



# Iowa Women and the law

10th Edition

June 2012

# Iowa Women & the Law

This is the tenth edition of Iowa Women and the Law, compiled and distributed by the Iowa Commission on the Status of Women, and Lindsey Purdy, Drake University Law School, J.D. Candidate, 2013. We hope that the information in this booklet will help you better understand the laws that affect you.

Thanks to the Iowa Organization of Women Attorneys, Iowa State Bar Association, Drake Law Women, and Sharon Wegner, Drake University Law School, J.D. Candidate, 2014, for their assistance.

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First Edition: September 1973  
Tenth Edition: June 2012

*This book is provided for informational purposes only and should not be construed as legal advice. If you have a legal problem, you should consult an attorney. Laws are subject to change. New judicial interpretations, legislation, and agency rules may well change the principles discussed in this book. We advise you to contact a lawyer, the appropriate state or federal agency, or the offices or persons listed throughout the book for more complete or up-to-date information on a specific issue.*

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## Citizenship and Voting Rights

### ***What is my legal residence?***

There are various tests for determining residence, but commonly your residence is the place you maintain as your home with the intent to remain there permanently or for an indefinite or undeterminable time.

### ***Am I eligible for jury service?***

Yes, under the same terms and conditions as male citizens, provided you are a United States Citizen; only a United States Citizen may perform jury service.

### ***Are there laws about voting?***

Yes, they apply equally to men and women. To be eligible to vote, you must be a United States Citizen. You must be at least 18 years old to vote, but may register at 17 1/2 years old.

There is no length of residency requirement for voting in Iowa. You may have only one residence for voting purposes. Your registration will remain valid, unless you have failed to vote once in four consecutive calendar years after you last voted or after you last registered to vote. You must notify the commissioner of elections of any change in your address; if you fail to do so, you could lose your right to vote. Voting privileges of persons convicted of a felony are suspended, but may be reinstated by the Governor.

### ***If I move, do I lose my vote?***

If you otherwise meet the requirements for voting and you move, either within Iowa or out of state, and you don't meet the voting requirements at your new residence, you may continue to vote at your old residence until you meet the voting requirements of the place where you have moved.

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

You can register eleven days before a general or primary election and ten days before all other elections. You may register to vote at the office of your city clerk or county auditor in person; or you may register to vote by mail by completing the correct postcard registration form which is obtainable from your city clerk, county auditor, all state offices, in many public buildings, and on the Iowa Secretary of State's website: <[www.sos.state.ia.us](http://www.sos.state.ia.us)>. Postcard registration forms must be postmarked at least 15 days prior to the election or delivered to the county auditor by 5 p.m. on the date registration closes.

You may also register on Election Day by appearing in person at your assigned polling place. To do so you will need to establish your identity and Iowa residency through current and valid identification. (i.e. Iowa driver's license).

### **How do I vote by absentee ballot?**

Apply for an absentee ballot, in person or by mail, at the county auditor's or election office of the county in which you are registered to vote on any day except Election Day and not more than seventy days prior to the date of the election. You may also obtain an application for an absentee ballot on the Iowa Secretary of State's website: <[www.sos.state.ia.us](http://www.sos.state.ia.us)>. You may vote by absentee ballot if you expect to be absent from the precinct in which you are registered; expect to be prevented from going to the polls to vote through illness or physical disability; or expect to be unable to go to the polls and vote on election day.

## Credit and Finance

### **What is credit?**

Credit is the amount of goods, services, or money a person may receive and pay for in the future. Credit may include such things as loans, charge accounts, credit cards, and mortgages.

### **What determines whether I can get credit and how much I can receive?**

"Credit worthiness" is basically determined by two factors: (1) ability to pay and (2) willingness to pay. Ability to pay is based on an individual's amount and stability of income (steadiness of job), debts owed, and living expenses. Willingness to pay is usually based on an individual's credit history, which is a record of payment of bills due.

### **Is sex discrimination in credit prohibited by law?**

Yes. Iowa prohibits sex discrimination in credit transactions (via the Iowa Civil Rights Act & the Iowa Consumer Credit Code). Race, color, age, sex, and marital status may not be used to discriminate against an individual in any part of a credit dealing according to national law (Equal Credit Opportunity Act). These laws require that "credit worthiness" tests be applied fairly, impartially, and without sex discrimination. A creditor cannot use sex as an excuse to: (1) discourage an individual from applying for a loan, (2) refuse to give an individual a loan or require an individual to have a cosigner if that individual had sufficient financial resources, or (3) lend an individual money on terms different from those granted to another person of similar financial circumstances. Generally, creditors may not even ask an individual's sex on an application form (one exception is on a loan to buy or build a home). The use of the titles: Miss, Mrs., or Ms. on an application form is optional and should be so designated on the form. This means an individual can pick any title or none. However, the law does not guarantee that an individual will receive credit: the individual must still pass the creditor's tests of "credit worthiness".

### **Can I get a credit card in my own name?**

Yes, assuming that you have sufficient financial resources to obtain credit.

### **If both my spouse and I are employed, can both incomes be used in acquiring a loan?**

Yes. Discounting one partner's income, in computing the qualifications for a loan, is illegal.

### **Can I be denied credit because of my marital status?**

No, state and federal law protect individuals from being discriminated against based on marital status.

### **Can I be required to disclose my plans to have children or my methods of contraception in order to obtain credit?**

No. Women seeking a particular line of credit can be asked about employment/career plans only if men seeking the same line of credit are asked about their employment plans, too.

### **Can I be required to have my husband's or father's co-signature on a loan?**

No, not if you are otherwise qualified to receive the loan. However, if you offer property owned by multiple people as collateral for a loan (such as a home), the creditor can require the other owner's signature for a "security interest".

### **What is a credit bureau and how does it work?**

Credit bureaus, or credit reporting agencies, are companies that collect and store information about people who borrow money. The three major credit bureaus are: TransUnion, Experian, and Equifax. Businesses, who loan money routinely, report to the credit bureau disclosing the amount of credit individuals have received and how regularly and promptly those individuals pay their bills. Credit bureau records also note matters of public record – such as arrests, divorces, bankruptcies, and lawsuit settlements. Credit bureaus will release this information to creditors who inquire about an individual's credit rating.

An individual's credit future depends on his/her credit history. An individual should verify that the information kept on her by these credit bureaus is accurate; she is entitled by law to review her own credit files. If information is inaccurate, a person should contact the bureau and specifically explain why the information is inaccurate. The government pays for every individual to receive one free credit report (not credit score) each every twelve months from TransUnion, Experian, and Equifax. To receive a free credit report visit <http://www.annualcreditreport.com/cra/index.jsp> or check the yellow pages of a telephone book under "Credit Reporting Agencies".

**How do I establish credit?**

Some creditors will rely entirely on salary, job status, and other financial information provided on credit applications; however, most creditors turn to credit bureaus to obtain information about a person's credit handling experience. Credit bureaus only have credit ratings for those who have previously used credit.

There are several ways to begin building up a good credit history:

(1) open a checking and savings account in your own name; (2) apply for a department store credit card, which is usually easier to obtain than national bank credit cards; (3) get a small loan from a bank or credit union for the sake of obtaining credit and use it to purchase an item, such as a washing machine—you can use your savings account or insurance policy as collateral for the loan; and (4) make payments on time and regularly. These methods of establishing credit are generally quicker than using credit cards. Some of the methods listed above will have interest charges on the loan, making them more expensive than using a credit card and paying the credit card bills immediately, in full. However, credit cards are more expensive than bank or credit union loans if you pay the debt over time.

**If I am denied credit, can I find out why?**

Yes. Under federal law (Equal Credit Opportunity Act), you must be notified within 30 days after completing a credit application whether it has been approved or not; if credit is denied, this notice must be in writing and it must explain the specific reasons for denying credit or tell you of your right to request an explanation. The lender must supply the explanation upon request.

The federal Fair Credit Reporting Act applies in cases where you are denied credit because of unfavorable information in your credit report. If you are denied credit because of a report from a credit bureau, the lender must tell you the name and address of the agency that prepared the report. By law, the credit bureau must give you information regarding the nature and substance of your credit report and to whom the information was sent. The bureau is required to help you interpret the information in your file when it is raw data. If you are challenging a credit refusal made within the past 60 days, the bureau must provide the information free; otherwise, the bureau can charge a reasonable fee for giving you the information. If you disagree with information in your file, the agency must reinvestigate it and remove any incorrect information. The agency must inform those creditors receiving your credit reports during the past 6 months of the corrected or modified information. If the reinvestigation does not resolve the dispute, you are entitled to file a short statement in your record explaining your side of the story. Future reports to creditors must include this statement, or a summary of it. Information older than seven years should not be present in your credit record except for bankruptcy information, which can be reported for ten years.

**What can I do if I think I have been a victim of discrimination in credit?**

If your application for credit is refused, try to solve the problem directly with the creditor or credit bureau. If this fails, there are several alternatives. You can engage an attorney who can bring action against the creditor under either federal or state law. If you win, the credit reporting agency may be required to pay your attorney fees. You can also file a complaint with a state or federal agency. There is no charge for filing such a complaint. On the federal level, there are numerous agencies responsible for enforcement of the Equal Credit Opportunity Act depending upon the type of financial institution involved. The creditor who denied your application must, by law, give you the name and address of the appropriate federal enforcement agency to contact. On the state level, contact the Iowa Civil Rights Commission or the Iowa Attorney General's Office.

**Are there any special risks that women should be aware of in taking on a credit obligation?**

Recent years have seen an increase in "predatory" lending, particularly mortgage loans putting the home at risk. These loans are very expensive in relation to the benefits, and these lenders often do not pay attention to whether the debtor's income is adequate to repay the debt while still meeting other needs, such as medical expenses and utilities. Elderly women, and elderly minority women in particular, are sometimes targeted for these kinds of loans. These women often have not gone out looking for these loans, but get into them as a result of, for example, a door-to-door home improvement salesperson selling services and arranging these kinds of loans to pay for them. These loans bring a very real risk of foreclosure.

There are frequently legal claims and defenses that can be raised to challenge these loans, so it is helpful to seek the advice of an attorney knowledgeable in this kind of law as soon as possible, or notify the state banking division or the attorney general's office. If you have been approached by a salesperson offering you a loan like this, seek the advice of an attorney or call the state attorney general's office to determine your legal rights and defenses. Family and friends should be alert for warning signs that an elderly female friend or relative is battling the stress associated with these predatory lending practices.

## Criminal Law

### ***What if I do something illegal because I had too much to drink?***

Intoxication is not a defense to criminal behavior.

### ***But I didn't know what I was doing was against the law!***

It is assumed that every person knows the law. In some cases ignorance or a mistake about the law may be relevant to the charge and in a few circumstances may be a defense. These situations are few and should not be relied on if there is a question of legality.

### ***How am I supposed to know what the law is?***

Each city and county has ordinances, which are laws for the city and county. These are usually available on their website, at City Hall, or the County auditor's office. The State of Iowa laws can be found online at [www.legis.iowa.gov](http://www.legis.iowa.gov) and clicking on "Iowa Laws and Rules." If there is a question about whether the action is legal, it is best to ask someone who is in law enforcement or an attorney regarding the specific situation. Use common sense and if it seems like it isn't legal, don't do it.

### ***Why are some people charged with a federal crime?***

There are certain areas of law that the federal government has authority over, for example patents and trademark lawsuits are solely handled in federal court. The federal government also has authority in situations when the activity involves more than one state. For example, if a person is charged with a crime that involves a gun, often the case will be handled in federal court because the gun was manufactured outside of Iowa.

### ***Am I just supposed to let someone hurt me?***

No, a person may protect herself using force if another person is going to commit an unlawful act against her. This situation is commonly known as self-defense. The defender's actions must be reasonable based on the action they are trying to prevent. For example, if a person is going to hit another with his/her hand, the defender can't hit him/her with a baseball bat. Deadly force is excused when the defender reasonably believes it is necessary to prevent risk to one's life or safety or to reasonably defend another person.

### ***What about innocent until proven guilty?***

Anyone who is charged with a criminal act is presumed to be innocent. The burden is on the state to prove the individual is guilty beyond a reasonable doubt.

