Legal Aid
OF NEBRASKA



DOMESTIC VIOLENCE AND FINANCIAL CONTROL

Legal Aid OF NEBRASKA

DOMESTIC VIOLENCE AND FINANCIAL ABUSE HANDBOOK

CHILDREN AND FAMILIES

This Handbook was developed by Legal Aid of Nebraska, a private, non-profit law firm that provides legal services to low-income Nebraskans. If you would like more information about Legal Aid of Nebraska, or if you would like to make a donation, please visit our website at legalaidofnebraska.org.

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Important Disclaimer

Use of this informational handbook is not intended to and does not create an attorney-client relationship between you and Legal Aid of Nebraska's attorneys. The information provided to you through this handbook is intended for educational purposes only. Nothing in this handbook should be considered legal advice or as a substitute for legal advice.

Please understand that the information contained in this handbook is based upon generally applicable Nebraska law. Some laws and procedures may vary depending on which county in Nebraska you live and the specifics of your case. If you want legal advice about your specific issue, talk to an attorney in your area.

Domestic Violence

Domestic violence occurs when someone is abused by their intimate partner. Domestic violence is a serious subject. This handbook is intended to help victims of domestic violence escape their abusive situations and regain personal independence.

This handbook will focus on domestic violence as it pertains to economic issues, such as joint bank accounts, housing, and employment.

Please contact Legal Aid of Nebraska for more information: 1-877-250-2016.

Types of Abuse

- **Economic abuse:** Behavior that causes one to be financially dependent, by maintaining total control over the person's financial resources.
- **Emotional abuse:** Behavior that is intended to adversely affect the mental well being of another.
- **Physical abuse:** Contact that is intended to cause physical pain, injury, harm, or suffering.
- **Sexual abuse:** The use of force that compels someone to engage in sexual activities against their will.
- **Financial control:** Many times an abuser will use finances to control an abusive environment and/or the victim. An abuser can control the victim by: withholding access to bank accounts and credit cards, preventing the victim from seeking employment, withholding resources such as food, clothing, and shelter, and/or exploiting the victims financial resources.
- **Joint debt:** Joint debts are debts that you share with another person. Joint accounts are accounts that allow you and that other person full access to the account.

This section will explain more about joint debts, and how to get out of joint debt situations.

Having a joint account can be helpful in that it allows two people to pool together their income, making paying bills easier. However, for victims of domestic violence having a joint account and/or debt can be detrimental.

A joint account can be dangerous because many times the victim is unaware of the activity going on with the account. The abuser may use the account to control the victim's access to money. The abuser may even open up additional accounts or charge additional debt that will negatively impact the victim's credit. And unfortunately, both parties are liable for all debts and activity

placed on the account. Joint debt may even provide the abuser a way to locate the victim to continue harassment.

How to Get Out of a Joint Debt Situation

1. Get a copy of your credit report: Review the credit report for all debts and potential accounts that you were not aware of.
2. Contact Creditors: Call all your creditors with whom you have an outstanding balance and arrange a payment plan.
3. Pay Debts Off: It is important that you continue to make payments, until the debt is paid in full.
4. Close Accounts: After you have successfully paid off a joint debt, close the account immediately.

Types of Debt

There are two types of debts: secured and unsecured.

Secured debt: the debtor offers property as collateral (security) for the loan. The creditor can take the collateral if the debtor defaults on the loan. Examples: Car payments or furniture payments

Unsecured debt: any other debt for which the debtor did not promise collateral, like medical bills. Examples: Medical bills or utility bills

If a debt is secured, it means that you signed a paper which says that if you do not pay the loan, the creditor can take or repossess the property which is described in that paper. That paper is known as a security agreement. The property described in that security agreement is called collateral or security.

If the debt is unsecured, the creditor must sue you and win before he can take any of your property.

Collection of Debts

A creditor will first call or write asking for the money you owe. The first calls and letters are usually friendly reminders that you forgot to pay. If you still do not pay, the calls and letters begin to demand payment. If you and the creditor cannot work out a payment agreement, you may be sued.

If you and your spouse have joint debts, even if the debts are not in your name, you both may be responsible for repayment.

If you are divorced, the court will usually say who will have to pay what. The divorce decree will only state who is to repay the debt, it does not take the other spouse's name off of the bills. So, your creditors can still require the both of you to repay the debt.

Whenever you have problems with creditors whom your spouse is supposed to be paying, see a lawyer. There are things he or she can do to enforce the divorce decree which may help. If you find out that your spouse is filing for bankruptcy, see a lawyer.

Creditor → Collection Agency:
If after repeated failed attempts to contact you, your creditor may hire a collection agency to collect the debt from you. Not all creditors will hire a collection agency, some will go straight to a lawyer to sue you.

A collection agency may demand the whole amount due from you, but they may agree to take installment payments. If you cannot agree on payments, the collector will have to sue you to collect.

It is always better to try to arrange a payment plan with your creditors. It will prove to the creditor that you are trying to repay the debt.

