

TURNING 18?



SOME THINGS ABOUT THE LAW YOU NEED TO KNOW



TABLE OF CONTENTS

INTRODUCTION.....4
VOTING4
JURY DUTY5
DRIVING6
DRINKING LAWS8
CRIMINAL CHARGES8
EMPLOYMENT10
APARTMENT LEASES11
MARRIAGE12
JUVENILE COURT SYSTEM15
CONTRACTS.....16
CREDIT18
CONSUMER PROTECTION.....20
MILITARY SERVICE21
FURTHER INFORMATION22

This brochure was originally entitled “Stepping Out” and was prepared by the Young Lawyers’ Section of The Missouri Bar and renamed and updated by the 2007 Missouri Bar Association Leadership Academy class. It is intended to provide the public with Missouri law-related information. It is not intended to render legal advice. Should you need legal advice, please contact an attorney.

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INTRODUCTION

This publication has been specially prepared as an introduction to your rights and responsibilities as an adult citizen of the United States. There is no manual that tells you everything you need to know once you become an adult in the eyes of Missouri law. We have attempted to answer basic questions in several areas that will affect your everyday life in Missouri. It can be alarming the day you turn 18. We want you to be as fully informed as possible.

Some of the rights that you have after age 18 are:

- to vote
- to make a will
- to sue in your own name
- to make binding contracts
- to obtain medical treatment without parental consent
- to live on your own and be independent of parental control.

Some of your responsibilities in Missouri include:

- At age 17, you will be charged as an adult for any crime you committed after turning 17
- Your parents are not required to support you
- You are liable for any accidents you cause
- You are legally bound to contracts you make with others
- All males are required to register for military service
- At age 21, you are eligible for jury duty.

The rights and responsibilities explained in this booklet are your legal rights and responsibilities. Our aim is not to lecture, but to provide you with important and useful information. Be mindful that we attempted to highlight and summarize the key issues within each topic. For further information on particular problems, we suggest that you consult an attorney.

At the end of this pamphlet, we provide a list of government agencies that may be helpful in certain situations. It is our sincere hope that this booklet will be helpful to you.

VOTING

Who is qualified to vote? In general, every citizen of the United States who is 18 years of age or older, a resident of Missouri, and has been registered to vote by the fourth Wednesday of the month preceding the election is qualified to vote. Prisoners, persons on probation or parole for a felony or persons convicted of a crime relating to the right to vote, and anyone adjudged incapacitated, are not qualified to vote.



Who may register to vote? Any person who is 17 ½ years old and who will be 18 on or before the day of an election. Once registered, an individual is not required to register again unless his or her registration has been cancelled.

Where do I register to vote? At the office of the local election authority or any location established for voter registration, such as a Missouri Department of Motor Vehicle Office.

How do I register to vote? If qualified, you may register in person at the office of your local election authority or by mail.

Where do I vote? Your local election authority establishes voting locations (polling places). Polling places are usually located in tax supported buildings (such as schools) within the precinct where you live. Certain non-partisan elections may be conducted by mail-in ballots.

What if I am or will be out of town on election day? You may apply to your election authority for an absentee ballot. The request for an absentee ballot may be made in person or by mail but must be in writing.

What do I need on election day? You will need some form of identification when you go to the polling place to cast your vote. Such identification includes a state issued identification card, a state driver's license, a student identification card, or a utility bill containing your name and address.

What is a provisional ballot? When you arrive at the polling place to cast your ballot, the election judges check a list of all registered voters in that precinct (the "poll book"). If the your name is not found in the poll book on Election Day, you are given a provisional ballot. Provisional ballots are distinguished from regular ballots so that the election authority can later investigate the provisional voter's registration status.

What type of issues will I be voting on? Elections are held for local, state and national matters. Every two years, a primary election is held in August and a general election in November. Municipal elections may also occur on those same dates and in April.

A ballot may contain any number of matters that need to be voted on, including local city council members, state representatives for your local district, federal congressman or senators, statewide office holders and judges. Additionally, sales tax increases and amendments to the state constitution may appear on a ballot.

For additional voter information, please visit the Missouri Secretary of State's website at www.sos.mo.gov.



JURY DUTY

At what age am I eligible to be called to serve on a jury? 21 years of age. For Federal court it is 18 years of age.

When I reach 21 years of age, if I am called to serve on a jury, do I have to go? Yes, unless you are excused by the court for some special reason. This is one of the responsibilities of being an adult.

What are the other qualifications for serving on a jury? Be a citizen of Missouri and a **resident** of the county in which you are to serve as a juror. For Federal Court you must be a resident of the **division** in which you are to serve (Eastern District or Western District in Missouri).

What would make me ineligible to serve on a jury?

- convicted of a felony (however, if you received what is called a Suspended Imposition of Sentence or SIS, then you may still be eligible since an SIS does not count as a conviction for jury duty purposes.)
- unable to read, write, speak, and understand English
- on active duty with the military
- in the judgment of the court, incapable of performing the duties of a juror because of mental or physical illness or infirmity.

Can I be excluded from serving on a jury because of my race, color, religion, sex, national origin, or economic status? No.

How are people called to serve on a jury? Potential jurors are selected from public records in your county. From those names a smaller number of potential jurors will be notified to appear in court.

Do all people who are on the jury panel actually serve on a jury? No. More people are chosen than will be needed because some people are automatically excused and others might be excused by the judge or the attorneys.

Who will a judge excuse from jury service? You can be excused from serving on a jury if you make a timely request to the court and one of the following applies:

- you have served on a jury within one year before being called again
- the judge decides that absence from your employment would adversely affect the public health, safety, and welfare
- the judge decides that for any reason your service would be an extreme hardship on you.

A person is disqualified to serve as a juror in a particular case if he or she:

- is a witness in the case
- has formed an opinion concerning the case (usually these are circumstances where a person already knows too much about the case because he or she knows someone involved or the situation at trial occurred in his or her neighborhood or a similar circumstance)
- is a close relation either by blood or marriage to a party in the case.