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

Both are criminal charges, but have different consequences. All public offenses that are not felonies are misdemeanors: aggravated, serious or simple. A speeding ticket is a criminal charge and is a simple misdemeanor. The state legislature determines whether the crime is a

felony or a misdemeanor—it is included in Iowa Law (known formally as the "Iowa Code"). An individual found guilty of a felony may be subject to certain restrictions like being unable to serve on a jury, vote, possess a gun, or be employed in certain jobs.

### ***I am being charged by the state and by an individual, can they do that?***

Even though an individual is charged by the state for allegedly committing a crime, it doesn't prevent an individual from bringing a lawsuit in civil court. For example, if someone is charged with burglary (entering a home with the intent to commit a crime) and someone in the home is injured, the state can charge the person for the burglary in a criminal action and the individual can file a lawsuit in civil court for assault.

### ***I didn't do anything illegal, but my friend told me she did.***

If you know that someone acted illegally and you help the person hide from police or help cover up the crime, you are committing a misdemeanor.

### ***My friend did something illegal when I was with her, am I in trouble?***

Someone who is physically present when another individual does something illegal is not committing a crime. However, if that person actively participates or encourages the illegal act, then that is aiding and abetting which is illegal.

### ***I gave a cop my fake ID, is that illegal?***

Yes, knowingly giving false identification information to a police officer is a misdemeanor.

### ***I accidentally called 9-1-1, am I in trouble?***

No, however, someone who intentionally calls 9-1-1 knowing they do not need emergency assistance is committing a misdemeanor. Typically, if you call 9-1-1 and hang up, they will call you back. Simply answer the phone and explain that you made a mistake.

### ***Can I carry a gun in public?***

It depends. A nonprofessional, someone who does not need a gun as part of his/her job, may apply for a permit to carry. Certain individuals are not eligible and the state law (code) lists who may not carry a gun. An individual who is eligible must satisfy specific training requirements required by law and must carry the gun permit with them whenever they are carrying that gun. Even if an individual has a permit to carry a gun, there are certain places where it is not allowed. These places are referred to as weapon-free zones and include areas within 1000 feet of a school or public park. Any person convicted of a felony and a person who is subject to a no-contact order in a domestic abuse case may not possess a gun. A person who has a nonprofessional permit to carry may openly show or conceal the gun.

### ***Can I refuse a breathalyzer test?***

If a person refuses a breathalyzer test they could lose their driver's license for a year or more if the police officer reasonably believed the person was operating while under the influence of alcohol or has an alcohol concentration of .08 or higher. The police officer does not have to get consent from the person to give a breathalyzer test. The law says that by driving, the person gives consent to testing for the purpose of determining blood alcohol concentration or the presence of drugs.

### ***Is prostitution legal in Iowa?***

No, a person who sells or pays to be part of a sex act is committing an aggravated misdemeanor.

## **Domestic Violence**

Domestic violence is a pattern of coercive, threatening and/or violent behaviors aimed at gaining or keeping power and control over an intimate partner. This behavior can include name-calling and other shaming actions, controlling who the partner may see or talk to, limiting access to money or other resources, as well as physical violence or sexual assault. Many of these behaviors will be considered an assault or threat of harm under the Iowa Code, thus making it possible for you to obtain certain legal protections.

### ***What legal protection is available if I am being abused by my husband or partner?***

If you are being hit, beaten, threatened, or otherwise physically abused, you may call the police for immediate protection. The criminal laws regarding assault apply to couples as they do to others. If the police decide that an assault likely took place and that your partner injured you, they are required to make an arrest. In addition to taking your partner from your home, the police may take you to or make arrangements for you to get medical treatment. They may also offer other assistance such as a safe location like a shelter.

Even if the police do not make an arrest or you choose not to call the police, you may also file for a civil protection order. This court-issued order sets out rules and requirements that the abuser must follow or face additional legal consequences. Types, or examples of protection provisions can be found later in the article under: "What will a protective or restraining order cover?"

### ***Do I have to be married in order to qualify for legal protection from someone who is abusing me?***

The domestic abuse laws in Iowa regarding arrest and protective orders apply to persons in other relationships, too. Here is a list of the relationships, which qualify for a civil protection order:

- Family or household members living together at the time of the assault or threat;
- Married persons, including those under 18 years of age;
- Spouses who are separated or divorced, including those under 18 years of age;
- Anyone sharing a biological child in common, including those under 18 years of age;
- Unmarried persons who are cohabiting (living together in a romantic or intimate relationship) or have lived together within 1 year of the assault or threat.

If you are under 18 years of age and thinking about getting a civil protection order, you will want to speak with an attorney, like someone at a Legal Aid office, or an advocate from your local domestic violence program as there may be special rules that you need to follow.

In addition to having one of the required relationships, you must also be able to show the judge, through your written description on the petition, that there is abuse, violence or a present threat of harm that is occurring.

### ***How do I go about getting a protective order?***

If the police arrest someone under the domestic abuse laws, the judge or magistrate will likely order that person to have no contact with you or your children while the criminal case is pending. Such an order is usually referred to as a "criminal no contact order," and it has limits on the types of protection available to you and your family. You can ask the county attorney to request this no contact order if the judge or magistrate does not issue it on his/ her own.

You may also get a protective order even if no criminal charge is filed. Your private attorney can apply to the court for this protection, or Legal Services can act on your behalf if you qualify under their income guidelines. You also have the right to apply on your own behalf, that is, without an attorney (pro se) for a protective order from the court. Whether you have an attorney helping you or not, you may want to consider contacting your local domestic violence advocacy program, where advocates can provide you confidential information about the process, but not legal advice. Such advocates can help you think about and prepare a safety plan to keep you and your children safer as you consider getting this order. You should not be charged any fees or costs in order to file your petition for a civil protection order. The clerk of court at your county courthouse can give you the forms you need to file for protection on your own. A booklet entitled "How to Protect Yourself from Domestic Violence Without A Lawyer" is available at the county courthouse or at your local domestic violence shelter.

If you need immediate protection when court offices are closed, such as at night or on weekends, and you choose not to call the police, you may file a petition for an emergency order before a district judge or a designated district associate judge. Such an emergency order will be effective for no longer than 72 hours, to give you time to secure further protection from the court when it resumes business. Because each court has different procedures to access such emergency help, you should contact your local domestic violence advocacy program for specific assistance with getting such an emergency order.

It is also possible to obtain a temporary, or short-term, order to protect you from violence prior to the hearing. Where an immediate threat of violence exists, the court may grant a temporary order effective until the hearing. You may ask the judge for a temporary order when you file the petition for a hearing, or at any time during the short time between filing the petition and the hearing.

Securing a long-term protective order requires a hearing before a judge. Notice must be given to the respondent (or abuser) concerning the hearing, which the respondent has a right to attend. To obtain a hearing, you must file a petition and other appropriate court documents in your district court. If the court finds there is need for protection, it will usually set a date for a hearing typically within 2 weeks of the day you file for the long-term order. The respondent (abuser) must be notified of the hearing time and will also receive a copy of your written petition. You will need to be able to tell the court how the respondent can be found so the court can deliver or serve the necessary papers.

If you are pursuing this protection order without the help of an attorney, you will want to consider contacting your local domestic violence advocacy program before the scheduled hearing. A domestic violence advocate cannot give you legal advice, but can explain the hearing process and help you think about any information or evidence you may want to have for the judge. If domestic abuse is established at the hearing, the court may order the abuser to stay away from your residence, school, place of employment, or authorize any other needed relief. Such orders may last up to one year. You may ask the court to extend your order before it expires; there is no limit to the number of times an order can be extended. You do not have to have lived with the abuser since the order was issued in order to apply for an extension.

#### ***What will a protective or restraining order cover?***

You can ask the court for a variety of protective measures. The court will consider your special situation and your requests. The court can order your abuser to stop the abuse, to have no contact with you, to get counseling, and/or to move out of your home. The court can order the abuser to pay you money for maintaining a separate household and for child support. If there are children, the court can set custody and visitation for the time that the order is in effect.

#### ***Where can I get help in dealing with domestic abuse?***

Because leaving a violent relationship or trying to get a protection order will likely increase the danger you face from your abuser, all of these steps must be considered carefully. Throughout Iowa, there are domestic violence advocacy programs that provide a variety of services and assistance to victims of domestic violence and their children. Such confidential help can include shelter, counseling, and assistance with civil and criminal court matters, like protection order petitions. You may contact the statewide domestic abuse hotline for help in finding a domestic violence advocacy program nearest to you. The domestic abuse hotline number is 1-800-942-0333

## Education

#### ***Do women have opportunities in higher education?***

Iowa has a long tradition of providing higher education to its citizens on an equal basis. The University of Iowa was coeducational when it was established in 1847. All other public colleges and universities established thereafter have been and are coeducational. Participation of women in higher education programs, activities and employment is monitored carefully. According to statistics from the Iowa Board of Regents and the U.S. Department of Education, female enrollment at the three state universities averaged 49.6% in 2011, with the University of Northern Iowa having a 58.2% female enrollment, while the percent of women attaining degrees at those same institutions averaged 52.1%. This is in line with the national trend of women constituting a higher proportion of enrollment and degree attainment at institutions of higher education at every degree level.

# Employment

## ***At what age may I work?***

You may work at any occupation when you are 18.

Between the ages of 16 and 18, you may work at any occupation except those declared by statute to be hazardous; however, some employers may require you to secure a certificate of age obtainable from your superintendent of schools or Iowa Workforce Development.

If you are between the ages of 14 and 16, you may not work during regular school hours unless legally out of school, in a supervised school-work program, or if you are enrolled in part-time schooling and work as part of your school training. As a 14 or 15 year old, you may work only in certain jobs and must secure a work permit from your superintendent of schools or Iowa Workforce Development before you are employed.

For a complete list of permitted and prohibited occupations for 14 to 16 year olds, please contact the Iowa Labor Services Division of Iowa Workforce Development.

## ***What is the minimum wage and to whom does it apply?***

All employers in Iowa who do business of any kind in Iowa or outside the state are required by federal and state law to pay most employees a minimum wage of \$7.25 per hour. This includes most businesses, hospitals, retail establishments, and public agencies. An employer is not required to pay an employee the full minimum wage until the employee has worked for ninety days. Employees of restaurants, hotels, motels, or other occupations that receive primarily tips are paid a reduced wage, which the employers determine is sufficient to meet the minimum wage when added to tips. The employee should take note of the tips estimated by the employer. An employee can file a written appeal with the labor commissioner if the amount of tips estimated by the employer is incorrect.

The minimum wage law covers some domestic workers. Contact the Wage and Hour Division of the U.S. Department of Labor for specific information.

Also, federal law requires, with certain exceptions, the payment of overtime if an employee works more than 40 hours in a week. Contact the Wage and Hour Division of the U.S. Department of Labor if you have any questions. You may also track your hours of work on the Timesheet application available for i-Phone and Android smartphones and submit your time directly to U.S. Department of Labor for review.

## ***Does the law prohibit discrimination on the basis of sex in employment?***

Yes, several federal, state, and local laws prohibit discrimination in hiring, promotion, discharge, pay, job classification, and all other terms and conditions of employment on the basis of sex. The Iowa Civil Rights Act prohibits discrimination based on sex for all Iowa employers, employment agencies, and labor organizations unless they have fewer than four regular employees, or the employment involves only domestic or personal service to the employer or the employee's family.

## ***What are some examples of sex discrimination in employment?***

- 1) If an employer does not hire you because coworkers, clients, or customers prefer not to work with a woman.
- 2) If an employer does not hire you because a man has traditionally held the job or if an employer hires only women for some jobs and only men for others.
- 3) If an employer does not hire you because the job requires supervision over men or working with men.
- 4) If an employer does not hire you because the job involves late-night hours, travel, or heavy physical labor. You are entitled to choose for yourself whether you wish to take a job involving those requirements: the employer cannot automatically assume that because you are a woman you could not or would not take such a job.
- 5) If an employer does not hire you because you have children or makes inquiries into your use of birth control methods. Pre-employment inquiries about childcare arrangements are also discriminatory unless asked of male and female applicants alike.
- 6) If an employer refuses to promote you for any of the above reasons.
- 7) If an employer discharges you or forces you to take a certain amount of time off without pay because of pregnancy. Iowa law allows you to take up to eight weeks of leave as a result of pregnancy if medically necessary.
- 8) If an employer does not allow you to use accumulated sick leave for the purpose of childbirth and this is allowed to other temporarily disabled employees.
- 9) If an employer refuses to give you your job back after your pregnancy, provided jobs are held open for persons gone for other medical reasons.
- 10) If your company health insurance plan covers most temporary disabilities except pregnancy or pregnancy-related disabilities.
- 11) If your employer requires sexual favors as a condition of continued employment or promotion.
- 12) If your employer is subject to federal civil rights law and requires that you contribute more to pension or retirement plans than your male coworkers.