Secured creditors and collection

Secured debts make it easier for the creditor to get their money back if you do not pay. The creditor can take whatever you put up as collateral for the loan and sell it. This is called repossession. You cannot claim exemptions against a secured creditor repossessing its property.

The secured creditor does not need permission from a court to repossess. As long as the secured creditor can take the collateral without disturbing the peace, they are free to do so. The creditor must first send you a letter telling you they are going to repossess your property.

If your property is sold for less than what you owe, you will still owe the bank the difference. The difference in price is called a deficiency. The creditor can still sue you for the deficiency. If the creditor wins a judgment against you, they can garnish your paycheck or take other property, just like any other judgment creditor.

Unsecured creditors and collection

Unsecured debts are harder for the creditor to get their money back if you do not pay. The creditor must sue you and win a judgment against you in order to get their money back.
The following are the steps the unsecured creditor will take to receive a judgment against you, and how you fight the suit.

Do not ignore papers from the Court

- After you receive the summons and complaint, you usually have 30 days to file a written response to the creditor's claim.
- A written response is also known as an answer. In the answer, you say whether or not you agree you owe them money.
- If you do not file an answer by the due date, the creditor can get a judgment against you without going through a trial. The creditor wins automatically.
- You should only file an answer if you have a defense. Otherwise, you are just increasing the amount of your debt because the creditor is spending more money on its attorney which it will later recover from you. You should speak with an attorney about whether you have a defense

The Court or creditor's attorney is required to tell you about all hearings in your case. You should always go to any hearings in your case. A warrant may be issued for your arrest if you do not attend a hearing.

You may also get court papers after a judgment

After your creditor gets a judgment against you, it can use different ways to collect on that judgment through the court. You should always get a copy of any paperwork your creditor uses to collect through the court system. This paperwork often requires you to respond, so read it carefully.

A creditor who has a judgment against you is called a judgment creditor. There are several ways a judgment creditor can try to collect its money. It can:

1. Put a lien on, and force the sale of your home or other real property you own;
2. Force a sheriff's sale of so me of your personal property, like your car; your bank account; or
3. Garnish your pay

Execution on Real Property

If you find out a creditor has placed a lien against your home, and is selling your house to recover your debt, you should immediately contact a lawyer. You have a limited amount of time to try to stop the sale. You will know if this has happened because the Sheriff will serve you with a Writ of Execution on your home.

Bank Account Garnishment

If you find out a creditor has placed a lien against your home, and is selling your house to recover your debt, you should immediately contact a lawyer. You have a limited amount of time to try to stop the sale. You will know if this has happened because the Sheriff will serve you with a Writ of Execution on your home.

Wage Garnishment

Judgment creditors can garnish your wages. a judgment creditor knows where you work, the creditor's lawyer asks the Court to send Garnishment Interrogatories to your employer asking how much you make, the hours you work, when are you paid, etc.
Your employer must give some of your pay to your creditor if you earn more than $217.50 take home pay per week.

Garnishments can last until the debt is paid off.

If you are the head of household, 15% of your wages over $217.50 may be garnished. If you are not the head of household, 25% of your wages over $217.50 may be garnished.
You may also be garnished for the amount the creditor had to pay to collect from you.

Some of Your Property is Protected

There are state laws ("exemptions") which limit what your creditors can take from you to pay a judgment. Nebraska exemptions protect:

1. Your immediate personal possessions, like a wedding ring or family photos
2. Your clothing
3. Up to $1,500 in household furnishings, goods, computers, appliances, books
4. Up to $2,400 of tools and equipment you use for your own support including a car you use to get to and from
5. Up to $2,500 in other personal property except wages. Personal property is all property except land and buildings

6. Up to $60,000 equity in the home you live in with your family is protected. Equity is the difference between what property is worth and what you owe on it. If your home is worth $50,000 and you owe $40,000 on the mortgage, your equity would be $10,000.

You cannot claim your home as exempt from a mortgage holder.

Federal law provides other exemptions, for example:

- Social Security Benefits
- Veterans benefits
- Unemployment Benefits
- Welfare Benefits
- Workmen's Compensation

These benefits are exempt even after they have been deposited in your bank account, as long as no other money is ever deposited in the account.

You must file a Notice with the court that you are claiming exemptions. You may need a lawyer to do this, or you may want to contact Legal Aid of Nebraska.

Fair Debt Collection Practices Act

A creditor cannot:

- Harass, oppress, or abuse you or any third party they contact.
- Use any false or misleading statements when collecting a debt.
- Talk to a third party about your debt.
- Collect a greater amount than owned, deposit a post-dated check prematurely, or threaten to take your property, or take legal action they cannot take.

You can stop debt collector contacts

If you write a letter to a debt collector telling them to stop contacting you, they must do so after receiving your letter. However, they may call you one last time to say that there will be no further contact or to notify you that the debt collector or the creditor intends to take some specific action.

Your debt will not go away if the creditor stops calling you. You will still owe the money and can be sued.

