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 if the parties' 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 been established by the court or admitted by the father 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 genetic 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 requires it. Parental rights may be terminated when the child has been abandoned by that parent, when the child has been neglected by that parent, when the parent is unfit, or when the parent is unable to discharge parental responsibilities.

### **What does "termination" mean?**

Termination of parental rights means that the former parent is no longer legally considered the child's parent 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 support.

### **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. A person violating a protection order can be arrested and charged with a crime. Protection order forms are available at the office of the District Court Clerk and online at <http://supremecourt.ne.gov/self-help/7228/protection-abuse>.

### **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.

### **Additional Resources:**

#### **Street Law – Parents and the Law**

[http://www.streetlaw.org/en/programs/parents\\_and\\_the\\_law](http://www.streetlaw.org/en/programs/parents_and_the_law)

#### **American Bar Association – Child Custody and Support**

[http://www.americanbar.org/groups/public\\_education/resources/law\\_issues\\_for\\_consumers/childsupport\\_forced.html](http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/childsupport_forced.html)

## **MINORS & MEDICAL TREATMENT**

### **Can a minor be examined and treated by a physician for sexually transmitted diseases (STDs) without a parent or guardian's consent?**

The diagnosis, examination, and treatment for STDs can be performed without the consent or notification of parents or guardians. Parents are responsible for the expenses of diagnosis, examination, or treatment of minors in their custody.

### **At what age can a minor donate blood and human tissue without parental consent?**

Any individual of sound mind and 17 years of age or more can consent to donate whole blood. However, any person who is 17 or 18 years of age cannot receive compensation for donation of whole blood without parental permission or authorization. Any individual of sound mind and 18 years of age or more may consent to donate his or her body or body part. Any individual under the age of 18 may consent to donate his or her body or body part if he or she is 1) emancipated, or 2) authorized under state law to apply for a driver's license and is at least 16 years of age.

### **As a general matter, are there any other situations in which a minor does not need a parent's consent for medical treatment?**

No parental consent is necessary if emergency treatment is required and the minor's parents are not available. In other situations, however, Nebraska statutes are stricter than the statutes of some other states. Other states specifically allow minors to consent to examination and treatment for alcohol or drug dependency, for pregnancy, to obtain contraception, or for childbirth. Nebraska has not chosen to expand the rights of consent for minors. As a result, a parent or guardian's consent may be required before unemancipated minors may receive medical treatment, unless the medical care is for the diagnosis and treatment of sexually transmitted diseases. Also, an unemancipated minor would need the consent of a parent or legal guardian in order to refuse life-sustaining treatment. A parent or guardian of a minor who is 18 may execute a power of attorney to delegate the parent's power to consent to treatment of the minor.

### **What are the rights of an emancipated minor?**

Emancipation means the freeing of a person under age 19 from the care, custody, control, and service of the individual's parents. If an individual is emancipated, he or she is considered an adult and can make his or her own medical decisions. Emancipation occurs where a parent renounces all of his or her legal duties as a parent and voluntarily surrenders all the legal rights of the parent's position to the youth or to others. Whether an underage individual is considered emancipated depends upon the facts, the conduct of the individual and his or her parents, and the parents' intentions. For example, a young person who moves out of a parent's home for a short time is not considered emancipated if he or she continues to be supported by a parent. Likewise, if a person under age 19 gives birth to a child of her own, that does not necessarily mean that she is emancipated (but the fact of giving birth may be considered in determining whether the individual has become emancipated). Therefore, consent of the minor's legal guardian may be necessary for the minor to obtain pregnancy-related medical treatment. Emancipation is not necessarily a continuing status. In other words, it can change depending on changing circumstances. If a person under age 19 is married, he or she is considered an adult under Nebraska law. Service in the military often indicates that a person is emancipated. Living independently of one's parents and being financially independent of one's parents are additional factors that show that a person may be emancipated.

### **What are the rights of minors regarding medical records and the right of privacy?**

A minor's medical records may be released to him or his parents or legal guardians, except where the minor has become emancipated and except as noted below. Unemancipated minors who are legally permitted to provide consent to their own medical treatment control access to their medical records about such treatment. For example, if an unemancipated minor seeks diagnosis or treatment for a sexually transmitted disease, the minor controls access to the medical records concerning such treatment. Likewise, if a parent has provided a minor who is 18 or older a power of attorney that delegates the parent's authority to consent to medical treatment for the minor, the minor controls access to medical records for treatment he or she seeks when the power of attorney is effective. Unless an exception described above applies, unemancipated minors do not have a right of privacy from their parents, but otherwise minors do have the right to privacy.



## What rules should I remember if I am going to have a party?

A party can be a fun social gathering with friends, but remember to be respectful of your host and other guests. Playing loud music and the use of profane language may be considered disturbing the peace or maintaining a disorderly house and is illegal.

## What if someone “crashes” my party?

Usually, parties are by invitation only. If someone shows up and they were not invited, you may ask them to leave.

“Crashing” a party is considered trespassing. If the intruders refuse to leave, you or your parents can call the police and ask to have them removed.

## Alcohol at parties:

Alcohol should not be present at parties unless all attendees are of a legal drinking age. Applicable alcohol laws are detailed in Alcohol on page 3, but having alcohol at a party with minors can lead to a multitude of offenses including minor in possession and serving alcohol to a minor.

## Additional Resources:

### Nebraska State Bar Foundation Mock Trial – State of Nebraska v. Alex B. Toakliss

A criminal case involving the death of a college student at a Halloween party  
[http://www.nebarfnd.org/images/pdf/mocktrial/2010/2010case\\_v4.pdf](http://www.nebarfnd.org/images/pdf/mocktrial/2010/2010case_v4.pdf)

# PARTIES



# PETS



## Are there laws that I must follow as a pet owner?

Yes, Nebraska law requires that you license your dog as required by local ordinance and place a collar on its neck containing a metal tag inscribed with the owner's name. In counties with more than 80,000 residents, it is not permissible for you to let your dog run at large. You will be responsible for any damage caused by your dog. In addition, local ordinances may impose other requirements on pet owners, such as leash and vaccination laws. Check with your county health department or city officials for more information.

## Additional Resources:

### Nebraska State Bar Foundation Mock Trial – Chris Deeds v. Syl Wifferspoon

A civil case involving discrimination against an apartment renter, due to his keeping a comfort dog on the premises.