How are people chosen from the jury panel? The judge and the lawyers ask the persons on the jury panel questions. This is called “voir dire.” Based on the answers, the lawyers can ask the judge to excuse someone if there is a special reason such as bias, prejudice, or financial interest in the case. Each lawyer is then allowed to eliminate a certain number of people for any or no reason. This is called a preemptory challenge. However, a lawyer can never eliminate a person simply because of his or her race.

Do people on the jury lose their salary? That depends on the employer. Employers are required to give employees time off for jury service but are not required to continue wage payments.

Are jurors paid by the county? Yes. The amount of pay varies depending on the county in which you live and ranges from \$6.00 to \$20.00 per day for actual jury service. Additionally, you should inquire as to whether you qualify for mileage reimbursement. For Federal Court the jury service fee is \$40.00 per day and mileage as determined by current IRS standards.

DRIVING

Is driving a right or a privilege? A driver's license is a *privilege* that the state regulates — it is *not* a right.

Are all drivers required to have car insurance? Yes. In Missouri, all drivers are required to maintain a liability policy, and you must carry proof of insurance with you at all times when driving.

What happens if I am stopped and I do not have proof of insurance? Your license will be suspended subject to meeting reinstatement requirements for a first offense; sixty days for a second offense; and revoked for one year for a third or subsequent offense.

What happens if someone is stopped for driving while intoxicated? By exercising the driving privilege, it is implied that you consent to taking a blood or breath test to determine your blood alcohol content.

If you refuse to take the test, your license will be revoked for one year.

If you take the test and register .08 percent blood alcohol concentration or higher, or are under 21 years of age and register .02 percent or higher, your license will be suspended for 90 days. For a second offense within five years, your license will be revoked for one year, with no eligibility for a limited or hardship driving privilege.



What is a “limited” driving privilege? A “limited” driving privilege is what is commonly referred to as a “hardship” driving privilege. It requires you to have proof of insurance filing by your insurance company as a condition of the limited privilege and allows you to drive only for limited hours and for limited purposes, such as employment or school.

How do I get a limited driving privilege? If your license has been suspended or revoked, you may apply directly to the Department of Revenue, if otherwise eligible, or with the circuit court in the county where you reside or work. There are some suspensions and revocations where you cannot get a limited privilege, or are not eligible until you have first “served” a certain period of the suspension or revocation.

What are the penalties for driving while intoxicated (DWI)?

1. For the first offense, you can be fined up to \$500 and confined in the county jail for up to six months.
2. For the second offense that occurs within five years of your first offense, you can be fined up to \$1,000 and confined in the county jail for up to one year.
3. The third offense, regardless of when prior offenses occurred, is a felony and you can be fined up to \$5,000 and imprisoned in the state penitentiary for up to four years.
4. The fourth offense, regardless of when prior offenses occurred, is a felony, and you can be fined up to \$5,000 and imprisoned in the state penitentiary for up to seven years.
5. Any subsequent offense after the fourth, regardless of when prior offenses occurred, is a felony and you can be imprisoned in the state penitentiary for a minimum of five years, but not more than 15 years.

Will I have to serve time in jail for a DWI? Only if you have multiple offenses. The length of jail time depends on how many offenses you have and can vary from five days to two years. A period of community service is available as a substitute for jail time for some of the lower level offenses.

What happens if I was driving while intoxicated and involved in an automobile accident where another person is either injured or killed? You could be charged with a felony and sentenced to various prison terms.

What is “abuse and lose”? If you are under 21 years old and are *operating a motor vehicle* with either alcohol or illegal drugs in your possession in violation of state or local laws, your driver’s license will be suspended for 90 days for a first offense. For a second offense, your license will be revoked for one year. Offenses for which your license will be suspended include:

- any alcohol-related traffic offense
- possessing or using an illegal drug
- altering or modifying a driver license
- trying to use someone else’s driver’s license

Can I be charged under the “abuse and lose” law even if I am not operating a motor vehicle at the time of the offense? Yes. For a first offense, your driver’s license will be suspended for 30 days; for a second offense, 90 days; for a third or subsequent offense, for one year. Offenses for which your license will be suspended if you are under 21 years of age for *non-vehicle* operation include:

- purchase or attempt to purchase alcohol
- possession of alcohol or drugs
- being found “visibly intoxicated”
- test of a .02 percent BAC or higher

What happens if I drive with a suspended or revoked license? You will face a minimum mandatory 48 hour jail sentence unless you live in a community that provides for a program allowing you to complete 40 hours of community service work instead of serving 48 hours in jail.

Is it illegal to have an open container of alcohol in a motor vehicle? It is illegal in the state of Missouri for the operator of a motor vehicle to consume alcoholic beverages.

What happens if I get a speeding ticket? Upon conviction for a speeding violation, the Department of Revenue assesses two or three points to your driver record, depending on where you received the ticket. If the department assesses eight points against your driver record within an 18-month period, your driving privilege will be suspended for a minimum of 30 days. If 12 points are assessed within a 12-month period, your license will be revoked for one year.

DRINKING LAWS

What is the legal drinking age? In Missouri, 21 years of age.

May a person under the state drinking age buy beer, wine, or liquor with parental consent? No.

What is the penalty for possessing, buying, or attempting to buy liquor? If you are at least 17 years of age but less than 21 years of age, you can be charged with a misdemeanor and fined up to \$1,000 or sentenced to jail for up to one year, or both fined and sentenced.

What is the penalty for using a false I.D. to acquire alcohol? You will be guilty of a misdemeanor and a \$500 fine for each separate offense.

Do I have to have an open container or actually consume the alcohol to be charged as a minor in possession? No. Under state law, any person under 21 is guilty of a misdemeanor if the following requirements are met:

1. You purchase or attempt to purchase any intoxicating liquor; or
2. You have any intoxicating liquor in your possession; or
3. You are visibly intoxicated; or
4. You have a blood alcohol content of .02 or more in your blood.

CRIMINAL CHARGES

When will you be treated as an adult if you are arrested for a crime? When you turn 17 years of age, you are treated as an adult by the criminal justice system and can be arrested, jailed, and prosecuted for committing a crime. Also, under certain circumstances, a juvenile may be prosecuted as an adult.

