

LEGAL STUFF

(You should know!)



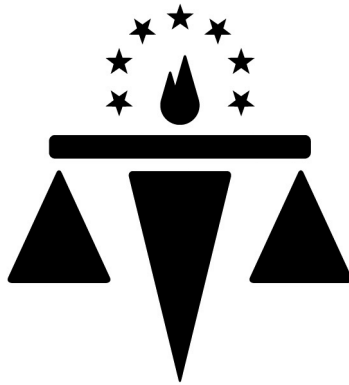
*Presented as a public service
by the Young Lawyers Section
of the Indiana State Bar Association*

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Young Lawyers Section
Indiana State Bar Association
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Illustrations by Gary Varvel



Legal Stuff (You should know!) Sixth Edition, 2011

The Young Lawyers Section of the Indiana State Bar Association has proudly published *Legal Stuff (You should know!)* since 1991. This publication has been created primarily for the purpose of providing young adults with a basic understanding of various areas of the law that may affect their lives.

This edition has been updated to provide current information. However, because laws change frequently, this publication is intended only to provide readers with a brief synopsis of the issues and general rules of law in each of the areas listed. Each legal problem has its own set of facts — facts that can dramatically affect the outcome of the case. Therefore, you should always consider consulting an attorney for more information and advice concerning your particular legal problem.

This booklet is provided free of charge to Indiana's high school seniors thanks to funding from the Indiana State Bar Association. High schools can obtain the booklet by contacting their local county bar associations or calling the Indiana State Bar Association at 317-639-5465 or 800-266-2581.

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CHAPTER 1

YOU, THE LAW & ALCOHOL

Alcohol-related traffic accidents have caused more deaths in the United States than the total number of American soldiers killed in World War I, World War II and the wars in Korea, Vietnam and the Persian Gulf combined. Therefore, it is understandable why the current laws that regulate the purchase and consumption of alcohol are so strict and becoming stricter as legislators try to deal with this critical social problem.

Like many states around the country, Indiana has strict enforcement and penalties for drunk driving. It is illegal in the state to drive with a blood alcohol concentration (BAC) level of .08 percent or greater. This is the standard measurement of an “impaired” driver across the United States. Indiana has stricter laws for drivers under the age of 21 and drivers of commercial vehicles. The charge for driving with a .08 BAC in Indiana is a Class C Misdemeanor for your first offense. Indiana also has similar legislation regarding driving under the influence of illegal substances, such as marijuana, methamphetamine or cocaine.



21: The age of majority

Indiana, like most states, requires that you be 21 years of age or older to purchase, consume or even possess alcoholic beverages. Anyone under the age of 21 who possesses, consumes or transports alcoholic beverages commits a Class C Misdemeanor punishable by imprisonment of not more than 60 days, a fine not to exceed \$500 and, when not accompanied by at least one of his or her parents or guardian or when using a false or altered driver's license to purchase alcohol, suspension of driving privileges for a period not to exceed one year.

Operating a vehicle while intoxicated is a crime

Perhaps the most frequent comment that people arrested for drunk driving make to their attorneys when they get out of jail is: "Can you believe it? They treated me like a criminal." However, the simple truth of the matter is that drunk drivers kill literally tens of thousands of innocent victims each year. You have committed a crime if you are arrested and convicted for public intoxication or operating a vehicle while intoxicated.

Implied Consent Law

Indiana, like most states, has what is called an Implied Consent Law. Since it is not a right but rather a privilege to drive an automobile, the Indiana Implied Consent Law requires that all drivers in Indiana agree to submit to a chemical test of their blood, breathe or urine. Refusal to take such a test will bring a driver's license suspension of one year for your first refusal. As do many states, Indiana treats chemical-test refusals as serious or more serious than an actual drunk driving conviction.

The legal limit and the Per Se Law

In addition to Indiana's legal standard for drunk driving at .08 BAC, the state also has a Per Se Violation that makes it easier for the prosecutor to prove you are guilty of drunk driving. The prosecutor only needs to show that you were driving a vehicle with a .08 BAC rather than actually driving in a drunken manner. The penalty for operating a vehicle with .08 BAC or more, without any other evidence that you were intoxicated, is a misdemeanor punishable by up to 60 days in jail, a fine not to exceed \$500 and a driver's license suspension of up to 1 year.