[http://www.nebarfnd.org/images/pdf/mocktrial/2013/mock\\_trial\\_2013\\_case\\_v4.pdf](http://www.nebarfnd.org/images/pdf/mocktrial/2013/mock_trial_2013_case_v4.pdf)

# SEARCH & SEIZURE

## What searches can the government conduct?

The government can only conduct reasonable searches. The Fourth Amendment of the United States Constitution protects individuals from unreasonable searches. This protection is extended to citizens of Nebraska under Article 1 Section 7 of the Nebraska Constitution.

## What are reasonable searches?

Generally, searches conducted pursuant to a warrant are reasonable. On the other hand, searches conducted without a warrant are generally considered unreasonable, and prohibited. Warrantless searches are authorized only in a few limited, specified situations. If a warrantless search is performed, the government will have the burden to prove that the search fell within one of the specific exceptions.

## When can a warrantless search be reasonable?

A warrantless search can be reasonable in a few specific situations. First, a warrantless search is reasonable if the individual has voluntarily consented to

the search. In other words, protection from an unreasonable search and seizure is waived if the search is voluntarily consented to. Second, a search may be conducted if a law enforcement officer can plainly see incriminating evidence. Third, a warrantless search can be reasonable if the search is conducted by law enforcement under emergency (“exigent”) circumstances. Finally, warrantless searches are permitted if the search is done incident to an arrest. In other words, police are permitted to search an individual who has been arrested without obtaining a warrant to conduct the search.

## What is protected from search and seizure?

Any place or thing with which an individual has a legitimate expectation of privacy will be protected from an unreasonable search. This expectation must be manifested by the individual and considered reasonable by societal standards.

## What is a search warrant?

There are two types of warrants: an arrest warrant and a search warrant. A search warrant is an authorized order by a judge or magistrate that allows a government official to search for particular things in a particular area. An arrest warrant is a judge's order to law enforcement to arrest and bring to jail a person charged with a crime.

## What are the requirements for the government to obtain a warrant?

Under the Fourth Amendment, warrants must particularly describe the place to be searched and the persons or things to be seized.

To obtain a warrant, the government must present specific facts to a magistrate or judge. These facts must create probable cause. Probable cause sufficient to justify issuance of a search warrant means a fair probability that contraband or

evidence of a crime will be found. Proof of probable cause justifying issuance of a search warrant generally must consist of facts so closely related to the time of issuance of the warrant as to justify a finding of probable cause at the time.

However, the government does not have to show proof of criminal activity to obtain probable cause. Rather, the government only has to show probability or substantial chance of criminal activity to obtain probable cause.

### What authorizes a search of an automobile?

A police officer may search a car if the officer has basic probable cause to believe that the vehicle contains contraband. This is what is known as the "automobile exception" to the warrant requirement. The scope of a warrantless search of an automobile is limited to the places where there is probable cause to believe particular contraband might be found. Additionally, automobile searches may be permissible without a warrant if the search is permitted under one of the other specified exceptions to the warrant requirement: that is, when there are emergency or exigent circumstances that make a search necessary, when the individual consents to the search, when the search is conducted incident to an arrest, when the search is done as part of a procedure to inventory an arrestee's property and safeguard law enforcement, or when the search is done because the incriminating evidence is in the plain view of the officer.

### What searches can be done on students?

Because the school setting requires discipline and order, students are subject to broader rules regarding searches and seizures. School personnel do not need a warrant or probable cause to search the property of a student. Rather, the personnel simply need reasonable grounds to suspect the student is violating the law. Establishing this suspicion may include the student's age and sex. Once there is reasonable suspicion, the search is reasonable as long as the search is not overly intrusive. These types of searches can be conducted on the individual student as well as the student's automobile if it is on school property.

Further, a student may be subject to mass searches. The use of metal detectors has been held by courts to be in compliance with the Fourth Amendment protection from unreasonable search and seizure. Further, the use of drug-sniffing dogs by school officials has been allowed. However, the use of dogs has generally only been permitted to search lockers, not individuals. Courts have also generally allowed mass searches of desks and lockers without a warrant. However, these searches are usually done in accordance with school policy.

Although not a traditional search, drug testing has also been held to be a type of search under the Fourth Amendment. Courts have allowed school officials to administer drug tests without a warrant. However, these tests have generally been restricted to students participating in voluntary school extracurricular activities.

### Additional Resources:

#### Court Cases

##### **Illinois v. Caballes**

<http://supreme.justia.com/cases/federal/us/543/03-923/>

##### **Board of Education v. Earls, 536 U.S. 822 (2002)**

<http://supreme.justia.com/us/536/822/case.html>

##### **Griffin v. Wisconsin, 483 U.S. 868 (1987)**

<http://supreme.justia.com/us/483/868/case.html>

##### **Vernonia School District v. Acton, 515 U.S. 646 (1995)**

<http://supreme.justia.com/us/515/646/case.html>

##### **City of Indianapolis v. Edmond, 531 U.S. 32 (2000)**

<http://supreme.justia.com/us/531/32/case.html>

##### **New Jersey v. T.L.O. 469 U.S. 325 (1984)**

<http://supreme.justia.com/us/469/325/case.html>

##### **United States v. Place 462 U.S. 696 (1983)**

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=462&invol=696>

## THE SELECTIVE SERVICE SYSTEM & 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 all 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: [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 website 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.





# SEX CRIMES



## What are sexual crimes?

Sexual crimes involve some sexual contact without consent. The contact does not have to be intercourse.

## What is sexual contact?

Sexual contact means the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact also means the touching by the victim of the actor's sexual or intimate parts or the clothing covering the immediate area of the actor's sexual or intimate parts when such touching is intentionally caused by the actor. Sexual contact includes only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party. Neb. Rev. Stat. § 28-318(5). Sexual contact also includes the touching of a child with the actor's sexual or intimate parts on any part of the child's body for purposes of sexual assault of a child under Neb. Rev. Stat. § 28-320.01.

## What does consent mean?

Consent can be withdrawn at any time. The law actually talks about sex acts "without consent."

## Without consent means:

The victim was compelled to submit due to the use of force or threat of force or coercion, or (ii) the victim expressed a lack of consent through words, or (iii) the victim expressed a lack of consent through conduct, or (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor.

The victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine and real and so as to reasonably make known to the actor the victim's refusal to consent.

A victim need not resist verbally or physically where it would be useless or futile to do so. Neb. Rev. Stat. § 28-318(8) (a)-(c).

## What are the penalties for sexual crimes?

The penalty will depend on many things, including the amount of force used, the nature of the sexual conduct, and the age of the victim. Many sexual crimes are considered felonies. Felonies are the most serious type of criminal violation.

## If I am 19, and my girlfriend/boyfriend is only 16, is it a crime for us to have sex?

Yes. It is illegal to have any sexual contact with anyone under 17, even if that person "consents" and you are at least 19 years old. Neb. Rev. Stat. § 28-805.

## Can sexual crimes occur within a marriage?

Yes. The same laws that apply to sex crimes outside the marriage apply to sex crimes within the marriage.

## Well we had this date – I took her to a movie and dinner – and, you know – I wanted to go all the way – she sure was upset. So is that a crime?

Sexual assault is a crime, and is usually a felony. Sexual assault is committed by subjecting another person to sexual penetration of any part of the victim's body in a sexual manner, however slight (a) without consent of the victim, or (b) when a person knew or should

have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct, or (c) when the actor is 18 years of age or older and the victim is less than 16 years, or by subjecting another person to sexual contact. Neb. Rev. Stat. §§ 28-318, 319, 320.

Friendship is not an invitation to sex.

## Oh come on – I just grabbed her "butt" – so what's the big deal?

Sexual abuse is a crime and is usually a felony. A person commits sexual abuse by subjecting another person to sexual penetration or contact under the circumstances described above. Neb. Rev. Stat. § 28-367.

Conviction of nearly all sex crimes requires registration as a sex offender for at least a 10-year period, and possibly for life. Neb. Rev. Stat. § 29-4003-4005. Such registration is usually required even if you relocate to another state.

A victim of harassment that arises out of a dating relationship may also obtain a court order against that harassment. Neb. Rev. Stat. § 42-924.

## Someone put a picture of kids having sex on the Internet that I have downloaded to my computer. Is that a crime?

Yes. It is a felony for a person knowingly to purchase, rent, sell, deliver, distribute, display for sale, advertise, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers. Neb. Rev. Stat. § 28-1463.03(2).

Child, in the case of a participant, shall mean any person under the age of 18 years and, in the case of a portrayed observer, shall mean any person under the age of 16 years. Neb. Rev. Stat. § 28-1463.02(1).

Furthermore, it is a felony to use a computer to knowingly solicit, coax, entice, or lure a) a child 16 years of age or younger or b) a peace officer who is believed by such person to be a child 16 years of age or younger, by means of a computer to engage in a sexual act. Neb. Rev. Stat. § 28-320.02.

## Additional Resources:

### Nebraska Sex Offender Registry

<https://sor.nebraska.gov/>





## What is sexting?

The commonly accepted definition of “sexting” is the sending or receiving of nude, partially nude, or sexually suggestive or explicit photos, often of one’s self via cell phone or computer, or the forwarding of such items that have been received to others. Nebraska has the Child Pornography Prevention Act which has the following as its core provision: “It shall be unlawful for a person to knowingly make, publish, direct, create, provide, or in any manner generate any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.” See Neb. Rev. Stat. § 28-1463.03(1). The Act also makes it unlawful for “a person knowingly to purchase, rent, sell, deliver, distribute, display for sale, advertise, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers.” § 28-1463.032.

## Statistics of sexting?

A recent survey showed that 22 percent of teenage girls have sexted their own picture and 48 percent of teens have received such pictures. Due to the fact that teens do not have a fully developed frontal lobe until the age of 21 or 22 years (the part of the brain responsible for controlling impulses and possible consequences of behaviors) and 99 percent of teens have a phone, this is a dangerous situation. (Mary Jo Rapini, Sex Texting and Your Teenage Son, [May 12, 2009], at <http://www.health-newsdiquest.com/news/Teen Health 290/Sex Texting and Your Teenage Son.shtml>.) Corey O’Brien, a Nebraska Assistant Attorney General who frequently speaks to Nebraska middle school students about sexting, reports that when he asks for a show of hands of those students who have sent or received “sex-texts,” the affirmative response rate is two-thirds to three-fourths of the students.

## What are the consequences of sexting?

There are a number of potential practical consequences of sexting, aside from the potential legal consequences. Such photos have a tendency to be forwarded to others, often after the “break-up” of the young people who were sexting in the context of their relationship. Once the relationship has ended, the impulse to share and forward the risqué photos may take over. An Associated Press story in late January 2010 reported that a 14-year-old boy in Lacey, Washington, was arrested after police say he forwarded a photo of his naked 13-year-old ex-girlfriend by cell phone to dozens of students in at least three different schools. Thus, such photos are unlikely to remain private. Plus, the pictures or videos can be around “forever” as they are passed from person to person via the Internet, or made public – and unless the device’s hard drive is destroyed or “washed” the photos can be found on the hard drive even if “deleted” because they are not really deleted. Sexting can result in adverse consequences for future relationships, one’s reputation, and career prospects. In short, what began as youthful impulsive behavior can have long-lasting adverse consequences in many areas of a young person’s life. Consequently, there are some very solid commonsense reasons that minors and young adults should think twice before hitting the “send” key for sexually explicit material.

# SEXTING

For a detailed article by Richard D. Sievers, please visit the foundation’s website at <http://www.nebarfnd.org/age-of-majority>.

## What are the penalties associated with sexting?

A violation of the Child Pornography Prevention Act is a Class III felony carrying a minimum of one year and a maximum of 20 years’ imprisonment, a \$25,000 fine, or both, if the defendant is under 19 at the time of the violation. If the defendant is older than 19 at the time of the violation, the crime is a Class ID felony with a maximum of 50 years’ imprisonment and a mandatory sentence of three years. And, if the defendant has previously been convicted of a sex crime, the penalties for violation of the Act are increased. Furthermore, each act can be considered a separate claim; in other words, sending an illegal image to 12 of your best friends can result in 12 separate charges of violating the Act.