This is not intended to be a complete list. If you have questions about your job situation, contact the Iowa Attorney General's Office, the Iowa Civil Rights Commission, or the U.S. Equal Employment Opportunity Commission, or your local Human Rights agency or commission.

### ***Is sexual harassment a form of sex discrimination?***

Yes, courts have generally found that sexual harassment is unlawful discrimination. Sexual harassment can take on many forms, including unwelcome sexual advances, requests for sexual favors, telling, texting or e-mailing jokes of a sexual nature, displaying posters or pictures of a sexual nature, and other verbal or physical sexual conduct that is offensive to the recipient. An employee can bring a claim for sexual harassment when the harassment is so severe or pervasive that it alters the conditions of employment and creates an abusive working environment.

Your employer is liable for the acts of its agents and supervisory employees, regardless of whether those acts were authorized or forbidden by the employer or whether the employer knew or should have known of their occurrence. If, however, your employer has an internal procedure for complaining about sexual harassment, you should make sure to utilize it, if at all possible. Your employer may escape liability for harassment if you “unreasonably” fail to use an available employer-provided harassment complaint procedure. The employer will be held responsible for acts of sexual harassment by coworkers if the employer knew or should have known about them and did not take prompt and appropriate action to correct it. Under state law, a harasser can also be personally liable even if your employer is not liable.

### ***Can I be terminated or demoted for complaining about harassment or filing a complaint?***

Absolutely not. It is illegal for an employer to retaliate against an employee for filing a civil rights complaint, providing information about a complaint, or otherwise attempting to secure legally guaranteed rights. There is no monetary charge for filing a civil rights complaint with the Iowa Civil Rights Commission. The commission can be contacted at (515) 281-4430 or 1-800-457-4416.

### ***What questions can I be asked on a job interview?***

Neither state nor federal civil rights laws specifically prohibit the use of any question in an interview in and of itself; however, questions that have the hint of discrimination are suspect. An employer who asks questions that disproportionately screen out members of one sex must be able to show that such questions are accurate predictors of job performance, or are necessary to the safe and efficient operation of the business. Questions that do not relate to job performance or business necessity and serve, either intentionally or unintentionally, as barriers to employment for members of one sex are unlawful. The general rule is that all applicants should be treated in the same way. For example, requiring information on childcare arrangements only from female applicants is unlawful. Inquiries concerning race, color, religion, sex, sexual orientation, gender identity, age, national origin, physical or mental disability status, or genetic information may be discriminatory since employers would have difficulty proving that such questions validly predict successful job performance or that the questions relate to legitimate business purposes. If you believe a prospective employer asked discriminatory questions, contact the Iowa Civil Rights Commission.

### ***Do I have job rights as a pregnant worker or family caregiver?***

Both the U.S. Civil Rights Act and the Iowa Civil Rights Act prohibit discrimination against pregnant workers in hiring, pay, promotion, or access to fringe benefits. It is illegal for employers to set arbitrary time limits when a woman must stop working because of pregnancy or when she can return to work after giving birth.

In addition, the Family and Medical Leave Act of 1993 requires an employer to allow an eligible employee a total of 12 work weeks without pay during any 12-month period for:

- 1) the birth of a child,
- 2) placement of a child with the employee for adoption or foster care, (includes time to consult with a lawyer and to attend court)
- 3) care for the spouse, child, or parent of the employee if the individual has a serious illness,
- 4) because of a serious health condition making the employee unable to perform the functions of the position of such employee, or
- 5) if there is a qualifying event related to a spouse, son, daughter or parent being called to active duty in the military.

The entitlement to leave for individuals using it for the birth, adoption, or foster care for a child begins on the date of the birth or placement and expires at the end of a 12-month period.

Leave taken for the birth, adoption, or foster care of a child may not be taken intermittently or on a reduced schedule unless the employee and the employer agree on the schedule.

Leave for illness, whether on the part of the employee, the employee's spouse, child, or parent of the employee may be taken intermittently or on a reduced schedule.

If the employer provides paid leave for fewer than 12 work weeks, any additional weeks of leave necessary to attain 12 weeks of leave may be provided without compensation. The employer may require the employee to substitute any accrued paid vacation leave, personal leave or family leave for leaves relating to the birth, adoption or foster care of a child or for health care for a family member. For serious health conditions, the employer may require the employee to substitute any accrued paid vacation, personal leave, medical or sick leave.

Any employee taking a leave shall be entitled, upon return, to:

- 1) restoration by the employee to her previous position or to an equivalent position, and
- 2) no loss of any employment benefit accrued prior to the date on which the leave began. But, the employee does not accrue seniority rights or other employment benefits during the leave. Also, the employer may require medical certification before approving the leave.

To utilize these benefits, the employee should give the employer timely notice of her intent to take the leave.

If you have questions about your rights as a pregnant worker, contact the Iowa Civil Rights Commission.

The Americans with Disabilities Act provides additional protection to women in their roles as caregivers. If you are absent from work or you need accommodation in your schedule as a result of your care-giving responsibilities that may trigger protection, you may contact the Equal Employment Opportunity Commission regarding any questions regarding your rights.

***What protection do I have on the job?***

Working conditions must meet the safety and health requirements established under both the federal and state occupational safety and health acts. Any suspected violations should be reported to the Department of Labor of either the state or federal government. It is illegal for your employer to fire you or discipline you in any way for reporting suspected violations.

If you are injured on your job, you are entitled to benefit payments while you are disabled. Contact the Iowa Workers' Compensation Commissioner at Iowa Workforce Development or your lawyer.

***Am I protected if I lose my job?***

If you have lost your job through no fault of your own and are able and actively willing to work, you may be eligible to receive unemployment insurance benefits through Iowa Workforce Development. You must be sure to register for work or you may be disqualified for benefits. Eligibility requirements are specific and the process for obtaining and keeping unemployed insurance benefits is complicated, so as soon as you become unemployed, contact your local Iowa Workforce Development office in order to establish your eligibility and to understand your responsibilities under this program.

***Can I get disability income insurance?***

Yes. If a company offers disability income insurance to men, such coverage must also be available to women. Present law and regulations allow insurance companies to charge women higher rates than men. The terms, conditions, and benefits paid, however, must be comparable for men and women when both are similarly employed and when other legitimate factors used to determine insurability, such as health or age, are equal.

***Can a homemaker with no recent job experience get help in finding a paying job?***

You may be eligible for assistance as a displaced homemaker. Displaced homemakers are women who have spent most of their adult years working as homemakers and have suddenly lost that option due to divorce, death,

or desertion. Women who are or have been dependent on government assistance, or who are supported as the parent of a child who is 16 or 17 years of age, are also displaced homemakers. The State of Iowa provides funds each year to selected programs that provide services to displaced homemakers and assist them in the transition to the labor force. Contact your local YWCA, Women's Center, Area Community College, or Iowa Workforce Development office for information on programs in your area.

You may also contact the Iowa Commission on the Status of Women for a copy of their booklet for displaced homemakers, "How to Get Your Bearings...How to Get A Job."

## Health

### ***Where can I get advice concerning family planning, contraception, childbirth, sexually transmitted infections, etc.?***

You can get this information from your physician, a local health clinic, or your local family planning agency. The state Department of Public Health has a Family Planning Program.

Other family planning agencies can be found listed under birth control or family planning in the phone book, by contacting your local Human Services office, or by the Iowa Department of Public Health. Several of these resources are: Central Iowa Family Planning, Family Planning Council of Iowa, Iowa Women's Health Center, and Planned Parenthood.

### ***What will it cost?***

Services of state family agencies are available to all persons regardless of ability to pay. Charges, if any, are based on income using a sliding fee scale. A few private clinics also provide services based on ability to pay, but you should contact any private clinic or doctor's office directly for information on fees charged.

### ***Can I get an abortion in Iowa?***

Yes, subject to certain conditions in Iowa law relative to stage of pregnancy – partial birth and third trimester abortions are banned, unless your health is in danger. Contact your physician, a local health clinic, or your family planning agency. If you are under age 18 and are not married, your parent or guardian must be notified. Permission does not need to be obtained 48 hours in advance of your scheduled abortion unless a court requires it. The state of Iowa cannot pay for abortions unless there are federal funds available. In some circumstances, Medicaid will pay for abortions.

### ***Can a needy pregnant woman get financial and medical help?***

A woman who is pregnant for the first time and who meets certain financial and other guidelines may qualify for medical assistance under the state Medicaid program, or under the state Medically Needy program. If she has a child, a woman who is pregnant and who meets the guidelines may qualify for both financial assistance under the Family Investment Program (formerly AFDC) and for Medicaid; if she does not qualify for financial assistance under the Family Investment Program, she might still qualify for the Medically Needy program. Conditions of eligibility vary from program to program and from year to year; contact your local Human Services office for information. Other prenatal care services are available through WIC (Women, Infants, and Children) and the Maternal and Child Health program. Contact the State Department of Public Health for information on programs in your area.

### ***Is medical assistance available to low-income women who are not pregnant and to children?***

Many programs provide medical assistance to low-income persons of all ages. Conditions that must be met to receive medical care at no cost or at a lesser cost vary from program to program. Persons should contact the State Department of Public Health or the local Human Services office for information and assistance. Also, local hospitals provide certain care and treatment to indigent residents directly in their hospital facilities or through the University of Iowa Hospitals and Clinics: many public and private hospitals provide medical care to needy persons under federal or private programs. Contact your physician, the social services department of your hospital, or the local Human Services office for information and assistance.

### ***Are voluntary sterilizations legal in Iowa?***

Voluntary sterilizations properly consented by a competent adult are legal in Iowa. However, the laws of Iowa do not presently recognize involuntary sterilizations upon an incompetent person, at the request of another, unless ordered by a district court. A competent adult may undergo a sterilization procedure without prior consent of the person's spouse; generally, however, health practitioners will encourage discussion between spouses to assure that both parties to the marriage agree to the sterilization procedure.

### ***Must a minor have parental consent to seek treatment for sexually transmitted infections?***

No. Iowa law allows treatment of a minor for sexually transmitted infections even though parental consent is not sought or is not given; however, parents must be notified of a positive HIV test result.

### ***Must a minor have parental consent to seek and receive treatment for substance abuse?***

No. A minor may voluntarily seek and consent to treatment and rehabilitation for substance abuse. The facility where treatment is sought and received, and its personnel may not report or disclose the fact of treatment to the minor's parents or legal guardian without the minor's consent.

### ***Are living wills legal in Iowa?***

Yes, Iowa Law provides for two types of advanced directives: the Declaration Relating to Use of Life-Sustaining Procedures, known as a living will, and the Durable Power of Attorney for Health Care. Subject to conditions in Iowa's Life-Sustaining Procedures Act, a living will must be signed by the person making the living will (or signed by another at the person's direction) and witnessed and signed by two other persons.

Once a person makes a living will, that person bears responsibility to give the living will to the person's attending physician. Only competent adults may execute a living will. The living will becomes effective only where the patient is unable to give directions concerning care and treatment

and where the attending physician and one other physician determine that the patient's condition is terminal, that life-sustaining procedures serve only to prolong the patient's existence, and that death without the life-sustaining procedures will occur in a relatively short time. Further information may be available from your physician, your area hospital, your attorney, local or state bar association offices, or local legal services offices. Legal assistance should be received by contacting your own attorney or the local legal services office that may provide such assistance to low-income persons.

***Is organ donation legal in Iowa?***

For several years, Iowa has had in place the Uniform Anatomical Gift Law. The law allows any individual of sound mind and eighteen years or more to give all or any part of the individual's body for any purposes set forth in the law; the gift will take effect at the time of death. An anatomical gift may be made only by completion of a document of a gift (or as otherwise provided by law). A minor between the ages of 14 and 17 may be an organ donor with parental consent. A gift may be made by will or by use of a donor card. Information and forms are available from the Department of Transportation and local driver's license stations; many local hospitals may also have organ donation information. A donor may later revoke the donation in a manner set forth in the law. Also, family members may donate all or part of a deceased person's body: the law names those persons, listed in order of priority, who may make a donation on behalf of a deceased family member in the absence of actual notice of contrary indications by the decedent.