"Zero Tolerance" Law for minors

Effective Jan. 1, 1997, Indiana's underage-drinking drivers face greater odds of being punished with the state's new Zero Tolerance Law. Under the law, a driver younger than 21 caught operating a vehicle with a blood-alcohol level of .02 BAC or higher faces the likelihood of being arrested, having his or her driver's license suspended for up to 1 year and being fined \$500. Under current law, anyone caught driving with a blood-alcohol level of .08 BAC or higher can be charged with driving while intoxicated, a misdemeanor. The new law lowers the blood-alcohol limit and changes the misdemeanor charges when minors are caught driving and drinking. In addition to operating a vehicle while intoxicated, possession or consumption of alcohol by a minor also is a crime.

Penalties for drunk driving

The first time you are convicted of drunk driving in Indiana you will pay court costs and fees of \$300 or more; you may also be fined up to \$5,000. You will also face jail time not to exceed 1 year. Your driver's license will be suspended for a minimum of 30 days, followed by a probationary period during which you will be allowed to drive only to

work and back. It is also possible that you will be placed on probation and ordered to enroll in a substance abuse course at your own expense. If the court rules, you may need to install an ignition interlock device on your car, attend a victim impact panel and submit to chemical testing for drug and alcohol abuse.

The second time you are convicted of drunk driving you will spend a minimum of 5 days in jail but possibly up to 3 years. You may also be ordered to perform community service. The fine you will receive will be no more than \$10,000. Your license will be suspended for a minimum of six months and possibly up to two years. It is also possible that you will be placed on probation and ordered to enroll in a substance abuse course at your own expense. If the court rules, you may need to install an ignition interlock device on your car, attend a victim impact panel and submit to chemical testing for drug and alcohol abuse.

Your third drunk driving conviction in Indiana will result in a mandatory minimum of 10 days in jail but possibly up to 3 years. You may also be ordered to perform community service. Your driver's license will be suspended for a minimum of 1 year but may be suspended for 10 years. The court will label you a habitual violator facing harsh penalties for any future infractions. If you are charged and sentenced as a habitual substance offender, you may be imprisoned for an additional 1 to 8 years in jail. It is also possible that you will be placed on probation and ordered to enroll in a substance abuse course at your own expense. If the court rules, you may need to install an ignition interlock device on your car, attend a victim impact panel and submit to chemical testing for drug and alcohol abuse.

You should also be aware that a third offense within a 10-year period of time triggers the Indiana Habitual Traffic Offender Law, which requires a mandatory suspension of your driving privileges for at least 10 years. Please note carefully that these penalties are applicable only if someone is not injured or killed.

Drunk driving causing bodily injury or death

When a person is convicted of drunk driving resulting in serious bodily injury, it is considered a felony offense automatically, and the penalty may be up to 3 years in prison and a fine of up to \$10,000. A person who is convicted of drunk driving resulting in an accident in which someone was killed commits a Class C Felony with a prison sentence ranging from a minimum of 2 years to maximum of 8 years and a fine of up to \$10,000.

In some cases, the prosecutor may elect to charge you with either reckless homicide or murder, with penalties that range from 2 to 60 or more years imprisonment and up to a \$10,000 fine.

What to do if you're caught

If you are arrested for drunk driving, treat the police officer with respect. Belligerent behavior will go into the police report and may affect your case in court. As soon as possible after being released on bond, you should retain an attorney to assist you.

How not to get caught:
DON'T DRINK AND DRIVE!

CHAPTER 2

YOUR CRIMINAL JUSTICE SYSTEM

Can someone less than 18 years old be charged with a crime?

Yes! Although special leniency is typically given to any person under 18 (a juvenile), a prosecutor may request that he or she be tried as an adult. Typically, the more serious the crime (such as rape, robbery, extortion, kidnapping, murder and other violent crimes), the more likely the court will be to consider the person as an adult.

Is there a separate legal system for juvenile offenders?