## Conclusion

There is the well-known, and true, statement that “ignorance of the law” is no defense. But, knowledge of the law can help avoid serious difficulties with lifelong consequences. By outlining the impact of turning 19 with respect to sex crimes, perhaps a child will not be victimized and a young adult will avoid becoming a convicted criminal—the consequences of which are lifelong

# STUDENT SEARCHES

## What searches can be done on students?

The school setting requires discipline and order, so students are subject to more deferential rules regarding searches and seizures at school and at school activities. School personnel do not need a warrant or probable cause to search the property or person of a student. Rather, school officials simply need reasonable suspicion to suspect the student is violating a provision of state or federal law or a school policy, regulation, or directive. School officials will often consider the student’s age, sex, and history when determining if they have reasonable suspicion. Once there is reasonable suspicion, the search is reasonable as long as the search is reasonable in scope, meaning the official took measures reasonably related to the object of the search. For example, reasonable suspicion of drugs in a backpack does not provide grounds to search a student’s cell phone.

These types of searches can be conducted on the individual student, the student’s property, and the student’s automobile if it is on school property. Additionally, if a student gives consent, a school official may search any area to which the students consents, including a vehicle parked off school grounds.

Students may be subject to mass searches. The use of metal detectors and drug-sniffing dogs is permitted by courts. However, the use of drug and explosive-searching dogs has generally only been permitted to search lockers, desks, and other student possessions, not individuals. Courts allow schools to have policies which permit school officials to search items of property belonging to the school, such as lockers, desks, and 1-to-1 technology without a warrant and without reasonable suspicion.

Although not a traditional search, drug and alcohol testing has also been held to be a type of search under the Fourth Amendment. Courts have allowed school officials to administer drug and alcohol tests without a warrant upon reasonable suspicion. However, most schools limit such searches to students participating in voluntary school activities, such as students participating in athletics or students attending school dances.



# 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, and street and highway systems to name a few. These services are paid for by businesses and citizens through the taxes they pay to cities, counties, the state, or the federal 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 income paid to you becomes 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 federal and state governments through estimated income tax payments.

On or before April 15 of each year, you will be required to file a federal and state 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 owner of a business, you will be responsible for withholding income tax from the wages of your employees, and remitting sales tax on any sales of taxable merchandise. You may also have to pay tax on your business income.

- **Social Security and Medicare Taxes:** These are withheld from your paycheck along with federal and state income taxes. The Social Security taxes are administered by the U. S. Social Security Administration, and these taxes pay for old age, survivor, and disability payments when you become eligible for them. The Medicare tax pays for future Medicare insurance coverage. Your employer will match the amount of Medicare taxes taken from your paycheck.
- **Property Taxes:** When you purchase any real property, such as a house, you will be required to pay property tax on the value of the property. 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. Property taxes are also paid on your motor vehicle every year the vehicle is licensed.
- **Sales Tax:** As a consumer of goods and services, you have probably noted the sales taxes which you have paid on your clothing, school supplies, and entertainment purchases. Sellers 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 to the state on a monthly, quarterly, or annual basis by the seller. When you purchase a motor vehicle, sales tax is due to the county you reside in, and not to the vehicle dealer. The vehicle dealer should give you all the documentation needed to pay the appropriate amount of sales tax at the time you license the vehicle.
- **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 all motor fuels 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 federal, state, and local 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, or benefits paid for by your employer. It can be income from a hobby, a second job, or from self-employment, even if you do not have a formal company.

## Is there any income that is not taxable?

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

For more information on taxable and non-taxable income, call 1-800-829-3676, or visit the IRS's website [www.irs.gov](http://www.irs.gov), to obtain IRS Publication 525, Taxable and Nontaxable Income.

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

Tips that workers receive are taxable income. All tips are taxable income whether or not workers must report them to the employer. Employers must withhold income, Social Security and Medicare taxes on those tips which are reported to them. Your employer must report this withholding to the IRS.

## What is a W-4?

It is Form W-4, "Employee's Withholding Allowance Certificate." This form could make the difference between writing a check or getting a refund when filing a federal or state 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 for federal and state taxes. 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. If the number of allowances is more than 10, the employer may be asked to 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, give the completed Form W-4 to your employer and only revise it when your personal or financial status changes. The same Form W-4 is used to determine the state taxes withheld.

Publication 505, Tax Withholding and Estimated Tax and Publication 919, and How Do I Adjust My Withholding? explain how to complete the W-4 worksheet and form. Call 1-800-829-3676 or visit the IRS's website, [www.irs.gov](http://www.irs.gov), to obtain a free copy.

## 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, or the state, selects your return for examination, or if you get a bill for additional tax. Not having the right receipt can cost you money.

Usually you should keep copies of your returns for at least three years. Past years' tax returns can be used as guides for filling 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.

## Additional Resources:

### Taxpayer Bill of Rights

<http://www.irs.gov/Taxpayer-Bill-of-Rights>

# TECHNOLOGY

Today's technology brings us faster computers, Internet, cell phones, digital cameras, and much more. As you learn about technology and all of its uses, you must also be aware of the restrictions and laws concerning the use of certain devices. It is also important to use safety precautions when chatting on your cell phone or online. Computers, the Internet, and cell phones are great ways to keep in touch with your friends. The Internet is also a great way to do research work for school and listen to music. Have you ever downloaded music, taken photos with your cell phone, chatted online with friends, or entered any personal information online? Depending on how you did it, you may have violated a law or put yourself at risk of identity theft or personal harm. This chapter will address many laws and safety precautions you need to be safe in the world of technology.

## What is computer hacking?

Computer hacking is gaining access to computer networks or an individual computer without authorization. It is illegal to hack into another computer or network, and is a felony or misdemeanor. Neb. Rev. Stat. §§ 28-1343.01, 28-1347.

## Can I download music or videos?

Yes, only if you use a legal music or video downloading service operating with the consent of the recording or movie industry or artists. Be cautious of free download sites, as they may not comply with the law and downloading from them may expose your computer to risks of viruses. Most legitimate sites charge a small fee per download for legal copies of music or videos.

## What makes downloading music illegal?

It is against the law to download music, movies, or other media if you are violating its copyright. Industries are protected under the U.S. Copyright Act, and if someone is suspected of violating this, he or she and the owners of the computer can be prosecuted. The "No Electronic Theft Act," or NET, allows for criminal enforcement of U.S. Copyright laws. 18 U.S.C. §2319; 17 U.S.C. §506.