All hospitals, participating in Medicare or Medicaid, are now required by federal and state law to adopt protocol requesting family members of deceased persons who are medically-suitable donors to consider organ donation.

***Are services available in Iowa for persons living with HIV or AIDS?***

Yes. Testing and counseling services are provided at alternative testing and counseling sites, and at sexually transmitted infection clinics as designated or established by the Iowa Department of Public Health. A variety of federal and state programs are available to assist persons with HIV or AIDS. Contact the Department of Public Health, Iowa Center for AIDS Resources and Education, your local health department, or your physician for further information. Two AIDS Hotline numbers are available: 800-445-2437 or in Spanish 800-344-7432.

***Is testing for HIV confidential?***

Under Iowa law, a person seeking testing for HIV, the virus that causes AIDS, may request confidential testing and the health care provider must either provide testing on a confidential basis or refer the person to a site that provides confidential testing at no cost. Even where testing is not done anonymously, strict provisions in law are designed to assure confidentiality of testing and of test results except in specified situations when the physician may notify a third party. Positive HIV test results are reportable to the Iowa Department of Public Health anonymously. However, documentation of an HIV test result in your medical or dental records may prevent you from obtaining new health or life insurance. Health care providers are required by law to provide pre- and post-test counseling. Parents must be notified of a minor's positive HIV test.

***Can a minor seek testing and treatment for HIV without parental consent?***

Yes. A minor may under Iowa law voluntarily seek screening or treatment for HIV-AIDS and other sexually transmitted infections directly to a licensed physician or family planning clinic. Report or disclosure of the fact that a minor sought such services is prohibited except for statistical purposes. Prior to a minor testing for HIV, the minor must be informed that if the test result is positive, the minor's parents or legal guardian shall be informed by the facility performing the test of the positive test result unless that facility is precluded by federal regulations from informing the parents. Testing facilities are required to have a program, which assists minors and parents or legal guardians with the notification process.

# Housing

## ***Does the law prohibit discrimination on the basis of sex in housing?***

Yes. Under state and federal law, you cannot be denied the right to purchase or rent any form of housing because you are a woman. There are limited exceptions regarding the rental or leasing of property or rooms; if, for example, a bona fide religious institution had a qualification related to a bona fide religious purpose, or if the occupant/owner of the building also lives in the building, or of the rental/leasing would force resident of both sexes to share a living area.

## ***If a woman wants to rent out a room in her home may she specify that the renter must be another woman?***

Yes, you can specify that a renter or boarder is the same sex as you, if you and the renter would be forced to share a common living area, such as a hallway or bathroom. If you are a renter, the landlord's permission should be obtained to sublet the home.

## ***Can I be denied the right to purchase or rent a home because of my marital status?***

You cannot be denied the right to purchase a home because of your marital status. With a rental, there may be an exception by a bona fide religious institution to impose a qualification related to a bona fide religious purpose, or if the occupant/owner of the building also lives in the building, or of the rental/leasing would force resident of both sexes to share a living area.

## ***Can I be denied the right to purchase or rent a home because I have children?***

Generally, you cannot be denied the right to purchase or rent a home because you have children. The only exception for denial of housing based on familial status is subsidized elderly housing.

## ***Is my landlord required to allow changes to an apartment to accommodate my disability?***

A landlord must allow modification of a dwelling if the modification is necessary to allow the disabled renter full enjoyment of the premises. However, a landlord is not required to allow such modification if the landlord can show that it is "structurally impracticable" to make the accessible alteration. Furthermore, the cost for modifications is the renter's responsibility. Before giving permission to modify, the landlord may require that the renter agree to return the dwelling to its original state before moving out. The landlord can also require periodic payments from the tenant, during the term of the tenancy, to be used to pay for the return of the dwelling to its original state.

## ***What do the terms "homestead" and "homestead rights" mean?***

The homestead is a dwelling used by the owner as his or her residence. If it is located within a city plot, its size cannot exceed one-half acre; otherwise it cannot contain more than 40 acres. Homestead rights are certain legal privileges associated with a person's home or residence.

## ***What are some of these homestead rights?***

With a few exceptions, such as a mortgage covering the homestead, there cannot be a forced sale of the homestead. Any waiver, or release of this exemption must be in writing, and signed by all owners of the homestead. A spouse cannot remove the other spouse or their children from the homestead without the other spouse's consent. If a spouse dies, the survivor may keep the homestead for life; if no spouse survives, the children may hold the property as a homestead.

# Marriage and Divorce

## ***When can I get married?***

If you are 18 years or older: you do not need consent to marry. Individuals are permitted by law to marry someone of the same or opposite gender. If you are age 16 or 17 you must get consent from your parents, legal guardian, or parent having legal custody in the case of divorce; and the Court must approve it. The Court will approve the marriage only if the underage person(s) are able to show two things: (1) that the underage person(s) are capable of assuming the responsibilities of marriage and (2) that the marriage serves the best interests of the underage person(s). Pregnancy alone is not enough to establish that marriage is in the best interests of an underage party. If a parent or guardian refuses to consent to the marriage, a judge can review the case to determine if the parent's consent was unreasonably withheld. If the judge finds that consent was unreasonably withheld he or she can grant the parties permission to marry if the Court finds in favor of the factors 1 and 2 listed above. If you are under the age of 16 you may not get married in Iowa.

## ***What must I do to get a marriage license?***

In order to obtain a marriage license both parties must sign and file an application with the county registrar. The application must include the social security number of each party and an affidavit (a signed, written declaration) from a competent disinterested third party as a witness. The witness must be of legal age and attest to the parties' ages and competency to marry. After receiving an application the county registrar may issue the license, which shall not become valid until the expiration of three days after the date of issuance of the license. This three-day waiting period may be waived in the case of emergency or extraordinary circumstances. An order authorizing the validation of a license may be granted by a judge of the district court under conditions of emergency or extraordinary circumstances upon application of the parties filed with the county registrar. If the marriage license has not been issued within 6 months of the application, the application is void. After obtaining a marriage license, your marriage may be solemnized by any judge, judicial magistrate, or ordained person.

## ***Do I have to get a marriage license to get married?***

No, you may become married without obtaining a marriage license. This is called a common law marriage. A common law marriage is as valid as a ceremonial marriage and is ended in the same way. The only difference between the two is that a common law marriage is not solemnized by an official authorized by law to perform marriages. A party asserting the existence of common law marriage must prove three elements

- 1) present intent and agreement to be married;
- 2) continuous cohabitation; and
- 3) public declaration that the parties are married.

The parties must also be capable of entering into a marriage (of sufficient age and competency) and may not be between a man and his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter, or sister's daughter, or between a woman and her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son or sister's son. A marriage may not be between first cousins. Further, marriages between persons either of whom has a husband or wife living are void, but if the parties live and cohabit together after the death or divorce of the former husband or wife, such marriage shall be valid. See Iowa Code section 595.19.

There is no special time period in needed in Iowa to establish a common law marriage. Instead, a common law marriage exists if all of the requirements listed above are met. If you do not obtain a marriage license it may be difficult to prove that you are married or you may encounter problems collecting Social Security and other benefits.

If I marry in another state or country, is my marriage legal in Iowa? If the marriage is legal in the place where you were married then it is legal in Iowa, so long as the parties meet the requirements for validity and if the marriage would not be otherwise void. For example, a marriage between two people under the age of 16 is not valid in Iowa, nor is a marriage between first cousins.

## ***What are the grounds for dissolution (divorce) in Iowa?***

In order to end your marriage, you do not have to prove fault or blameworthiness of your spouse. A court will grant a divorce if you can demonstrate that the marital relationship has broken down so that the legitimate objects of matrimony have been destroyed and there is no reasonable likelihood that the marriage can be saved.

## ***How long does it take to get a divorce?***

It will take at least 90 days before a court will grant a divorce decree. However, the court has the authority to grant a decree before this 90-day waiting period in cases of emergency, or where immediate action is needed to protect the essential rights of a party who may be affected by the decree. If there are complex property, support, or custody issues, it may take longer than 90 days before the decree becomes final. It may also take longer if either party seeks a mandatory reconciliation period. In that case, the court may order that you and your spouse attempt to reconcile. Attempts to reconcile usually involve both parties attending joint counseling. A court may waive the requirement for mandatory reconciliation if a party is able to demonstrate a history of domestic abuse in the relationship, or, alternatively, both parties may waive reconciliation.

## ***What can I do once the papers are filed?***

While waiting for the final hearing, you may live as you will after the divorce. However, you may want to consult your attorney for advice on matters like dating or cohabitation, especially if you and your spouse cannot agree to a child custody arrangement.

### ***Who gets the home and other property?***

The court will consider several factors when determining how to fairly divide real estate and personal property. Some of these factors are the length of the marriage, the property brought by each party to the marriage, the earning capacity of each party, the age and health of each party, and any contributions of either party to the education, training, or earning power of the other. These factors must also be considered when setting an amount for alimony. Property that has been inherited by either party before or during the course of the marriage is generally protected from division, unless it would be unfair to the other party or children not to divide it.

### ***Do homemakers have property rights in a divorce?***

Yes. When determining how to divide property during a divorce the court must give appropriate economic value to a party's contributions to homemaking and child care services. This means that the court will recognize the economic contributions of a spouse who takes care of the home and/or cares for the children.

### ***What if my spouse and I agree on how to divide our property?***

The court will generally adopt any reasonable settlement that is agreed by both parties. You may need to consult your attorney with regard to child support issues.

### ***Who can get support payments or child support?***

Either spouse can seek financial support from the other. Spousal support (alimony) or child support can be awarded to either party by the court after it hears evidence from both parties at the divorce hearing. A spouse does not have an absolute right to alimony. The court will consider factors similar to those it uses to divide property and may assign alimony for a limited or indefinite period of time. The court may also require either party to pay child support to the other. Child support payments are determined by examining the parent's financial resources and the Iowa Child Support Guidelines, as well as the needs of the child, including the desirability of full-time parenting in the home by the custodial parent. When the divorce decree is issued, the court will typically enter a wage assignment so that child support is deducted from the spouse's paycheck. You or your attorney will need to make sure that the wage withholding order is forwarded to the appropriate employer and the Collection Services Center located in Des Moines, Iowa.

### ***Can the court change child custody, support and alimony if my former spouse or I move or lose our jobs?***

Yes, the court can modify or change the divorce decree if the party seeking modification can show a substantial change in circumstances. A party must first file a Petition for Modification. To determine whether there has been a substantial change in circumstances, the court will consider several factors including but not limited to changes in employment, earning capacity, income or resources of a party, or changes in the residence of a party. If a parent who is awarded joint legal custody

and physical care or sole legal custody decides to relocate the child's residence to a location that is 150 miles or more away from where the child resided at the time custody was awarded, the court can consider the relocation a substantial change in circumstances and can modify the custody agreement to preserve the relationship between the child and the parent who is not relocating.

### ***Can I get support without filing for divorce?***

Yes, a court may order your spouse to pay an allowance to you and your children without requiring you to seek a divorce or dissolution. This allowance is known as separate maintenance. The grounds for separate maintenance are the same as those that are required for support during a dissolution or divorce proceeding.

### ***What does it mean to get my marriage annulled and when can it be done?***

A decree of annulment destroys the existence of the marriage. It is as if you were never married. A marriage can be annulled for one of the following four reasons:

- 1) the marriage is prohibited by law (where the parties are related by blood or are underage)
- 2) either party was impotent at the time of marriage
- 3) either party was already married to another living person at the time of this marriage
- 4) either party was a ward under guardianship and was found by the court to lack the capacity to contract a valid marriage.

### ***What happens to my children if my marriage is annulled?***

Children born into a marriage relationship are still legitimate after a marriage is annulled unless the court declares that they are not legitimate. The court's declaration that a child is not legitimate must be based on proof. Determining custody and support of the children during an annulment proceeding follows the same procedure that is used during a divorce or dissolution proceeding.