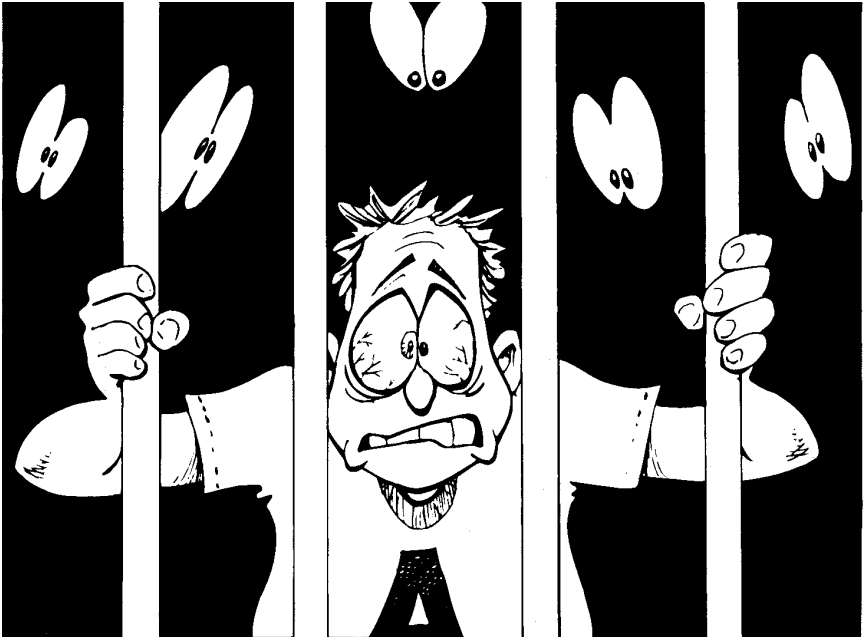
Yes. The Indiana Juvenile Code controls the handling of crimes committed by people less than 18 years of age. Basically, these offenses are divided into two separate categories:

Status offenses — Offenses that relate directly to the individual just because of his/her age. Some of the most common status offenses are:

Curfew: A person between the ages of 15 and 17 cannot be in a public place after 11 p.m. and before 5 a.m. during the week or after 1 a.m. and before 5 a.m. on the weekend. Further, persons under 15 years of age cannot be in a public place after 11 p.m. or before 5 a.m. on any day. You should be aware that each local government can make the local curfew earlier at its own discretion.

Incorrigibility: A minor who fails to obey the lawful requests of his or her parent and/or guardian is labeled incorrigible.

Truancy: Willful or negligent failure to attend school.



Non-status offenses — The other types of crimes involved in the Juvenile Code are non-status offenses because they would be crimes if committed by an adult. There are certain offenses of a serious nature that can be committed by anyone 18 years or older who does something with or to someone who is less than 18 years old. These are:

Contributing to the delinquency of a minor: Merely committing an illegal act in a minor's presence or otherwise contributing to his/her delinquency.

Statutory rape: Statutory rape is a more serious offense that involves having sex with someone less than 16 years of age when you are over 16 years of age. Even if the person who is less than 16 years of age is willing, ready and able to engage in a sexual act, you can still go to jail because legally, this person is not capable of any type of valid consent to sexual activity.

Are there different kinds of crime?

Yes. Crimes in Indiana are separated into two categories: misdemeanors and felonies. Misdemeanors are less serious offenses that sometimes may not trigger a full-blown arrest or jail term, depending on the circumstances. Public intoxication, minor shoplifting offenses, and minor physical assaults with no injuries are some examples of misdemeanors. Felonies, on the other hand, are more serious offenses that usually involve a physical arrest resulting in jail time.

Am I ever justified in running from and/or avoiding the police?

No! The police have a very difficult task in enforcing the laws, and their status as police officers gives them the right to stop and detain you if they believe a crime is about to occur or has occurred. Anytime a police officer attempts to stop you, you must cooperate. By resisting or fleeing a police officer you are committing additional crimes, which may lead to a forceful apprehension or even the use of deadly force against you. Remember, however, that if you have been arrested and advised of your constitutional rights, such as a right to an attorney, you should not say anything or it could be used against you in court at a later time.

What happens if I am arrested?

