



LIVING in
an

ADULT WORLD

LIAW | Your Legal Rights and Responsibilities



Congratulations on Entering the Adult World

This is an exciting time in life with many new opportunities and challenges! This booklet is published by the State Bar Association of North Dakota's Law Related Education, and is designed to highlight how your rights and responsibilities change when you reach 18 and transition into adulthood.

Within the booklet you will find information on credit, contracts, consumer protection, employment, landlord/tenant law, marriage and divorce, and driving under the influence, among others. Also included throughout are additional resources for more information.

This handbook should provide a good summary of the various legal issues you may encounter in the near future; however, it is not intended to provide legal counsel or advice, does not cover all of North Dakota's laws, and is for informational purposes only. Specific legal questions should be directed to an attorney. The information contained herein was accurate at the time of publication. Turning 18 is an important milestone in your life, and we wish you much success in the years ahead!

Inspiration for this booklet came in part from "So you're 18, a Handbook on Your Legal Rights and Responsibilities," published by the Virginia State Bar, and "Now That You've Turned 18," published by the New York State Bar. We extend our thanks to both associations.

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*Thank you to the committee who assisted in revisions to this year's booklet and to Aaron Birst, Parrell Grossman, Melissa Hauer, Linda Sitz, Lloyd C. Suhr, and Glenn Jackson. *Please note this booklet applies to North Dakota state laws, and any Tribal or Federal law may differ significantly. Please contact a lawyer for advice in those jurisdictions.*

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The State Bar Association of North Dakota has published this booklet as a special project of the Law Related Education Committee. Thank you to all past and present members of the Law Related Education Committee.

For the purposes of this handbook, a distinction should be made between the availability of “legal services and advice” and “information regarding the law.” Legal services for the problems described in this handbook are available from most private law offices in the state of North Dakota. Furthermore, legal services may be available, depending upon your financial circumstances, from Legal Services of North Dakota and the Lawyer Referral Program of the State Bar Association of North Dakota. This should be distinguished from the availability of general information regarding the law, which may be available from many county, state, and federal offices. There are also several county services that provide information on a regular basis to citizens needing such information.



ARREST

When may an arrest be made?

A police officer who has an arrest warrant may arrest the person named in the warrant at any time. There are other situations where an officer may arrest someone without a warrant. For example, an officer may arrest someone who is committing or has committed a felony. Examples of felonies include aggravated assault, burglary and many sex crimes.

An officer may arrest someone who is committing a misdemeanor if the officer sees it happen. Examples include a minor in possession, DUI, disorderly conduct and simple assault. For a few misdemeanors, an officer may arrest someone even if he did not see the crime being committed. Examples include domestic violence, violation of a protection order and shoplifting.

Anyone who takes concealed merchandise past the last checkout without paying for it is presumed to have stolen that merchandise. Suspected shoplifters may be held by store employees until the police arrive.

What are my rights if I am arrested?

An officer may search you for weapons and handcuff you as part of an arrest. If you resist, the officer may use whatever force is necessary to bring you under control. Police may photograph and fingerprint you. The arrest processing may be videotaped without your consent.

The officer may ask you questions about your identity such as name, address and date of birth. However, once you are taken into custody, an officer may not question you about a crime without first advising you of your Miranda rights. These are rights guaranteed by the Constitution. You have the right to remain silent and to consult an attorney before questioning. You have the right to know anything you say may be used against you in a court of law. You have the right to an attorney even if you cannot afford one. If an officer does not question you, the officer does not have to inform you of these rights.

You also have the right to be brought before a judge without unreasonable delay. This usually means within 24 hours of your arrest unless you are arrested on a weekend, in which case your first court appearance will usually be held the next business day.

What are penalties for the possession or delivery of illegal drugs?

Illegal drugs, including many synthetic drugs, are called “controlled substances” in the law. Penalties for possession or delivery of controlled substances vary depending on the kind of drug and the amount involved. For example, possession of less than ½ ounce of Marijuana is an infraction punishable by a fine of up to \$1,000. Possession of ½ ounce to 500 grams of Marijuana is a misdemeanor punishable by up to 30 days in jail.

Penalties for drug possession or delivery are much stiffer if the crime occurs within 300 feet of a school. For example, first time possession of methamphetamine carries a maximum penalty of 360 days in jail but if that possession occurs within 300 feet of a school, the maximum possible prison time increases to five years.

Drug offenses can also carry fines up to \$20,000. In addition, state law allows police to keep or sell property and money connected with a drug crime.

Is possession of drug paraphernalia illegal?

Possession, manufacture or delivery of drug paraphernalia is a crime. Drug paraphernalia includes all equipment, products and materials used, or intended for use, in producing or using controlled substances. Examples include pipes, bongos, syringes and scales. Even items that have legitimate and legal uses can be considered drug paraphernalia if they contain drug residue, or are used to manufacture or consume illegal drugs.

BEING AN ADULT CONSUMER

How can I be a smart consumer?

If you are in the market for any product or service – such as a car, clothes, smart phone or educational course – there are several simple rules to keep in mind. If you follow them your dollars will go farther and you will be more satisfied with the results.

- > **Shop and compare.** Compare products on the basis of features, warranty protection and price. The best buy is not always the cheapest. Use online searches and magazines like Consumer Reports to help you.
- > **Do not fall for deceptive advertising.** Advertisements can provide useful information. Too often though, ads appeal to your emotions rather than your intelligence. While there are laws against deceptive advertising, it is still best to avoid a problem by watching out for deceptive ads rather than getting snared by them and having to rely on a law or someone else to get you out of a mess.
- > **Ask for promises in writing.** Contracts do not have to be in writing to be binding. However, it is easier to make someone stick to something in writing rather than something based on your recollection of an agreement. If a salesperson makes important claims about a product that are not in your contract or warranty, get it in writing.
- > **Read the terms of your contract or warranty carefully.** Know what you can



expect and what is expected of you. Certain contracts, especially form contracts, may contain language not easily understood and that may be unfair to you. If you do not understand something, ask questions and seek help from a friend, parent, teacher or lawyer.

- > **Never sign a contract with blank spaces.** Fill in blank spaces, or draw a line through them.
- > **Keep good records.** Keep copies of all contracts, receipts, warranties, and all written correspondence you have regarding the product or service, and records of payments, maintenance, repairs and other services.
- > **Returning merchandise.** Remember, a merchant is free to establish a policy concerning refunds, credits, exchanges and layaways. A merchant is not required to refund your money for returned merchandise unless it is defective. Even then, the merchant may decide to correct the problem or replace the defective product instead of giving your money back.

What is a warranty?

A warranty is part of a contract that specifies the quality and dependability of the product or service you are purchasing. The warranty tells you what you can expect from the product, what you must do if you have a problem, and what the seller will do in return.

Are warranties important?

Yes. A good warranty can save you money and frustration if the item you buy needs to be repaired or replaced within the warranty period. You should always check to see if the items you intend to buy are covered by warranties, and find out what the warranties include and exclude.

Do I have any protection after the warranty period ends?

You might, depending on the situation and what state and federal laws apply. You may also have protection under products liability law if you or someone else is injured by a defective product even after the expiration of the warranty period.

Do warranties apply to used items?

An item may be specifically warranted by its seller whether new or used, but many used items are not covered by a warranty. You should be aware that if an item is sold “as is,” it is not covered by warranty and you buy it at your own risk.

What if I need to sue to enforce my rights as a consumer?

Small claims court is designed to provide a simple, informal and inexpensive way to settle relatively minor disputes. Cases commonly brought in small claims court involve landlord-tenant disputes, breach of contract claims, collection of debts and minor auto accidents. Small claims courts are branches of the state’s district courts, and there is one in each county.

Small claims courts may hear cases involving recovery of up to \$15,000 in money damages, or those seeking cancellation of an agreement because of fraud or deception. Both parties are given an opportunity to present their side of the dispute to a judge in an informal setting, without the need to hire an attorney. The judge's decision is final and may not be appealed to a higher court. Because of this, defendants in small claims court have the right, at the beginning of the small claims court case to remove the case to district court. If this happens, both parties may need to hire attorneys to represent them. Small claims court forms are available from your local clerk of court at your county courthouse or at www.ndcourts.gov.

Gift Cards

When purchasing gift cards, excluding general-use prepaid cards that are redeemable at multiple businesses, be aware that a business may not charge monthly, annual service, or maintenance fees on the gift card. Additionally, the time to redeem the gift card certificate may not be less than six years after the date of the purchase.

What laws protect consumers?

Consumer Fraud Law. This law prohibits the use of misleading and deceptive acts or practices in the sale of goods and services. Anyone who has been victimized by a deceptive practice may sue for damages and be awarded three times the amount of their loss plus reasonable attorney's fees and costs. An exception to this is that you cannot collect three times the amount from persons assisting the person who is engaged in the deceptive or misleading practice. The consumer protection division of the Attorney General's Office has a right to enforce this law in addition to a private right of action.