Children born outside of a marriage become legitimate by the subsequent marriage of their parents. Children born of a marriage contracted in violation of certain laws may still be considered legitimate.

### ***How does a change in marital status affect the filing of tax returns?***

A person who gets divorced by the close of the tax year should file an individual tax return as a single person or Head of Household. However, a person who has become separated will generally file as a married taxpayer. Under certain conditions, a married taxpayer with a child may be able to file as Head of Household if they have not lived with their spouse during the final six months of the tax year.

***Both my ex and I are employed and I have custody of the children.***

***Who gets to claim the children for income tax purposes?***

Many times, the divorce decree that you enter into will determine who is to claim the child(ren) for tax purposes. However, if there is no divorce decree, the custodial parent may claim the child. A noncustodial parent may claim the child if all four of the following statements are true.

1. The parents:
  - a. Are divorced or legally separated under a decree of divorce or separate maintenance,
  - b. Are separated under a written separation agreement, or
  - c. Lived apart at all times during the last 6 months of the year, whether or not they are or were married.
2. The child received over half of his or her support for the year from the parents.
3. The child is in the custody of one or both parents for more than half of the year.
4. Either of the following applies.
  - a. The custodial parent signs a written declaration, discussed later, that he or she will not claim the child as a dependent for the year, and the noncustodial parent attaches this written declaration to his or her return. (If the decree or agreement went into effect after 1984, see Divorce decree or separation agreement that went into effect after 1984 and before 2009 , later.
  - b. A pre-1985 decree of divorce or separate maintenance or written separation agreement that applies to 2010, states that the noncustodial parent can claim the child as a dependent, if the decree or agreement was not changed after 1984 to say the noncustodial parent cannot claim the child as a dependent, and the noncustodial parent provides at least \$600 for the child's support during 2010. See Child support under pre-1985 agreement , later.

***My spouse and I have debt – who has to pay it?***

If both parties to a divorce are employed making, approximately, the same amount of money, it is not unusual for the court to order payment of marital debts by both parties on a 50-50% basis. Generally debts of a personal nature are ordered to be paid by the party who incurred them. Despite this, a creditor may still seek recovery of the debt from you if you contracted with the creditor and are on the account, or if the goods and/or services were incurred as a family expense.

***What happens if my spouse refuses to pay other bills for which our house has been put up as collateral?***

If your spouse refuses to pay a note for which your house was put up as collateral, the lender may be able to exercise its remedies against the debtor, including foreclosure, or a filing a lawsuit against you for the remaining balance owed on the note. If the collateral is personal

property, a lender may be allowed to repossess the goods if they have a security interest therein. This is true even if your divorce decree specified that your spouse should pay the bills. Creditors have no obligation to honor a divorce decree and you may have to sue your former spouse in order to secure payment of those bills. Be sure to discuss this issue with your attorney who may be able to come up with creative approaches that will help you reach a settlement to assure all bills will be paid.

***What can I do if my former spouse refuses to pay court-ordered child support?***

You can contact the Iowa Department of Human Services and the Iowa Child Support Recovery Unit. This office will attempt to locate your former spouse and enforce the child support obligation. These services are free to people receiving public assistance; others must pay an application fee that will not exceed \$25. If child support payments become one-month delinquent, the Child Support Recovery Unit or the court may enter an order to assign wages or other income. The person who disobeys a court order to pay child support may be found in contempt of court, a quasi-criminal charge that could result in imprisonment, fines, or other sanctions. For more information you can contact the 24 hour child support automated information line at 1-888-229-9223 to find a local Child Support Recovery Unit or visit their website at <https://secureapp.dhs.state.ia.us/childsupport/welcome.asp>.

## Privacy Issues

### ***Why is it important to maintain privacy?***

As more information is becoming more widely available, there are some potential dangers. Personal information can be used for “identity theft” –when someone takes your Social Security number, and/or bank or credit card account numbers to commit fraud or theft. In addition, people may use personal information to harass or stalk you.

### ***How can I keep information about myself private?***

Be aware of when you are asked to provide personal identifying information. Avoid using your Social Security Number unless it is required. For example, you are not required to include your Social Security Number on your driver’s license. Do not include your Social Security Number on your checks. Do not allow merchants to record your Social Security Number on your checks.

Do not carry extra credit cards with you, and do not give out credit card information over the telephone unless you have initiated the telephone call. Cancel all unused accounts, because that information will appear on your credit report. Don’t just throw away bills or information sent to you from your credit card company or other companies if they include personal or financial information about you—shred it or tear it up into small pieces. If your credit card company sends convenience checks, shred them, and contact the credit card company to remove you from their mailing list.

Always take credit card and ATM receipts with you. Never toss them in a public trash container. Do not send envelopes for bills from your home mailbox, because the billing information can be stolen, along with the banking information on your check.

Keep a list or photocopy of all credit cards, account numbers, expiration dates, and telephone numbers of the customer service and fraud departments in a secure place (not your wallet or purse) so that you can quickly contact creditors if your cards or checks have been lost or stolen.

Send “opt-out” letters to credit bureaus, mailing firms, and government agencies who have “opt-out” provisions (such as driver’s license, voter registration, or county assessor). Ask them to send you written confirmation of the receipt of your letter, including any special measures they will take to ensure your privacy.

Send letters to companies or organizations that maintain personal information about you telling them about the importance of maintaining confidentiality of all of your records. Ask for written confirmation of the receipt of your letter, and any special measures that the company will take to ensure your privacy. The companies or organizations may include your bank, credit union, employer, insurance company, health care provider,

church, charitable organization, professional organization, Internet provider, schools, or alumni associations. City directories often include information about your name, address, and number of persons in your household.

If you sign up for contests or sweepstakes, your personal information may be shared with many other people. Magazine and catalogue subscription information also may be shared widely.

Get an unlisted telephone number, identify all of the organizations that publish telephone directories and send a letter to the telephone company to emphasize the need to keep your information completely confidential.

Use a pseudonym for any email address or Internet address, so that you cannot be easily identified.

You can order a free credit report once a year from the major credit bureaus to check for inaccuracies and fraudulent use of your accounts. The U.S. Federal Trade Commission provides information about the free credit report: <http://www.ftc.gov/bcp/edu/microsites/freereports/index.shtml>. The FTC also provides a link to a website, sponsored by the three major credit bureaus, which allows you to get a free credit report without paying for incidental expenses, and without providing your contact information to any other companies: <https://www.AnnualCreditReport.com>. Some companies sponsor “free” reports that bill for services or share your information with other companies. The Iowa Attorney General also includes contact information and guidance online: [http://www.iowaattorneygeneral.org/consumer/brochures/avoid\\_identitytheft.html](http://www.iowaattorneygeneral.org/consumer/brochures/avoid_identitytheft.html)

Password-protect your cell phone, smartphone or tablet with a strong password. If your phone or tablet is stolen, immediately contact your service provider in order to cancel the service and, in some cases, track the location of the stolen device. Shield your hand when using your PIN at a bank ATM. Note whether the ATM device appears to have been tampered with, and if your card is not returned, immediately contact the fraud department of the business that issued the debit card.

When filling out credit or loan applications, ask the company how it disposes of papers that contain personal identifying information.

Store canceled checks in a safe place, and when you dispose of them, shred the information to keep your bank account information confidential.

When disposing of a computer, electronic device, or other storage media (thumb drive, flash drive, CD, DVD, GPS device, etc.) that may contain personal identifying information, consult with a computer expert to ensure that all information has been erased from the device. Simply deleting information will not remove all information from the memory storage portion of the device. Electronic erasure is designed to remove stored information. Physical shredding of the hard drive or other data storage device may be the most secure method of destruction.

### ***How can I limit Internet access to information about me?***

Internet domains may gather information from a variety of sources. By limiting the information that you give to various companies, you necessarily limit the information that becomes available on the Internet.

In addition, be aware that some Internet service providers and some websites use “cookies” to track information about you. Check with your Internet service provider about any privacy protections offered through your provider. You can browse the Internet more anonymously by using certain “anonymizers” that are readily available online.

Beware of using credit card numbers or bank account numbers for online payments. If the website address does not contain a domain name that begins with “https” (rather than “http”), it is not a secure site and your personal identifying information may be easily retrieved.

Use strong passwords and PINs do not use the same password for multiple websites. Never use the last 4 digits of your Social Security Number in a password, and avoid using your birthdate, middle name, mother’s maiden name, pet’s name, address, consecutive numbers, or anything else that could be discovered easily by thieves. Consider using more obscure, but easily recalled information, such as distant relatives, favorite teachers, hobbies, previous vehicles, or prior work colleagues. Do not record your passwords on anything in your wallet or purse.

Watch for news reports regarding data breaches for any company or organization that has a password-protected entry. Immediately change your passwords and PINs when a data breach is announced.

Use the maximum privacy protection for social media sites (Facebook, Twitter, etc.) that maintains your privacy while allowing you to connect with trusted persons. Be aware of what information is shared publicly. Share information in a way that you do not reveal extended absences from your home, or other information that could increase your vulnerability. Be aware of the risks involved in using an application that provides information about your current location, which may reveal when you are away from home.

Run a search for your name on common search engines (Google, Bing, Yahoo, etc.) in order to determine whether websites provide personal information about you or your family. If you find information on a website, the website should provide information about the steps required to remove the information from that website, and the search engine website should provide information about the steps required to remove the page from appearing on the search engine results.

When using a public computer (such as in a public or school library or hotel), be sure to delete all browsing history, and do not allow any passwords to be stored on the public computer.

When accessing free wireless Internet services (Wi-Fi), be aware that the personal information stored on your computer, smartphone, or tablet may be accessible to others using the network.

When setting up your home computer with wireless Internet access, ensure that there is a password protected encryption option for the Internet connection and any routers connected to the primary Internet connection.

Before using a cloud computing option, explore whether the security features are sufficiently robust that information stored on the cloud will remain confidential, or limit the use of the cloud to non-sensitive information.

What should I do if I think that I am the victim of identity theft? Contact the local police department or your county attorney about conducting an investigation or filing criminal charges. Contact the fraud unit of credit reporting companies and check verification companies, and contact your creditors immediately to alert them to the identity theft.

If the crime involved the use of the Internet, you also may record the information the FBI’s Internet Crime Complaint Center (IC3), which tracks trends in online crimes.

For more complete information about preventing or responding to identity theft, contact the Iowa Attorney General’s Office (telephone 515-281-5926), pick up brochures on the second floor of the Hoover Building, or visit the website: [http://www.iowaattorneygeneral.org/consumer/brochures/avoid\\_identitytheft.html](http://www.iowaattorneygeneral.org/consumer/brochures/avoid_identitytheft.html)

# Parental Responsibility/Children and Adoption

## ***Who has custody and control of my children?***

You and your child's father do, unless a court of law has declared your child to be in need of assistance or delinquent, and the court has decided it best for the child to be elsewhere. Further, if the biological parent provides a release of custody, which is accepted by the step-parent – a step-parent may assume custody of the child.

Additionally, your child may not be removed from your custody without court action. You must be notified of the court action and you have a right to be present in any related hearing. If your child is being removed because a court of law has declared him/her to be in need of assistance, because of abuse, neglect or special needs that you are unable to provide for, you have the right to be represented by an attorney and an opportunity to defend your rights as a parent.

## ***Who is responsible for the support and education of my children?***

You and your child's father, or other adopting parent, must provide reasonable and necessary support and education for your child dependent on your incomes. You must provide support for your child even if they live outside of the home or in foster care. Failure to provide reasonable and necessary support, as well as failure to ensure the child's attendance at school, can result in legal action against you.

## ***How long am I responsible for my child?***

You are responsible for your child until they reach the age of 18 unless prior to the age of 18, your child has been emancipated and parental rights have been terminated, or until the parent has renounced all legal parental rights and the child has accepted the release.

## ***Is my second husband responsible for my child?***

Your second husband may voluntarily assume the responsibilities of a parent. However, a stepparent must legally adopt your child to assume full legal rights and responsibilities.

## ***May I keep my illegitimate child?***

As mother, you have sole custody of your child, unless the court determines otherwise (e.g., the court grants custody to another party or the child is removed due to abuse or neglect). If the court enters a judgment of paternity, the father may petition the courts for visitation or custody.

## ***Can single people adopt a child or children?***

Yes, an unmarried adult may adopt.

