

Iowa Women & the Law

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This is the ninth edition of Iowa Women and the Law, compiled and distributed by the Iowa Commission on the Status of Women with assistance from Roxann Ryan, the Iowa State Bar Association, the Iowa State Bar Association Committee on Women and Minorities, the Iowa State Bar Foundation, and the Iowa Organization of Women Attorneys. We hope that the information in this booklet will help you understand the laws that affect you.

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.

Credit for this revision goes to attorneys Roxann M. Ryan, Chris Scase, Kathleen Keest, Sharon Malheiro, Susan Freed, Laura Roan, Rick Autry, Teresa Baustian, Lora McCollom, Nancy Robertson, Dan Hart, Barbara Galloway, Marilyn Lantz, Jim Elliot, Amy Beattie, and Anjela Shutts.

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 in the back of this booklet for more complete information on a specific problem.

For additional copies of this booklet, please contact:

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Citizenship

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.

Are there laws about voting?

Yes, they apply equally to men and women. You must be at least 18 years old to vote, but may register at 17 1/2 years old.

There are no length of residency requirements for voting in Iowa. All Iowans, however, must be registered to vote eleven days before a general or primary election and ten days before all other elections.

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 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, 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>. 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.

How do I vote by absentee ballot?

Apply for an absentee ballot in person or by mail to the county auditor's or election office of the county in which you are registered to vote on any day except election day not more than seventy days prior to the date of the election. You may also obtain an application for an absentee ballot and on the Iowa Secretary of State's website, <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 and voting 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 defined as the amount of goods, services, or money a person may receive and pay for in the future. It includes such things as loans, charge accounts, credit cards, and mortgages.

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

The two basic factors which determine your “credit worthiness” are ability to pay, based on the amount and stability of income, debts owed, and living expenses; and willingness to pay, usually based on your credit history, that is, your record of regular and prompt payment of bills.

Is sex discrimination in credit prohibited by law?

Yes. On the state level, the Iowa Civil Rights Act and the Iowa Consumer Credit Code prohibit sex discrimination in credit transactions. The federal Equal Credit Opportunity Act (ECOA) states that race, color, age, sex, and marital status may not be used to discriminate against you in any part of a credit dealing. These laws do not guarantee that you will get credit. You must still pass the creditor’s tests of “credit worthiness.” The laws, however, require that such tests be applied fairly, impartially, and without discrimination on the basis of sex.

Under the law, a creditor cannot use sex as an excuse to 1) discourage you from applying for a loan, 2) refuse you a loan or require that you have a cosigner if you have sufficient financial resources of your own, or 3) lend you money on terms different from those granted to another person of similar financial circumstances. Generally, under the ECOA, creditors may not even ask your 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. You can pick any title or none.

Can I get a credit card in my own name?

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

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

Yes. Discounting the wife's income in computing the qualifications for a loan is illegal.

Can I be denied credit because of my marital status?

Marital status is an independent prohibited basis for discrimination under both state and federal Equal Credit Opportunity Acts.

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

No. You can be asked about your employment/career plans, but only if men seeking credit are asked about their employment plans.

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 are going to offer jointly held property as collateral (such as a jointly owned home), the creditor can require the joint owner's signature on the document that gives them a "security interest" in that collateral.

What is a credit bureau and how does it work?

Credit reporting agencies, or credit bureaus, are companies that collect and store information about borrowers. Those with whom you have credit report routinely to the credit bureau disclosing the amount of credit you have received and how regularly and promptly you pay your bills. Credit bureau records also note matters of public record such as arrests, divorces, bankruptcies, and lawsuit settlements.

Credit bureaus maintain such information on your credit history and will release it to creditors who inquire about your credit rating. Your credit future depends on your credit history and you should verify the accuracy of the information kept on you by these bureaus. Over the last several years, there have been many complaints throughout the country that credit bureau reports often contain inaccurate information. Make sure that the credit bureaus have a file for you and that the information is accurate. By law you are entitled to review your credit file. If it is not accurate, contact them and tell them specifically why the information is inaccurate.

There are essentially three major credit bureaus in the United States. To find their names and addresses, check the yellow pages of the telephone directory under “Credit Reporting Agencies” or ask a bank or store with whom you do business for the name of the credit bureau they use.

In the past, many married women did not accumulate credit histories because creditors had reported accounts in the husband’s name only. Since 1977, records of new joint accounts must be reported in both names. Accounts established before 1977 must be reported in both parties’ names, upon either one’s request. A wife may also open her own individual account to be sure of starting her own credit history.

How do I establish credit?

Some creditors will rely entirely on your salary, job status, and other financial information you provide on your credit application. Most creditors turn to credit bureaus to obtain information about your experience in handling credit. If you have never used credit, however, the credit bureau will not have a credit rating for you. There are several ways you can start to build up a good credit history. Open a checking and savings account in your own name. These will not start a credit history but will be considered as part of it. Apply for a department store credit card; these are usually easier to obtain than national bank credit cards that have higher credit history standards. Get

a small loan from your bank or credit union just for the sake of obtaining credit. Arrange the bank or credit union loan to purchase an item such as a washing machine. You can use your savings account or your insurance policy as collateral for the loan. Then maintain a good repayment pattern by making the payments promptly.

This method of establishing credit is quicker than using credit cards. It may cost more because of the interest charges on the loan, if you pay your credit card bills immediately, in full. But 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?

Under the federal 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 tell you the nature, substance, and, usually, the sources of information 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 your problem directly with the creditor or credit bureau. If this fails and you feel you have been discriminated against solely because of your sex, 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. As these loans bring a very real risk of foreclosure, and health problems related to the stress of those problems, family and friends should be alert for warning signs. 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.

Education

Must I send my child to school?