You must be given information on the debt
Within five days after you are first contacted, the debt collector must send you a written notice telling you the amount of money you owe; the name of the creditor to whom you owe the money; and what action to take if you believe you do not owe the money.

Try to stop debt collection
The best way to stop debt collection is to pay off the debt voluntarily. Even if you cannot afford much, try to work out a payment plan with your creditor which you can afford. You must pay more than the interest accruing on the debt each month to pay the debt off. You can also ask the creditor to accept less than the full amount you owe; some debt collection agencies only expect to recover a percentage of what you owe.

You can complain about a debt collection agency
Report any problems you have with a debt collector to your state Attorney General's office and the Federal Trade Commission. Many states have their own debt collection laws, and your Attorney General's office can help you determine your rights. The Nebraska Attorney General's number is 1-800-727-6432.

To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-382-4357; TTY: 1-866-653-4261.

The Fair Debt Collection Practice Act may also allow you to sue the debt collector for any violations.

Types of Bankruptcy

There are two different types of bankruptcies. The first is called a **Chapter 7** and is also known as a "straight bankruptcy." The second is a **Chapter 13** plan. The type of bankruptcy you should file depends on the type of debts that you have and your assets.

Should You File Bankruptcy?

- The filing of a bankruptcy should always be your LAST choice.
- Bankruptcy can stay on your credit history for up to 14 years.
- You can only file bankruptcy every 8 years.

The filing of a bankruptcy is intended to give you a fresh start. The timing of the filing is very important. You want to make sure that you do not wind up in the same position again. However, if you have tried to work out payments and you know there is no way you will be able to pay off your debts, bankruptcy may be right for you.

The question you should ask yourself is: "If I don't file a bankruptcy, what can a judgment creditor take from me?" If the answer to this question is that creditors cannot take anything from you then filing a bankruptcy at this time may not be in your best interest. Maybe you should wait!

This section will explain the different types of bankruptcies, the procedure, and consequences of filing bankruptcy.

Chapter 7 Bankruptcy Overview

When the bankruptcy trustee sells the debtor's nonexempt assets and uses the proceeds to pay off the debtor's creditors.

- Also known as "straight bankruptcy"
- Instead of repaying your debts, you are discharged from doing so
- Legally, this means that these debts do not exist for you anymore
- Not all debts are dischargeable. Such as: child support, alimony, taxes, and student loans
- Debts acquired through fraud are not discharged by bankruptcy
- Debts ordered to pay in a divorce may not be discharged
- Secured debts (when you put something up as collateral) are not discharged, and the creditor may repossess your property

- If you want to keep your property, you may have to sign an agreement that states that you will pay the debt even after you have filed for bankruptcy; this is also known as a reaffirmation
- Chapter 7 bankruptcy costs $299.00
- Be sure you list all your creditors upon first filing. There is a $20.00 fine for each additional creditor you add after the paperwork has been filed
- The fee may be waived by the Judge
- Chapter 7 Bankruptcy takes about 4 months from start to finish
- Can only file chapter 7 bankruptcy once every 8 years
- If your case is accepted by Legal Aid, you can discuss this possibility with your attorney
- You will have to go to court at least 1 time

Chapter 7 Bankruptcy

Who Can File?

- An Individual
- No previous bankruptcy petition that was discharged due to willful failure to appear or voluntarily dismissed by the debtor within the last 180 days
- Debtor has to receive credit counseling from an approved agency within 180 days before filing
- Debtor has to complete a financial management course after filing bankruptcy
- Debtor must complete and file a Means Test

Results of Filing Chapter 7

- Designed to give the debtor a fresh start
- Debtor is released from all liability for discharged debts
- Not all debts are dischargeable

Chapter 13 Bankruptcy

- Chapter 13 also known as the wage earner plan
- Allows you to pay all or some of your debt
- Usually large secured debt is paid, such as a mortgage on a home
- Once the secured debt is paid off, then a percentage of the unsecured debt is paid
- The percentage can range from 0-100%
- Chapter 13 has a $274.00 filing fee
- You may be able to qualify for free legal services
- Chapter 13 must last for 3 years, but can last up to 5 years

- The length of time involved in a Chapter 13 bankruptcy depends on the plan which you submit and approval by the court
- There is also a 10% fee to be paid to the Trustee that manages your payments
- To file you must have lived in the state for at least 6 months and 1day
- You will have to go to court at least 1 time

Credit Counseling Requirement

- Must be completed six months before filing for bankruptcy.
- Counseling must come from an approved/non-profit credit counseling service.
- A list of approved credit counseling agencies can be found at here. After completion of counseling, the agency will give you a certificate.
- The certificate and debt repayment plan (if one was created) must be filed with the Court at the time of filing the petition for bankruptcy.