## ***What if my child works?***

If you have legal custody of your child then you are entitled to the services and earnings of your child. If your child's employer fails to pay wages earned, you have the legal right to recover the unpaid wages from your child's employer.

## ***What if my child is injured?***

If you have legal custody of your child, you may recover for the loss of the child's services. If your child is injured by the wrongful act or negligence of another person, you may also be entitled to recover additional money damages.

## ***Am I responsible if my child causes loss or injury?***

Parents with legal custody are responsible for actual damages to person(s) or property caused by their minor child. A parent's liability is limited to not more than \$2,000 for a single act causing damage, and not more than \$5,000 for two or more acts when compensation is to be paid to the same claimant.

## ***Can a child be taken away from his or her parents?***

Yes. If the court determines that removal is necessary for the welfare of the child the court can petition to have the child temporarily removed. If the child is removed the courts must hold a hearing, at which the parents may be present, within ten days of removal to determine the length and of the removal. Should the court decide that it is in the child's best interest to remain out of the home, the court will hold a second hearing, within a reasonable time, to determine what services can be offered to best facilitate the return of the child to the parent's home.

The court aims to assist families in need allowing for the quick return of the child to the home; however, after the required investigations, should the court find that the best interest of the child requires that the child not return to their home, the court may direct the County Attorney or the child's attorney to begin proceedings to terminate parental rights. Note: Parental rights will not be terminated when a child is placed outside the home because he or she is found to be delinquent (i.e., to have broken the law).

## ***Are parents notified and given an opportunity to be heard before any action is taken?***

Yes. If the child is under the age of 18, the parents have a right to be notified and a right to be present at all court hearings. If the child is believed to be abused or neglected, the parents have a right to be represented by an attorney. If the parents cannot afford an attorney, the court will appoint one.

However, in an emergency, a doctor, peace officer, or juvenile court officer may temporarily remove a child from the parent's care prior to a hearing. A hearing will be held shortly after the emergency removal and the courts will make every effort to locate and inform the parents of the removal.

What is my responsibility if I am aware of child abuse or neglect? Under Iowa law, doctors and other medical personnel, social workers, psychologists, school employees, foster care facility employees, substance abuse program employees, childcare personnel, Head Start and child development program employees, and law enforcement officers are required to report suspected child abuse and neglect to the Iowa Department of Human Services. Any other person who believes a child has been abused may make a report. The law creates a central registry for child abuse information, and provides both immunity to those reporting in good faith and penalties for persons who fail to report as required. If you are a mandatory reporter and you fail to report known child abuse or neglect, Iowa law can hold you civilly liable (require you to pay the victim) for damages as well as criminally liable for failure to report.

To report child abuse or neglect, call 800-362-2178 at any time of the day. The Department of Human Services must notify you within 24 hours whether your complaint is being investigated. You can also notify your local law enforcement agency.

#### ***What is the policy on abused children?***

The state of Iowa encourages citizens to report suspected cases, ensures thorough and timely assessments of those reports, and provides rehabilitative services to the children and their families seeking to "... provide the greatest possible protection to victims or potential victims of abuse ... and their families which will stabilize the home environment so that the family can remain intact without further danger to the child."

#### ***What is the public policy of Iowa regarding the care, protection, and control of children?***

Iowa case law indicates that the 'best interest of the child' is the standard guiding Iowa's public policy. Parents have a superior interest in the care and control of their children; Iowa law seeks to encourage family unity by honoring biological as well as adoptive parental rights and responsibilities. Where the court must step in due to abuse, neglect, or delinquency, the legal process is geared to provide several and various resources for parents to enable them to strengthen their families and retain custody and control of the child. In delinquency cases, consideration is also given to the safety of the community.

## **Public Assistance**

#### ***What types of state public assistance are available?***

There are several types of public assistance available through the Iowa Department of Human Services (DHS):

1. Financial assistance
2. Food assistance
3. Child care assistance
4. Health care assistance

Each program has requirements for qualification. Generally speaking, DHS will look at a person's income, assets, immigration status, and family size. Once a person is receiving benefits, there are certain rules one must follow, such as reporting changes in income or household size. If a person fails to comply with the rules, they may receive a suspension or termination of benefits.

### **1. Financial Assistance**

#### **Family Investment Program (FIP)**

Iowa's Family Investment Program (FIP) offers a cash benefit for low-income people with minor children. The goal of the program is to remove Iowa families from poverty. FIP provides temporary cash assistance to help needy families become self-supporting so that their children may be cared for in their homes or homes of relatives. FIP is available to both one-parent and two-parent families, and also to relatives caring for children whose parents are not in the home. The amount of assistance is determined based on the size of the family and the family's income.

#### **FIP Requirements**

A family must meet certain requirements in order to obtain FIP benefits. The children of the family must be under the age of 18. A minor parent under the age of 18 who has never married must: (1) live with a parent or legal guardian or show proof and/or good reasons for not living with them, (2) attend family development and parenting classes, and (3) take classes to finish their high school education. Family members must all be U.S. citizens or eligible aliens (Refugee Cash Assistance (RCA) program is available for needy families who enter the United States as refugees who are not eligible for FIP. Members of the family must live in Iowa and children must live with the caretaker (parent or relative) who receives FIP benefits. Families must meet FIP income limits. For purposes of FIP, income includes: pay from a job, social security income, unemployment benefits, and any other money received in the household.

#### **How to apply for FIP**

A family can apply for FIP by receiving an application from any county DHS office. Complete the application and take it or mail it to the DHS office serving the county where you live. Applications for all public

benefits can be found online and printed at: [http://www.dhs.state.ia.us/policyanalysis/PolicyManualPages/Manual\\_Documents/Forms/470-0462.pdf](http://www.dhs.state.ia.us/policyanalysis/PolicyManualPages/Manual_Documents/Forms/470-0462.pdf). An application can also be completed and submitted online at: <https://secureapp.dhs.state.ia.us/oasis/>. Families will be asked to come in for an interview and should come prepared to show proof of requirements, such as citizenship and income. The application should be handled within 30 days. Applicants will receive written notification stating whether or not they are eligible for FIP benefits. The earliest a family can get FIP is seven days from the date an application is returned to DHS.

### **60-Month Hardship Exception**

Generally, a person can receive FIP assistance for 60 months (5 years). The total limit of 60 months does not have to be 60 months in a row. Even though someone gets assistance for just part of a month, it still counts as a full month. To receive FIP beyond the 60-month limit, a person must prove they meet certain hardship criteria. More than one six-month extension may be available for those who qualify.

A hardship is defined as “circumstances that prevent a family from being self-supporting.” A hardship may be granted if an applicant can provide evidence of domestic violence, lack of employability, lack of suitable child care, medical or mental health issues, housing situations that make it difficult to work, substance abuse issues, and having a child whose circumstances require a parent to be in the home. To request a hardship exemption, one must complete a form and provide supporting evidence to DHS near the end of the 60-month limit. Supporting evidence should include things like legal and medical records; statements from professionals with knowledge of the hardship barrier; and statements from other individuals with knowledge of the hardship.

### **PROMISE JOBS**

In order to receive FIP assistance, individuals must work with PROMISE JOBS. PROMISE JOBS is a work and training program that will help you make a Family Investment Agreement (FIA)—a plan to support your family. PROMISE JOBS activities include: assessment, work related activities (job search, monitored employment, experience placement, etc.), training (adult basic education courses, GED, high school completion, etc.), and family support activities (Family Development and Self Sufficiency program, parenting skills training, etc.). Iowa DHS also has Family Self Sufficiency Grants (FSSG) available to provide immediate short-term assistance to families participating in PROMISE JOBS. The purpose is remove barriers related to obtaining or retaining employment which may reduce the amount of time a family is dependent on FIP.

### **Limited Benefit Plans**

If a FIP recipient does not comply with PROMISE JOBS requirements, they may be placed on a Limited Benefit Plan (LBP). An LBP may be imposed for the following reasons: not attending orientation; not signing a Family Investment Agreement (FIA); not meeting the requirements of the FIA.

For example, if a FIP recipient’s FIA requires them to complete 30 hours of job searches per week and they do not complete those hours, they will receive a notice that they are being placed on a Limited Benefit Plan (LBP). To remove the LBP, the recipient must participate in PROMISE JOBS activities, sign a new FIA, and comply with its provisions.

After the first LBP, most recipients do not see any lapse in benefits. However, the first LBP will count against them and any subsequent LBPs will result in a loss of benefits for a minimum of 6 months.

If for some reason a person cannot meet the FIA requirements, they should tell their PROMISE JOBS worker why they are not able to do so. This is known as a “barrier to participation.” Barriers may include lack of childcare, lack of transportation, substance abuse, domestic or sexual abuse, overwhelming family stress, and physical or mental disability. The worker should amend the FIA to address any barriers that the recipient might face in meeting the requirements of the FIA.

## **2. Food Assistance**

### **Food Assistance Program (Formerly Known As Food Stamps)**

The Food Assistance Program is run through the Iowa Department of Human Services (DHS). The Program provides a debit-like card. This is called an electronic benefits transfer card or EBT card. The plastic card can be used to buy foods like meat and fish, vegetables and fruits, dairy products, and bread. EBT cards can be used at supermarkets, grocery stores, and at some Farmers Markets. In order to qualify, you must meet income guidelines and must be a citizen or a qualified immigrant. All children who are born in the United States can apply, even if their parents are not citizens. People between the ages 18 and 50 who are unemployed but are able to work and who do not have children can only get food assistance for three months in any three-year period.

### **How To Apply For Food Assistance**

Individuals and families can use a prescreening tool developed by the U.S. Department of Agriculture to determine if they are eligible to receive Food Assistance benefits. The on-line prescreening tool can be found at [www.snap-step1.usda.gov/fns/](http://www.snap-step1.usda.gov/fns/). Applications can be made at your local DHS office or on-line at [www.oasis.iowa.gov](http://www.oasis.iowa.gov). Any local DHS office can answer questions about its programs. Every county in Iowa has a DHS office that serves it. A list of county DHS locations can be found at [www.dhs.state.ia.us/Consumers/Find\\_Help/MapLocations.html](http://www.dhs.state.ia.us/Consumers/Find_Help/MapLocations.html). You may also contact the DHS Division of Field Operations by calling (800) 972-2017.

### **What If I Can’t Get Food Assistance Through DHS?**

Remember, even the DHS can make mistakes. If you are denied food assistance or if your food assistance is terminated, there are ways to appeal those decisions. Appeals about food assistance can be submitted at [www.dhs.state.ia.us/dhs/appeals/index.html](http://www.dhs.state.ia.us/dhs/appeals/index.html) or you can send a written appeal to your local office or directly to the Appeals Section at

Department of Human Services, Appeals Section, 1305 E Walnut Street, 5th Floor, Des Moines, IA 50319. Food Assistance appeals can also be made verbally. An appeal should be submitted within 90 days of the decision.

#### **Equal Access for Healthy Nutrition – Iowa Wireless EPT Project**

Farmers' Markets are a great way to get locally-grown, nutritious food. The Iowa DHS Wireless EBT Project allows wireless point-of-sale machines for vendors. With these machines, EBT food assistance cards can be accepted for payment. This program allows more low-income Iowans access to farm-fresh foods. There are Farmers Markets throughout Iowa: an up-to-date list of Farmers Markets that accept the EBT can be found at: [www.dhs.state.ia.us/Consumers/Assistance\\_Programs/FoodAssistance/FarmersMarket.html](http://www.dhs.state.ia.us/Consumers/Assistance_Programs/FoodAssistance/FarmersMarket.html).

#### **Woman, Infants, and Children (WIC)**

The WIC program is a supplemental nutrition program for babies, children under the age of five, pregnant women, breastfeeding women, and women who have had a baby in the last six months. It is run through the Iowa Department of Public Health. WIC assists families by providing nutrition education, breastfeeding promotion and support, checks to buy nutritious foods, immunization screenings and referrals, and health and social service referrals. In order to qualify, you must meet income guidelines, reside in Iowa, and have a medical or nutritional need. There are limited types of food that WIC will cover. There are also limited places that accept WIC. To apply or to ask questions, contact a local WIC office. If you make an appointment to apply, be sure to bring proof of address, identity, and income. Information about your local WIC office or about the program can be found at [www.idph.state.ia.us/wic/families.aspx](http://www.idph.state.ia.us/wic/families.aspx). If you are denied WIC or are terminated, you can file a written appeal to the local WIC office within 90 days of the decision.