What happens when you are arrested? If you are arrested for anything other than a minor traffic offense, you may be searched, handcuffed, and taken to the police station. If the police want to question you about the offense, they must first advise you of your rights by giving you a “Miranda” warning. In other words, you do not have to answer any questions, you have the right to have an attorney present during questioning, and if you cannot afford an attorney, one will be appointed to represent you. If the police do not question you, they are not required to advise you of these rights. You may be held by the police in jail for up to 24 hours, during which time a prosecuting attorney must file formal charges against you in court or you must be released. However, even if the prosecuting attorney does not file charges within 24 hours and you are released from custody, the prosecuting attorney may file charges at a later time.



What basic things should I remember if arrested? You have an absolute right to refuse to discuss the case with anyone and do not have to answer questions without consulting an attorney. If you choose not to answer questions or make a statement and the police continue to question you, tell them that you want to consult with an attorney. They must then stop questioning you immediately. A police officer has no authority to promise you anything in exchange for your statement, and if you make a written or oral statement, it can be used against you at trial. If at first you decide to cooperate with the police, you can change your mind at any time and refuse further cooperation.

How soon after arrest must I appear before a judge? You must be brought before a judge “as soon as practicable” after being arrested. In many cases, this will be done within 24 hours after your arrest.

What does it mean to be released on bond? You will be released from jail if you are able to “post bond.” In most cases you can post bond by hiring a bondsman or depositing the cash amount of the bond with the court. In some cases you can post bond by putting up property with the court, or you may be eligible to be released on your promise to appear in court.

When you post bond, you also promise to appear in court. If you do not appear as promised, the amount of your bond will be forfeited and a warrant can be issued for your arrest. If you hire a bondsman to post your bond and you later fail to appear in court as promised, the bondsman will usually be given the opportunity to find you and bring you to court themselves rather than lose the bond money they posted for you to get out of jail. The bondsman may employ or hire “bounty hunters” to capture you and force you to come to court.

What if I cannot afford to hire an attorney? The first time you appear in front of a judge, you should tell the judge that you cannot afford to hire an attorney but that you wish to have an attorney represent you. If you are charged with a crime for which you could be sentenced to serve time in jail or prison, a lawyer will be appointed to represent you if it is determined that you truly do not have the means to pay an attorney. It is important to understand that an attorney will only be appointed to represent you if you are unable to afford an attorney. Just because you cannot afford to hire the most famous or expensive attorney does not mean that you will be represented by appointed counsel free of charge.

Also, if you choose to spend money posting a bond to get out of jail as mentioned above, it may be determined that you could have used that money to pay an attorney instead and thus you won't qualify for appointed counsel. If you own your home or own an expensive car or other property, you may not qualify for appointed counsel even if you have limited cash money.

Finally, a court appointed attorney may not be entirely free. A lien may be filed with the court for the cost of your representation and those costs may have to be paid out of any future income tax refund you may receive.

EMPLOYMENT

What is the minimum wage law? The minimum wage law is a federal statute that requires employers to pay workers a minimum hourly wage for most types of employment.

Does my employer have to pay me overtime? With several exceptions, an employer is required to pay one and a half times your wages for any hours more than 40 worked in a single work week.

Must an employer give me a written contract? No. Most employees do not have written contracts.

For what reasons can I be fired? Generally, an employer can fire you at any time for any reason, as long as the reason does not violate certain federal and state laws. Employment decisions based on race, color, religion, sex, national origin, age (more than 40 years old), and, in some cases, the employee's disability, are prohibited. Also, an employee who complains of discrimination or participates in an investigation about discrimination may not be retaliated against by the employer, either by being disciplined or terminated.

When does an employer have to have "good cause" to fire me? Under certain circumstances an employer may obligate itself to only fire you for good cause. A written employment contract, an employee handbook, the employer's normal practices, or a collective bargaining agreement (which is in place if a union is present in the workplace) may require an employer to have good cause before terminating you.

What is employment at-will? Employment at-will is a legal principle stating that an employee does not have a right to work for a particular employer and an employer does not have the right to make an employee remain in its employment. Either the employer or the employee can leave the employment relationship at any time. Missouri is an employment at-will state.

What is unemployment insurance? Unemployment insurance provides compensation for workers who are unemployed through no fault of their own. In all states there are certain requirements that an individual must meet in order to be eligible for benefits.

Who pays for unemployment insurance? The employer is required to pay for the insurance by paying what is known as a contribution.

Is an employer required to inform me of possible entitlement to unemployment insurance benefits? Yes, but it is your responsibility to file the claim and to satisfy the eligibility requirements.

What is workers' compensation? A state law that compensates a covered worker for injuries stemming from a work-related accident. Workers' compensation is not health insurance.

Does my employer have to give me leave if I hurt myself or have a baby? Certain employers are required to allow you up to 12 weeks of unpaid leave to care for a spouse, a child or a parent, upon the birth or adoption of a baby, or your serious health condition. The employer must place you in the same or similar position upon your return to work. During your leave, your benefits may not be cancelled, although you may be required to contribute your portion of the benefits. The employer may also require medical documentation and may require that you use all available sick and vacation time before the leave becomes unpaid.

What do I do if I have been injured on the job? Notify your employer and fill out an accident form that your employer should have. Your employer, through its workers' compensation insurance company, must pay your medical bills for any injuries you receive.

Must the injured worker prove that the employer was at fault? No.

Should the injured worker fear losing his or her job for filing a workers' compensation claim? No, it is a violation of law to fire or reprimand an injured worker for filing a workers' compensation claim.

What should I do if I feel I have been discriminated against? An employer may not fire or discriminate against you based on race, sex, color, religion, national origin, disability, or age. But age discrimination claims may be brought only by those persons between the ages of 40 and 70. You may file a complaint of discrimination with the Missouri Commission on Human Rights ("MCHR") or the United States Equal Employment Opportunity Commission ("EEOC"). You can find information about filing a complaint through the Missouri Department of Labor or the Equal Employment Opportunity Commission.

APARTMENT LEASES

Must a lease be written to be enforceable? No, unless the lease is for longer than one year.