Personal solicitation sales. Both federal and state law gives consumers a right to cancel certain contracts within three business days following the sale. This three-day right to cancel does not apply to all sales, but only to those which take place in the home or some other place away from the seller's regular place of business. North Dakota's law also applies to telephone sales. The law has some limited exceptions and does not apply to sales of less than \$25. Sellers are required to give the consumer both written and oral notice of their cancellation rights. ND law extends the three-day cancellation period to 15 days for consumers over 65 years of age on sales of \$50 or more. Anyone who violates this law is guilty of a class B misdemeanor.

Transient merchants. Door to door salespeople and other transient sellers must be licensed and bonded. When considering a purchase from a transient seller, you should ask to see their license. If a licensed transient seller has victimized you, check with the Office of the Attorney General to see if you can collect the amount of your loss from the bonding company.

Contractor licensing. Before conducting business with a contractor, confirm with the Secretary of State's Office that the contractor is licensed. A contractor must

have a contractor's license for any job in excess of \$4,000. Do not enter into an agreement for any contracting services, including asphalt paving, without verifying that the contractor is properly licensed with the Secretary of State.

What special laws apply to the purchase of automobiles?

Lemon Law. Like many states, North Dakota has a "lemon law" that protects consumers who purchase new motor vehicles, including motorcycles. If a new vehicle has a defect covered by the warranty and cannot be satisfactorily repaired or corrected, the lemon law requires the manufacturer to replace the vehicle or refund the purchase price, less a reasonable allowance for use of the vehicle. To qualify, the defect must substantially impair the use and market value of the vehicle, and the dealer must be given more than three attempts to fix the defect.

Under the lemon law, a consumer must first present the warranty dispute to the manufacturer's panel before seeking the replacement or refund remedy. The lemon law imposes fairly short time for consumers to take legal action. As a result, consumers should promptly notify their dealer of any defects in their new vehicle and insist on prompt action. If the dealer is unable to correct the defect after the fourth visit, the consumer should ask to have the matter considered by the manufacturer's consumer mediation or arbitration panel.

Used car sales. The lemon law does not apply to used cars. Unless the seller has made specific representations or guarantees, used cars are generally sold "as is." This means the buyer is responsible for any repairs to the vehicle, even those needed immediately after the car is purchased. Before buying a used car, it is a good idea to have it checked over by a knowledgeable mechanic and body repair person. The buyer should also get any warranties or repairs promised in writing.

Scams of Special Concern. Consumers should be very alert to costly imposter scams, including family emergency, romance, lottery and sweepstakes, computer technician, grants, and callers falsely claiming to be from the government or law enforcement like the IRS or the local sheriff, etc. These are not legitimate callers. Your family members have not likely been arrested, the person on the internet is not really a genuine romantic interest, you have not won the lottery, the computer technical problems are not true, you have not won a free grant, and the IRS is absolutely not coming to your home to arrest you. These are all fake calls that have cost North Dakota consumers hundreds of thousands of dollars. Never wire money, send cash, or purchase iTunes or other gift cards to pay these callers or scammers. Call the Attorney General's Consumer Protection Division before sending any payment in any form.

Whom should I contact if I have a consumer question?

Consumer Protection Division of the North Dakota Attorney General's Office	800-472-2600
North Dakota Insurance Commissioner	800-247-0560
North Dakota Commissioner of Banking and Financial Institutions <i>(regulates state banks, credit unions, collection agencies and finance companies)</i>	701-328-9933
North Dakota Securities Commissioner <i>(securities, franchises and investments)</i>	800-297-5124
North Dakota Labor Commission <i>(wage claims or employment agency complaints)</i>	800-582-8032
North Dakota Secretary of State www.nd.gov/sos/licensing	800-352-0867 ext. 3283665
Better Business Bureau Autoline <i>(auto warranty dispute resolution program), www.bbb.org/autoline</i>	800-955-5100
Autocap <i>(North Dakota new car dealer complaints)</i>	701-293-1541
National Highway Traffic Safety Administration <i>(auto safety hotline)</i>	888-327-4236
Local Chamber of Commerce	
Local Small Claims Court <i>(county courthouse)</i>	
Local State's Attorney <i>(criminal cases only)</i>	
HUD Housing Complaint Line	800-669-9777
Consumer Product Safety Commission	800-638-2772

CONTRACTS

What is a contract?

A contract is an agreement between two or more persons or legal entities that creates an obligation to do or not do a particular thing. Once you graduate from high school and go to work or college, you will likely face many situations in which you are asked to enter into contracts. Some of the more common contracts you may encounter in the next few years include leases on apartments, sales contracts for goods or services, car loans, student loans, insurance policies, and terms of use for websites or software.

Can I be a party to a contract prior to turning 18?

Yes, but you will probably find that most people will refuse to enter into a contract with someone under 18 because the courts will generally not enforce contracts against minors. If you make a contract before the age of 18 you can "disaffirm" (void) the contract within one year of turning 18. If you disaffirm a contract, the property you received must be returned to the seller.

Must all contracts be in writing?

No, not all contracts have to be in writing. However, the law does require that contracts for the purchase of goods costing more than \$500, a loan agreement for \$25,000 or more, an agreement to pay another person's debt, any agreement that cannot be performed within one year of the date of the agreement, and the sale of land and long-term leases, be in writing.

What are some of the advantages of written contracts?

A written contract allows you to see clearly the terms of the agreement between you and the other party. There is less chance of a misunderstanding or disagreement when a well-written contract is prepared.

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

- > The first and most important rule is **READ THE CONTRACT!**
- > Ask questions. If there are items you do not understand or disagree with, do not sign it until you are completely satisfied with the answers and understand every clause, or until you have consulted with your attorney.
- > Never blindly accept the explanation of the other party about the meaning of any terms in the contract. Remember, once a written contract is signed, the courts generally will not allow verbal understandings to be considered in the event of a dispute.
- > Do not sign a contract if it has blank spaces – fill them in or cross them out.
- > Be sure that you can meet the obligations imposed by the contract, whether that is payment of money or providing goods or services.
- > Make sure you are given a complete signed copy of the contract.

CREDIT

What is buying on credit?

Credit can play an important role in money management. It's also an important safety net for emergencies. Not many people have cash on hand to buy a new car, refrigerator or washer and dryer. Credit can help you buy things you need and spread the payments out over time to make them easier to handle.

Common forms of credit include installment contracts, bank loans and credit cards.



How do lenders decide who gets credit?

Your ability to buy on credit depends on your credit rating. If you have a good credit rating, you are more likely to be able to buy goods and services on credit and get more

favorable terms, such as a lower interest rate. Lenders look for an ability to repay debt and a willingness to do so, and sometimes for extra security to protect their loans. They reference the three Cs of credit: capacity, character and collateral:

- > **Capacity.** Can you repay the debt? Creditors ask for employment information: your occupation, length of employment and how much you earn as well as any assets you may have. They also want to know your expenses: number of dependents, payment of alimony or child support and amount of other obligations.
- > **Character.** Will you repay the debt? Creditors look at your credit history, how much you owe, how often you borrow, whether you pay bills on time and if you live within your means. They also look for signs of stability: how long you've lived at your present address, whether you own or rent your home and length of present employment.
- > **Collateral.** Is the creditor fully protected if you fail to pay? Collateral is real property (ex: a house and/or land) or personal property (ex: an automobile or bank account) pledged to ensure that a debt is repaid.

Creditors want to know what you have that could be used to back up your loan, and what other resources you have for repaying debt other than income, such as savings, investments or property. If you pledge property as collateral to secure a debt, the lender can take that property if the debt is not paid.

If you do not qualify for credit, a lender may be willing to give credit if a credit-worthy third party co-signs the loan.

How do I get a good credit rating?

Credit ratings are developed by private companies called credit bureaus or credit reporting agencies, and are made available upon request to most businesses where you ask for credit. Because your credit rating is so important, the law allows you to check personal and financial information at the credit bureau. Under the Fair & Accurate Credit Transactions Act (FACT Act) consumers can request and obtain a free credit report once every 12 months from each of the three nationwide consumer reporting companies. AnnualCreditReport.com provides consumers with the secure means to do so. You can also request your credit report by filling out the request form and mailing it to Annual Credit Report Request Service, PO Box 105281, Atlanta, GA 30348-5281.

What is a retail installment contract?

A retail installment contract is a financing arrangement used to finance the purchase of personal property such as a car, furniture or household appliances, where the buyer pays for property in periodic installments over time. The property serves as collateral for the credit purchase. Sometimes the retailer will sell the contract to a lender; then the buyer must make payments to the lender. The buyer pays back the credit amount plus the agreed interest rate.

What are my rights under a retail installment contract?