Exception to Credit Counseling Requirement

- Debtors who do not reside in judicial districts for which the service is not available.
  * A list of those districts can be found at here
- Debtors who have difficult circumstances that warrant a waiver.
  * If granted a waiver, the debtor has 30 days from filing to complete the counseling requirement.
- Debtors who are incapacitated, disabled or on active duty in a combat zone.
  * Definitions for incapacity and disability are limited. Check the web address above for more information.

Financial Management Course Requirement

- Complete financial management course from an approved agency. Learn more here.
- Upon completion of the course, the agency will give you a Certificate of Completion
- The certification must be filed within 45 days of the date of the 341 meeting of creditors for Chapter 7, and by the date of the last payment for Chapter 13

Exceptions to Financial Management Requirement

- Debtors who are incapacitated or disabled, on active military duty in an active combat zone, or if the United States Trustee has decided that there are not adequate financial management services in the area.

Failure to submit certification will result in the case being closed without granting a discharge.

Protect Your Credit

Filing for bankruptcy can seriously hurt your credit score. However, there are many things you can do to start rebuilding your score and prepare for a bigger and brighter future.

You can also protect your credit, before a bankruptcy situation arises. If you guard your credit, you can ensure a strong financial future for yourself and family.

Fixing Problems

- You can contact the credit bureau and report errors or discrepancies on your report.
- Credit report should not…
- contain negative information older than 7 years
- Contain bankruptcy information older than 10 years

How to protect and rebuild your credit score

- Focus on the fact that you are free of debt (if you have just completed a bankruptcy)
- Build up a savings account
- Pay all your bills on time
- Use Debit Cards/ Prepaid Credit Cards
- Adopt a lifestyle that you can maintain with your current finances
    - Ask yourself if you really need to purchase a particular item
    - Shop around: you may be able to find a better bargain

All these things will help you rebuild your credit score and become more economically secure.

Credit Reports

You can obtain a free credit report once a year from Annual Credit Report Services. You can request your credit report in writing, over the telephone, or by internet. The name, address, telephone number and web address are as follows:

Annual Credit Report Request Service
P.O. Box 105281
Atlanta, GA 30348-5281
1-877-322-8228
Learn more here

If you believe that the information contained on your credit report is inaccurate, you may dispute the information.

Domestic Violence and Federal Income Tax

It is important that you know how to correctly file your taxes. Improper filing can result in additional financial difficulties.

This section will explain how to file your taxes if you are divorced or separated from your spouse.

Information was provided by the Internal Revenue Service.

Filing Status

Your filing status depends on your marital status.

Married: You can file jointly or separately. If you live apart from your spouse, under certain circumstances, you may be considered unmarried and can file as head of household.

Unmarried: You have never been married. You have a final divorce decree or you were legally separated by the last day of your tax year.

Married Filing Jointly: If you and your spouse file jointly, you both must include your income, exemptions, deductions, and credits on that return.

- You can file jointly even if one of you does not have income or deductions.
- You and your spouse are required to sign the return.
- You and your spouse are responsible, jointly and individually, for the tax and any interest or penalty due on your joint return.

Even if you are divorced you are still responsible, jointly and individually, for all tax returns that were filed jointly with your ex-spouse.

Relief from Joint Liability: A spouse may be relieved of liability. You can ask for relief no matter how small the liability. There are three types of relief available. Each relief has different requirements.

You must file **Form 8857** to request relief.

1. Innocent Spouse Relief:
    - Applies to all filers.
    - Only applies to items incorrectly reported on or omitted from the return
2. Separation of Liability:

- Applies to joint filers who are divorced, widowed, legally separated, or who have not lived together for the 12 months ending on the date on which election of this relief is filed.
- Only applies to items incorrectly reported on or omitted from the return.

Domestic Abuse Exception
Even if you have actual knowledge, you may still qualify for relief if you establish that:

1. You were the victim of domestic abuse before signing the return AND
2. Because of that abuse, you did not challenge the treatment of any items on the return because you were afraid of your spouse.
    - If you establish that you signed the joint return under duress, then it is not a joint return and you are not liable for any tax shown on that return or any tax deficiency for that return. However, you may be required to file a separate return for that year.
3. Equitable Relief:
    - Applies to filers that do not qualify for innocent spouse relief or separation of liability, and married residents of community property states who did not file joint returns.

Overpayments and Debts
The overpayment on your joint return may be used to pay the past due amount of your spouse's debts. Debts include: federal tax, state income tax, child or spousal support payments, or a deferral non-tax debt, such as a student loan.

Injured Spouse
You are an injured spouse if you file a joint return and all or part of your share of the overpayment was, or is expected to be, applied against your spouse's past-due debts. If you are considered an injured spouse you can get a refund for your share of the overpayment that would otherwise be used to pay the past-due amount. If you are an injured spouse, you must file **Form 8379**.

To be considered an injured spouse, you must:
1. Have reported income on the joint return;
2. Have made and reported tax payments or claimed the earned income credit, or other refundable credit on the joint return, and
3. Not be legally obligated to pay the past due amount

Married Filing Separately

If you and your spouse file separate returns, you should each report only your own income, exemptions, deductions, and credits on your individual return. Generally, if you file separate returns you will pay more combined federal tax than you would with a joint return. You can file separately even if only one of you had income.