The United States and Indiana constitutions give you the absolute right to refuse to answer any questions or make any statement except to provide your name and address. If you have been arrested (detained and not allowed to leave), the police may inform you of your Miranda Rights, which include your right to remain silent. Whether or not you are read your Miranda Rights, keep in mind that you have the right to an attorney and the right to remain silent. Additionally, under the Constitution, you have the right to have an attorney with you during any questioning by the police. You should be afforded the reasonable use of a telephone to make as many calls as may be reasonably necessary to obtain an attorney. Finally, you should be aware that if you cannot afford an attorney, you should request that the court appoint an attorney for you before you make any statements. The most important aspect of being placed under arrest is that any statement, whether it is written or made orally, can and will be used against you in court. Therefore, you should never sign anything or give a statement before consulting with an attorney of your choice or one appointed by the court.

If you are arrested by the police, you will be taken to a jail or other police facility. There, you will be searched, fingerprinted, photographed and questioned by the police (remember, you have the right to remain silent). You may be given a jail uniform. You will usually be given a chance to post bail, which is money paid to insure that you will show up for court as ordered. If you are drunk, you will not be released until sober.

What will the police do with me after I am arrested?

When you are arrested, the police will search you for any dangerous weapons and take you to the jail for booking procedures. At the jail, you will be fingerprinted, photographed, and perhaps searched a second time prior to being placed in a holding cell. You should always remember to behave yourself, especially if you have been arrested for a drug or alcohol offense. If you are polite and well-mannered, you are less likely to be injured, further restrained, or have additional criminal charges filed against you. You should also be quiet and avoid talking to anyone other than your attorney. Small talk with other people in the jail may come back to haunt you later.

How long do I have to stay in jail until I go to court?

Your first appearance in court is called an initial hearing. In Indiana, you must be taken before a judicial officer for an initial hearing if you are arrested without a warrant. As a practical matter, this will usually be within 72 hours. If you are able to afford bond, you may bond out before your initial hearing, but you must make sure to come to court on the date set for it. At that time, the judicial officer will explain the charges against you and your basic Constitutional rights. Since most individuals go before the judicial officer at the initial hearing without an attorney present, you should always:

- **Plead not guilty**
- **Request a jury trial**
- **Request a court-appointed attorney if you cannot afford one**

Procedures vary from county to county. Some counties may not allow you to address the issue of a bond reduction until filed by your attorney, or yourself if you decide to proceed without an attorney. Due to the congestion of the court system, most counties reserve initial hearings just for the appointment of counsel, advisement of rights and setting future court dates. You or your attorney may also request to be released on your own recognizance, which means you do not post bond but promise to appear at all future hearings. This decision is made by the judge, typically at a hearing set for that specific issue. The court is concerned with three primary factors at a bond reduction hearing and in setting bond: The security of your return at future hearings, the safety of society and the safety of another person.

There are three types of bail:

Cash Bond — You must post the entire amount set by the court in cash with the clerk of the court.

Corporate Surety Bond — Bail bondsmen can post a bond for you in an amount required by the court, but they keep a fee in an amount equal to 10 percent of the total amount posted. This is not available in every county.

Court Cash Bond — Some judges will allow the posting of 10 percent of the bond to be paid directly to the court without a bail bondsman. If there is any money left from the bond after court costs and fines, it will be returned. If the case is dismissed, all of the bond will be returned.

If you are on probation for another offense, the jail may hold you for up to 15 days without allowing you to post bond. If there are holds in other counties for charges against you, then the jail cannot release you to anyone other than the county with the hold against you.

Can I be searched by a police officer who does not have a warrant?

Usually, the police need a warrant to search either you or the things you own, such as your car and house. If you are ever handed a search warrant, you should read it carefully to make sure the police have the right person and correct address, and that the judge's name and signature are included. The warrant should also tell you what the police are looking for and what they have a right to search. However, sometimes a warrant is not needed. Here are a few examples of when a warrant is not needed by a police officer:

- If you are lawfully arrested the police may search you and the area that is within your immediate reach and control.
- If the police reasonably believe that you are armed and dangerous, they may frisk you.
- If the police are in hot pursuit, they may pursue you without a warrant.
- If the police have a reasonable belief that you have contraband in your car or have evidence of a crime in the vehicle, they may search your car without a warrant.
- In emergency situations that could involve the loss of life or serious injuries, the police may conduct a search.