You have the right to know the cash price for the goods purchased, the amount of any other charges, such as insurance or official fees, the interest rate (sometimes called the Annual Percentage Rate, or APR) charged on the contract and the total finance charges to be paid over the life of the contract. You have a right at anytime before the end of the contract to know the unpaid balance, and to prepay that amount without penalty. If the retailer sells your contract to a lender, you have the same defenses against that lender as you would have had against the retailer.

What if I buy a TV or stereo on an installment contract and have problems getting it fixed?

As a general rule, you must still make your required payments to the lender.

What if the store from which I wish to purchase an item does not offer a way to purchase on credit?

You may go to a bank and apply for a loan. Many people purchase cars with bank loans rather than with financing from the automobile dealership.

Is there a limit on the interest rate I can be charged on installment contracts?

Yes. North Dakota has a law that caps the amount of interest that can be charged in retail installment contracts. Contact the ND Department of Banking & Financial Institutions to find out the current rate. It is important to know what interest rate you are being charged. If you shop other lenders such as banks, credit unions or finance companies, you may be able to finance your purchase at a lower rate.

What can happen if I miss payments or don't meet other obligations of a contract?

If you breach (fail to perform) your contract, you may be liable for all damages (losses) suffered by the other party as a result of your breach. The other party can take you to court and seek monetary damages or, in some cases, force you to perform the contract. When you make purchases on credit such as automobiles, TVs or furniture, the creditor (seller) may be able to repossess (take back) the item sold to you. Even if the item is repossessed you may still owe some of the debt to the creditor. Also, if judgment is entered against you by the court, your wages or bank accounts may be garnished (paid to the creditor) or your personal property may be subject to sale by the sheriff.

Can a store automatically take some of my wages if the purchase contract says it can?

No. A store or other creditor can garnish your wages only after a court has granted a judgment on your debt. Purchase contracts that say your wages can automatically be taken, or that you grant permission to do so, are not enforceable.

What are some types of credit to avoid?

- > **Pawn shops, payday lenders and car title pawn outfits.** These companies charge the highest interest on credit. To better understand problems with payday loans visit this federal government alert: www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt060.shtm. If you or the head of your household are active military there is a federal rule that limits the interest that can be charged on payday loans, and requires additional procedures to be followed to make payday loans less stressful. For questions, more information on the federal rule, or to file a complaint about a local payday loan business, contact the ND Department of Financial Institutions at 701-328-9933, or visit www.nd.gov/dfi/ or 2000 Schafer St, Ste. G, Bismarck, ND 58501.
- > **Offers to buy things on credit with deferred interest.** If you don't pay the entire balance by the deadline, you may be hit with retroactive interest from the day you took possession of the item.
- > **High rate credit cards.** Determine the average credit card interest rate by checking www.bankrate.com, and then shop for a lower rate.

What is the difference between a credit and debit card?

The difference between a debit card and credit card is that the debit card deducts the balance from a deposit account, like a checking account, whereas a credit card allows a consumer to spend money on credit to the issuing bank. In other words, a debit card uses the money you have and a credit card uses the money you don't.

What happens if my credit card is lost or stolen?

Your maximum liability under the Fair Credit Billing Act (FCBA) for unauthorized use of your card is \$50. If you report the loss before your credit card is used, the FCBA says you are not liable for any charges. Also, if the loss involves your credit card number but not the card itself, you have no liability for unauthorized use.

What happens if my debit or ATM card is lost or stolen?

Your liability under the Electronic Fund Transfer Act (EFTA) for unauthorized use of your debit or ATM card depends on how quickly you report it. If you report the card missing before it is used without your permission, the EFTA says the cardholder cannot hold you responsible for any unauthorized transfers.

On the other hand, if you report the loss within two business days after you realize your card is missing, you may be responsible for up to \$50 of unauthorized use. If you don't report the loss within two business days, you could lose up to \$500 because of an unauthorized transfer. You also risk unlimited loss if you fail to report an unauthorized transfer within 60 days after your bank statement showing such unauthorized use is mailed to you. To avoid any of these consequences, make sure you keep track of your debit card, frequently monitor bank statements and report it immediately if lost or stolen.

What can I do if I owe more than I can pay?

If you cannot make your payments as they come due, you should contact your creditors as soon as possible, explain your situation, and ask for an extension or to work out a new payment schedule. Also consider a credit counseling service. Many non-profit organizations offer credit counseling for a small fee, and can help you work your way out of debt and regain control of your money. The National Foundation for Consumer Credit, an association of hundreds of credit counseling offices, can help you find an office near you. Call 800-388-2227 or visit www.nfc.org: Do not hire a consumer credit counseling agency or debt settlement company that is not licensed in North Dakota.

Before retaining a consumer credit counseling entity or debt settlement company, be sure to verify that the consumer credit counseling entity or debt settlement company is licensed by contacting the ND Department of Financial Institutions at 701-328-9933. As a last result you may consider filing bankruptcy.

What is bankruptcy?

Bankruptcy is the legal process in which a person declares inability to pay debts. Any available assets are sold and the proceeds are distributed to creditors. A person may be declared bankrupt under one of several chapters of the federal bankruptcy code, including Chapter 7, which covers liquidation of the debtor's assets, or Chapter 13, which covers work-outs of debts by individuals.

Under the Bankruptcy Abuse Prevention & Consumer Protection Act of 2005, you must undergo a "means test" to qualify for Chapter 7 bankruptcy. Your income and expenses are examined in detail to see how they compare to the standard for your area as set by the IRS. If you earn less than the median income for a family your size in your state, you can automatically file Chapter 7. If your income from the last six months is greater than the median income and you can pay at least \$6,000 over five years or \$100 toward your debt, you are not allowed to file for Chapter 7. You must file Chapter 13 instead. Chapter 13 will require you to repay a portion of your debts over three to five years. Also, under the new law when you file bankruptcy, you must receive approved credit counseling and a budget analysis at your own expense.

What are some of the consequences of bankruptcy?

If you file for bankruptcy, you may be forced to turn over your assets (real or personal property) to the bankruptcy court to help pay your creditors. Once the bankruptcy proceedings are complete you will receive a "discharge," which in most cases means your prior debts will be wiped out. There are also negative consequences, including a poor credit rating, which will make it more difficult to obtain a loan in the future. Bankruptcy should always be the last resort.

How long does it take to clear up a bad credit report?

Bankruptcy notations are maintained for 10 years in your credit file. In the event of a disagreement with a creditor, a letter can be placed in your credit file explaining your position. In the event of a computer error, a conference with the appropriate representative of the Retail Merchants Association will assist in correcting the problem.

What laws protect the rights of borrowers?

- > **Truth-in-Lending.** This is part of the Federal Consumer Protection Act, and requires companies to disclose the cost of a credit transaction, including when finance charges may be used, finance charges as an Annual Percentage Rate, the length of a grace period before charges accrue, payment terms, the amount of any fees such as late payment charges, and other important information.
- > **Fair Credit Reporting Act.** This law protects consumers against the circulation of inaccurate or obsolete credit information. It also requires companies that issue credit reports to adopt fair and equitable procedures for obtaining, maintaining and giving out information about consumers. Consumers who are denied credit must be given the reason for the denial, and may request a free copy of their credit report.
- > **Fair Debt Collection Practices Act.** This federal law prohibits collection of consumer debt by certain unfair collection methods. It applies to companies that collect debt owed to others, but not to creditors collecting their own debts. A debt collector may not harass you with threats or obscene language. Nor may they contact you at inconvenient times or places, such as before 8 a.m. or after 9 p.m., unless you agree to this. A debt collector may not contact you at work if your employer disapproves. If you write a letter to the collector to stop contacting you they may not contact you again, except to notify you of some specific action, such as filing suit against you.

What do I do if I am the victim of Identity Theft?

If you have been the victim of identity theft you should file a police report with your local law enforcement agency and contact the Attorney General's Consumer Protection Division at 800-472-2600 or 701-328-3404 for assistance. The Attorney General's Office acts as clearing house for identity theft victims. You should file an Affidavit of Identity Theft with the Attorney General's Office that can be submitted the three (3) nationwide credit reporting agencies and individual creditors to authenticate that you have been a victim of identity theft and the accounts opened in your name or charges to you were unauthorized. Information on how to protect yourself from identity theft or report identity theft is available on the Attorney General's website at www.ag.nd.gov.


DISCRIMINATION IN EMPLOYMENT, HOUSING, PUBLIC SERVICES & ACCOMMODATIONS, & CREDIT TRANSACTIONS

Can I be discriminated against in employment, housing, public services or public accommodations, or credit transactions?