Iowa law provides for a free elementary and secondary education to all children who reside in the state. Iowa law requires that each child between the ages of six and fifteen, who has not completed the requirements for graduation or attained a high school equivalency diploma, must attend a public school, an accredited nonpublic school, or “competent private instruction.” Statutes regarding competent private instruction, which were added to Iowa law in 1991, allow for private instruction under the supervision of a licensed practitioner or by a child’s parent, guardian, or legal custodian. Under this law, a parent, guardian, or legal custodian may provide home school instruction to their own child even though they are not licensed as a teacher. A parent, guardian, or legal custodian wishing to home-school their child must, however, comply with the requirements of Iowa Code chapter 299A and the administrative rules promulgated by the State Board of Education to implement that chapter. The State Board rules appear as Iowa Administrative Code 281 — chapter 31. Information regarding the procedural requirements for home schooling may be obtained from the Iowa Department of Education or your local school.

Is special education available?

Children under twenty-one years of age who are limited in their ability to obtain an education because of physical, mental, communication or learning disabilities or who are behaviorally disordered are provided with free appropriate special education as required by state and federal law. To the maximum extent possible, children requiring special education are educated with children who do not require special education.

Are problems concerning sexism addressed?

Iowa law requires that the educational program in Iowa public schools shall be taught from a multicultural, gender-fair approach. Iowa teachers, as a condition of certification, must complete an approved course in human relations.

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.

What about career and vocational education?

Iowa law requires that the concept of career education be incorporated into the educational program of elementary and secondary schools to enable students to become familiar with the values of a work-oriented society. Essential elements in career education include awareness of self in relation to others and the needs of society, exploration of employment opportunities and experience in personal decision-making, and experiences which will help students to integrate work values and work skills into their lives. Federal law prohibits sex discrimination, sex bias, and sex stereotyping in vocational programs assisted under the Carl D. Perkins Vocational and Technical Education Act of 1998. A variety of services related to vocational education are available in Iowa schools and can provide an excellent opportunity to encourage students to explore their aptitudes and interests in both traditional and nontraditional occupations for their gender.

Is sex discrimination prohibited in education?

Yes, the Iowa School Standards Act, the Iowa Civil Rights Act, and Title IX of the U.S. Education Amendments prohibit sex discrimination in education. If you have reason to believe

that your school district is discriminating on the basis of sex, contact your local school district's Equity Coordinator (whose name, address, and phone number should be published in all major publications as well as in the annual notification to all patrons of the community), the Iowa Department of Education, the Iowa Civil Rights Commission, or the U.S. Department of Education.

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, you must secure a certificate of age, obtainable from your superintendent of schools or Iowa Workforce Development. If you are under 16, 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.

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 \$5.15 per hour. This includes most businesses, hospitals, retail establishments, and public agencies. Specific dollar volume amounts are set and businesses or retail establishments may be exempt if they do not meet those requirements. Some domestic workers are covered by the minimum wage law. 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.

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. Employers, employment agencies, and labor organizations are covered by the Iowa Civil Rights Act

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. It is also illegal for an employer to retaliate against an employee for filing a civil rights complaint or otherwise attempting to secure legally guaranteed rights. There is no charge for filing a civil rights complaint with the Iowa Civil Rights Commission.

Courts have generally found that sexual harassment is unlawful sex discrimination. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is offensive to the recipient. This includes telling jokes of a sexual nature as well as displaying posters of pin-ups of a sexual nature. 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 immediate and appropriate corrective action. For instance, if a coworker is engaging in conduct of a sexual nature, the employer may be held responsible if the employer knew or should have known of the conduct and did not correct it. Under state law a harasser can be personally liable even if your employer is not liable.

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 the job has been

traditionally held by men.

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 child care 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.

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 an employer hires only women for some jobs and only men for others.

11) If your employer requires sexual favors as a condition of continued employment or promotion.

12) If your company health insurance plan covers most temporary disabilities except pregnancy disabilities.

13) 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.

14) If an employer, supervisor, or coworker makes unwelcome sexual advances or engages in other verbal or physical conduct of a sexual nature.

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

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 flavor 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 child care arrangements only from female applicants is unlawful. Inquiries concerning race, color, religion, sex, age, national origin, or physical or mental disability status 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?

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 either on when a woman must stop working because of pregnancy or on 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,
- 3) care for the spouse, child, or parent of the employee if the individual has a serious illness, and
- 4) because of a serious health condition making the employee unable to perform the functions of the position of such employee.

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.

To utilize these benefits, the employee should give the

employer timely notice of her intent to take the leave. Also, the employer may require medical certification before approving the leave.

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

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 state Industrial Commissioner at Iowa Workforce Development or your lawyer.

Am I protected if I lose my job?

Iowa's unemployment insurance program is known as job insurance and is designed to financially aid workers who lose their jobs through no fault of their own. Generally, to be eligible for job insurance benefits you must have worked in employment covered by the Iowa Employment Security Law. You must also meet certain other requirements, such as registering for work with Iowa Workforce Development. The Iowa Employment Security Law is complicated and does have its exceptions. 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 does not provide family planning advice but can refer to other sources that do provide advice. Your family planning agency can be found listed under birth control or family planning in the phone book or by contacting your local Human Services office or the Iowa Department of Public Health.

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. 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. Contact your physician, a local health clinic, or your family planning agency. If you are under age 18, your parent or guardian must be notified 48 hours in advance of your scheduled abortion unless this requirement is waived by a court.

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 to by a competent adult are legal in Iowa. However, involuntary sterilizations upon an incompetent person at the request of another are not presently recognized by the laws of Iowa 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.

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, 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. 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 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 disease 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 or 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 anonymous testing and the health care provider must either provide testing on an

anonymous basis or refer the person to a site that provides anonymous 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.

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 receiving testing for HIV, however, 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, you cannot be denied the right to purchase or rent any form of housing because you are a woman. There are limited exceptions, in the cases of nonprofit and/or religious institutions.

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

Yes, use of a common bathroom or hallway between bedrooms or entrance to the home allows you to specify the sex of boarders.

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

No, unless men of the same marital conditions are not permitted to buy or rent the same property.

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

No, you cannot be denied the right to purchase or rent housing because you have children. “Adult Only” policies are illegal. Property owners may still use reasonable occupancy limits.

What do the terms “homestead” and “homestead rights” mean?

The homestead is a dwelling used by the owner as his/her place of residence. If it is within a city or town, it must not exceed one-half acre in size; otherwise it must not contain more than 40 acres. Homestead rights are certain legal privileges accorded to a person’s residence or home.