The No Electronic Theft Act ("NET") was passed into law in 1997. NET allowed for criminal enforcement of U.S. Copyright laws against people who have no profit motive. 18 U.S.C. §2319; 17 U.S.C. §506. The duplication of copyrighted material is illegal. Under federal law a person can be prosecuted for the Criminal Infringement of a Copyright and can be punished by up to 10 years in prison and fined up to \$50,000. 17 U.S.C. §506; 18 U.S.C. §2319.

## Is it illegal to share games and software?

Yes, it is illegal to copy and share computer software. Software piracy is the unauthorized duplication of computer software. Copying software is an act of copyright infringement and is subject to civil and criminal penalties. Copying software is illegal whether you use pirated software yourself, give it away, or



sell it. All software is copyright-protected, and the copyright is enforceable for 95 years. If you copy software, you can be liable for any damages suffered by copyright owners up to \$150,000 per title infringed or up to \$250,000 and five years in jail. 17 U.S.C. §506; 18 U.S.C. §2319; §§13A8-100 and 13A8-102.

## What is a copyright?

A copyright is a bundle of rights that exists in works that are creative or artistic, such as literary works, movies, musical works, sound recordings, paintings, photographs, choreography, software and industrial designs. The owners of these rights can control how their work is used for a limited time, as well as sell, license, or otherwise use the work to their benefit.

The only way to legally use a copyrighted work is to obtain permission from the copyright owner. Giving credit to the owner of the work (such as listing the name of the person who took a photograph) does not give you the necessary permission, and using that work may still make you liable for copyright infringement.

The only exception to using copyright work without permission is known as the "fair use" exception. Fair use allows the public to use portions of copyrighted material for such things as criticism and commentary, news reporting, research and scholarship, nonprofit educational use and parody. However, whether a use is "fair" or not depends on a variety of factors, including how much of the work is used, and is usually decided within the context of a lawsuit. Using the entire work is not fair use. The safest path is to assume all material is protected by copyright or trademark unless you know for a fact it is not. In addition to the above-mentioned criminal punishments, if you reproduce copyrighted work without permission, you can be sued for infringement by the copyright owner. Lawsuits are even more likely if you make money or cause the owner of the work to lose profits by your infringing use.

("On Your Own, Your Legal Rights and Responsibilities as an Adult" The Law Related Education Committee, Iowa State Bar Association)

## What if I accidentally go to a pornographic website?

Many schools and others use Internet blocking software to prevent Internet users from accidentally entering pornographic websites. If you find yourself on a website that is inappropriate, you should immediately exit the site and report it to your teacher or parent.

## Additional Resources:

### Nebraska State Bar Foundation Mock Trial – A & M Records, Inc., et al. v. K.C. Jones

A civil case involving a copyright infringement suit brought by several recording companies against a college student for allegedly downloading and sharing music. <http://www.nebarfnd.org/images/pdf/mocktrial/2007/2007Case.pdf>

## What is a tort?

Tort law protects a person's interest in his or her bodily security, tangible property, financial resources, or reputation. Interference with one of these things is usually grounds for a lawsuit, with damages awarded in the form of monetary compensation. The amount of damages usually aims to put the person back in the same position they were before the tort was committed. For example, if you hit someone, you may be responsible for his or her medical bills.

## What are some examples of torts?

- Torts against people are those torts that harm the person. Some examples include battery, assault, false imprisonment, and intentional infliction of emotional distress.
- Torts against property are those torts that involve some intentional interference with another's property rights. Examples include trespass and conversion (stealing is one form of conversion).
- Dignitary torts are those torts that don't cause physical harm to a person, but rather harm to reputation. Some examples include defamation, slander, and libel.
- Negligence is the broadest area of tort law and includes most personal injury cases. Negligence is unreasonable action that causes injury to another. For example, a person that caused a car accident because he was texting while driving acted unreasonably and would be negligent.

# TORTS



## What is a driver's license or permit?

A driver's license or permit is any license or permit that authorizes an individual to operate a motor vehicle. A valid driver's license or permit is required to operate a motor vehicle on any Nebraska roadway or public parking area.

## What is a motor vehicle?

A motor vehicle includes any vehicle not propelled by muscle power. This does not include personal electric wheelchairs, farm tractors, road rollers, rail or track vehicles, or off-road vehicles such as golf carts, go-carts, riding lawn mowers, garden tractors, ATVs, minibikes, or snowmobiles.

## What types of driver's permits are available in Nebraska?

A potential driver in Nebraska may obtain a driver's permit as early as his or her 14th birthday. This permit, named an LPE-learners' permit, is allowed only to those individuals preparing to obtain a school permit. This allows a person to drive any motor vehicle other than a commercial motor vehicle.

A school permit can be issued to an individual who is at least 14 years and two months of age but less than 16 years and three months of age for the purpose of driving to and from school. To obtain this permit, the student must live at least one and one half miles from the school and either live outside a city or attend a school outside a city. In addition to driving to and from school, this permit allows the student to drive while accompanied by a valid driver's license holder who is at least 21 years of age and sitting in the front passenger seat. A person seeking a school permit must have an LPE-learner's permit for at least two months prior to obtaining a school permit.

An LPE-learner's permit can be issued to any person who is at least 15 years of age. This permit is issued for learning purposes and the driver must be accompanied by an adult of at least 21 years of age who has a valid driver's license.

When the driver reaches the age of 16, he or she can obtain a POP-provisional learner's permit. This permit authorizes the operation of any motor vehicle except a commercial motor vehicle and expires on the driver's 18th birthday. In addition to passing a written test and being instructed on safety issues, a POP-provisional operator's permit will only be issued when a driver presents a certificate signed by a licensed driver who is at least 21-years-old stating that the driver applying for the permit has completed 50 hours of lawful motor vehicle operation.

In addition to these permits, there are several other permits that may be obtained. These permits include a commercial vehicle learner's permit, a farm permit, an employment driving permit, a seasonal permit, and a medical hardship permit.

## What types of driver's licenses are available in Nebraska?

The most common type of driver's license in Nebraska is a Class O license. This license is given to a person at least 18 years of age and allows operation of any motor vehicle except a commercial vehicle. A Class O license may be obtained by a person younger than 18-years-of-age if the driver has had a POP-provisional operator's permit for at least one year and has not accumulated 3 or more points.