- You and your spouse are each responsible for only the tax due on your own return.
- If you and your spouse file separate returns and only one of you itemizes deductions, the other spouse cannot use the standard deduction and should also itemize deductions
- You may be able to claim itemized deductions on a separate return for certain expenses that you paid separately or jointly with your spouse. See Table 1.

Itemized Deductions on Separate Returns

If you paid…
Medical Expenses
AND you…
Paid with funds deposited in a joint checking account in which you and your spouse have an equal interest
THEN you can deduct on your separate federal return…
half of the total medical expenses, subject to certain limits, unless you can show that you alone paid the expenses

If you paid…
State Income Tax
AND you…
File a separate state income tax return
File a joint state income tax return and you and your spouse are jointly and individually liable for the full amount of the state income tax
File a joint state income tax return and you are liable for only your own share of state income state
THEN you can deduct on your separate federal return…
1. The state income tax you alone paid during the year.
2. The state income tax you and your spouse paid during the year.
3. The smaller of:
* the state income tax you alone paid during the year, or
* the total state income tax you and your spouse paid during the year multiplied by the following fraction. The numerator is your gross income and the denominator is your combined gross income.

If you paid…
Property Tax
AND you…
paid the tax on property held as tenants by the entirety
THEN you can deduct on your separate federal return…
the property tax you alone paid.
If you paid…
Mortgage Interest
AND you…
paid the interest on a qualified home held as tenants by the entirety
THEN you can deduct on your separate federal return…
the mortgage interest you alone paid.
If you paid…
Casualty Loss
AND you…
half of the loss, subject to the deduction limits. Neither spouse may report the total casualty loss.
THEN you can deduct on your separate federal return…
the mortgage interest you alone paid.

Married Filing Separately

1. Your tax rates will increase at income levels that are lower than those for a join return filer.
2. Your exemption amount for figuring the alternative minimum tax will be half of that allowed a joint return filer.
3. You cannot take the credit for child and dependent care expenses in most cases.
4. You cannot take the earned income credit.
5. You cannot take the exclusion or credit for adoption expenses in most instances.
6. You cannot take the credit for higher education expenses, or the deduction for student loan interest.
7. You cannot exclude the interest from qualified saving bonds that you used for higher education expenses.
8. If you lived with your spouse at any time during the tax year:
    A. You cannot claim the credit for the elderly or the disabled,
    B. You will have to include income from social security or equivalent railroad retirement benefits you received, and
    C. You cannot roll over amounts from a traditional IRA into a Roth IRA.

9. Your income limits that reduce the child tax credit, retirement savings contributions credit, itemized deductions, and the deduction for personal exemptions will be half of the limits allowed a joint return filer.
10. Your capital loss deduction limit is $1,500 instead of $3,000
11. Your basic standard deduction, if allowable, if half of that allowed a joint return filer.

Head of Household

Filing as head of household has the following advantages:

- You can claim the standard deduction even if your spouse files a separate return and itemizes deductions.
- Your standard deduction is higher than is allowed if you claim a filing status of single or married filed separately.
- Your tax rate is usually lower than it is if you claim a filing status of single or married filing separately.
- You can claim certain credits. Such as, dependent care credit and earned income credit).
- Income limits that reduce credits will be higher than the income limits if you claim a filing status of married filing separately.

Considered Unmarried

To be considered unmarried you must meet all of the requirements:

1. You must file a separate return.
2. You paid more than half the cost of keeping up your home for the tax year.
3. Your spouse did not live in your home during the last 6 months of the tax year.
4. Your home was the main home of your child, stepchild, or eligible foster child for more than half the year.
5. You must be able to claim an exemption for the child.

Qualifying Person/Child

There are five requirements for determining whether someone is a qualifying child for tax purposes. If the child meets the rules to be a qualifying child of more than one person, you must be the person entitled to claim the child as a qualifying child.

1. The child must be your son, daughter, stepchild, eligible foster child, brother, sister, half brother, half sister, step brother, step sister or a descendant of any one of them.
2. The child must be under the age of 19 at the end of the year, or under 24 and a full-time student, or any age and permanently and totally disabled.
3. The child must have lived with you for more than 1/2 of the year.
4. The child must not have provided more than 1/2 of his or her own support for the year.

Other conditions:

- If a child is the qualifying child of more than one person only one person will get to claim the child. The IRS has a series of tie breakers to determine who has the right to claim the child.
- If between a parent and non-parent, the parent has the right to claim the child.
- If between two parents, then the parent whom the child lived with for the longer period of time during the year has the right to claim the child.
- If between two parents who had the child for equal times during the year, the parent with the highest Adjusted Gross Income has the right to claim the child.
- If none of the persons are the parent, then the person with the highest Adjusted Gross Income has the right to claim the child.

Benefits for having a Qualifying Child: The exemption for the child, $3,000 off of your taxable income.