What are some of these homestead rights?

Some of the more important rights include:

1) With few exceptions, the homestead of every individual, single or married, is exempt from force of sale to pay debts. Any waiver of this exemption from force of sale must be in writing and prominently placed in the contract.

2) Neither husband nor wife can remove the other or the children from the homestead without the consent of the spouse.

3) Upon the death of either husband or wife, the survivor may retain the homestead for life; if no spouse survives, it may be held as a homestead by the children.

Marriage and Divorce

When can I get married?

If you are 18 years or older, you need no consent to marry. If you are 16 or 17, you must obtain consent from your parents or legal guardian and consent from the Court before you may wed. The judge of the District Court will grant approval of your marriage if you can show two things: the underage person(s) can handle the responsibilities of marriage, and marriage serves the best interests of the underage person(s). Pregnancy alone does not establish that marriage is in the couples' best interest. If a parent or guardian refuses to consent to the marriage, the Court can determine if consent has been unreasonably withheld and grant the parties permission to marry. If you are younger than 16, you may not marry in Iowa.

Do I have to get a marriage license?

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 terminated in the same way. In order to create a valid common law marriage, the couple must fulfill three requirements. First, both the man and the woman must intend and agree to be married. Second, the couple must live together continuously as husband and wife. Third, the couple must publicly represent themselves as married. In addition, both must be free to marry. However, common law marriage cannot be formed if the parties are related to certain degrees by blood or if one of the parties is underage. If you do not obtain a license, you may have problems proving you are married or collecting Social Security, Worker's Compensation and other benefits.

What must I do to get a marriage license?

Both parties must sign and file with the Clerk of Court an application for a marriage license. The parties must also submit to the Clerk an affidavit (a signed, written declaration)

from a competent, disinterested third person as a witness. The witness must attest to the parties' ages and competency to marry. After filing the application, the Clerk will usually issue a license after a three-day waiting period. You must solemnize the marriage by ceremony within one year of issuance of the license, or the license will be void. Any judge, judicial magistrate, or ordained person may solemnize the marriage. If an emergency exists, the parties may ask a judge to authorize the issuance of a license prior to the expiration of the three-day waiting period.

If I marry in another state or country, is my marriage legal in Iowa?

If the marriage is legal in the place where you marry, it is legal in Iowa.

Can my marriage be annulled?

A decree of annulment destroys the existence of the marriage; it is as if you had never married. You may annul your marriage for any one of four reasons:

- 1) The law prohibited the marriage, such as where the parties were underage or related by blood;
- 2) Either party was impotent at the time of the marriage;
- 3) Either party was already married to someone else, providing that the parties have not cohabited after the death of previous spouse(s) or the dissolution of the previous marriage(s);
- 4) Either party was a ward under guardianship and was found by the court to lack capacity to contract a valid marriage.

What happens to my children if my marriage is annulled?

If your marriage is annulled, your children are still legitimate as to both you and their father, unless the court declares otherwise upon proof that they are not legitimate.

An annulment proceeding is the same as a divorce (dissolution) proceeding and custody and support of the

child(ren) can be determined and the couple's property and debt will be divided.

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. Instead, a court will grant a divorce if you can show two things:

- 1) the marital relationship has broken down so that the legitimate objectives of matrimony have been destroyed, and
- 2) 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 divorce immediately in an emergency. If the property, support or the custody issues are complex, 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 from the court. In that case, you and your spouse must attempt to reconcile during a 60-day period. This is usually accomplished by joint counseling. Mandatory reconciliation means that both parties must attend counseling; it does not have to be joint and the court does not order people to attempt to reconcile.

What can I do once the papers are filed?

While waiting for the final hearing, you may live as you will after divorce. However, you may want to consult your attorney for advice on such matters as dating or cohabitation, especially if you and your spouse cannot agree to a child custody arrangement. Prior to the final hearing, the court may order temporary child custody, temporary child support, and temporary alimony. The court will determine permanent awards of alimony, support, custody, and property during the divorce hearing.

Who gets the home and other property?

The court decides how all real estate and personal property will be divided. The court, however, will usually adopt any reasonable settlement agreed to by both parties.

Can I get separate maintenance instead of divorce?

Yes, the grounds and process are the same as for divorce.

Can I or my spouse get support payments or child support?

Either spouse can seek financial support from the other. The court can order spousal support or alimony payments or child support to either spouse after hearing evidence from both parties at the divorce hearing. A spouse does not have an absolute right to support. The court will consider the need for support of the spouse requesting support and the other party's ability to pay and may also order one party to pay attorney's fees and other legal costs of the divorce. The court considers factors similar to those it considers when dividing property. The court may also require either party to pay child support to the other. Child support is determined based on parental incomes and the Iowa Child Support guidelines. At the time of the decree, the court will typically enter a wage assignment so that child support is deducted from the spouse's paycheck.

Do homemakers have property rights in a divorce?

Yes. Under the law, courts are required to recognize a homemaker's economic contributions to the marriage when property is divided in a divorce. Some of the other factors the court must consider in determining equitable property division are duration of the marriage, earning capacity of each party, age and health of each party, and the contribution of either party to the education, training, or earning power of the other. (Inherited property is generally exempt from division unless this proves a hardship on one spouse or the children.) Educational levels, earnings capacities, age and health of the parties, and other factors must also be considered in setting alimony

payments. Child support payments are to be based on the parents' financial resources and the needs of the child, but courts must also consider the desirability of full-time parenting in the home by the custodian, as well as the value of such care. (Child support awards should also reflect the cost of child care if the custodial parent works outside the home.)

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 divorce or dissolution. This allowance is called separate maintenance. In order for the court to grant separate maintenance, you must show the same grounds as required in a divorce or dissolution proceeding.

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

A person who has become divorced by the close of the tax year should file an individual tax return as a single person or Head of Household. A person who has become separated, however, will usually file as a married taxpayer. Under certain conditions a married taxpayer with a child who has not lived with the spouse for the final six months of the year, may file as Head of Household.