A Class M license is a license that authorizes a person to operate a motorcycle. This license can be issued in conjunction with any license or permit.

A CDL-commercial driver's license authorizes the operation of a class of commercial motor vehicles.

A RCDL-restricted commercial driver's license authorizes the operation of a commercial motor vehicle. However, this

# TRANSPORTATION

license must be used in conjunction with a seasonal permit and can only be used for farm or ranch-related service.

## How can I obtain a driver's permit or license?

A driver's license may be obtained through any local county clerk or Department of Motor Vehicles office.

## What restrictions on driving do I have?

Nebraska has implemented a graduated driving license program. Thus, drivers with a POP are only allowed to drive between 6 a.m. and midnight. However, a driver with this permit may operate a vehicle at any time if (1) the driver is en route to or from his or her home to his or her place of employment or a school activity, or (2) is accompanied by an adult of at least 21 years of age who has a valid driver's license.

## What will I have to do to get a driver's license or permit?

Generally, a written test, driving test, and vision test must be successfully completed before a license or permit will be issued. However, with some permits and licenses, the written or driving test may be waived. If the driver completes a driver safety course approved by the Department of Motor Vehicles, the written and driving tests will be waived. If the driver provides proof the 50-hour certification, the written test will be waived. There will also be a fee for the issuance of a driver's license or permit.

## What else do I need before driving?

Aside from a driver's license or permit, all drivers are required to carry proof of current registration and insurance on the motor vehicle he or she is operating.

## Can I drive with alcohol in the car?

Drinking while driving is a serious criminal offense that carries heavy consequences. This is discussed in the Alcohol section of this brochure. Additionally, there are restrictions on simply transporting alcohol in a car. It is unlawful for a driver or any passenger to have an open container of alcohol inside a vehicle when the vehicle is being operated or located in a public parking area or on any highway. An open container can be transported in the trunk or behind the last upright seat of the vehicle if the vehicle does not have a trunk. Any container that contains alcohol and has a broken seal is considered open. Thus, for example, a bottle of wine that has been re-corked is considered an open container and cannot be transported in any area of a vehicle where the driver or passenger(s) have ready access to it. The "Wine Doggy Bag" Rule allows customers to remove one open bottle of wine from a premises if they meet the proper requirements. Neb. Rev. Stat. §53-123.04 53-123.11

## How can I have my driver's license or permit revoked?

Nebraska revokes driver's licenses and permits based upon a point system. Under this system, any driver who accumulates more than 12 points within a two-year period will be subject to revocation of the driver's license or permit. Points are accumulated for traffic violations.

## Additional Resources:

Nebraska Department of Roads

<http://www.transportation.nebraska.gov/>





## VOTING

### Who is eligible to vote in Nebraska?

You must be a United States citizen, live in Nebraska, and be at least 18 years of age on or before the first Tuesday after the first Monday of November.

### 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 and 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: <http://www.sos.state.ne.us/dyindex.html>.

### When do I register to vote?

If you register to vote in person at the Election Commissioner or County Clerk's office, the deadline for completing your registration is 6 p.m. on the second Friday preceding the election that you intend to vote in. Mail-in registrations must be postmarked on or before the third Friday preceding the election that you intend to vote in. Voter registration closes at motor vehicle offices and state agencies on the 3rd Friday preceding an election.

### Where do I vote?

If your application is complete, you will receive a notification by mail indicating that you are a registered voter and stating the location of your polling place. If required information is missing from your application, you will be notified by mail that your application is incomplete and that some additional information is needed.

If you are unsure of your polling place, contact the local Election Commissioner or County Clerk.

Registered voters can make requests until 4 p.m. the Wednesday preceding an election for Early Voting ballots to be mailed. The day before the election is the deadline for in-person Early Voting at County Election Offices.

### May a college student register and vote from a school address?

Yes, you may decide to register and vote from either your school address or home address. If you want to vote from your home address, write your county clerk and ask that a voter registration form and absentee ballot be mailed.

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

You must re-register to vote whenever you change your name, your permanent address, or your political party affiliation.

### Additional Resources:

**iCivics Online Game – Cast Your Vote**

<https://www.icivics.org/games/cast-your-vote>



### Additional Resources:

**Nebraska Game and Parks – Boater Education**

Register for a class and download free study materials  
<http://outdoornebraska.ne.gov/boating/guides/boating/bgeducate.asp>

## WATER SPORTS

### Can I drive a boat or a personal watercraft?

Maybe. No one under 14 years of age shall operate a Motorboat of any class at any time. All motorboat operators born after December 31, 1985, must complete a Boating Safety Course and be in possession of a course certificate when operating the boat. Also, you must be at least 16 years of age to pull a water skier, tuber, wake boarder, etc.

### Do I have to wear a personal floatation device?

Maybe not, but it's a really good idea. Nebraska law requires that all persons wear a U.S. Coast Guard-approved life preserver when operating a personal watercraft, such as a Jet-Ski, and that children under 13 years of age wear a U.S. Coast Guard-approved life preserver while aboard a boat. Of course, it's best practice for everyone to wear a life preserver while enjoying water sports.



# WEAPONS, GUNS & FIREWORKS

## Can I own a gun?

Individuals 18 years of age and older may own a rifle or shotgun. A rifle is a weapon which is intended to be fired from the shoulder and fire a single projectile. A shotgun is a weapon which fires either a number of ball shots or a single projectile for each pull of the trigger. 18 U.S.C. § 921. Persons 21 years of age and older may own a handgun. 18 U.S.C. § 922. A handgun is any firearm less than 16 inches in length or any firearm designed to be held and fired with a single hand. Neb. Rev. Stat. § 69-2402.

## Are there limitations on the type of gun I own?

A person may not own a machine gun, rifle with a total length of less than 26 inches or a barrel less than 16 inches long, or a shotgun with a barrel less than 18 inches in length or which has an overall length of less than 26 inches. Neb. Rev. Stat. § 28-1201, 28-1203.

## Can I use a gun even though I do not own it?

Yes, even someone younger than the age of ownership may use it for recreational activities with permission from the adult owner. A minor may possess a rifle or shotgun as long as it is not concealed, meaning it must be in clear sight of the casual observer.