Child tax credit

- Head of household filing status.
- Credit for child and dependent care expenses.
- Exclusion from income for dependent care benefits.
- Earned income tax credit.
- You can only split up the benefits for having a qualifying child, if the parents are divorced or separated.

Divorced/Separated Parents

A child can be considered a qualifying child of a non-custodial parent, if all of the following apply.

The Parents are:

1. divorced or separated under a decree
2. separated under a written separation agreement, or
3. lived apart at all times during the last 6 months of the year.
    a. The child received over half of his support for the year from his or her parents.
    b. The child is in the custody of one or both of his or her parents for more than 1/2 of the year.
5. Either of the following applies:

a. The custodial parent signs a written declaration that he/she will not claim the child as a dependent that and the non-custodial parent attaches this declaration to his/her return, or
b. A pre-1985 decree states that the non-custodial parent can claim the child and the non-custodial parent provides at least $600 for the child's support during the tax year.

4. For a decree entered into after 1984. The non-custodial parent can attach certain pages to his or her return instead of a written declaration. To be able to do this the decree must state:
   - the non-custodial parent can claim the child as a dependent without regard to any condition (such as payment of support).
   - the custodial parent will not claim the child for the year.
   - the years for which the non-custodial parent can claim the child as a dependent.
5. Tax information can be found at here.
   1-800-829-3676
   * Order forms and publications by phone. It will take about 10 business days for. Your materials to arrive by mail.

Taxpayer Assistance Centers: 1-800-829-1040

The IRS has additional information available about taxes and how to file.
IRS Publications:
504– Divorced or Separated Individuals
501– Exemptions, Standard Deductions, and Filing
555– Community Property
971– Innocent Spouse Relief

Protecting Your Identity

Identity theft affects about 10 million people per year. Victims of domestic violence are also often victims of identity theft. Abusers will use the victim's identity information to stalk, harass, and even open fraudulent accounts in the victim's names or the victim's children's name.

This section will explain how you can protect yourself from potential thieves.

Abusers often has access to sensitive information of the victim. Such as credit cards, SSN, and address history. It is important that you safeguard this sort of information as best as you can.

Some things you can do are:

- Sign your credit cards
- Keep your social security card in a safe place
- Change and/or guard your PIN numbers
- Shred all papers that have sensitive information on them
- Apply to the address confidentiality program
- Open a post office box: Unlike a regular mailbox, only the person with the key will have access to the mail
- Check your credit report for any unusual activity
- Relocate and/or change your identity (this should only be done as a last resort)

Address Confidentiality Act

This act was devolved so state and local agencies could respond to requests for public records, without identifying the location of a victim of domestic violence, sexual assault, or stalking.

A new address is given to the victim. Only the Secretary of State will have that address, and will not be released to the public.

How to Qualify:

1. File application with the Secretary of State stating:
    - That the applicant has good reason to believe that he or she is a victim of abuse, sexual assault, or stalking.
    - Applicant fears for his or her safety.

Another Option: An alternative option to the Address Confidentiality Program, is opening up a Post Office Box. If you have a post office box, mail is generally delivered faster, more secure,

and can serve as a permanent address. However, there is a small fee associated with having a post office box. Check your local post office for fees and availability.

Credit Report

If you are trying to protect your identity and whereabouts from your abuser, it is important to consistently review your credit report.

If you and the abuser are married, the abuser can obtain a joint credit report and use the information on the report to find your current address. However, as a victim and survivor you can use the report to protect yourself. If you know what is on the credit report, you will be able to use that information to your advantage.

Changing your Identity

Changing your identity should be the last resort. However, it is important to understand that changing your identity means leaving behind everything that makes you "you", and it does not 100% guaranteed that the abuser will not find you.

What will be Changed

If you change your identity, you may also be required to do the following:

- Change your name
- Change your SSN
- Move
- Obtain a new phone number and email address
- Find a new job
- Change your appearance
- Find a new doctor, bank, school, etc.

Identity Change Process for Nebraska

1. File a petition in district court stating that you have resided in the county for at least a year, the reason for name change, and the name you are asking for.

Problems with Name/Identity Change in Nebraska

In Nebraska, all name change request are published in a newspaper or a newspaper of general circulation. If the victim is over the age of 19, the notice will run once a week for four weeks. If the victim is under the age of 19, the notice will run once a week for two weeks, and the non-custodial parent will receive a notice by certified mail within five days of the publication.

Other Problems

- Publication requirements disclose location
- Records are not sealed
- There is a requirement to notify the non-custodial parent, if children are involved

Changing your Social Security Number

In order to change your social security number, you must file an application with the Social Security Administration. New social security numbers are granted on a case by case basis. All applications must be filed in person, at the local office. You must also bring the following with your application:

- Evidence documenting harassment or abuse
- Current SSN
- Original documents to establish:
    - Citizenship or immigration status
    - Age
    - Identity
    - Evidence of name change

More information can be found at here

Other Problems with Identity Change:

- Identity changes of children can complicate the process
- SSN is often part of school, medical, and insurance records
- Limits the effectiveness of diplomas and professional licenses, health records
- DMV records, birth certificates, etc.
- If you are involved in a civil or criminal litigation, you will not be able to protect your new name
- Children involved might disclose new or old identity
- Important documents cannot be changed
- Ownership in property may be affected

Note: Other states have more friendly identity change rules. Some of those states include, Kansas, Colorado, and Iowa.