Both of us are employed, and now that I have custody of the children, who gets to claim the children for income tax purposes?

The custodial parent is entitled to the exemption for the child unless he or she expressly waives the right to claim the exemption. This 1985 rule applies not only to cases of divorce, legal separation, and separation by written agreement, but also to cases where the parents live apart during the last six months of the calendar year. In addition, the rules do not apply to situations where the non-custodial parent has been awarded the right to claim the exemption under an instrument executed

before January 1, 1985, and such parent continues to meet the \$600 annual support requirement. IRS rules governing proof of dependency are subject to change, however, and you should contact your IRS office for specific information.

My husband and I have several debts — who has to pay them?

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. Of course, debts of a personal nature are usually ordered paid by the party who incurred the debts. Please remember, however, that if the debts were incurred by you or the debts were family debts, the creditor can look to you for payment even if the court ordered your husband to pay the debts.

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

Yes, the court can modify or change the divorce decree if the parties can show a substantial change in circumstances that the court did not contemplate at the time of the decree. A decree may also be modified by agreement of the parties as long as it is in the child's best interests.

What happens if my spouse refuses to pay other bills for which our house has been put up as collateral? Can my children and I be put out into the street?

Yes. Even if the divorce decree specifies that the bills should be paid by your spouse but he/she fails to do so subsequent to the divorce, your house could be foreclosed and household goods repossessed by any creditor who has a security interest therein. Creditors have no obligation to honor a divorce decree; you may have to sue your former spouse to secure those payments. Do ask your attorney for creative approaches in reaching a settlement to assure 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 that runs the Iowa Child Support Recovery Unit. This office will attempt to locate your former spouse and enforce the child support obligation. Public assistance recipients receive these services free; others must pay an application fee that will not exceed \$25. For assistance, contact the Child Support Recovery Unit nearest you or a private attorney. 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 which is a quasi-criminal offense and the penalty can be imprisonment. For individuals whose payments are processed by the Collection Services Center of the Department of Human Services, there are a variety of electronic fund transfer options.

For information, contact the Collection Services Center at 800/223-1302 or 515/281-8994.

Who gets custody of the children in a divorce?

Only children who are under 18 years of age and unmarried are affected. The court decides who gets custody after taking evidence and on the basis of the best interests of the child or children; there is no automatic gender preference. The court will normally consider awarding joint legal custody unless the court determines that joint legal custody is not in the best interests of the child, and the parental relationship should be severed. The court may award physical custody to one or both parents and may award visitation rights to grandparents. The court may require either the husband or wife to pay child support and it has final jurisdiction over the amount of child support awarded. The child support could include contributions toward the college education of a child between the ages 18 and 22.

What is the difference between legal custody and physical custody?

Legal custody is having a say in the child(ren)'s major life activities, i.e. health, religion, medical care, and schooling. Physical custody, on the other hand, is physical care – who cares for the child on a day-to-day basis.

Is it possible for a father to have custody of the children in a divorce?

Yes, on the same basis as for the mother. Because judges realize the traumatic effect a divorce has upon children, the court is likely to award the children to that parent whose plan for the care of the children is the least disruptive of their normal life, friends, and school.

Can a husband or wife testify for or against one another?

In state courts, generally speaking, neither husband nor wife can testify without the other spouse's consent except in:

- 1) Criminal prosecutions for crimes committed by one against the other, such as assault or desertion;
- 2) Civil actions brought by one against the other, such as divorce or domestic abuse actions;
- 3) When a child abuse report is filed.

In federal criminal trials, the witness-spouse alone has a privilege to refuse to testify adversely. Communications solely between husband and wife, made during the marriage, are always confidential, even after the marriage ends. In any case, husbands and wives may testify in favor of each other.

May I keep my name when I marry or return to my name after I divorce?

You may use any name you want when you marry so long as you change all official records, such as your driver's license and Social Security records. It will require a court order to restore your own name following a divorce if this was not in the divorce decree.

When can I marry again?

You can remarry any time after the final divorce decree.

Does a wife have the right to work and use the money earned in any way she wishes?

Yes.

Can a wife have a separate bank account and make contracts and buy property in her own name?

Yes.

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.

Your children may not be removed from your custody without court action of which you must be notified and after a hearing at which you have a right to be present. If your child is believed to be in need of assistance because of abuse, neglect or special treatment needs you are unable to provide, you will have the right to be represented by an attorney and a chance to defend your rights as a parent.

Who is responsible for support and education of my children?

You and your child's father must provide the necessary support and education for your child dependent on your incomes. You must provide support even if your child is in foster care or, for some other reason, living outside your home. Failure to provide that support or failure to require the child's attendance at school can result in legal proceedings against you.

How long am I responsible for my child?

The rights and responsibilities of a parent remain in effect until the child reaches the age of 18 (and beyond the child's 18th birthday if the child is likely to become a "public charge" if not supported) or until the parent and child make it clear by their mutual actions that the parent has renounced all legal rights of a parental nature, and the child has accepted such release.

Is my second husband responsible for my child?

A stepparent does not automatically assume the rights and responsibilities of a parent. He must make it clear that he voluntarily assumes such responsibilities. A stepparent who

legally adopts a child, however, assumes full legal responsibilities.

May I keep my illegitimate child?

You have custody of your child, unless court action is undertaken and determines otherwise (e.g., the court grants custody to the child's father or the child is removed due to abuse or neglect). You and the child's father owe the child necessary maintenance, education, and support.

Can single people adopt a child or children?

Yes.

What if my child works?

The parent having legal custody of the minor child is entitled to the services and earnings of the child.

If your child's employer refuses or fails to pay wages earned, you have a legal right to recover those wages. If the employer has already paid the child, however, you cannot require the employer to pay those wages a second time.

What if my child is injured?

You and the child's father may recover for the loss of the child's services and other money damages if the child is injured by the wrongful act or negligence of another person.

Am I responsible if my child causes loss or injury?

Parents are liable where the unlawful act of a child causes loss or injury to another person, but this liability is limited.

If your child is under 18 and in your legal custody, you may be liable for up to \$2,000 for any one act or \$5,000 for two or more acts committed by the child against the same person.