What are the advantages of having a written lease? A written lease will serve as a clear and concise reminder of your rights and obligations. It can also serve as protection against dishonesty and poor memories.

What are the disadvantages of a written lease? A printed lease form may contain terms more favorable to the landlord than those that would otherwise be applicable.

What is a security deposit? An amount of money normally collected by a landlord that is held as security against property damages, unclean conditions, and unpaid rent.

How much is a normal deposit? The amount may vary; it is often equal to one month's rent, but it cannot exceed two months rent.

What is a security deposit used for? The landlord may retain all or any portion of the deposit to cover any damages or charges for which you are liable under the lease, including breaking the lease agreement.

But within 30 days of termination of the tenancy, the landlord must furnish a written list of damages for which the security deposit or a portion may be withheld. Failure to comply with this provision could allow the tenant to collect up to twice the amount wrongfully withheld.

How can I terminate a lease that I signed for one year? You must give written notice to the landlord not less than 60 days before the end of the lease period. The landlord must give you the same notice. In order to remain on the premises after the agreed time of possession has terminated, either the lease should contain a clause to that effect or a new lease should be entered into.

What about a lease for less than one year? This is called a tenancy at will and it can continue until either party gives written notice one month in advance of terminating the lease. Oral notice from either party to the other is not valid.

When is notice of termination not necessary? It is not necessary for either party to give notice to quit the premises when there is an agreement that specifies a certain time or when notice is dispensed with by special agreement.

What if I do not leave after I have said I intend to do so? If you fail to deliver the premises to the rightful possessor on the required date, you will be liable for double the rent that is owed for the period you remain in possession.

What if I fail to pay my rent? The person to whom the rent is owed or his or her agent may evict you. Additionally, they may initiate attachment proceedings on any portion of your personal property that is not protected by law or contract.

Is there any other reason for which I may be evicted? The presence of damage to the property or any illegal activities conducted on the premises that you have leased automatically renders the lease void. The lessor's remedy would be double recovery of the rent owed for the remainder of the lease.

What can I do if a landlord refuses to make repairs to the premises? The landlord's general duty is to make a diligent effort to repair or remedy a condition if:

- (1) the tenant specifies the condition in a notice to the person to whom rent is normally paid;
- (2) the tenant is not delinquent in the payment of rent;
- (3) the condition materially affects the physical health or safety of an ordinary tenant; and
- (4) the condition is not caused by the tenant or a member of the tenant's family or a guest of the tenant.

If the cost of repair is minor in relation to the rent, it may be your responsibility to fix the problem. When conditions are so bad as to make the premises "uninhabitable," you should consult an attorney about possible remedies.

What can I do if I make my own repairs? Under very limited circumstances, you may make repairs and deduct the cost from rent if you:

- (1) have lived on the property for at least six months;
- (2) have paid all rent owed;
- (3) are not in violation of the lease;
- (4) have notified the landlord of the problem and allowed at least 14 days for the landlord to respond;
- (5) have, at the landlord's request, received verification from city inspectors that the problem violates city code.

If the landlord still does not fix the code violation within 14 days of receiving the city's notice, then the tenant can proceed with the repairs. The amount of the repair must be verified by receipts. In most cases, the cost of repair must be less than \$300 or one-half month's rent (whichever is greater), and can be done once a year.

Under what circumstances can a landlord enter my premises? Pursuant to Missouri law, a landlord has no right to enter your premises unless your contract specifically provides.

MARRIAGE



When can a person marry without a parent's consent? Generally, you can get married without parental consent at age 18.

Is same sex marriage valid in Missouri? No. Only marriage between a man and a woman is recognized in Missouri. Same sex marriage, even if valid where contracted, is not valid in Missouri.

What is the youngest age at which a person can marry with a parent's consent? A person can get married with parental consent at age 15.

How does one get a marriage license? You must apply in person to the county recorder of deeds at least three days before a license can be used. The license is void 30 days after the date of issuance. The application must be signed in the presence of the recorder of deeds or his or her deputy. But a license may be issued on order of a circuit or associate circuit judge (for good cause shown) without waiting three days.

Who can solemnize a marriage? Any clergyman, active or retired, who is in good standing with any church or synagogue in this state or any judge of a court of record, including a municipal judge.

Are blood tests required in Missouri? No.

Does common law marriage exist in Missouri? No. There is no presumption that a couple is married because they have been living together as man and wife for a period of time.

What is an annulment? An annulment is a declaration that a marriage is invalid, and it renders the marriage completely void. Grounds for an annulment include duress, insanity, bigamy, and fraud.

How do you get a divorce? One of the parties files a petition in the circuit court in the county where that party resides. The party filing the petition must have been a resident of Missouri for at least 90 days before filing. After filing, there is a mandatory 30-day waiting period.

What are the grounds for divorce? Missouri is basically a no-fault state in granting divorces. The court must find that there remains no reasonable likelihood that the marriage can be preserved and that, therefore, the marriage is irretrievably broken.

What does a court decide in a divorce? If the parties are unable to reach an agreement, the court must decide on child custody, the support of any child of the marriage who is entitled to support, the maintenance of either spouse, the disposition of property, and the payment of attorney's fees and court costs. The court makes orders on these issues as well as dissolving the marriage and restoring a wife's maiden name if requested.

What happens if parents don't pay child support? Parents who don't pay child support can have their wages garnished, their bank accounts garnished, or other real or personal property levied upon and sold to pay the child support owed. Further penalties for non-payment include suspension of a professional or occupational license, suspension of hunting and fishing licenses, and even potential criminal conviction. A parent can also be held in contempt of court. A parent cannot escape their support obligation by moving out of Missouri.



What can parents do if they are being denied visitation with their child as ordered by the court? A parent can bring a contempt action against the custodial parent. Sanctions can be enforced against the

custodial parent and may include a change of custody to the other parent or an abatement or reduction in child support if the parent was current in his or her child support obligation. Visitation cannot be denied solely on the grounds that the parent has not paid child support. Nor can a parent stop paying child support because he or she was denied visitation.

If a man denies he's the father of a child, can he be required to pay child support? Yes. A paternity suit can be started to determine, by complex blood testing, if he is the father of the child. The parties have a right to trial by jury. Custody and child support of the child can be ordered by the court.