#### **Other Food Programs**

There are many other state and federal programs that provide access to healthy foods to individuals and families. These programs include: The School Breakfast Program, The National School Lunch Program, Summer Food Service Program, Commodity Supplemental Food Program, Emergency Food Assistance, Self-Help and Resource Exchange, Expanded Food and Nutrition Education Program and Family Nutrition Program. See [www.dhs.iowa.gov/Consumers/Assistance\\_Programs/FoodAssistance/index.html](http://www.dhs.iowa.gov/Consumers/Assistance_Programs/FoodAssistance/index.html) for more information.

The Iowa Department of Public Health works to promote and protect the health of Iowans. They have listed many resources about nutrition for families and the community as well as agencies and other professionals at [www.idph.state.ia.us/hpcdp/nutrition\\_resources.asp](http://www.idph.state.ia.us/hpcdp/nutrition_resources.asp). There are also food banks around the state. Access to information about a food bank in your community may be found through the Iowa Food Bank Association at <http://iowafba.org/GetHelp.aspx>.

### **3. Child Care Assistance**

#### **Child Care Assistance (CCA) is a program run through the Iowa**

Department of Human Services. It helps pay for the care of Iowa children. It is available for children of income-eligible parents and caretakers who are out of the home for a portion of the day working at a job, participating in academic or vocational training, or PROMISE JOBS activities. CCA may also be available for a limited time while a parent or caretaker is looking for work, or if a parent or caretaker becomes unable to care for the child(ren) due to medical reasons.

#### **Who Qualifies for CCA?**

Families qualify for CCA if the family is a Family Investment Program (FIP) participant and has a child who needs care and is under the age of 13, or a child that has special needs under the age of 19. Families may still be able to qualify for CCA if they are not FIP participants. If you are not a FIP participant you need to meet the income requirements and have a child who needs care and is under the age of 13, or a child that has special needs under the age of 19. Further, you must be doing one of the following: working an average of 28 hours per week, attending an approved training or education program full-time, or seeking out employment.

#### **Who Can Care for My Child?**

CCA can be used to pay for a many different kinds of childcare providers. Families can choose one of the following: a registered child development home, a nonregistered child care home (if the caretaker passes a child abuse and criminal records check), licensed child care center, before- and after-school programs, a relative other than a parent or guardian, someone who cares for your children in your home (only if you have three or more children who need care), or a child care program operated by or under contract to an accredited school. The provider you choose must be at least 18 years of age and cannot be a parent or guardian of your child. Your provider must be approved by DHS in order to receive payment from the CCA program.

Choosing a childcare provider is a very important decision. Parents want their children to be well cared for in a safe environment. The Iowa Child Care Resource and Referral System (CCR&R) will give you information about the different types of care and how to choose. They can help you find childcare that best meets the needs of your family. Information about CCR&R is available at [www.iowaccrr.org](http://www.iowaccrr.org).

#### **How to Apply for CCA**

Applications can be made at your local DHS office or on-line at [www.oasis.iowa.gov](http://www.oasis.iowa.gov). You can also print the application and send it to the Human Services River Place Office at 2309 Euclid Avenue, Des Moines, Iowa 50310. Your local DHS office can answer questions about its programs. Every county in Iowa has a DHS office that serves it: a list of county DHS locations can be found at [www.dhs.state.ia.us/Consumers/](http://www.dhs.state.ia.us/Consumers/)

Find\_Help/MapLocations.html. If you take part in activities approved by the PROMISE JOBS program, call your PROMISE JOBS workers about CCA. Contact the Centralized Child Care Assistance Eligibility Unit (CCA) for questions about child care at (866)448-4605.

#### **What If DHS Says I Don't Qualify For Child Care Assistance or Cancels My Assistance?**

Sometimes, DHS makes mistakes. If you are denied Child Care Assistance or it is terminated, you have the right to appeal that decision. Appeals about Child Care Assistance can be submitted at [www.dhs.state.ia.us/dhs/appeals/index.html](http://www.dhs.state.ia.us/dhs/appeals/index.html) or you can send it in writing. You can send it to your local office or directly to the Appeals Section at Department of Human Services, Appeals Section, 1305 E Walnut Street, 5th Floor, Des Moines, IA 50319. This should be done within 30 days of the decision.

## **4. Health Care Assistance**

### **Medicaid (Title 19)**

The State of Iowa provides health coverage for qualifying lower-income people, families and children, the elderly, and people with disabilities. It is called Medicaid. It pays for medically-necessary health care costs of people who qualify.

#### **Who Qualifies for Medicaid?**

Medicaid is not available to everyone. There are many rules, but generally, to get Medicaid in Iowa, you have to be a United States Citizen, living in Iowa. You also need to be in one of these eligibility groups:

1. A child under age 21;
2. A parent living with a child under age 18;
3. A woman who is pregnant;
4. A woman who needs treatment for breast or cervical cancer and who has been diagnosed through the Breast and Cervical Cancer Early Detection Program;
5. A person who is aged (over 65);
6. A person who is blind or disabled;
7. Certain Medicare beneficiaries; or
8. A person who meets Social Security disability requirements and is employed.

#### **How to Apply For Medicaid?**

To apply, you have to provide a social security number, meet income and resource limits, and cooperate with giving information needed to determine eligibility. Like many other benefits through DHS, you can apply online for Medicaid at <https://secureapp.dhs.state.ia.us/oasis/>. If you prefer, you can fill out a paper application in your county Department of Human Services office or you can print an application from the DHS website and return it to your local DHS office.

### **Other Health Care Assistance**

There are many other programs to assist low-income Iowans with health care assistance. There are programs like Hawk-I that provides health care coverage for uninsured children of working families and IowaCare that provides limited health care coverage to qualifying adults. There are also many community health centers around the state that provide medical care for low or no cost, depending on an individual's income.

## **Sexual Assault**

### ***What should I do if I am sexually assaulted?***

The most important thing to remember is that under NO CIRCUMSTANCE is a sexual assault EVER your fault. If you are in danger or need immediate medical attention, call 911. You may, but are not required to, contact the local police department to report the assault. If you live in an area served by a sexual assault/rape crisis center, call the center for assistance. You can also call a county attorney about the assault if you choose. If you are confused about where to report the assault, call the Iowa Sexual Abuse Hotline (1-800-284-7821). It is also important to note that all of the rights discussed in this section apply to all persons regardless of age, sex, sexual orientation, race, or immigration status.

Whether or not you want to seek medical help is your decision. It is common for survivors of sexual assault to be in shock and be unsure about what they want to do right after the assault. It is not uncommon, however, to feel differently about reporting the assault at a later time. A medical examination can be a good option to check out your physical well-being and preserve critical physical evidence, so that you have options no matter what you decide now or in the future. Choosing to have a medical exam done does not mean you are required to report the assault to police.

A medical examination is also a good way to get medical advice and medication in case you have contracted a sexually transmitted infection (STI) or the assault has resulted in an unwanted pregnancy. You can also take PEP (Post Exposure Prophylaxis) to possibly prevent contracting HIV/AIDS.

NOTE: Call your local rape crisis center or sexual assault program to find out which hospitals near you perform the exam. In order to preserve physical evidence, it is important to try not to bathe, douche, or otherwise change your physical appearance except under a doctor's care. However, it is still fine to go ahead and have the exam within 120 hours (5 days) of the assault even if you have already showered.

***Can I have someone with me?***

Yes. You can call your local sexual assault crisis center and ask for an advocate. Sexual assault victim advocates have special training in working with law enforcement, medical staff, and attorneys. They can give you support and make sure your questions are answered. You have a legal right to have an advocate with you when you report the assault, during your medical exam, in any meeting with the county attorney or court, or during any other proceeding related to the sexual assault.

If you are speaking with the police, hospital staff, or a county attorney and a sexual assault advocate hasn't been called, you have the right to ask for one.

NOTE: You may want to talk to an advocate first, especially if you are unsure whether you want to report the assault of have an exam. It is common to question whether or not you have actually been assaulted or the circumstances of the assault. Talking to an advocate can help survivors identify their choices and support them in whatever decision they choose to make.

***Does the sexual assault exam or medications cost money?***

No. You should not receive a bill. The State of Iowa's Crime Victim Assistance Division pays for the sexual assault evidence exam. Two follow-up treatments are also free. You do not need to report the crime to the police to have the exam paid for. In addition to the exam, medications for sexually transmitted infections (STIs), pregnancy prevention, and PEP are also paid for by the State of Iowa's Crime Victim Assistance Division. This is true even if you have medical insurance that would normally cover this type of treatment.

***What if I am the victim of sexual assault and am concerned about AIDS?***

Only your own test can give reliable information. Contact a rape crisis center or an AIDS Hotline for referral to an anonymous testing site. Victims of sexual assault can ask the court to require an alleged offender be tested for HIV. They may also ask the court to learn the HIV test results of an offender. However, a convicted offender's positive HIV test is a poor indication of your own risk because the assailant may not have transmitted the virus during the assault, or the assailant may have contracted it later. As stated above, medications used to prevent HIV are also available and paid for through the Iowa Crime Victims Assistance Division.

***Do I have to report the assault?***

Whether or not you want to report the assault is your own decision. If you are unsure whether or not you want to report the assault, in some jurisdictions you can meet with a detective to talk things over before making the decision. Call your local sexual assault crisis center for more information about law enforcement polices in your area.

***When must a sexual assault be reported to law enforcement or The Department of Human Services (DHS)?***

Reporting to the police is mandatory for serious injuries. For example, a life threatening wound, permanent physical damage, and certain fractured bones must be reported. A mandatory reporter (such as a doctor, nurse, social worker, etc.) is required to report the abuse of a victim under the age of 12, and the abuse of victims under 18 if the perpetrator is a caretaker.

If you are the victim of a violent crime and you do report the crime to the local police or county sheriff department within 72 hours, you may be able to apply for financial assistance for some things. For example, the Crime Victim Compensation Program (CVC) may be able to help you with the costs of medical care, counseling, and lost wages or benefits. You can contact the CVC at 515-281- 5044.

***Is it necessary to have evidence of the rape in order to bring criminal charges?***

No. The law on rape prosecution has changed. A victim's testimony alone may be enough to convict. However, most judges or juries still want to see evidence in addition to a rape victim's testimony before they will hold an assailant accountable. For example, physical evidence (bite marks, scratches, bruising, vaginal/anal injury, etc.) from an assault exam and testimony from witnesses who saw or spoke with the victim and/or assailant before or after the assault is very important evidence. In addition, Iowa "rape shield" law protects the victim by limiting questions that can be asked about his or her sexual history or behavior if it is asked to attack the victim's credibility.

***Can a spouse be charged with sexual assault?***

Yes. If the act is done by force or against the will of the other person, a spouse can be charged with sexual assault. For example, a sex act is against a person's will if the person agrees because they are being threatened with violence or if they are asleep or drugged. A sexual act can also be against a person's will if they have a disability that affects their ability to make decisions about sex or if they are a child.

***What Other Assistance May be Available?***

The Iowa Coalition Against Sexual Assault's (IowaCASA) Legal Assistance to Victims Program provides information and referrals for legal issues related to sexual assault. IowaCASA's attorneys provide free legal representation to sexual assault survivors in civil cases including family, juvenile, education, housing, and immigration matters. Victims of sexual assault, or parents of child victims of sexual assault may contact the attorneys at IowaCASA at 515-244-7424 with any legal questions. You may also find a variety of information about sexual assault and services online at [www.iowacasa.org](http://www.iowacasa.org).

## Small Business and the Law

I want to start a small business in the state of Iowa, how do I get started? With each unique industry comes its own series of federal, state, and local regulations, which apply to the type of business you want to start. Make sure you know the law. At best, ignorance of the regulations which control the industry you are interested in will slow down your ability to start your business. At worst, you could be liable for criminal charges if you don't follow the rules, which pertain to your business. Contact the Iowa Department of Labor and the county government to make sure you are in compliance with all regulations. It is strongly suggested that you hire an attorney to work with you in this process.