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

Yes. When a child is believed to be delinquent, neglected, or abused, proceedings can be initiated to bring the child within

the jurisdiction of the juvenile court. The court may then order appropriate treatment or place the child outside the parents' home. Usually, every effort is made to keep families intact.

When the court places an abused or neglected child outside the parents' home, the parents are offered treatment services. Although there are exceptions, parents usually have up to 15 months to correct the conditions that led to the child's being placed outside the home. If the court then determines that it is still not safe to return the child home, a legal action may be filed to terminate parental rights and sever the parent-child relationship. If parental rights are terminated, the child can be adopted.

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 the parents notified and given an opportunity to be heard before any action is taken?

Yes. If the child is accused of committing an illegal (delinquent) act, parents have a right to be notified and be present at all court hearings. If the child is believed to be abused or neglected, parents may also have lawyers to represent them, question witnesses and present their view of the case to the judge. If you cannot afford an attorney, the court will appoint one for you.

After the judge determines that the child is delinquent, abused or neglected, there is a second hearing to decide what response by the court would be in the child's best interest. The court may leave the child in the parent's custody or place the child elsewhere, and may also order the child and/or the parents to participate in counseling or a treatment program. 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 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, 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 or neglected may also 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. 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's policy on abused children as set forth in Section 232.67 of the Code of Iowa is: "... to provide the greatest possible protection to victims or potential victims of abuse through encouraging the increased reporting of suspected cases of such abuse, ensuring the thorough and prompt assessment of these reports, and providing rehabilitative services, where appropriate and whenever possible to abused children 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?

Case law indicates that the best interest of the child is the focus of Iowa juvenile proceedings. In delinquency cases, consideration is also given to the safety of the community.

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 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 carry extra credit cards with you, and do not give out credit card information over the telephone unless you have initiated the telephone call. Don’t just throw away bills or other information sent to you from your credit card company or other companies that include personal or financial information about you -- shred or tear it up.

Send “opt-out” letters to credit bureaus, mailing firms and state agencies who have “opt-out” provisions (such as driver’s license or voter registration). 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 the 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 subscription information also may be shared widely.

Get an unlisted telephone number, and send a letter to the telephone company to emphasize the need to keep your information completely confidential.

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

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 web sites 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.”

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.

For more complete information about preventing or responding to identity theft, contact the Consumer Protection Division in the Iowa Attorney General’s office (telephone 515281-5926) or pick up brochures at the office on the second floor of the Hoover Building, Des Moines, Iowa 50319.

Public Assistance/Welfare

Who is responsible for family support?

Both husband and wife can be held liable for the support of the family. Neither the husband nor the wife can be sued for the debts of the other, unless those debts were incurred for family household expenses.

What type of support must the parents supply?

This support includes necessities such as food, clothing, medical care, a place to live, and other things consistent with their own means, income, and position in life.

Where can I go for help if my husband refuses to supply the needs of the family?

You can go to the county attorney of the county in which you live, contact your local Human Services office, or the local Legal Services office. The Child Support Recovery Unit of the Human Services offices will assist in collecting court-ordered child support for a small fee even if you do not receive public assistance.

What if I require public assistance or Family Investment Program assistance (formerly AFDC and now federally called TANF)?

Public assistance is available for emergencies and for persons who meet certain requirements and who can show need. Contact your local Human Services office or the Legal Services office.

Can my husband remain in our home while my family receives public assistance?

Yes, public assistance may be available if you meet certain requirements. Contact your local Human Services office.

Social Security

Must I pay Social Security if I work?

For almost all jobs, you are required to pay Social Security taxes. Consult your employer or the Social Security office in your area.

Can I find out if my Social Security records show proper work credits?

Yes. Simply fill out the appropriate form available from your local Social Security office. The records should be checked every three years. One important thing to remember is to ensure that your Social Security record shows your correct name. Whenever you change the name you use - whether because of marriage, divorce, or other reasons - you should report the change to Social Security. Otherwise, your earnings record may be incorrect and you may not receive all the Social Security credit due for your work. Full-time homemakers should also notify the Social Security office of any name change. If you choose to continue using your maiden name after marriage, as many women do today, you do not have to report your marriage.

How and when can I collect Social Security?

This depends on many things including age, work record, medical condition, and dependency status. If you think you may be eligible, contact your Social Security office. Remember that the only way that you can find out for sure whether you are eligible for Social Security is to file a claim at the Social Security office. The following are general eligibility guidelines for women:

Working Women: If you have enough work credit under Social Security, you and your dependents are entitled to monthly cash benefits when you reach retirement, or if you become disabled. Your dependents are eligible for benefits if you die. You can retire early at age 62, with reduced benefits.

Full benefits are available if you wait until your legal retirement, which ranges from age 65 to 67, depending on the year you were born. If you're married, you can get retirement payments either on your own record or that of your husband, provided he is receiving disability or retirement benefits. Whether you receive benefits on your own record or your husband's will depend upon which will pay you the larger amount.

Family Farm/Business: If a husband and wife jointly operate a business (such as a farm), but the income is attributed to only the husband, then the wife's social security benefits will be dependent upon the husband's accrued benefits. In that situation, the wife can accrue credits for benefits if some of the income is attributed to her work, although the spouses also should consider annual income tax implications in splitting the income.

Homemakers: If your husband worked long enough under Social Security, the kinds of benefits listed below are available. (A married woman in the paid labor force is entitled to these benefits but may be earning too much to receive payments.)

Wife: Regardless of your age, you can get payments when your husband is entitled to retirement or disability benefits, if you are caring for a child under age 16 or a disabled child who is entitled to benefits. If you don't have a child in your care, you must be 62 or older to get benefits when your husband begins receiving disability or retirement benefits. If you opt for benefits before age 65, the payments will be reduced.

Widow: You may get a small lump sum payment following the death of your husband regardless of your age, provided your husband was insured under Social Security at the time of his death. If you are age 60 or older and your husband was insured under Social Security at the time of his death, you may also be eligible for monthly widow's benefits. The amount of these benefits will vary depending upon at what age you file to receive them and how much your deceased husband earned under Social Security. If you apply to receive widow's benefits before age 65, the amount of benefits you will receive will be

reduced. If you become severely disabled, you may be eligible to receive widow's disability benefits at age 50.