How is custody determined by the court? The court determines custody in accordance with the best interest of the child. The court considers the following factors:

- the wishes of the child's parents as to his or her custody
- the wishes of the child as to his or her custodian
- the interaction and the interrelationship of the child with his or her parents, his or her siblings, and any other person who may significantly affect the child's best interest
- the child's adjustment to his or her home, school, and community
- the mental and physical health of all individuals involved, including any history of abuse of any individuals involved
- the needs of the child for a continuing relationship with both parents and the ability and willingness of the parents to actively perform their functions as mother and father for the needs of the child
- the intention of a parent to change his or her residence outside the state
- which parent is more likely to allow the child frequent and meaningful contact with the other parent.

How long is child support paid? Generally, a parent is obligated to make child support payments until the child dies, marries, enters the military, becomes self-supporting, reaches the age of 18 or graduates from a secondary school, whichever of the latter two conditions occurs last, but in any event no later than the child's 21st birthday. But if the child is attending a higher education or vocational institution, parental support continues until the child is 22 years old or completes his or her education, whichever occurs first.

Normally, the court orders child support to be paid to a state disbursement unit called the Family Support Payment Center. This state agency, in turn, disburses child support payments as required by court order. Payments made directly to the child or custodial parent will not be credited to the non-custodial parent.

Who pays attorney's fees? The court, after considering the financial resources of the parties, may order a party to pay a reasonable amount for attorney's fees and costs. Generally each party, with few exceptions, must bear the expense of their own attorney fees.

What is joint legal custody? Both parents share the decision-making rights and responsibilities and authorities relating to the health, education, and welfare of the child and, unless allocated, apportioned, or decreed otherwise, the parents must confer with one another in the exercise of the decision-making rights, responsibilities, and authority.

What is joint physical custody? Both parents have significant periods of time during which a child resides with or is under the care and supervision of each of the parents to ensure the child frequent and meaningful contact with both parents.

What kind of protection can an abused spouse get? Any adult who has been subject to abuse by a spouse or other present or former adult member of his or her household may apply to the court for a temporary order requiring the other person to leave the home, grant custody of children, and pay child support and maintenance for the expenses of the abused spouse. A hearing is held within 15 days and, upon a finding that the allegations of abuse have been proven, the court can continue its order for 180 days. Clerks in the office of the circuit clerk explain to persons not represented by counsel the procedure for filing the forms necessary to present their petitions.

JUVENILE COURT SYSTEM: DELINQUENCY and CHILD ABUSE AND NEGLECT

What are delinquency cases? Typically criminal actions that involve a juvenile.

Who would be involved in a delinquency case in the juvenile court system?

- a. Persons under the age of 12 at the time of the commission of a felony or misdemeanor are within the exclusive jurisdiction of the juvenile court.
- b. All persons under the age of 17 who are arrested on felony charges for the first time are subject to the juvenile court code. The court or the juvenile officer may request the case be transferred to the courts of general jurisdiction.
- c. If a person is under the jurisdiction of the juvenile court before he or she reaches the age of 17, that person may be under the continuing jurisdiction of the court until he or she reaches the age of 21.
- d. If a person under the continuing jurisdiction of the juvenile court commits a felony offense after reaching age 17, he or she will automatically be charged in a court of general jurisdiction, not juvenile court.

What is a certification hearing? This hearing occurs when a request is made for the matter to be transferred from the juvenile court to a general court.

Can I have an attorney represent me in juvenile court? Yes, you are entitled to be represented by counsel in all proceedings. The court shall appoint counsel for you if you request a lawyer and you do not have the financial ability to hire a lawyer. The court is required to appoint a lawyer for you if that representation is necessary to assure a full and fair hearing.

What is the process in juvenile court? The court will first hold an adjudication hearing. If the court determines that you committed an act that subjects you to juvenile court jurisdiction, the court will assume jurisdiction over you. The court will then determine the appropriate disposition. The court can place you on probation with various requirements and even send you to a detention facility.

What is a child abuse and neglect case? This is a different type of case handled in juvenile court. Children who are under the age of 17 may be removed from their home if they are being subjected to abuse or neglect, and young parents might face a situation where their children are taken from their home if allegations are made that their children are being abused or neglected.

What happens when the juvenile is removed from the home in a child abuse and neglect case? In these types of cases, children may be placed with a third party, such as a family member or a foster care provider. In order for a child to be removed, the court must determine that keeping the child in the home is contrary to the welfare of the child and that placement outside the home would be in the child's best interest.

When a child is removed from a home due to allegations of abuse or neglect, a formal court process begins. A juvenile court judge will make an initial order for protective custody only if the judge determines that continuing in the home is contrary to the welfare of the child or that placement outside of the home would be in the child's best interests. This order is made prior to a protective custody hearing. An order for protective custody must be entered within 24 hours of the child being removed from the home.

What rights do parents have in a child abuse and neglect case? A parent has the right to a protective custody hearing. If a protective custody hearing is requested, a hearing must be held within three business days of the request. The court will determine if there is a need for continued protective custody and if reasonable efforts have been made by the Missouri Department of Social Services – Children's Division to keep the child in the home.

What is an adjudication hearing? Once the court has determined that continued protective custody is necessary, the court must hold an adjudication hearing within 60 days of the child's removal from the home. The purpose of an adjudication hearing is to determine whether the allegations from the initial petition for protective custody have been established. The petitioner must prove the allegations by presenting clear and convincing evidence.

What is a dispositional hearing? If the court finds that the allegations of the petition have been established by clear and convincing evidence, a dispositional hearing is required. This hearing can be held immediately after an adjudication hearing, but if not, it must be held within 90 days of the child's removal from the home. The purpose of a dispositional hearing is to determine, in accordance with the best interests of the child:

- 1) the legal and physical custody of the child; and
- 2) whether Children's Division is required to engage in reasonable efforts to reunify the child and family and, if so, the reasonable efforts necessary to effect reunification.

If the court determines that reasonable efforts to reunify the family are required, the court will determine what reasonable efforts must be made.