Housing Rights for Victims of Abuse

Many of those that are victims of domestic violence often suffer discriminatory practices by landlords as a barrier to obtaining housing.

Many times landlords give evictions and/or housing denials because of:

- Criminal activity on the property
- Property damage
- Noise
- Police being called too often

Victims of domestic violence also deal with other threats such as:

- Denial for early termination of lease
- Denial for new locks
- Denial for housing in shelters, if they have a protection order

Federal Fair Housing Act

The Federal Fair Housing Act was enacted to make it illegal to refuse housing to applicants based on sex, race, religion, color, creed, age, or disability. This act generally applies if the landlord owes more than 4 units.

VAWA 2005

This act is an amendment to the Nebraska Fair Housing Act. The act prohibits landlords from denying housing to an applicant that is or has been a victim of domestic violence.

The landlord may only terminate a lease if there is an actual and imminent threat to the other tenants or those employed at or providing service at the property.

The act also allows victims to bifurcate their lease, to allow the rest of the household to remain. Victims also have the choice of voucher portability. Voucher portability allows victims, who live in public housing, to have more flexibility to change residences. This means that victims will not be punished if they have to violate a lease in order to protect their safety. However, victims of abuse must be able to provide evidence of the abuse to qualify for this law.

Proof of Abuse

- Certification from an attorney, domestic violence service provider, or medical professional
- Police records
- Court records
- Documentation forms can be found here

Other Resources for Housing Information:

- Legal Momentum
- National Housing Law Project
- National Law Center on Homelessness and Poverty

Employment Rights for Victims of Domestic Violence

There are many issues that can impact a victim at his or her workplace. The victim may suffer decreased work performance, increased days of absence, and a feeling of lack of safety.

It is important that you understand your employers policies and procedures, and understand that there are federal and state laws designed to protect you from discrimination and harassment.

Other Resources for Housing Information

The Family and Medical Leave Act provides an employee to receive up to 12 weeks of unpaid leave every year. The act also guarantees:

- Unpaid leave.
- Continued health care benefits.
- Job protection (cannot be fired for taking leave and can return to same or equivalent position after leave).

Conditions for using FMLA

- Employee must be employed for at least 12 months.
- Employee must have worked at least 1259 hours in the last 12 months.
- Employer must have at least 50 employees.
- The leave must be used to recover or deal with a serious health condition for the employee, or the employee's child, spouse, or parent.

Rights Violated Under FMLA

If your feel as if the rights granted to you under FMLA were violated, you can petition the court to review your case.

- Write a demand letter to your employer. You may want an attorney to help you with this.

File a complaint with the Department of Labor. However, all complaints must be filed within 2 years of the occurrence.

Americans with Disabilities Act

This act prohibits an employer from discriminating against employees, if the employer has more than 15 employees. The employer is also required to provide reasonable accommodations to any disabled employee.

Federal Civil Rights Act

This act prohibits an employer from discriminating against employees, if the employer has more than 15 employees.

You must prove that you were treated unfairly at work by a supervisor or co-worker because of your sex, race, religion, national origin, or color.

Your employer can be held liable if, he or she failed to exercise reasonable care to prevent and correct the behavior, and if the employee reasonably attempted to take advantage of corrective opportunities.

Nebraska State Law

Nebraska constitutional and statutory law gives victims the right to attend court proceedings in criminal cases, without suffering repercussions from your employer.
Nebr. Const. Art. 1 §28 and Nebr. Rev. Stat. §81– 1848

Unemployment Benefit Waiver

Nebraska state law states: if an employee voluntarily leaves a job after making all reasonable efforts to preserve the employment, but voluntarily leaves his or her work for the necessary purpose of escaping abuse, then that employee may be entitled to unemployment benefits.
Neb. Rev. Stat. §48-628.01

Note: By having a clear understanding of these laws and policies, you could use these laws in your favor. Even though you are a victim of domestic violence, you still have the right to be treated fairly and the right to gainful employment.