### ***Do I need to “incorporate” my business?***

Not necessarily. There are many types of business structures in Iowa. One of the first decisions you must make, as a new business owner, is what legal structure is best for you and your corporation. According to the Iowa Secretary of State, there are currently eight types of commonly used business organizations in Iowa:

- Sole Proprietorship
  - o Business entity owned and managed by one person.
  - o The law views the owner as inseparable from the business. The owner has:
    - Complete control of affairs;
    - Complete legal liability.
  - o Taxes on a sole proprietorship are determined at the personal income tax rate of the owner.
  - o Ideal for a business, which will remain small and does not have great exposure to liability. Not ideal for more “risky” businesses.
- General Partnership
  - o An association of two or more persons to carry on as co-owners of a for-profit business for profit.
  - o Provides a guide for persons interested in forming a partnership agreement. It is strongly suggested that partnership agreements be written to avoid later confusion.
  - o It is strongly recommended that persons interested in forming a partnership file a Statement of Partnership Authority with the Iowa Secretary of State. A Statement of Partnership Authority allows a partner to enter into transactions on behalf of the partnership except in certain cases. Unless modified, this Statement will expire five years after filing with the Iowa Secretary of State.
- Limited Partnership
  - o An entity having one or more general partners and one or more limited partners. The entity is separate from its partners.
  - o Because a limited partnership is a separate legal entity from the people who own it, the partnership (business) can sue and be sued separately.
- Limited Liability Partnership
  - o Similar to a general partnership except, under Iowa statute the individual partners (business owners) are not liable for the debts and obligations of the business.
  - o Provides partners with protection from liability without burdening them with the process of corporate formalities.
- For Profit Corporation
  - o An association of individuals created by law with powers and liabilities independent from those who own it in part (stockholders).
  - o All property and liability is owned separately by the corporation.
  - o If you decide to create a for profit corporation, consult a tax attorney, as different kinds of corporations have different tax obligations.
- Nonprofit Corporation
  - o Includes public benefit organizations, mutual benefit organizations, and religious organizations.
  - o Public benefit organizations are charitable organizations and receive special federal and state tax benefits. If you are interested in serving your community by creating one of these organizations, contact a tax attorney to see the type of benefits for which you are eligible.
- Professional Corporation
  - o A professional corporation is a group of individuals that come together in a mutually beneficial association. Eligible professionals include: accountants, chiropractors, dentists, physical therapists, physicians, psychologists, landscapers, architects, veterinarians, lawyers, and real estate agents.
  - o Has benefits and liabilities similar to a for profit corporation.
- Limited Liability Company
  - o Members (may include individuals or other businesses) have management flexibility and pass-through taxation.
  - o Similar to a corporation because members do not take on the liabilities they do in a partnership or a sole proprietorship.
  - o Only certain types of businesses are eligible to be limited liability companies. Please consult the office of the Iowa Secretary of State and an attorney.

Note: The legal process varies for formally establishing each of these different types of businesses. Please consult the website of the Iowa Secretary of State for the most updated information on how to go about filing a certificate of organization and designating an agent.

**What resources are available to me as a woman with her own business in the state of Iowa?**

If your business is at least fifty-one percent owned, operated, and actively managed by a female, you may qualify for the Iowa Targeted Small Business Program. In order to receive benefits which could further your business, your business must meet the following qualifications:

- 1) Your business must be located in Iowa;
- 2) The purpose of your business must be to make a profit;
- 3) Your business must have less than \$4 million in annual gross income, computed as an average of the three prior fiscal years.

To apply for Targeted Small Business Certification, contact the Iowa Department of Inspections and Appeals.

Benefits of being a Targeted Small Business can include:

- Up to \$50,000 start up or expansion loan
- Access to the 48 Hour TSB Procurement Website
- Free technical assistance
- Listing of Your Business with the Targeted Small Business Directory

For further information, contact the Iowa Department of Economic Development.

## Stalking

**What is stalking?**

Stalking may include a variety of actions, ranging from repetitive or harassing phone calls, to surveillance, to serious threats. Women are stalked far more often than men, and the stalker often is a former boyfriend or husband. In fact, 3 in 4 stalking victims are stalked by someone they know, and 30% of victims are stalked by a current or former intimate partner. Stalkers may follow you or show up at your home, work, or school; they may send unwanted gifts or emails; they may damage your car or other property; or they may threaten to hurt you, your family or friends, or other people or things important to you.

**Is stalking a crime?**

The crime of stalking requires specific elements to be established: 1) a repeated course of conduct, 2) intended to cause fear of bodily injury or death, 3) to the target or to a member of the target's immediate household. However, stalking actions also may include the commission of many other crimes, such as harassment (written, telephonic or personal contact made with the intent to threaten, alarm, or intimidate) or assault (threats of immediate injury or offensive acts or physical attacks that may cause injury, or intentionally pointing a firearm at someone); and even more severe crimes such as attempted murder (setting a course of events in motion that are intended to result in death) or sexual abuse (committing a sex act against the will of another person).

The Iowa Code identifies stalking as an aggravated misdemeanor upon the first offence and elevates the consequences to a Class "D" felony upon the second offense or if the stalker is in violation of a protective order, is in possession of a dangerous weapon, or is targeting a person under the age of 18 years. The violation becomes a Class "C" felony for a third or subsequent violation.

**How do I know if I am in danger?**

Most people can sense when they are in danger, based on subtle cues, but there are several factors that generally point toward an escalation of danger. The risk increases when the stalker makes threats of bodily injury or death, or actually uses violence; when the stalker has access to firearms or explosives; when the stalker maintains intensive surveillance for some period of time; when the stalker ignores a protective order issued by a court; when the stalker threatens suicide; or when a victim tries to leave or end the relationship.

**What can I do if I am being stalked?**

(1) Notify the police or county sheriff. If you are in immediate danger, call 911. Many stalkers commit some type of crime in the course of their stalking behavior. Even if no crime has been committed, or if the stalker commits only minor offenses, your local law enforcement agency may be

able to provide you with practical advice on how to respond to the stalker. If you feel you are being stalked, you should notify the police department where you live and also where you work, if in a different city or county.

(2) Take extra precautions. Trust your instincts and take all threats seriously. Be aware of what is happening around you. Tell others that you trust about the threat (neighbors, family, co-workers), and ask them to keep an eye out for strange occurrences. Use basic security measures, such as locking your home with deadbolt locks, locking your car while driving and when you park, checking inside your car before you enter it, parking in well-lit and secure areas, and avoid walking alone in dark or isolated areas. You will also want to think about how current technology, like smartphones, may help a stalker learn information about you. Think carefully about your use of social networks, like Facebook and Twitter, and the kinds of information you post.

(3) Get a civil protective order. If your stalker is or was your intimate partner (spouse, former spouse, parent of your child, or member of your household currently or in the past year), then you may qualify for a domestic abuse civil protection order. If the stalker has been arrested for harassment or stalking, or if the stalker has been arrested for domestic abuse assault, the court may issue a criminal no-contact order, which is valid while the criminal case is pending. To find out what type of no-contact order you can apply for, contact, Iowa Legal Aid (800-532-1275), a private attorney, the county attorney, or the clerk of court. You may also want to contact a confidential domestic violence advocacy program in or near your community, where you can get important information and assistance about protection orders and safety strategies. Most programs will provide assistance to stalking victims even if you were not in a relationship with the stalker. To locate a program near you, call the Iowa Domestic Abuse Hotline at 800-942-0333.

(4) Keep a notebook or calendar and record detailed information about each encounter with the stalker. Your notes can refresh your memory later if you need to speak with police or testify in court. Be sure to include the date, time, location, full description of the person, words spoken, actions taken during the incident, actions you took afterward, and names of witnesses. You may wish to record threats made over the telephone or other encounters. Iowa law generally permits the taping of a conversation when one party to the conversation consents. Thus, you can tape your own conversations or occurrences when you are a party to the conversation.

## Wills and Probate

### ***What is an estate?***

An individual's estate consists of everything an individual owns at the time of his or her death (land, bank accounts, personal belongings, etc). An individual's estate is subject to the individual's debts and obligations.

### ***What is an estate plan?***

An estate plan is created while an individual is alive. A typical estate plan discusses the distribution and management of that person's estate following his or her death. Additionally, an estate plan also addresses the management of an individual's assets and healthcare decisions if he or she becomes incapacitated.

### ***What is included in an estate plan?***

An estate plan usually includes a Will (which becomes effective at death), Powers of Attorney (financial and medical), and beneficiary designations for assets that pass pursuant to beneficiary designations (insurance policies, IRAs, 401(k) accounts and most annuities). Some estate plans incorporate trusts.

### ***What is a Will?***

A Will is a document by which a person directs where his or her estate shall be distributed upon death (after the payment of any applicable debts). Additionally, a Will designates an individual, individuals, or corporation to act as Executor. The Executor is responsible for managing the property that comprises the estate, paying applicable debts, and distributing the remaining assets to the designees. Finally, for individuals who have minor children, a Will names who should raise those children in the event of the death of the individual (a Guardian).

### ***What happens to the property of a decedent if there is no Will?***

In Iowa, if someone dies without a Will, the property is distributed according to the provisions of Iowa law. These laws distribute the property to the person's closest living relatives. If an individual is married and does not have children or has children who are also the children of the individual's spouse, then all property passes to the surviving spouse. If an individual is not married, but has children, then all property passes to his or her children. If an individual is married and has children from a prior marriage or relationship that have not been adopted by his or her spouse, then approximately 1/2 of the property passes to the surviving spouse and the remaining property passes to the individual's children. If an individual is not married and has no children, then property passes to the individual's parents. If an individual is not married, has no children and has no living parents, then the individual's siblings receive the property. Iowa law then looks more remotely on the family tree to find a living relative. If absolutely no living relatives exist, then the State of Iowa receives the property. Natural and adopted children are all considered children by blood.

**Who needs a Will?**

Anyone who is not satisfied with an estate's distribution made by the State of Iowa should create a Will to express individual wishes. Additionally, anyone who has a minor child or children should create a Will to name an individual or individuals to act as Guardian for the child or children in the event of the parents' death. Minor children also cannot receive property outright from an estate if the child is under the age of 18. A conservatorship must be created for that child. Provisions in a Will can help plan for the distribution of assets to minor children.

**Is there any single best form of property ownership?**

Property is commonly owned in three ways: (1) individual ownership, (2) ownership in common with another, and (3) joint ownership with rights of survivorship (all owners are in equally and if one joint owner dies, the remaining owners split the decedent's share). No best form of property ownership exists because it varies based on the situation and piece of property. An attorney can advise you concerning the form of ownership most appropriate for a particular situation.

**How should I file my tax return for the taxable year in which my spouse died?**

You can file as a married taxpayer during the calendar (or tax) year in which your spouse died.

**What is probate?**

Probate is the procedure by which property comprising an individual's estate makes its way to the eventual beneficiaries (whether through a Will or through the rules of Iowa law (intestacy provisions)). Probate is a court proceeding that begins by filing paperwork with the Court, and a copy of the individual's Will if the individual had a Will.

**How much does a probate proceeding cost?**

Estate settlement costs vary with each estate. Every probate estate has court costs, which are determined primarily on the value of the individual's estate. Every probate estate also has attorney's fees. The fees depend on the complexity of the estate and the time needed to complete the Estate administration. Fees paid to an attorney must be approved by the Court prior to payment. Some estates also have costs in the form of fees paid to the individual or institution managing the estate (whether pursuant to a Will or not). These fees must also be approved by a court prior to payment. Finally, some estates are responsible for paying inheritance taxes or federal estate taxes. Inheritance taxes are determined by who receives property. Federal estate taxes are owed when an estate exceeded a certain amount.

**Is a surviving spouse entitled to a certain portion of the deceased spouse's estate?**

Usually yes. If a surviving spouse is not satisfied with the share he or she is given in his or her spouse's Will, the spouse may elect to take against the Will and receive one-third (1/3) of the estate with certain exceptions for personal property. This is not true, however, if the couple has signed a prenuptial or premarital agreement and the spouse waived those rights in that agreement.

Are children entitled by law to a certain portion of their parent's estate?

No, children are not entitled to receive a certain portion of their parent's estate. A parent may leave a child absolutely nothing in his or her Will. However, if there is no Will, under some circumstances the law provides children with a share of the parent's estate.



iowa commission on the status of women

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