## Are there special limitations on hand guns?

Yes. Handguns may not be purchased or otherwise transferred to someone who has not obtained a certificate from the chief of police or sheriff in the county of the applicant's place of residence. This exception does not apply to transfers within one's immediate family. Neb. Rev. Stat. § 69-2404. Also, you must be 18 years of age to possess a handgun. Neb. Rev. Stat. § 28-1204

## What about concealed handguns?

Nebraska allows citizens to obtain a permit to carry a concealed handgun. A concealed handgun is one that is totally hidden from view. In order to obtain a permit, one must be at least 21 years of age; not be prohibited from carrying a firearm under federal law; possess the eye sight required to obtain a drivers license; not have pleaded guilty to or been convicted of a felony or crime of violence; not habitually be in an intoxicated or drugged state; have no history of violence; not have been determined to be a mentally ill dangerous person within the previous 10 years; reside in the county where the application is made for at least 180 days; have no violations of any law relating to firearms, unlawful use of a weapon, or controlled substances within the previous 10 years; not be on probation, parole or house arrest or work release; be a citizen of the United States; not be under investigation for an offense that would prohibit the applicant from obtaining a permit; and provide proof of completing a firearms training and safety course approved by the Nebraska State Patrol.

## What happens if someone takes a gun to school?

Any person who possesses a firearm in a school, on school grounds, in a school-owned vehicle, or at a school-sponsored activity or athletic event is guilty of a Class IV felony. If discovered, your firearm will be confiscated and destroyed. Neb. Rev. Stat. § 28-1204.04.

Any student who knowingly or intentionally possessed, used, or transmitted a firearm on school grounds, in a school vehicle or a school-sponsored event will be expelled from school for not less than one year. Neb. Rev. Stat. § 79-263.

## What are the rules regarding bombs and other explosive devices?

A person who is in possession of a bomb or similar destructive device is guilty of a felony. Neb. Rev. Stat. § 28- 1220. A person who makes a threat regarding a bomb or places a device which appears to be a bomb is guilty of a felony. Neb. Rev. Stat. § 28-1221.

## What fireworks are legal under Nebraska law?

Only sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet-type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total explosive composition not to exceed 50 milligrams in weight, and color wheels are permissible for private use in Nebraska. Neb. Rev. Stat. § 28-1241. Possession of fireworks other than those which are permitted is a crime. Neb. Rev. Stat. § 28-1244.

## Are there any uses of fireworks which are criminal?

It is a misdemeanor to throw fireworks from or into a motor vehicle, onto any street, highway or sidewalk, at or near any person, into any building, or into any group of persons. There are other restrictions that may be placed on shooting fireworks by the fire marshal or by your city or county government.

## Additional Resources:

### National Safety Council Nebraska – Fireworks Safety

<http://www.safenebraska.org/safe-home-play/fireworks-safety/>







# WILLS, POWERS OF ATTORNEY & LIVING WILLS

## Who may make a will in Nebraska?

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

## How do I make a will?

An attorney should be used in making a will whenever possible, because attorneys have training and expertise about wills. A will is much more than just a list of the individuals that 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, the situations where trust arrangements may be beneficial for younger beneficiaries or for those incapable of managing their own assets, the selection of a guardian and conservator for children, and the selection of a personal representative and trustee to gather assets, pay bills, and distribute assets to those entitled to them. 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 a "holographic will") if it includes, all in your handwriting, a description of what you want done with your estate, the date on which you wrote the will, and your signature. Holographic wills should generally only be completed when there is an urgent situation and it is not possible to visit with your attorney about the 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 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, state law will determine who inherits any property that is not owned in joint tenancy with right of survivorship or that has no designated beneficiary. This may not always

coincide with whom you want to inherit your property. Care must be exercised in beneficiary designations on retirement plans in order to avoid adverse tax results. Again, an attorney can advise you on making proper beneficiary designations.

## What is a power of attorney, and should I have one of those also?

A power of attorney is a document that must be executed in a formal manner in the presence of a notary public. It 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 by the document 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 your incapacity. Attorneys generally recommend that you have a durable power of attorney if you have someone you have absolute 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 of them also?

Living wills are also sometimes called "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 about the continuance 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 the 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 that your wishes, whatever they may be, are carried out. Frequently, the statement regarding medical care (the living will) and the appointment of a health care decision-maker (a power of attorney for health care) 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 when you receive your motor vehicle operator's license. Your signature must be witnessed by Drivers License Examining Personnel.

## Additional Resources:

**American Bar Association – Wills and Estates**

[http://www.americanbar.org/groups/public\\_education/resources/law\\_issues\\_for\\_consumers/estate.html](http://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/estate.html)

# RESOURCES

## American Arbitration Association

(800) 778-7879  
[www.adr.org](http://www.adr.org)

## American Bar Association Section on Dispute Resolution

(202) 662-1680  
[www.abanet.org/dispute/](http://www.abanet.org/dispute/)

## Association for Conflict Resolution

(703) 234-4141  
[www.acrnet.org](http://www.acrnet.org)

## Attorney General's Office (Consumer Protection)

State Capitol Building  
Lincoln, NE 68509

(402) 471-2682  
(800) 727-6432

## Better Business Bureau

300 N. 44th Street, Suite 100  
Lincoln, NE 68503

(402) 436-2345  
(800) 649-6814

## Citizen's Guide to the Nebraska Appellate Courts

<http://supremecourt.ne.gov/sites/supremecourt.ne.gov/files/self-help/citz-guide-appellate-courts.pdf>

(402) 471-3730

## Crime Commission

301 Centennial Mall South, 5th Floor  
P.O. Box 94946  
Lincoln, NE 68509-4946

(402) 471-2194  
(800) 642-6112  
[www.ncc.state.ne.us](http://www.ncc.state.ne.us)

## Equal Opportunity Commission

301 Centennial Mall South, 5th Floor  
P.O. Box 94934  
Lincoln, NE 68509-4934

(402) 471-2024  
(800) 642-6112  
[www.neoc.ne.gov](http://www.neoc.ne.gov)

## Equal Opportunity Commission-Omaha

1313 Farnam-on-the-Mall, 3rd Floor  
Omaha, NE 68102-1836

(402) 595-2028  
[www.neoc.ne.gov](http://www.neoc.ne.gov)