What is a dispositional review hearing? Dispositional review hearings should be held at least every 90 days to determine the appropriate permanency plan for the child. The Missouri Department of Social Services – Children's Division must submit to the court for review every six months a written report on the status of each child who is placed in out-of-home care. If the court determines that reasonable efforts are NOT necessary to reunify the child with his or her family, then a permanency hearing must be held within 30 days of that finding.

What is a permanency hearing? A permanency hearing must be held within 12 months of the child's initial placement outside of his or her home. The purpose of a permanency hearing is to determine in accordance with the best interest of the child:

- 1) the permanency plan in effect for the child;
- 2) whether Children's Division has made reasonable efforts to finalize the permanency plan in effect for the child;
- 3) the permanency plan that is most appropriate for the child; and
- 4) the efforts required of Children's Division to finalize the permanency plan.

What is a permanency plan? If the court determines that reunification with the family is not best for a child, the child's permanency plan must be either:

- 1) termination of parental rights and adoption;
- 2) guardianship;
- 3) placement with a fit and willing relative; or
- 4) a planned permanent living arrangement.

Delinquency cases and child abuse and neglect cases are very complex court proceedings. If you are involved in one of these proceedings, you should seek an experienced attorney's advice and/or representation as soon as possible. If you cannot afford to hire an attorney, ask the court to appoint an attorney for you.

CONTRACTS

What is a contract? A contract is any agreement between two or more people to do or not do something. Generally, a contract creates obligations that are enforceable by law.

Can I make a contract before turning 18? Yes, but as a minor you can terminate most contracts. That is, adults cannot usually enforce contracts against minors, which is why your parents, or some adult, usually has to co-sign any contract you make as a minor. The rules are different for minors who are 16 or older and who are homeless, are self-supporting, or live independently of their parents. These people are legally able to enter into binding contracts for housing, employment, the purchase of an automobile,

student loans, admission to high school or post-secondary school, obtaining medical care, establishing a bank account and admission to shelters.

If I make a contract before turning 18, what happens when I turn 18? Once you reach the age of 18, you can make it legally binding as a minor either by a written acknowledgement of the contract, or by your actions. For example, if you entered into a contract for the purchase of a car when you were 16, if you continued to make payments on that car after turning 18, you'd be considered to have ratified the contract.

What kinds of contracts am I likely to enter?

- loan for education, to buy a car, or to make another large purchase
- installment purchase of some product
- apartment rental
- insurance
- marriage
- medical care

Do all contracts have to be in writing? No. Many contracts (employment, some apartment leases, a promise to pay for medical care) are rarely in writing. Some contracts must be in writing to be enforceable:

- any purchase of an item that costs \$500 or more
- any contract to buy or sell land
- any contract that cannot be performed according to its terms within one year from the date that it is made.

What are some of the advantages of written contracts?

- Protection against misunderstanding – A written contract helps ensure that both parties understand what they have agreed to do.
- Protection against dishonesty – A written contract helps prevent one of the parties from lying about the agreement.
- Protection against poor memories – After a time people will usually have different recollections of their agreement even if there is no dishonesty.

What are some of the disadvantages of written contracts? Consumers are often forced to sign printed form contracts that are written to favor the seller. For example, a contract might attempt to limit warranties or say that the consumer must pay the business's legal fees if there is a lawsuit to enforce the contracts. Some words contained in written contracts have technical legal meanings that are unknown to most people.

What are some general rules to follow when I am asked to sign a contract?

- Make sure you understand the agreement before signing it.
- Read the entire contract (including language on the back of a form) before signing it.
- Ask questions about anything in the contract that you do not understand.
- Cross out parts of the contract that conflict with your agreement. If you do this, initial the cancellations and have the other party do so as well.
- Write in parts of your agreement that are not in the contract and have the other party initial the additions.
- Do not sign a contract if it contains any blank spaces; either fill them in or cross them out if they do not apply.
- Be concerned if someone asks you to sign a contract without reading it.
- Do not be intimidated by sales people.
- Do not be taken in by friendly sales people.
- Be sure that you get a complete, accurate, signed copy of the contract.

What can happen if I do not perform a contract, e.g., miss payments or fail to perform other obligations? You may be sued.

What happens if I get sued? You as a “defendant” can be required to appear in court to answer to the claims made against you. If you do not show up or hire an attorney to defend you, you will lose by default. If you do show up or hire an attorney to defend you, the judge or a jury will ultimately decide who wins or loses.

What if I lose? If you lose, a “judgment” will exist against you, and can last until it is paid. If it is not paid immediately, interest is added to the amount of judgment. If you do not pay the judgment, garnishment proceedings may be filed against you. If a garnishment is ordered against your wages, your employer can be ordered to pay a portion of your salary into the court for the benefit of your creditor. Your wages are not subject to garnishment, however, if you earn less than 30 times the minimum hourly wage per week.

What can I do if I owe more money than I can pay? Some options include working out agreements to pay your debts back over a period of time, taking out a new loan to pay back existing debts, and bankruptcy. Also, there are some consumer credit counseling agencies that may be able to help you.

What are some of the consequences of bankruptcy? Bankruptcy is a formal court proceeding. It is quite complicated. The result is that most debts are cancelled. Debts that are not cancelled include:

- debts obtained by fraud
- taxes
- debts that were not reported to the bankruptcy court
- debts for intentional and malicious injury to people or property
- education loans.

Bankruptcy can have a bad effect on your credit rating, making it harder for you to obtain a loan in the future.

CREDIT

What is a credit rating? A credit rating is reflective of your credit score – the higher the score, the better your credit rating. Scores typically range from 300 to 850. There are three credit bureaus: TransUnion; Equifax; and Experian.

What is the importance of a good credit rating? Potential lenders such as banks will take your credit score into account when they decide whether to lend you money. A good credit rating might increase the likelihood that the lender is willing to lend you money. It also might provide you a tool to negotiate a favorable interest rate for the loan.

What if I am denied something because of my credit rating? Anyone who uses a credit report to deny you an application for credit, insurance or a job must tell you, and must give you the name, address, and telephone number of the agency that provided the report. Please keep in mind that you must give your consent before a credit bureau provides your credit information to your employer – or a potential employer.