No, not if the discrimination is based on your membership in a protected category or your association with a member of a protected category. Discrimination in employment, housing, public services or accommodations, or credit transactions because of one's "race, color, religion, sex, national origin, age, the presence of any mental or physical disability, [or] status with respect to marriage or public assistance" is prohibited in North Dakota. Familial status and status as a victim of domestic violence are additional protected categories in the area of housing. Familial status means one or more minors living with a parent/legal guardian, a person who is pregnant or who is in the process of securing legal custody of a minor. Status as a victim of domestic violence includes dating violence, sexual assault, and stalking. However, where there is a good faith occupational qualification that is reasonably necessary for normal operation of a certain business, failure to employ an individual who is one of the persons listed above may not be a "discriminatory practice."

It is also unlawful for an employer to fail or refuse to hire a person or to discriminate against an employee for lawful activities off the employer's business premises during non-working hours that do not directly conflict with essential business related interests of the employer.

Federal laws also provide relief for discrimination in employment and housing under the Civil Rights Act of 1964 and the Fair Housing Act.



If I believe that I have been denied employment, housing, public services or accommodations, or credit transactions for any of the reasons listed above, who should I contact?

The North Dakota Department of Labor and Human Rights is responsible for receiving and investigating claims of discrimination under the North Dakota Human Rights Act and the North Dakota Housing Discrimination Act. The Department also investigates most claims of housing and employment discrimination under federal law under work-sharing agreements with the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing & Urban Development (HUD). A person is not required to file the claim of discrimination with the Department, but may file the claim directly in district court.

Contact: North Dakota Department of Labor and Human Rights:
800-582-8032, 701-328-2660, www.nd.gov/labor, or labor@nd.gov.

To what extent does the law prohibit disparity in compensation?

North Dakota law requires that there be equal pay for men and women, and that there be no discrimination because of age. "Age," in reference to discrimination, means at least 40 years of age.

However, there are some exceptions to the rule that pay always be equal. For example, the law allows for different compensation when the compensation is related to "established seniority systems, systems that measure earnings by quantity or quality of production, merit systems, or a bona fide factor other than gender, such as education, training, or experience."

The Federal Equal Pay Act of 1963 also requires employers to pay employees equal wages for equal work regardless of gender.

Do the laws relating to discrimination also apply to credit transactions?

Yes. It is a discriminatory practice to "deny credit, increase the charges or fees for or collateral required to secure credit, restrict the amount or use of credit extended to a person. . . because of race, color, religion, sex, national origin, age, physical or mental disability, or status with respect to marriage or public assistance."

What remedies are available to victims of discrimination?

If the North Dakota Department of Labor and Human Rights, as a result of a hearing, or the court determines that a person has engaged or is engaging in a discriminatory practice, that person may be prohibited from engaging in the unlawful practice by ordering injunctions, equitable relief and/or back-pay for up to two years from the date a complaint was filed with the Department of Labor and Human Rights or the court.

How long do I have to file a complaint?

Complaints asserting housing discrimination must be filed with the Department of Labor and Human Rights within one year following the alleged discrimination.

Complaints asserting discrimination with regard to business or governmental services must be filed with the Department of Labor and Human Rights or the district court within 180 days of the alleged act of wrongdoing.

For discrimination involving employment or credit transactions, the law permits the victim to file a complaint with the Department of Labor and Human Rights or a district court, within 300 days from the incident.

What constitutes sexual harassment?

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct, or communication of a sexual nature. A person is being sexually harassed when subjected to this kind of treatment in relation to obtaining or maintaining employment, public accommodations or services, education or housing.

What should a person do who is or has been subjected to sexual harassment?

At the time of the incident, if the person feels comfortable confronting the harasser, asking the person to stop the offensive behavior may be the simplest solution. If this is not possible, the person should report the incident to the person in charge of the business, school or organization involved as soon as possible.

If the problem is not resolved within the business, school or organization, the victim may file a charge with the appropriate federal agency (HUD or the EEOC) or the North Dakota Department of Labor and Human Rights, or commence legal action in the state district court.

Claims of sexual harassment may also be brought in federal court as a violation of civil rights under the Civil Rights Act of 1964.

Are there laws prohibiting discrimination based on sexual orientation?

Discrimination against persons based on their sexual orientation is not illegal under North Dakota state law, though some North Dakota cities, including Grand Forks, Fargo, and Jamestown, have ordinances prohibiting discrimination against city employees based on sexual orientation. In those cities, ordinances may also prohibit discrimination based on sexual orientation in housing or receipt of municipal services. Some other states, such as Minnesota, some cities, such as San Francisco, and some colleges and universities make discrimination based upon one's sexual orientation unlawful. Discrimination based on gender stereotypes, however, may be unlawful.

DRIVING, REGISTRATION & LICENSING

How old must I be before I can drive a motor vehicle?

You can obtain a temporary operator's permit if you are 14 or older. This permit allows you to drive when accompanied by a licensed driver 18 years or older, if that driver has at least three years of driving experience and is seated next to you in the vehicle. If you are under 16 you must have a permit for at least 12 months before you are eligible to take the test to become a licensed driver, or at least 6 months if you are 16 or over. Any person who takes the licensure test will be issued a restricted license that requires the driver to follow additional regulations.

Can I be denied a license or permit?

Yes. Driving is considered a privilege and not a right. The ND Department of Transportation can refuse to give you a license or permit. The department can take away driving privileges temporarily or permanently.

What laws must I obey as a driver?

All drivers, regardless of age, must obey all traffic laws. Examples include laws restricting speed, obeying stop and yield signs, wearing seat belts, not texting while you drive and reporting accidents.

A driver with a restricted license may not drive past 9 p.m. or sunset, whichever is later, and not before 5 a.m. unless either accompanied by someone over 18, going directly to or from work, or an afterschool or religious activity.

What penalties can I receive for violating the laws mentioned above?

For minor offenses you may have points assessed against your driving record. For example, disregarding a stop sign carries two points. If you are under 18 and accumulate six points your license may be canceled. This means you have to start over by taking a driver's education class, passing a written and driving test, and paying a fee for a new license. If you are 18 or older your driving privileges may be suspended if you accumulate 12 points. Points assessed against your driver's license are reduced at the rate of one point for every three months without a violation.

Some of the offenses and points for violating them include: Speeding less than 10 mph over the speed limit [0 points]; Violating the Provisions of a Restricted License [2 points]; Careless Driving [6 points]; Drag Racing [10 points]; Speeding more than 35 mph over the speed limit [12 points]; Driving without liability insurance [12 points]; Leaving the scene of an accident [14 points]; and Fleeing from police [24 points].

What do I have to do after purchasing a vehicle?

If you own a new or used vehicle, you must have it properly licensed through the department of transportation. If the vehicle already has North Dakota plates on it, you must transfer registration to your name.

What other requirements are there before I can drive my vehicle in North Dakota?

You must maintain liability insurance on your car. If you fail to do so, not only can your driving privileges be suspended but you can be charged with a crime. If you obtain a loan to buy the vehicle the bank or loan company will require you to purchase insurance, and may require comprehensive or collision coverage in addition to liability insurance.

Do I need a special license to drive a semi or motorcycle?

Yes. There are different licenses for cars, motorcycles, buses and large trucks. You can arrange to take tests for these additional vehicles by contacting your local department of transportation office.

DRIVING UNDER THE INFLUENCE

What does state law say about DUI?

It is illegal to drive a motor vehicle while under the influence of drugs or alcohol or when you have a blood alcohol level of .08 or greater. A driver can be found guilty even if no blood or breath test is given. Being “under the influence” simply means that the consumption of drugs or alcohol has impaired the ability to drive. It is unnecessary to show the driver violated a traffic law or was driving in an unsafe manner.

A person can be arrested for DUI even if the person was not actually driving, but merely behind the wheel. Even if the key is out of the ignition a driver may be charged with an actual physical control (APC) of the vehicle. The penalties for APC and DUI are the same.

What procedures are followed in a DUI stop?

Most DUI cases start when a driver violates a traffic law, such as speeding, failing to use a turn signal or running a stop sign. Another common reason for a stop is to investigate a vehicle with faulty equipment, such as burned out tail light or no light over rear license plate. After a traffic stop if the officer has a reason to believe (bloodshot eyes, odor of alcohol from the driver’s breath or car, slurred speech, etc.) drivers body contains alcohol or another drug the officer can request the driver to take some tests. An officer may ask the driver to perform field sobriety tests such as the HGN (Horizontal Gaze Nystagmus), walk-and-turn, and one-leg stand tests. Additionally, the officer can request the driver take an onsite screening test. This test is conducted with a handheld breath instrument that measures the amount of alcohol in the body. A driver has the statutory right to refuse the screening test. However, if the driver refuses to take the screening test they may be arrested for the crime of refusal which is treated like a DUI. At the conclusion of the roadside investigation, the officer will consider the results of all these tests (or refusal of the screening test), and their personal observations in deciding whether or not to arrest the driver for DUI.