## Equal Opportunity Commission-Scottsbluff

505 A • Broadway, Suite 600  
Scottsbluff, NE 69361-3515

(308) 632-1340

## Health & Human Services, Nebraska Department of

301 Centennial Mall South  
Lincoln, NE 68509

(402) 471-3121  
[www.dhhs.ne.gov](http://www.dhhs.ne.gov)

## US Citizenship & Immigration

1717 Avenue H  
Omaha, NE 68110

(402) 633-4000

## Insurance, Nebraska Department of

941 "O" Street  
P.O. Box 82089  
Lincoln, NE 68501-2089

(402) 471-2201  
[www.doi.nebraska.gov](http://www.doi.nebraska.gov)

## Internal Revenue Service

Automatic Tax or Refund Information  
Taxpayer Advocate  
#505 Tax Withholding and Estimated Tax  
#531 Reporting Tip Income  
#919 How Do I Adjust My Tax Withholding

(800) 829-4477  
(877) 777-4778  
(800) 829-1040  
(800) 829-1040  
(800) 829-1040  
[www.irs.gov](http://www.irs.gov)

## Juror Orientation Video

Nebraska State Bar Foundation (402) 475-1042  
635 South 14th Street, Suite 120 Fax (402) 475-7106  
P.O. Box 95103 [www.nebarfnd.org](http://www.nebarfnd.org)  
Lincoln, NE 68509 doris@nebarfnd.com

## Labor, Nebraska Department of

Administrative Office (402) 471-9000  
550 South 16th Street [www.dol.nebraska.gov](http://www.dol.nebraska.gov)  
Lincoln, NE 68508

## Labor, U.S. Department of

Wage and Hour Division (402) 221-4682  
111 S. 18th Plaza, Suite 2283 [www.dol.gov](http://www.dol.gov)  
Omaha, NE 68102

## Motor Vehicles, Nebraska Department of

301 Centennial Mall South (402) 471-2281  
P.O. Box 94789 [www.dmv.state.ne.us/](http://www.dmv.state.ne.us/)  
Lincoln, NE 68509-4789

## Nebraska State Bar Foundation

635 S. 14th Street, Suite 120 (402) 475-1042  
P.O. Box 95103  
Lincoln, NE 68509-5103

## Nebraska Office of Dispute Resolution

State Court Administrator's Office (402)-471-3730  
12th Floor, State Capitol Building  
Lincoln, NE 68509  
[www.supremecourt.ne.gov/5942/office-dispute-resolution](http://www.supremecourt.ne.gov/5942/office-dispute-resolution)

## Revenue, Nebraska Department of

(402) 471-5729  
301 Centennial Mall South (800) 742-7474  
P.O. Box 94818 [www.revenue.ne.gov/](http://www.revenue.ne.gov/)  
Lincoln, NE 68509-4818

## Secretary of State

(402) 471-2554  
State Capitol Building, Suite 2300 [www.sos.ne.gov](http://www.sos.ne.gov)  
P.O. Box 94608  
Lincoln, NE 68509-4608

## Selective Service

(888) 655-1825  
[www.sss.gov](http://www.sss.gov)

## Supreme Court

State Capitol, Room 1213 (402) 471-3730  
P.O. Box 98910 <http://supremecourt.ne.gov>  
Lincoln, NE 68509-8910

## Victims of Crime, Nebraska Coalition for

(800) 944-NCVC  
P.O. Box 83412 <http://nebraskacoalitionforvictimsofcrime.typepad.com/nebraska-coalition-for-vi/>  
Lincoln, NE 68501

# ELECTED OFFICIALS

## President of the United States

### Honorable Barack Obama

1600 Pennsylvania Avenue, NW  
Washington, DC 20500

(202) 456-1414

<http://www.whitehouse.gov>

## United States Senators

### Honorable Ben Sasse

287 Federal Building  
100 Centennial Mall North  
Lincoln, NE 68508

(402) 476-1400

fax (402) 476-0605

[http://www.senate.gov/senators/114thCongress/Sasse\\_Ben.htm](http://www.senate.gov/senators/114thCongress/Sasse_Ben.htm)

### Honorable Deb Fischer

440 N. 8th Street,  
Suite 120  
Lincoln, NE 68508

(402) 441-4600

fax (402) 476-8753

[www.fischer.senate.gov](http://www.fischer.senate.gov)

## United States Congressmen

### Honorable Jeff Fortenberry (1st District)

301 S. 13th Street, #100  
Lincoln, NE 68508

(402) 438-1598

[www.fortenberry.house.gov](http://www.fortenberry.house.gov)

### Honorable Brad Ashford (2nd District)

7126 Pacific Street  
Omaha, NE 68106

(402) 916-5678

<http://www.ashford.house.gov>

### Honorable Adrian Smith (3rd District)

1811 W. 2nd Street, Suite 275  
Grand Island, NE 68803

(308) 384-3900

(800) 384-3902

[www.adriansmith.house.gov](http://www.adriansmith.house.gov)

## Nebraska Government

### Honorable Pete Ricketts

Office of the Governor  
P.O. Box 94848  
Lincoln, NE 68509-4848

(402) 471-2244

fax (402) 471-6031

[www.governor.nebraska.gov](http://www.governor.nebraska.gov)

### Nebraska State Legislature

[www.nebraskalegislature.gov/](http://www.nebraskalegislature.gov/)

*I would like to request an attorney to come to our school to make a presentation to my students.*

Name \_\_\_\_\_

Phone \_\_\_\_\_ Fax: \_\_\_\_\_

Name of School or \_\_\_\_\_

E-Mail: \_\_\_\_\_

City, State, ZIP \_\_\_\_\_

You may download the booklet from [www.nebarfnd.org](http://www.nebarfnd.org)

*Other contacts include:*

### Harris Payne

Director of Social Studies Education  
Nebraska Department of Education  
(402) 471-2449  
[harris.payne@nebraska.gov](mailto:harris.payne@nebraska.gov)

### Bonnie Sibert

Business, Marketing and Management  
Career Field Specialist  
Nebraska Department of Education  
(402) 471-4818  
[bonnie.sibert@nebraska.gov](mailto:bonnie.sibert@nebraska.gov)

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[carol.ringenberg@nebraska.gov](mailto:carol.ringenberg@nebraska.gov)

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# REACHING THE AGE OF MAJORITY

Legal Rights &  
Responsibilities  
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