How do I find out my credit score? Every 12 months, you are entitled to one free credit report from each of the three credit bureaus. You may obtain the free report via the following website: www.annualcreditreport.com. Be mindful of advertisements for other websites offering free credit reports. This is the only website that provides you a free report unconditionally.

How do I get a good credit rating? There are a number of ways, including:
pay your bills on time;
generally, the longer you keep a credit account open, the better;
getting a job; and,
if you keep a credit card balance, the lower the better.

How long does it take to improve a bad credit rating? You should first determine if any information in your credit report is inaccurate. If there are inaccuracies, notify the credit bureau that has the report. If your “bad credit” is based on accurate, negative information, start by paying off the debt. Otherwise, only

the passage of time can assure the removal of the information. A consumer reporting agency can report most negative information for seven years and bankruptcy information for 10 years.

What is collateral? Collateral is anything that has value that can be given as security for a loan. The lender wants to identify property that has a value at least equal to the amount of the loan so that the property can be used to pay back the debt if you are unable to repay the loan. If you buy a vehicle using a loan, the vehicle is the collateral (if you do not make your monthly payments, your vehicle may be repossessed). When you buy a home and have a mortgage, the home is the collateral (if you do not make your monthly payments, the lender may attempt to foreclose on your property).

What if I buy a TV or stereo on installments and the store refuses to fix it? In most cases, it is not wise to discontinue payments, because the seller will claim that you are in default on your obligations. In general, you may stop making payments IF the selling merchant financed your purchase himself AND IF you validly revoke your acceptance by notifying the seller of the reason for revocation. To use this remedy, however, the nonconformity of the goods (i.e., broken TV set) must be such that its value to you is substantially impaired and the nonconformity complained of was not caused by you.

On the other hand, if someone other than the seller financed your purchase (i.e., a finance company or a bank) or the seller sold your promissory note to another party, your payments would most likely have to continue although the holder of your consumer note may also be subject to revocation, repair, or be obligated to replace the set if defective under consumer warranties. In such cases, you may not revoke your acceptance and discontinue making payments.

Under both state and federal law, you have the right to assert any defenses you have against the supplier of goods or services against the person holding the consumer contract under certain circumstances. Overall, your best bet might be to contact an attorney knowledgeable in the subject area of secured transactions.

Is there any interest penalty if I pay off a loan early? Mortgage loans have no prepayment penalties. A consumer has a right to prepay a loan at any time without penalty in order to reduce the amount of interest paid on the loan. But beware of the Rule of 78s, which is a means of loading the greatest portion of the interest at the beginning of the contract.

What are important considerations before paying for something over the course of time with installments (also known as buying on time)? Make sure you understand how you will be paying interest on your purchase. For example, are you paying most of the interest or finance charge early on in the contract? The bottom line is to closely read the contract.

Things to consider before signing a “buying on time” contract.

- Rely on what is in the written contract and not on sales talk.
- If it is not written into the contract, it is not a part of the agreement.
- Read every paper carefully before signing; do not sign anything you do not fully understand and never sign a form with blank spaces.
- Compare the installment sale contract price with the cash price.
- If you have any questions, see an attorney before you sign.
- Do your homework – seek rates and terms from at least one bank, one savings and loan, one finance company, and one credit union (if you are eligible).
- Pay off your credit cards before making the decision.

What does it mean to co-sign a loan? Co-signing or guaranteeing a debt makes the co-signer equally responsible with the original signer for full payment of the debt. A debtor is entitled to a notice of default and right to cure. This means a lender must tell you that you are in default on a loan and give you a chance to make things right. But an uncured default or repeated defaults can result in repossession or suit.

What are federal disclosure laws? The disclosure laws requires the lender to provide information that compares the cost of credit and interest rates. The federal disclosure laws require that there be four key disclosures:

- the amount of the loan or other credit;
- the finance charge (which is the dollar amount the credit is costing you);
- the annual percentage rate (which is the uniform measure of all finance charges); and
- the total of payments (which is the finance charge and the principal combined).

What if I am late in making a payment? You are responsible for making each payment when it is due. If you have a legitimate reason for being late in making a payment, discuss this with the creditor before the payment is overdue. The creditor may be willing to work out arrangements by which you can meet the payments rather than taking legal action for collection.

CONSUMER PROTECTION

What are some consumer protection laws and what do they do? Federal and state regulations have been adopted in many areas, including: term paper sales; motor vehicle sales and repairs; home solicitation selling; and home improvement contracts.

- **Truth in lending.** This requires disclosure of credit costs and contract provisions. It also gives you a three-day right to cancel any credit sale that takes place at your residence.
- **F.T.C. Door-to-Door Rule.** This regulation creates a three-day rescission right for any contract on credit and cash sales of \$25 or more that take place away from the seller's regular place of business. Door-to-door contracts are required to contain a bold-faced notice of the cancellation right.
- **Unsolicited credit cards.** This law prohibits issuance of unsolicited credit cards.
- **Fair Credit Reporting Act.** Credit reporting agencies must obtain certifications from people who use credit reports, provide consumers access to credit records, provide consumers with the right to dispute information contained in the records, and reinvestigate any disputed information upon the consumer's request. Credit-granting organizations are required to disclose the reasons for denial of credit. A consumer may also receive his or her credit report each year for free online at www.annualcreditreport.com.
- **Identity Theft.** Identity theft occurs when someone uses your name, Social Security number, date of birth, or other identifying information, without authority, to commit fraud. For example, someone may have committed identity theft by using your personal information to open a credit card account or get a loan in your name. The Fair Credit Reporting Act allows you to immediately place a fraud alert on your credit report and dispute any bills you believe were made fraudulently in your name.
- **Equal Credit Opportunity Act.** This prohibits discrimination in the granting of credit on the basis of sex or marital status. Credit-granting organizations are prohibited from requiring the signature of a spouse on a credit application except when needed to create a valid lien.
- **Fair Debt Collections Practices Act.** This law requires that debt collectors treat you fairly and prohibits certain methods of debt collection. Of course, the law does not erase any legitimate debt you owe.
- **Do Not Call Registry.** The National Do Not Call Registry gives you a choice about whether to receive telemarketing calls at home or on your cell phone. You may place a phone number on the do not call list by registering it online at www.ftc.gov/bcp/conline/edcams/donotcall/index.html.