Upon being arrested for DUI (or refusing the screening test), the officer will offer the driver an additional chemical test of the driver’s blood, breath, saliva or urine. It is the officer’s choice of which test will be offered. Again, a driver has a statutory right to refuse additional chemical tests after being arrested but refusal of the chemical test will be treated similarly to a DUI. Submitting to a chemical test after being arrested will allow the driver to “cure” any previous refusal of the screening test. Failure to provide a chemical test will result in criminal prosecution for the refusal and additionally your license may be revoked by the Department of Transportation for up to three years. For a first-time refusal, driving privileges are suspended for one year.

What rights does the driver have if arrested for DUI?

The driver arrested for DUI has the right to remain silent, to refuse to answer questions,

and to contact an attorney. If the driver is under 18 he or she may contact a parent or guardian. After arrest, a driver has the right to consult with an attorney before deciding to take any additional tests. The right to speak to an attorney after being arrested but before deciding to take a test is a limited one. The request to speak with an attorney must not interfere with the officer's ability to conduct the tests within two hours of the time of driving.

The driver has the right, at his or her own expense, to have an independent chemical test. A local hospital has the capability of performing an independent test.

What is the “implied consent” law?

Under state law any driver is presumed to have consented to a chemical test of their blood, breath, or urine to determine if the driver is under the influence of alcohol or other drugs. A driver may revoke this consent to testing and no test shall be given. However, refusing to take the chemical test offered by the officer will be treated as a crime which is handled similarly to a DUI and a driver's license may be suspended for up to three years.

What happens to my driver's license if I fail the chemical test?

If you are under 21 and the test results are .02 or greater or if you are 21 or older and the test results are .08 or greater, the arresting officer will give you a form which includes a temporary operator's permit. This permit is valid for 25 days. The form tells you about your right to request a hearing concerning the loss of your driving privileges. Your request for a hearing must be mailed within 10 days of receiving the form.

If you request a hearing, it will be held within 30 days of when you received your temporary operator's permit. A hearing officer will determine if the stop and arrest were proper, and if blood or breath tests were fairly administered. If the hearing officer rules in your favor, your license will not be suspended. If not, your license will be suspended for at least 91 days and at the most three years.

The loss of driving privileges is an administrative penalty separate from anything that happens in a criminal court.

What are the criminal penalties for DUI?

The maximum penalty for a first DUI is 30 days in jail and a fine of \$1500. Typically Courts do not impose the maximum sentence for first time offenders. Courts do impose minimum mandatory sentences, which for first time DUI offenses are a \$500 fine. If your alcohol content exceeds .16 the court must also impose two days incarceration and a \$750 fine. The more DUI offenses you have, the greater the minimum mandatory sentences will be. If you have a fourth offense DUI, that will be considered a felony offense with a maximum sentence of five years' incarceration possible with a minimum mandatory sentence of 1 year and 1 day incarceration and a \$2000 fine.

All DUI convictions will require you to submit to a chemical dependency evaluation to determine whether you suffer from a dependency on alcohol or drugs. If the evaluator recommends you should complete treatment, the Department of Transportation will not reinstate driving privileges until the treatment is completed.

Will a DUI conviction affect me in other ways?

Yes. Those under 21 will see insurance premiums increase dramatically, in many cases as much as four times higher than before the DUI. The premiums stay at the higher rate for several years.

Many employers will require you to have a valid driver's license and having a DUI could jeopardize your current or future employment. Even if you are successful in avoiding a conviction, you should expect to pay several thousand dollars in attorney fees for your defense.

What is North Dakota's position on DUI?

The state recognizes that impaired drivers hurt themselves, others and damage property worth millions of dollars each year. Law enforcement agencies run "sobriety checkpoints" to catch impaired drivers. They are especially vigilant on holidays and weekend nights. When they say "If you drink, don't drive," they mean it. DUI laws are strictly enforced in North Dakota.

EMPLOYMENT



How do I find a job?

Read the classified ads in your local newspaper, review online job search sites, attend job fairs, watch for "help wanted" signs, and tell friends and neighbors you are looking for a job. You can also visit North Dakota Job Service online at www.jobsnd.com.

How can I improve my chances of getting a job?

An employer's first impression of you is extremely important. Dress neatly and appropriately. Arrive for your job interview on time. Be thoughtful, truthful and neat when completing a job application. Stay drug free. Make sure you know what the job entails, and let the employer know what skills and talents you have that are well suited for the job.

Must an employer give me a written employment contract?

No.

What is North Dakota's minimum wage?

North Dakota's minimum wage is \$7.25 per hour. Employers may use a tip credit of 33% of the minimum wage for tipped employees (*i.e.*, any service employee in an occupation in which he or she receives more than \$30 per month in tips). With the tip credit, the minimum wage payable to a tipped employee is \$4.86 per hour.

What additional rights do I have as an employee in North Dakota?

Overtime. Overtime must be paid at one and one-half times the employee's regular rate of pay for any hours worked over 40 in any workweek. A work week is a seven consecutive-day period defined by the employer. There are some exceptions to this rule.

Meal breaks. A minimum 30-minute meal break must be provided in shifts over five hours when there are two or more employees on duty. Other breaks (*such as 15-minute coffee breaks*) are not required by law.

Payday. Employees must be paid at least once each calendar month on the regular payday(s) designated in advance by the employer. If you separate from employment before a payday, your employer must pay you your unpaid wages by the next payday.

Pay stubs. Every employer must provide an employee each pay period a check stub or voucher indicating hours worked, rate of pay, required state and federal deductions, and any other authorized deductions.

Deductions from pay. Other than amounts that are required by law to be withheld from your paycheck (such as taxes, or court-ordered garnishment), your employer can only deduct (1) advances paid to you, (2) a recurring deduction that you authorized in writing (such as insurance premiums), (3) a one-time deduction that you authorized in writing, or (4) a one-time deduction for damage, breakage, shortage, or negligence that you authorized at the time of the deduction.

The North Dakota Department of Labor publishes a poster outlining employee rights: www.nd.gov/labor/publications/conditions.html.

What is a Form W-4?

All employees must complete a Form W-4 so that employers can withhold the correct income tax from employees' wages. Typically, a single employee will claim one (1) exemption on line 5 of the form.

Do I have to file Federal and State Income Tax Returns?

The Internal Revenue Services website provides detailed information regarding who must file a tax return: www.irs.gov. In most cases, North Dakota's filing requirements mirror federal filing requirements. Even if you are not required to, you should always file federal and state returns to receive a refund of taxes withheld by your employer.

Do I have a right to sick days, personal days and vacation?

Ask your prospective employer if you're entitled to sick, personal, and vacation days. There is no state law mandating that you receive paid days off. Generally, if your employer provides you paid time off, and you have any time earned when you leave employment, the employer must pay you for that time. There are some exceptions to this requirement, but only if (1) the employer gave you notice of the limitation, (2) you were

employed less than a year, and (3) you gave less than 5 days' notice of leaving.

If you work for an employer with 50 or more employees and qualify under the Family & Medical Leave Act (FMLA), you are entitled to up to 12 weeks of unpaid, job-protected leave for certain family or personal medical reasons.

What if my employer fails to pay me?

You can file a wage claim with the North Dakota Commissioner of Labor: www.nd.gov/labor/wage/wage.html.

For what reasons may I be fired?

If no employment contract exists, an employee may be fired for any reason except one prohibited by statute such as age, color, race, national origin, religion, pregnancy, sex, physical or mental disability, marriage status, whether you receive public assistance, or if you report in good faith a violation of law or participate in an investigation. If an employment contract exists, the contract will dictate the terms for dismissal. Where no specified time is fixed determining the duration of employment, it is presumed the employment is at will and can be terminated at any time.

Do I have to give notice before I quit my job?

Unless such a requirement is included in an employment contract, you are not required to give a minimum length of notice (for example, a 2-week notice).

What are unemployment benefits?

Unemployment benefits are available to persons out of work through no fault of their own. The benefits replaces part of the income lost when you become unemployed. You can file your unemployment benefit claim at www.jobsnd.com or call 701-328-4995. You should file your claim as soon as you are unemployed or if you have a significant reduction in hours.

What do I do if I'm injured on the job?

Workers' compensation provides for the payment of certain expenses incurred by an employee for injuries or illnesses arising from employment. Report all accidents, illnesses, or injuries to your employer as soon as they occur, even if the injury is not serious enough for medical attention. With your employer or on your own, make sure to immediately file a claim with the North Dakota Workforce Safety & Insurance: www.workforcesafety.com.

What is discrimination or sexual harassment, and what if I experience it at work?

Employers must hire, discharge, train, promote, compensate, and conduct employment activities without regard to race, color, religion, sex (including pregnancy and childbirth), national origin, age (40 and older), physical or mental disability, marriage status, or public assistance status. Employers cannot retaliate against someone who

reports discrimination. These rules don't apply in situations where there are bona fide occupational qualifications or seniority or merit systems in place, or in giving preferential treatment for veterans, or if there are national security reasons.