Widow With Children: You can get widow's benefits at any age if you are caring for the child of your deceased husband who is under age 16 or disabled and entitled to benefits. Your unmarried children under age 18 can also receive monthly checks. In a few instances, a child who is a student over 18 can receive benefits. Your benefits will stop when you no longer have a child entitled to benefits in your care or when the child is no longer eligible for benefits. Usually your benefits will stop if you remarry. Benefits to your children will continue as long as they remain eligible regardless of your remarriage or your employment status. A widow who remarries at age 60 or older or who marries another Social Security beneficiary may continue to receive benefits on her deceased husband's record. The woman, however, could opt to take a wife's benefits at age 62 on her new husband's record, if it would be larger than the widow's benefit and her spouse is receiving retirement or disability benefits.

Divorced Women: You can receive benefits when your ex-husband starts collecting retirement or disability checks if you are age 62 or over, were married to him at least 10 years, and have not remarried. Even if your ex-husband is not actually receiving benefits, you can get retirement payments at age 62 provided your ex-husband is eligible for benefits and you have been divorced for at least 2 years. If you remarry before age 60, you are ineligible for benefits on your first husband's record unless your second marriage ends; if you remarry after age 60 you can receive benefits based on your ex-husband's record. You may also get payments if your ex-husband dies, provided you are 60 or older (50, if you are disabled), were married 10 years or more, or you have children entitled to benefits on his record.

The laws governing Social Security are complex and frequently change. To obtain up-to-date accurate information regarding your rights to Social Security benefits, contact the

Social Security office nearest you.

It is probable that competent attorneys are available on a contingent basis to handle Social Security claims. Attorney fees are controlled by the Social Security Administration.

What is Medicare and when may I draw its benefits?

Medicare is health insurance under Social Security and is divided into two parts—hospital insurance (Part A) and medical insurance (Part B). Part A of Medicare is hospital insurance and pays for inpatient hospital care and certain follow-up care after you leave the hospital. You are automatically enrolled for Part A at age 65 if you receive monthly Social Security benefits, or at an earlier age if you have been receiving Social Security disability payments on your own account for 24 consecutive months. There is no monthly premium for Part A of Medicare. Check with your Social Security office about 3 months before you reach 65 to ensure that you are properly enrolled for Part A.

Part B of Medicare, or medical insurance, covers physician's and certain outpatient services, ambulance service if authorized by a physician, some home nursing visits, and other services. Since there is a premium charge for Part B, you have a choice whether to enroll. Medicare does not cover all medical expenses; private insurance is available to supplement it. Care should be taken in purchasing private Medicare supplement health insurance. Usually, it is best to purchase one good supplemental policy, as several policies may duplicate coverage and costs. Contact the Iowa Insurance Commissioner for information on purchasing Medicare supplement insurance and your local Social Security office for information on Medicare benefits.

Must I pay Social Security taxes for part-time household workers who work in my home?

Yes, you must pay Social Security quarterly if you pay more than \$50 per quarter to household employees. If you pay more

than \$200 during a quarter, you must also pay Worker's Compensation benefits.

Contact the Internal Revenue Service for the proper forms and assistance in completing them.

Violence Against Women

Domestic Violence

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 there is probable cause that an assault took place and that your partner or husband injured you, they are required to make an arrest. In addition to taking your partner or husband from your home on your request, the police will take you to get medical treatment or to a shelter.

Iowa law permits you to have a victim counselor (from a domestic violence project) with you during police interviews and other proceedings related to the crime. Victim counselors can also assist you in dealing with medical personnel and attorneys.

You can also file for a court order of protection whether or not an arrest is made. If your partner violates the protective provisions of the order, the police can take him away from your home and before a judge. If the judge finds that the abuser violated the order, he or she may find him in contempt of court and order him to jail.

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

No. The special domestic abuse laws regarding arrest and protective orders apply to persons in other relationships, too. If you are married but separated from your husband, if you are divorced from each other and not living together, if you have a child in common, or if you are unmarried but lived together within the past year, you qualify for protection under the domestic abuse laws. If you are living with someone in an intimate relationship (heterosexual or homosexual), the laws

apply to you, as well. Finally, the laws also cover blood relatives or persons related by affinity (such as in-laws) if they are living together, except for persons under the age of 18.

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. 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. There are no filing fees. 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.

Securing a long-term protective order requires a hearing before a judge. Notice must be given to the defendant (or abuser) concerning the hearing which the defendant has a right to attend. To obtain a hearing, you must file a petition in your district court. The court will usually set a date for a hearing on the long-term order at the time you file the petition or ask for a short-term order. The defendant (abuser) must be notified of the hearing time. If domestic abuse is established at the hearing, the court may order the abuser to stay away from your residence, school, or place of employment, or authorize any other needed relief. Such orders can last up to one year. You may ask the court to extend your order before it expires. There is no limit on 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.

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 interim between filing the petition and the hearing. If you need immediate protection when court offices are closed, such as at night or on weekends, 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 no longer than 72 hours. It will give you time, however, to secure a longer order from the court when it resumes business. The police department should be able to tell you where to seek an immediate emergency order.

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?

Many Iowa communities offer services for domestic violence victims and their families. Counseling, advocates to help you deal with the legal and social service systems, and emergency housing or shelter for yourself and your children, are some of the services that may be available in your community. Contact your local domestic violence shelter, YWCA, sexual assault center, women's center, mental health center, Human Services office, County Attorney, law enforcement agency, or crisis

telephone line for information on services in your area. The toll free domestic abuse hotline number in Iowa is 800/942-0333 and is answered 24 hours a day. Legal assistance can be obtained from an attorney or, if you are low income, from your local Legal Services office.

Sexual Assault

What should I do if I am sexually assaulted?