What is a full warranty? The dealer/manufacturer is given a reasonable number of chances to fix defects but then must allow you to choose a full refund or a replacement without charge. A "full" warranty applies to anyone who owns the product during the warranty period. Few "full" warranties are given.

What is a limited warranty? The refund or replacement rights do not exist under "limited" warranties. Most warranties are "limited."

Are warranties important? Yes, they establish your right to have defects fixed at no charge. You should always ask for a copy of the warranty. A dealer is required to give you a copy. Missouri has an Unfair Practices Act that gives you additional rights for breach of warranty or for other deceptive trade practices. This act offers consumers strong protection against defective products.

Do I have any protection after the stated warranty period ends? Maybe. There is usually an implied (unwritten) warranty created by statute that, for a reasonable time, an item purchased from a dealer will be fit for the purpose for which it was sold.

Do these warranties apply to used items? After the stated warranty period there are no warranties.

Do I have to pay for unauthorized work done by a repair shop? It depends on what you told the shop when you asked them to do the repairs. The law protects all consumers on repair contracts, requiring written estimates under certain circumstances.

What if I bought a “lemon” motor vehicle? If you bought a new vehicle, you might be able to cancel the purchase if you bought it from a dealer. If a defect substantially impairs the value of the item, you must notify the dealer and give the dealer a reasonable number of chances to fix it. Within a reasonable time, you must notify the dealer that you are canceling the purchase and must return the item without substantial change to it. Missouri has a “lemon law” that allows you to cancel the purchase of a “lemon” motor vehicle in some circumstances.

Whom should I contact if I have consumer questions? The Consumer Protection Hotline of the Office of the Attorney General of Missouri at 1-800-392-8222 or go online at www.ago.mo.gov/Consumer-Protection.htm.

MILITARY SERVICE

How does a person join the military? The United States has an all volunteer military. As such, a person desiring to enter military service must volunteer. A person can either enlist in the branch of their choice, or go through various procedures to become an officer. Check with the local military recruiting office of the branch of your choice to learn more.

At what age can a person enlist in the armed forces? A person can enlist at age 17 with parental consent, or once a person reaches the age of 18 they may enlist on their own.

Is there a draft? No, there has not been a draft in the United States since 1973. However, all male U.S. citizens between the ages of 18 and 25 must register with Selective Service in the event that a draft would be needed because of national emergency.

Who is required to register for military service? All males upon reaching their 18th birthday must register. There are very few exceptions to the registration requirement.

How do I register? After his 18th birthday, each male is required to go to a local post office and fill out a form giving his name, address, date of birth, and Social Security number, if he has one. Men may also register online at www.sss.gov/regver/register1.asp. In addition, Selective Service will send reminder cards on a male's 18th birthday that can be used for registration. Physical examinations will not be conducted and classification will not be issued at the time of the registration.

Will draft cards be issued when I register? No. Before a draft can occur, Congress must pass legislation authorizing it and the President must sign it into law.

What happens if I do not register? If you do not register, you could be prosecuted and fined up to \$250,000 and/or be put in jail for up to five years. Registration is also a requirement to qualify for federal student aid, job training benefits, and most federal employment.

FOR FURTHER INFORMATION . . .

Consumer Protection

Attorney General of Missouri
P.O. Box 899
Jefferson City, MO 65102
(573) 751-3321
HOTLINE: 1-800-392-8222
www.ago.mo.gov

Driver's License

Missouri Department of Revenue
301 West High Street, Rm. 470
Jefferson City, MO 65105
(573) 751-4600
www.dor.mo.gov

Unemployment Compensation

Division of Employment Security
Missouri Department of Labor &
Industrial Relations
421 E. Dunklin St.
Jefferson City, MO 65104
(573) 751-3215
www.dolir.missouri.gov

Child Abuse

Division of Family Services
Missouri Department of Social
Services
P.O. Box 88
Jefferson City, MO 65103
(573) 751-3448
HOTLINE: 1-800-392-3738
www.dss.mo.gov

Workers' Compensation

3315 W. Truman Blvd., Rm. 131
Jefferson City, MO 65102
(573) 751-4231
www.dolir.missouri.gov/wc

Child Support Enforcement

Missouri Department of Social
Services
615 Howerton Ct.
Jefferson City, MO 65102
(573) 751-4301
www.dss.mo.gov/cse

NEED A LAWYER?

Missouri Bar Lawyer Referral Service
P.O. Box 119
Jefferson City, MO 65102
(573) 636-3635
(hours: 9:00-12:00 and
1:00-3:00 p.m.)
In St. Louis (314) 621-6681
In Kansas City (816) 221-9472
In Springfield (417) 831-2783

Legal Aid of Western Missouri

1125 Grand Avenue #1900
Kansas City, MO 64106
(816) 474-6750 or 800-892-2943

Legal Services of Eastern Missouri, Inc.

4232 Forest Park Ave.
St. Louis, MO 63108
(314) 534-4200 or (800) 444-0514

Mid-Missouri Legal Services

205 E. Forest Ave.
Columbia, MO 65201
(573) 442-0116 or (800) 568-4931

Legal Services of Southern Missouri

2872 S. Meadowbrook
Springfield, MO 65807
(417) 881-1397 or (800) 444-4863

Public Defender

Office of the State Public Defender
3402 Buttonwood Drive
Columbia, MO 65201
(573) 882-9740
www.publicdefender.mo.gov

Missouri Individual Income Tax

Missouri Department of Revenue
P.O. Box 200
Jefferson City, MO 65105
(573) 751-3505

Property Taxes

State Tax Commission
P.O. Box 146
301 W. High Street
Jefferson City, MO 65102
(573) 751-2414
www.stc.mo.gov

Higher Education

Department of Higher Education

3515 Amazonas
Jefferson City, MO 65109
(573) 751-2361
www.dhe.mo.gov