You can report discrimination concerns to the Department of Labor and Human Rights.

North Dakota Department of Labor and Human Rights

600 E. Boulevard, Dept. 406

Bismarck, ND 58505-0340

Telephone: (701) 328-2660

In-state, toll-free: 1-800-582-8032

TTY (Relay ND): 1-800-366-6888 or 1-800-366-6889

FAX: (701) 328-2031

E-mail: labor@nd.gov or humanrights@nd.gov

<http://www.nd.gov/labor/index.html>

Note: These rules apply differently to state employers, such as government agencies.

JURY DUTY

A North Dakota resident who is 18 years old or older may be called for Jury Duty. Please see North Dakota's Juror Handbook found at <https://www.ndcourts.gov/district-court/Jurors-Handbook>.

LANDLORD/TENANT



Must a lease be written to be enforceable?

No. A verbal lease is also enforceable if it is for a term of not more than one year.

What are the obligations of the landlord?

By law, landlords must comply with housing codes, make repairs to keep the property livable, keep common areas safe and clean, keep building facilities in safe and working order, provide garbage containers and removal, and place smoke detectors in each rental unit. These responsibilities are in addition to any conditions agreed to in the lease.

What are my obligations as a tenant?

Your primary obligation is to timely pay the rent. In addition, tenants must comply with housing codes imposed on landlords, keep their units clean and safe, remove garbage regularly, use plumbing and other building facilities reasonably and make sure they and their guests don't disturb other tenants.

What should I be concerned about when signing a lease?

As with any written contract you should understand and agree with all terms. If you don't understand something, ask questions or seek help from a friend, parent, teacher or lawyer. Signing a lease begins a relationship with the landlord that will continue through the term of the lease. You should therefore keep good records of rental payments, repair requests, etc.

Before you make a deposit, inspect the rental property. The landlord is required by law to give you a checklist describing the condition of the property. Make sure to mark existing damage or problems on the checklist. Both you and the landlord should sign the completed list to reduce potential disputes later.

What is a security deposit and what is it used for?

A security deposit is a sum of money, not to exceed one month's rent, required by the landlord at the beginning of a lease. It serves as security for the landlord to repair any damages you or your guests cause to the property, for unpaid rent, or to pay cleaning costs after you leave. The deposit and an itemized list of any deductions must be returned to you within 30 days of terminating the lease. The landlord cannot withhold money for "normal wear and tear" to the property. Interest on the deposit must be paid if the landlord holds the deposit for more than nine months.

If you have a pet, the landlord can charge a deposit of up to \$2,500, or the equivalent of two months rent, whichever is greater. Make sure you give the landlord a forwarding address so that the security deposit financial statement and refund reaches you. A tenant must claim any security deposit refund or credit within one year of the termination of the lease or it is subject to the North Dakota abandoned property statute.

Will I have to pay rent and extra fees if I terminate the lease early without a 30-day notice?

Not if you are in imminent fear of domestic violence and have obtained a domestic violence protection order or court order prohibiting contact against the person who subjected you to domestic violence. If you give the landlord written notice of the reason you are leaving and your lease termination date with a copy of the court order, you will only have to pay the rent for the full month in which you move out. However, if the landlord is not able to find a tenant to pay the second month's rent after you move, you will also be responsible for that month, but no additional rent or penalties for early termination of the lease. All other possible fees, such as those for which the landlord can use the security deposit, still apply.

Can the landlord increase my rent?

If you have a month-to-month lease, the landlord may raise the rent by any amount by providing written notice at least 30 days in advance. You can then give a 25-day notice to terminate the lease at the end of the month. You can only use this 25-day provision if the landlord changes part of the lease. If you have a one-year lease, for example, the landlord can generally not raise your rent until the end of that one-year period.

When can the landlord charge late fees?

If you are late paying rent, the landlord may charge a late fee. However, the lease must specify how much the late fee will be and when it will be effective.

If I sign a lease with three friends and they move out, do I have to pay the full rent or only my share?

Most leases signed by more than one person provide that the tenants are “jointly and severally liable” for the rental payments. This means the landlord has the right to seek the entire monthly rent from any one of the co-tenants, even though one or more may have moved out. This also applies to utility and other bills due each month under the lease terms.

What can I do if a landlord refuses to make repairs?

You should promptly notify the landlord when repairs are needed. The landlord must be given a “reasonable” amount of time to make the repair. If the landlord does not make a repair, you can take care of it and deduct the expense from your rent, but you should notify the landlord in writing first that you intend to do this. You may also sue the landlord for repairs and other expenses in Small Claims Court. As a last resort, you can terminate the lease and move out – but this should be done only if serious repair problems or code violations exist.

If I break a lease, for what amount can I be sued?

If you break a lease, your landlord may seek the loss of rent for the remainder of the lease term minus any amount received when the property is rented again. The landlord has a duty to try to lease the property to someone else. The landlord can also seek recovery for any damages to the property above ordinary wear.

When can my landlord enter the space I have rented?

A landlord may only enter in emergency or after giving you reasonable notice.

Under what circumstances can my landlord evict me?

You can be evicted, even in winter months, for nonpayment of rent, disturbing other tenants, illegal activity conducted on the property, or violations of the lease, such as unreported pets, or too many occupants in violation of the lease.

What is the procedure for eviction in North Dakota?

To evict, a landlord must first serve a Notice of Intention to Evict (often called a Notice to Quit), ordering you to vacate the premises within three days. If you do not resolve the problem or fail to leave, the landlord's next step is to serve you with a Summons & Complaint, which begins the legal process. The Summons & Complaint will give notice of the date and time of the court hearing, which must take place between 3 and 15 days after you receive it. At the hearing the judge will listen to both sides of the dispute,

and then make a decision – either that you cannot be evicted, or that you must leave. Ordinarily, you must leave the property immediately, but if there is a good reason, a judge may allow you up to five days after the eviction hearing to move you and your things from the property.

More helpful resources.

For additional detailed information visit www.ndaa.net; click on Landlord/Tenant Rights to view a booklet with a summary of the law, as well as additional resources.

MARRIAGE, FAMILY & CHILDREN

How old must I be to get married in North Dakota?

You must be 18 to get married in North Dakota. However, if you are 16 or 17 and your parents or legal guardians consent, you may also marry someone.

What is required in order to be married?

You must pay \$65 to get a marriage license. If you have been married before, you must provide a certified copy of your divorce decree with your application.

Do I have to be a North Dakota resident to get married in this state?

At least one of the two people getting married must be a North Dakota resident or have parents who are North Dakota residents. To be a resident, you must live in one North Dakota county for at least 30 days before applying for a marriage license.

What if my marriage doesn't work out and I want a divorce?

Unlike marriage, divorce is one legal procedure that is not wise to undertake without the help of an attorney. This is because divorce has many legal requirements and procedures in which an attorney's help may be necessary and invaluable. However, there is a simplified procedure for couples with few assets and no custody issues who want to proceed without an attorney. Packets with forms and instructions can be obtained from the ND Supreme Court website, www.ndcourts.gov, or your local clerk of court. Be aware that the judge can determine your case is too complicated to continue under this simplified procedure after reviewing your file, so an attorney's help may be needed anyway. There is also a procedure that can be used for low income households. This is only allowed for stipulated divorces and costs a minimal amount.



What grounds must I have to get a divorce?

North Dakota has retained its fault-based grounds for divorce. However, these are rarely used. If used, it is normally for purposes of property settlement. ND also has a no-fault statute. A couple may qualify for a divorce if it can be shown that they have irreconcilable differences, which simply means one or both spouses no longer wish to be married.

What decisions might be involved in a divorce?

Making decisions regarding children and who will be primarily responsible for their care, deciding how to divide property and debt, and whether Alimony (spousal support) should be paid, are all areas that must be addressed in a divorce. Domestic violence can also complicate the proceeding.

What is “domestic violence”?

Domestic violence includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the fear of these things being inflicted on a person by a family or household member. If you believe you may be the victim of domestic violence you should call the state hotline for the ND Council on Abused Women’s Services at 800-472-2911.

Does it cost money to get a divorce?

Yes. In North Dakota the filing fee at a clerk of district court’s office is \$80. This can be waived if you qualify based upon your income and/or circumstances. There is also a charge for serving the papers of approximately \$50, depending on where the person who is going to be served lives. Of course there will also be legal fees if you are represented by an attorney. You must clarify the attorney’s hourly fee, the amount of retainer necessary and, if possible, an estimate of what your type of divorce will cost.

Do I have to be a North Dakota resident for a certain time before divorcing my spouse?

Yes. A divorce may not be granted unless the person who files for divorce in good faith has been a resident of North Dakota for six months before entry of the divorce decree or will be living in North Dakota for at least six months by the time the Court issues its divorce decree.