You may, but are not required to, contact the local police department. If you live in an area served by a sexual assault/rape crisis center, call the center for assistance. Iowa law permits you to have a victim counselor with you during police interviews and other proceedings related to the crime. Victim counselors can also assist you in dealing with medical personnel and attorneys. The cost of the medical exam for purposes of gathering evidence is covered by the Crime Victim Assistance Division. A person may have an examination without reporting the crime to a law enforcement agency.

NOTE: To preserve evidence, it is important that you do not bathe, douche, or otherwise change your physical appearance except under a doctor's care, and call the proper authorities as soon as possible. If you are the victim of a violent crime and have reported that crime within 72 hours, you may apply for compensation for medical care, loss of income, funeral burial expenses and other costs. Contact the Crime Victim Compensation Program at 515/281-5044.

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

No. The law on rape prosecution has changed. It is no longer necessary to produce corroborating evidence. A victim's testimony alone may be enough to convict. In addition, the "rape shield" law limits questions about the victim's sexual history.

Can a spouse be charged with sexual assault?

Yes. If the act is done by force or against the will of the participant, a spouse can be charged with sexual assault.

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 may petition the court for a search warrant to require an alleged offender be tested for HIV. They also may petition the court and learn the HIV test results of an offender; a convicted offender's positive HIV test, however, is a poor indication of your own risk. The assailant may not have transmitted the virus during the assault, or the assailant may have contracted it later.

Stalking

What is stalking?

Stalking behavior can include a variety of actions, ranging from harassing phone calls, to continued surveillance, to serious threats. Stalkers generally exhibit some sort of compulsive behavior and become fixated on their target. Women are stalked far more often than men, and the stalker often is a former boyfriend or husband. But stalkers may be strangers or mere acquaintances, and stalkers and targets can be of either gender. The threatening conduct may be directed at the target of the stalking, or at people who are close to the target (family, friends, or coworkers), or even at the targeted person's pets.

Is stalking a crime?

Iowa has a crime called "stalking," but the stalker may commit a wide variety of other crimes, as well. The crime of Stalking covers a very narrow range of activities: a repeated course of conduct intended to cause fear of bodily injury or death to the target or to a member of the target's immediate household.

Stalking behavior also may include the commission of other crimes, such as Harassment (written, telephonic or personal contact made with the intent to threaten, alarm, or intimidate); Assault (threats of immediate injury or offensive acts or physical attacks that may cause injury, or intentionally pointing a firearm at someone); Criminal Trespass (coming onto property with an intent to commit a public offense); Going Armed with Intent (taking a dangerous weapon along, with the intent to use it against someone); 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).

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 abuses pets; when the stalker ignores a protective order issued by a court; when the stalker threatens suicide; or when the stalker breaks into a home or office.

What can I do if I am being stalked?

There are several things that you should consider doing if you are being stalked:

(1) Call the police or county sheriff. 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 petty offenses, your local law enforcement agency may be able to provide you with practical advice on how to respond to the stalker.

(2) Take extra precautions. Be aware of what is happening around you. Tell others 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 avoiding walking alone in dark or isolated areas. Buy a firearm only if you know how to use it, are willing to use it in self-defense, and are aware of the risk that it could be used against you or a loved one.

(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 qualify for a domestic abuse civil protection order. A judge also may issue a civil protection order in any other situation if you are a victim or a witness who is being harassed or intimidated. If the stalker has been arrested for harassment or stalking, you may be able to get a criminal no-contact order, and if the stalker has been arrested for domestic abuse assault, you may be able to get a criminal no-contact order. To find out what type of no-contact order you can apply for, contact a private attorney, legal aid or legal services, the county attorney, or the clerk of court.

(4) Keep a notebook or calendar. Record detailed information about each encounter with the stalker. Your notes can refresh your memory later, should 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 physically present.

(5) Contact your county attorney's office. Some counties have victim/witness coordinators who can help you and keep you informed about your case if charges are filed.

If you are being stalked in a domestic abuse situation, there

is a network of domestic abuse programs throughout the state that may be able to help. Domestic abuse programs offer free, confidential advice and counseling. Most provide shelters to victims who are not safe in their own home. These programs also offer advocacy with the criminal justice system. Call your local domestic abuse program or the statewide Iowa Domestic Abuse Hotline at 1-800-942-0333. The phone is answered 24 hours a day, 365 days a year.

Wills and Probate

What is an estate?

An estate is one's property, debts, and obligations.

What is an estate plan?

This term usually means a plan for transferring all of one's property during life and after death.

What is included in an estate plan?

A Will that becomes effective at death, insurance policies, various forms of ownership of real and personal property, gifts during lifetime, and trusts are all part of a total estate plan.

What is a Will?

A Will is a document which disposes of property after death according to the deceased person's individual plan.

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

The State of Iowa writes the equivalent of a Will through its statutory probate law that automatically disposes of property through an established formula. This formula generally provides that if a decedent leaves a surviving spouse and no children, or if a decedent leaves a surviving spouse and children, all of whom are also children of the surviving spouse, the surviving spouse receives all of the estate. If, however, a decedent leaves a surviving spouse and children, some of whom are not children of the surviving spouse, the surviving spouse receives the greater of (a) one-half of the estate or (b) \$50,000, and the decedent's children divide the remaining portion of the estate equally. Natural and adopted children all are considered children of the decedent and/or surviving spouse for purposes of this formula.

Who needs a Will?

Anyone who is not satisfied with the distribution of an estate made by the State of Iowa should have a Will to express individual wishes.

Is there any one best form of ownership of property?

No. The three most common forms of ownership are: individual proprietorship, tenancy in common, and joint tenancy with right of survivorship.

What is best is an individual decision with regard to each piece of property one owns. An attorney can advise you concerning the form of ownership appropriate for your 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 legal procedure for amassing, accounting for, and distributing property after death.

How much does a probate proceeding cost?

Estate settlement costs vary with each estate, but factors that go into the total cost include federal estate tax, Iowa inheritance tax, income taxes, court costs, attorney fees, and executor fees.

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

Yes. If a surviving spouse is not satisfied with the share given in the Will, the spouse may elect to take against the Will and receive one-third of the estate with certain exceptions for personal property.