- www.abanet.org/domviol
- www.legalmomentum.org

Getting Help

- Nebraska's Statewide Domestic Violence/Sexual Assault Crisis Line: 1-800-876-6238
- National Domestic Violence Sexual Assault Hotline: 1-800-799-7233
- National Victim Helpline: 1-800-394-2255
- National Teen Dating Abuse Helpline 24/7: 1-866-331-9474
- Abuse/Neglect Hotline for Adults & Children: 1-800-652-1999
- United Way of the Midlands: Dial 2-1-1 24 hours a day/7 days a week
    - Utility/rent/financial services, food, shelter, clothing, abuse counseling, mental health services, medical support groups, senior services, child/teen services
- Department of Health and Human Services (WIC) Women, Infants, and Children Program: 1-800-942-1171
- Child Support Hotline: 1-800-831-4573
- National Mental Health Association: 1-800-969-6642
- Alcohol and Drug Abuse Helpline: 1-800-252-6465
- Nebraska Department of Health and Human Services: Food Stamps, Medicaid, ADC, AABD, Energy Assistance, Kids Connection, Child Support Enforcement, Child Care, Refugee Resettlement Program, and Other Services. Read more here.

Where to go for help if you cannot afford an Attorney

You may not be able to afford to pay a lawyer to represent you in a divorce case. If so, you may be able to get free help or you may be able to file your own divorce. Some resources are:

Low-Income Legal Services

Legal Aid of Nebraska: www.legalaidofnebraska.org
If you cannot afford an attorney you can call any one of Legal Aid of Nebraska's AccessLines® on page 3 of this Protection Order Handbook to see if you qualify for services. You can also apply on line at www.legalaidofnebraska.org.

Nebraska State Bar Association Volunteer Lawyer Project (VLP): nevlp.org
VLP is a statewide pro bono program of the Nebraska State Bar Association utilizing volunteer attorneys to provide legal services on a reduced fee and/or pro bono basis to allow for improved access to justice for low-income Nebraskans. You can find informational brochures regarding a variety of legal issues https://nevlp.org/public-2/.

Nebraska Free Legal Answers: www.NE.FreeLegalAnswers.org
If you qualify for this income-based service, you can ask a Nebraska volunteer lawyer to answer your civil legal question.

Law School Legal Clinics

UNL College of Law Civil Clinical Law Program
http://liferaydemo.unl.edu/web/law/academics/curriculum/clinics
A limited number of cases are accepted by the UNL Civil Clinical Law Program. Clients are represented by students under the supervision of College of Law faculty. The telephone number is 402-472-3271.

Creighton University School of Law Legal Clinic
http://www.creighton.edu/law/clinics/civillawclinic/index.php
For Douglas County residents only. A limited number of cases are accepted by the Creighton Legal Clinic. Clients are represented by lawyers assisted by third-year law students under the supervision of a licensed attorney. To complete an application for assistance call the Clinic at 402-280-3068 between 9:00 a.m. and 4:00 p.m. Monday through Friday.

Self-Help Resources

Nebraska Supreme Court's Online Legal Self-Help Center
https://supremecourt.nebraska.gov/self-help

Information and links to legal resources to help you represent yourself in Nebraska Courts, including forms and information provided by the Nebraska Supreme Court Committee on Self-Represented Litigation.

Law Help Nebraska
https://lawhelpne.legalaidofnebraska.org/
This is an interactive website offering information and forms for self-represented litigants in Nebraska.

Courthouse Self-Help Centers
Several Courthouses around Nebraska have a "Self-Help Desk" staffed by volunteers to assist people representing themselves in court. The Douglas County Courthouse in Omaha, the Madison County Courthouse in Madison, the Hall County Courthouse in Grand Island, and the Scotts Bluff County Courthouse in Scottsbluff have all had Self-Help Desks. Typically, appointments are not needed at these Self-Help Desks, and people are seen on a first-come, first-serve basis. However, these offices may experience temporary closures or changes in office hours. You should contact the Clerk of the District Court in the appropriate county to see if a Self-Help Desk is available to help you.

Libraries
Nebraska State Library
http://www.supremecourt.ne.gov/state-library/index.shtml
You can go to the State Library if you need access to legal resources including using the internet to do legal research. The State Library is located in room 325 at the State Capitol Building in Lincoln. The telephone number is 402-471-3189.

Public Libraries
Your local public library may have some resources and public access to computers and the internet. To find your local library you can visit http://www.publiclibraries.com/nebraska.htm.

University of Nebraska College of Law Library
http://law.unl.edu/library/
The UNL College of Law Library is located on the east campus of UNL. The Law Library has one public access computer for members of the public to conduct legal research. The general telephone number to the law school is 402-472-2161.

Creighton University Law School Library
http://www.creighton.edu/law/library/

The Creighton Law School Library has public access computers available for legal research. Reference assistance is also available. The general library telephone number is 402-280-2875. The Law Library is open to the general public with legal research needs from 7:00 a.m. to 7:00 p.m. Monday through Friday while school is in session. Hours may vary during breaks and over the summer. It is located in Omaha on the corner of 21st and Cass Streets on the second floor of the Ahmanson Law Center.

Referral Services

Referrals to private attorneys are available. Private attorneys may charge for their services.

Omaha Bar Association Lawyer Referral

The service refers callers to private practicing attorneys in Douglas and Sarpy counties. For more information call 402-280-3603 or visit their website at: http://omahabarassociation.com/lawyerreferral.asp.