How does a Court decide if and how much a spouse will receive in alimony, or how the property is divided?

Courts are required to make an “equitable” or fair division of all property and debts of couples. There are no rigid rules governing who gets what property and debt, but the Court may consider such things as where and when the property was obtained, conduct of the parties during the marriage, property value and needs of the parties. Alimony will be awarded on a temporary or permanent basis. The Court normally requires that one spouse demonstrate a need for support and the other spouse can afford to pay.

Would it be easier to just live together rather than get married?

There can be some issues that arise when living with a significant other. Normally, unmarried partners cannot be covered under each other's family medical insurance plan, and are not eligible for social security benefits if one partner dies, even if there is an agreement between the partners. Also if the couple splits, up there may be disputes over property, parenting time and decision-making authority for children, and child support. Unmarried couples are not eligible to receive alimony. The division of property becomes very complicated depending on whether the parties were sharing expenses throughout the relationship and what their intent was regarding the property. The Court is allowed to divide property of unmarried individuals similar to the dissolution of a business, but it is often very complicated.

How is parenting time and decision-making authority with children (“custody”) decided?

North Dakota requires a parenting plan for divorces that involve children. This is a written plan that describes each parent's rights and responsibilities. The parenting plan is accomplished by an agreement between the parents or crafted by a Judge if the parents cannot agree.

Many factors are taken into consideration, and it can be a very difficult and complicated decision. Before a Judge looks at the case and issues a parenting plan, the Court may require mediation, which is free to the parents. This mediation is only required and free to the parties when the divorce or action involves children. However, the mediation can help the parents resolve some of the divorce issues as well. If the parents were never married, the court must first establish paternity of the child before a parenting arrangement can be determined. You should contact an attorney for assistance in determining paternity.

If I am not married but get a woman pregnant, what can the mother do?

The mother, without your consent, can decide to give your child up for adoption, keep your child and make you pay child support, or have an abortion in certain situations. The mother is not required to give the child the father's last name.

What happens to the father in a paternity case?

You may agree in writing that you are the father of the child. This is normally accomplished by you signing the birth certificate, which shows that you acknowledge that the child is yours. If you do, and the child lives primarily with the mother, you will pay child support even if it is later determined you are not the father (*except in very limited circumstances*). You may or may not be given the right to have parenting time and decision-making authority for the child. The parties through a stipulation or the Court will issue an order regarding parenting time and decision-making authority. Many circumstances are looked at to determine the extent of that parenting time.

If you do not agree that you are the father, the mother or the state (*if the child is on public assistance*), may file a paternity suit against you. The court or the state child support agency can order you to be tested for paternity. If you are proven to be the father of the child you may have to pay child support, provide medical insurance or possibly pay cash medical support. If you refuse the test and do not appear at the trial in this matter, the Court may take action against you or make a decision without you.

If paternity has not been established by testing or agreement, the mother must testify regarding who her sexual partners were at the time the child was conceived. The Court will order you to be tested first, since the action was brought against you. If testing shows that you are not the father, the Court will then order another sexual partner tested. If he is eliminated as the father, the Court will continue to order sexual partners tested until paternity is established.

You can also be determined to be the father by raising the child as your own for a period of time. If you are acting as the father, then you can be determined the father even if later you are determined not to be the biological father. The other way you can be determined the father is if you are married to the mother of the child at the time of birth, even if you do not sign the birth certificate.

If I am awarded custody, do I receive child support?

In almost every case, the judge requires the non-custodial parent to pay monthly child support. Child support can also be ordered when the parties share custody of the child. This occurs by off-setting both parties' incomes. The party who has a higher income would than pay child support to the other party. The amount is based upon guidelines applied to his or her income. Payments are made to the state child support disbursement unit, and then distributed to the custodial parent. Usually child support is collected under an income withholding order, which deducts the amount directly from the individual's paycheck. If your ex-partner becomes delinquent in child support payments, assistance is available either through the clerk of court's office, or through Child Support Enforcement offices in Bismarck, Devils Lake, Dickinson, Fargo, Grand Forks, Jamestown, Minot and Williston.

What can the law do to collect child support from me?

The law allows child support enforcement agencies to take up to 50 percent of your paycheck or unemployment benefits. They can place a lien on your real or personal property, sell your car, cycle, stereo, boat or other personal property, take your income tax refund and require you to post a bond or security. You can also have your driver's license or professional or occupational license suspended for failure to pay child support. Ultimately you can be put in jail if you refuse to pay child support.

What legal responsibilities does having children raise?

The parents of a child, married or unmarried are legally obligated to support the child until he or she reaches adulthood. Beyond that, there is a responsibility to provide a

stable home for the child with the necessary financial and emotional support.

What if I'm not able to adequately provide for the child?

A range of services are available to help parents having difficulties in providing for their children, such as financial aid and counseling. Contact your county's Social Services Office for information and help.

What can happen if I abuse or neglect my child?

Being a parent is not easy. A parent who recognizes they have a problem with abuse or neglect should contact Social Services. Each county social service office investigates any report of abuse or neglect, and can offer services at the family's request or by order of the court. Anyone who believes a child is being abused or neglected can report to a county social services office, or if there appears to be significant danger the report may be made to a local police department or sheriff's office.

Parents who seriously want help to improve their parenting skills may receive assistance and counseling, and stand a better chance of keeping their children and avoiding prosecution. Where abuse or neglect is serious or long-term, children may be taken away, and parents may be charged with criminal offenses.

Does anyone have a duty to report a suspected case of child abuse or neglect?

While anyone who suspects abuse or neglect of a child may make a report, members of several professions who come in regular contact with children are required to do so, including medical and mental health professionals, school officials, faculty and staff, addiction counselors, social workers, child care workers and police or law enforcement officers.

MILITARY SERVICES

Who is required to register for the draft (Selective Service System)?

The law requires virtually all male United States citizens (regardless of where they live), male immigrants residing in the U.S. (permanent resident aliens, refugee, parolee, and asylee immigrants, undocumented immigrants, dual national U.S. citizens), and U.S. citizens or immigrants who are born male and have changed their gender to female, who are 18 through 25, to register with Selective Service. Individuals who are born female and changed their gender to male are not required to register. Registration is done through the federal Selective Service System. To be in full compliance with the law, a man turning 18 should register during the period beginning 30 days before and the following 29 days



after his 18th birthday (60-day window). Females do not register.

Late registrations are accepted, but not once a man reaches age 26. Men who do not register within the 60-day window are in violation of the law and should register as soon as possible.

It is important to know that even though he is registered, a man will not automatically be inducted into the military. In a crisis requiring a draft, men would be called in sequence determined by random lottery number and year of birth. Then, they would be examined for mental, physical and moral fitness by the military before being deferred or exempted from military service or inducted into the Armed Forces.

Early Submission

It is now possible for a man to submit registration information early, as long as he is at least 17 years and three months old. Selective Service will keep his information on file and process it automatically later in the year, when the man is within 30 days of reaching his 18th birthday. An acknowledgment card will be mailed when his registration is processed. To submit early registration information, follow the same procedures as men who are 18 through 25 years old, listed below.

How do I register?

The fastest and easiest way to register is online at www.sss.gov.

At the Post Office

Selective Service “mail-back” registration forms are available at any post office. A man can fill it out, sign it, attach postage, and mail it to Selective Service, without the involvement of the postal clerk. Men living overseas may register online at www.sss.gov or at any United States Embassy or consular office.

By Mail

A young man may also register by filling out a reminder mail-back card. Selective Service sends this card to many men around the time they turn 18. Mail-back cards are also available at some U.S. post offices. A man can fill out the card at home and mail it directly to: Selective Service System, Registration Information Office, PO Box 94739, Palatine, IL 60094-4739.

Check Box

Another way a young man can register is to check a box on the application form for Federal Student Financial Aid (FAFSA form). A man can check “Register Me” on Box #22 on the FAFSA form, and the Department of Education will furnish Selective Service with the information to register him.

At your High School

More than half the high schools in the nation have a staff member or teacher appointed as a Selective Service Registrar to help register male high school students.

What happens if I don't register?

Federal prosecution is possible. If convicted, a fine up to \$250,000, a prison term of up to five years, or both may be ordered.

Even if not prosecuted, a man who fails to register with Selective Service before turning 26 may find some benefits denied permanently.

Benefits and Programs Linked to Registration & Student Financial Aid

Men, born after December 31, 1959, who are not registered with Selective Service will not qualify for federal student loans or grant programs. This includes Pell Grants, College Work Study, Guaranteed Student/Plus Loans, National Direct Student Loans and College Work Study.

Citizenship

The U.S. Immigration and Naturalization Service (INS) requires registration with Selective Service as a condition for U.S. citizenship if the man first arrived in the U.S. before his 26th birthday. A male non-citizen between the age of 18 and 26, who takes up permanent residence in the U.S., must register within 30 days of arriving in the U.S. Non-immigrant men living in the United States on a valid visa are not required to register for as long as they remain on a valid visa up until their 26th birthday.