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

A parent is not required to leave anything to a child, but if there is no Will, the law provides that under some circumstances children may receive a share of a deceased parent's estate. A parent may by Will leave a child absolutely nothing.

Does Iowa law recognize contributions of spouses not employed outside the home?

Yes. Iowa law presumes that one-half of the property held in joint tenancy was contributed by each spouse. Accordingly, one-half of all property held in joint tenancy is presumed to belong to the surviving spouse and is not subject to inheritance taxation. The surviving spouse, however, retains the option of proving a contribution of more or less than one-half.

You should consult your lawyer in planning your estate and drafting your Last Will and Testament.

Where to Seek Help and Advice

These are some of the private sources and public agencies available to you in Iowa.

About Marriage And Family

Your family doctor, minister, priest, or rabbi
A marriage counselor
A lawyer
Family Service Agency
Legal Services office
County District Court
County Department of Human Services
Family Planning Agency
Domestic Violence Hotline 1-800-942-0333

About Your Children

A lawyer
Your family doctor, minister, priest, or rabbi
County Department of Human Services
Family Service Agency
County Bar Association
Legal Services office
Your county juvenile court officer

About Employment And Social Security

Iowa Workforce Development
1000 East Grand Avenue, Des Moines, Iowa 50319
515/281-5387; 800/562-4692; <www.state.ia.us/iwd>

Social Security Administration
210 Walnut Street, Des Moines, Iowa 50309
800/772-1213; <www.ssa.gov>

U.S. Department of Labor - Wage and Hour Division
210 Walnut Street, Room 643, Des Moines, Iowa 50309
515/284-4625; <www.dol.gov/dol/esa/public/whd_org.htm>

U.S. Equal Employment Opportunity Commission
310 West Wisconsin Avenue, Suite 800
Milwaukee, Wisconsin 53203
414/297-1111; 800/669-3362; for publications—800/669-4000;
<www.eeoc.gov>

About Discrimination On The Basis Of Sex

Iowa Civil Rights Commission
211 East Maple Street, 2nd Floor, Des Moines, Iowa 50319
515/281-4121; 800/457-4416; <www.state.ia.us/government/crc/index.html>

U.S. Equal Employment Opportunity Commission
310 West Wisconsin Avenue, Suite 800
Milwaukee, Wisconsin 53203
414/297-1111; 800/669-3362; for publications—800/669-4000;
<www.eeoc.gov>

U.S. Office of Federal Contract Compliance
250 South Dearborn, Suite 570, Chicago, Illinois
312/353-7119; <www.dol.gov/dol/esa/public/ofcp_org.htm>

Iowa Attorney General's Office
Hoover State Office Building, Des Moines, Iowa 50319
515/281-5164; <www.state.ia.us/government/ag/index.html>

Iowa Department of Education - Sex Equity Coordinator
Grimes State Office Building, Des Moines, Iowa 50319
515/281-8170; <www.state.ia.us/educate/index.html>

US Department of Education - Office for Civil Rights Region 7
10220 North Executive Hills Boulevard, 8th Floor
Kansas City, Missouri 64153-1367
816/880-4200; <www.ed.gov/offices/OCR>

Your city human rights or civil rights commission

About Political Matters

Your city or township clerk

Your county commissioner of elections

Your precinct committee persons

Your political party headquarters

Democrat – 515/244-7292; <www.iowademocrats.org>

Green – 319/337-7341 ; <www.greens.org/iowa>

Republican – 515/282-8105; <www.iowagop.org>

The League of Women Voters

<www.lwvia.org>

About Obtaining A Lawyer

Lawyer Referral Service (for a private attorney)

521 East Locust Street, Des Moines, Iowa 50309

515/280-7429 or 800/532-1108; <www.iowabar.org>

Legal Services Corporation of Iowa (legal assistance to low-income persons)

For the number in your area, call:

Central Administrative Office

1111 9th Street, Suite 230, Des Moines, Iowa 50314

800/532-1275; 515/243-2151; <www.lsc.gov>

Legal Aid Society of Polk County

1111 9th Street, Suite 380, Des Moines, Iowa 50314

515/243-1193

About Problems With State Government

Citizens' Aide/Ombudsman

215 East Seventh Street, Des Moines, Iowa 50319

515/281-3592; 800/358-5510; <staffweb.legis.state.ia.us/cao>

About Victim Reparation

Crime Victim Compensation Program

Ola Babcock Miller Building, Des Moines, Iowa 50319

515/281-5044; 800/373-5044; <www.state.ia.us/government/ag/cva.html>

About Women's Issues

Iowa Coalition Against Domestic Violence

2603 Bell Avenue, Suite 100, Des Moines, Iowa 50321

515/244-8028; <www.icadv.org>

Iowa Coalition Against Sexual Assault

2603 Bell Avenue, Suite 102, Des Moines, Iowa 50321

515/244-7424; <www.iowacasa.org>

Iowa Commission of the Status of Women

Lucas State Office Building, Des Moines, Iowa 50319

515/281-4461 or 800/558-4427; dhr.icsw@dhr.state.ia.us;

<www.state.ia.us/dhr/sw>

The Iowa Commission on the Status of Women has many publications that are available upon request to the Commission office. Current publications include:

Advocacy Directories, including Iowa Women Organizations Listing

Annual Report

Credit Card Rights

Divorce: Things to Consider

Domestic Violence/Sexual Assault Projects Wage/Benefits Report

Female Juvenile Justice Report

Financial Safety Planning for Older Women

How to Get Your Bearings: How to Get a Job

Iowa Certified Nursing Assistant Wage and Benefits Survey

Iowa Gender Wage Survey

Iowa Women and the Law in English and Spanish

Iowa Women's Hall of Fame Book

IoWoman, bimonthly newsletter

Promising Directions: Programs that Serve Iowa Girls in a
Single-Sex Environment

Providing Gender-Specific Services for Adolescent Female
Offenders: Guidelines & Resources

Referral Information on Programs to Assist Women/Minorities
in Establishing and Expanding Small Businesses

Sexism in Education

Sexual Harassment: It's Against the Law

Status of Iowa Women Report

Why Not Women?



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