Federal Job Training

The Workforce Innovation and Opportunity Act (formerly known as the Workforce Investment Act) offers vocational training programs that can train young men for jobs in auto mechanics and other similar skills. This program is only open to those men who register with Selective Service. This applies only to men born after December 31, 1959.

Federal Jobs

A man must be registered to be eligible for jobs in the executive branch of the federal government and U.S. Postal Service. This applies only to men born after December 31, 1959. This means if you are not registered you cannot work for the FBI, Homeland Security or FAA, or other federal agencies.

Conscientious Objectors

Men, who would be classified as Conscientious Objectors, if they were drafted, must register with Selective Service. If a draft begins and they are called, they would have the opportunity to file a claim for exemption from military service based upon their religious or moral objection to war.

At what age can a person enlist in the Armed Forces?

Individuals can enlist at age 18. A person may enlist at 17 if the person has parental consent to enlist or has been emancipated by a court.

What opportunities are available to me if I don't want to enlist in a branch of the active military service?

You can also enlist in the National Guard (Army or Air Force) or the Reserve (Army, Air Force, Marine Corp, Coast Guard or Navy). In addition, you could attend a service academy such as West Point, the Naval Academy, the Air Force Academy, or the Coast Guard Academy. You may also enroll in a Reserve Officer Training Corps (ROTC) program at a college you may be attending. The Army, Navy, Marine Corps, and Air Force all have ROTC programs. It is also possible to simultaneously enroll in an ROTC program and enlist in the Army National Guard, and receive financial assistance to attend college from both programs.

Can females enlist in any branch of military service? Would females ever find themselves in a combat situation?

Yes, females can enlist in any branch of the military service. On January 24, 2013, U.S. military leaders formally lifted the ban on women serving in combat positions. Beginning in January 2016, all military occupations and positions became open to women, without exception.

If I have a criminal record, will I qualify for military service?

All branches of military service have guidelines listing moral and administrative disqualifications from military service. Each of the services has its own standards regarding whether a criminal offense is disqualifying. Generally, minor traffic offenses, minor non-traffic offenses and misdemeanors do not disqualify a person from military services. Multiple offenses, including multiple misdemeanors, may however. A felony generally does disqualify a person from military service. In addition, each branch of service has regulations that define various offenses. What might be a "misdemeanor" under state law may be considered a "felony" under military regulation.

In order to determine an applicant's fitness to serve, the military has access to all criminal records including sealed and expunged records as well as juvenile records. Some people think that a juvenile record is sealed and cannot be seen by anyone or that juvenile records are automatically expunged when you turn 18. This is not the case. The military requires that all of an applicant's criminal history including juvenile records, sealed and unsealed, be disclosed. There is no such thing as a sealed or expunged record as far as the military is concerned. If a recruit lies about or otherwise misrepresents criminal history, the recruit can face serious consequences, including being charged with a felony and tried by either a civilian or military court for the omission.

If I have financial problems, will I be denied enlistment for military service?

Financial eligibility guidelines can vary from one military service to another. Each branch sets its own policies about whether to check the credit history of potential recruits.

For example, when enlisting in the Air Force or the Coast Guard, a credit check is a standard part of your background check.

In general, if you have unpaid loans which are significantly overdue or in collection, you may be denied enlistment until you resolve the problem. A history of bad credit could also affect your security clearance eligibility, which could make many military jobs unavailable to you.

Some military services require recruits to show that they will be able to meet their current financial obligations upon enlistment. For example, the Air Force uses the “40 percent rule.” Any recruit whose monthly consumer debts (not counting debts which can be deferred, such as student loans) exceeds 40 percent of his or her anticipated military pay is ineligible for enlistment. The Navy policy states a person may not be selected for service who has a history of bad checks, repossessions, canceled or suspended charge accounts, or indebtedness exceeding half the annual salary of the paygrade at which the person is being recruited.

If you have some credit issues, you may want to get one of the free credit reports and then fix any negative credit problems before you talk to a recruiter. You may have to spend a few months paying off loans or making good on bad debts.

MINOR IN POSSESSION

How old must I be to possess or drink alcohol?

In North Dakota you are an adult at age 18 for most things. However, to possess or consume alcoholic beverages you must be at least 21 years old.

What is the penalty for Minor in Possession?

If convicted of possessing or consuming alcoholic beverages while under 21, you may be sentenced up to 30 days in jail and fined up to \$1,500. Most first-time offenders do not go to jail but may have to pay a fine, pay court fees, do community service, and/or attend an alcohol education class. Repeat offenders can expect a tougher sentence including jail time. They may be required to get an addiction evaluation and follow through with addiction treatment, which they must pay for out of their own pocket.

Alcohol is a drug and the costs to your health can exceed the costs to your checking account.

Could I be arrested for Minor in Possession if I am just “along for the ride,” and there is alcohol in the car?

Yes. If you are in actual or constructive possession of an alcoholic beverage, you will likely be arrested. You are in actual possession if the alcoholic beverage is in your hand, purse or coat. You are in constructive possession of an alcoholic beverage when you can exercise control over it. Constructive possession depends on the circumstances involved.

Some factors that police, prosecutors, and courts usually consider are:

How close were you to the beverage?

Did you smell like you consumed an alcoholic beverage or show signs that you had been drinking?

What statements did you or others make about owning or possessing alcoholic beverages?

Did you make any attempt to leave when you learned alcoholic beverages were present?

If I am under 18 and charged with Minor in Possession, will my parents find out?

Yes. A parent or guardian will be notified by law enforcement when a juvenile is cited for Minor in Possession.

SEX & MINORS

What if I decide to have sex with a person under the age of 18 years?

Depending on your age and the age of the other person, you may be charged with a crime, which can include Gross Sexual Imposition, Sexual Assault or Fornication. Whether you can be charged with a crime depends on whether the other person is under age 15 and whether you are less or more than 3 years older than the other person. The maximum penalty for Gross Sexual Imposition is life imprisonment. In addition you may be ordered to register as a sex offender for minimum of 15 years which may also become a lifetime registration requirement. Your name, address and photo may be included on the sex offenders website maintained by the state attorney general.

What if my under-age partner consents or agrees to have sex with me?

Such consent or agreement will have no legal significance. North Dakota law does not permit a person under age 18 to consent or agree.

If I am under 18, can I still be charged with these crimes?

Yes. The juvenile court has jurisdiction over delinquent acts or crimes committed by persons under age 18. However, just because you are under 18, does not mean that you will remain in juvenile court. Your case can be transferred to adult court. If the case is transferred to adult court, then you will be subject to the maximum adult penalty.

Can I give a pornographic magazine to a minor?

No. It is a crime to provide or allow a minor to have pornographic videos, magazines or photographs. The maximum penalty for the offense is five years in jail and a \$5,000 fine.

Where does one go who feels they may need aid in paying for daily living expenses, food, rent or fuel?

North Dakota state and county government offices offer services and support for needy families and individuals. These programs include:

- > **Basic Child Care Assistance Program (BCAP)**
- > **Child Care Assistance Program (CCAP)**
- > **Supplemental Nutrition Assistance (SNAP)**, formerly known as the Food Stamp Program
- > **Healthy Steps Children's Health Insurance**
- > **Low Income Home Energy Assistance Program (LIHEAP)**
- > **Medicaid**
- > **Temporary Assistance for Needy Families (TANF) / Job Opportunities & Basic Skills (JOBS)**
- > **Prescription Assistance Programs & Information**
- > **Prescription Connection** (ND Insurance Department) – Helps some low-income North Dakotans access discount programs offered by pharmaceutical companies.
- > **North Dakota Preferred Drug List** (Governor's Office) – Established with the assistance of ND pharmacists, this provides information about generic and therapeutic alternatives to brand name drugs, and provides an estimate of the cost savings that might be achieved by using them.
- > **Phone Assistance Service** (ND Public Service Commission)
- > **Link Up & Lifeline Program Facts**
- > **Link Up & Lifeline Program Facts** for People living on Tribal Lands

If you need assistance, you need to first visit the social service agency in your county. That agency is typically found in the county courthouse.

What assistance is available from the federal government?

Typically assistance is available from the state or county even if it is primarily financed by federal dollars. The one notable exception is Social Security Disability. Social Security Disability benefits are paid to those individuals who are permanently and totally disabled. If the disabled person is a wage-earner with sufficient "credits," "Old-Age, Survivors and Disability Insurance Benefits" may be paid. There is no financial eligibility requirement with these benefits. Disabled persons who have not been wage earners may be entitled to Supplemental Security Income benefits. Such persons must meet a financial eligibility requirement and also a disability requirement. Inquiry about these benefits can be made at any Social Security office or by visiting their website <http://www.ssa.gov>.