What should I do if charged with a crime?

If you are accused of, suspected of or charged with a crime, you should remember the following things:

- When dealing with the police, try to be polite and cooperative; anything else will draw suspicion. Note that refusing to assist an officer or resisting arrest are also crimes.
- Remember that an individual is innocent until proven guilty.
- Remember that an individual has the right to remain silent. You do not have to say anything if you do not want to.
- Remember to talk to a lawyer immediately if there are any questions about an individual's rights. If you are not sure about whether to talk to police, talk to a lawyer first. If the police searched you, your house or your car, or if they are asking to and you are not sure if it is legal for them to do so, then ask to speak with a lawyer. If the police have already searched and you do not think it was legal, talk to a lawyer.

CHAPTER 3

MARRIAGE & DIVORCE

Marriage: Tying the knot

Anyone who is age 18 or older may be married in the state of Indiana. If you are not yet 18, you will need your parents' consent, and if you are under 16 you may be required to obtain a judge's consent as well. In Indiana you may be married by either a member of the clergy or a judge of a county, state or federal court. Regardless of the type of wedding you choose to have, the commitment you are making is one of the most serious and far-reaching commitments you will ever make in your life.

Divorce: Untying the knot

Approximately half of all marriages in the United States end in divorce. Indiana has no-fault divorce, which means that a divorce is granted based on a finding of irretrievable breakdown of the marriage rather than the fault of one of the parties.

Filing for divorce — A divorce is started by filing a Petition for Dissolution in a court in the county where one or both spouses live. The divorce cannot become final until 60 days after the filing of the petition. Each spouse should have his or her own attorney for the divorce unless both are in complete agreement on how the property should be divided and how any child custody, visitation and/or support issues.

Temporary custody and child support — After the initial petition has been filed, the parties either enter into, or the court orders, a temporary order commonly called a Provisional Order. This order typically grants the care, custody and control of the minor children to one or both parents and states who may continue to live in the residence as well as how bills are to be paid. Indiana has recognized joint legal custody, which gives the person who would typically be the noncustodial parent more say in how the children are raised, become educated and receive religious training.

Parenting Time Guidelines — Indiana has enacted minimum standard visitation or "Parenting Time Guidelines." These guidelines define the amount of time a child spends with each parent after a divorce. They are applied automatically unless the parents opt out, create an alternative agreement and explain to the court in writing why they have deviated from the guidelines. These guidelines are applicable to all child custody situations, including paternity cases and cases involving joint legal custody where one person has primary physical custody. However, they are not applicable to situations involving family violence, substance abuse, risk of flight with a child or any other circumstances the court reasonably believes endanger the child's physical health or safety, or significantly impair the child's emotional development. These guidelines include different standards for infants and toddlers, children 3 years old and older, adolescents and teenagers, and holidays.

Child Support Guidelines — The Indiana Supreme Court has adopted child support guidelines. These guidelines are used to determine the amount of child support awarded in divorce cases. The support guidelines are based upon an economic theory that the children should enjoy the same standard of living as if the parents had not been divorced. The guidelines provide a mathematical computation of the child support based upon the combined gross (rather than net) income of both parties. Each spouse is responsible for a prorated share of the total amount of child support indicated in the

guidelines. The more money the parties make, the larger the child support.

Extraordinary educational expenses, health care expenses, and work-related child care expenses are additions to the basic child support payment and are shared proportionately by the parents. In addition, six percent of the annual child support obligation is for routine uninsured medical expenses. Spouses can receive a credit for exercising regular overnight parenting time. Depending upon the circumstances, a custodial parent may be required to pay the noncustodial parent child support. To determine your child support obligation, visit in.gov/judiciary/childsupport/.

Property division — A court has to divide the property in a just and reasonable manner, and the presumption is that an equal division is just and reasonable. However, the following factors can be used to show the court that an equal property division is not just and reasonable:

- The contribution of each spouse to the acquisition of the property, regardless of whether the contribution was income-producing. (For example, the contribution of one spouse maintaining the home would be considered the same as income.)
- Whether the property was acquired prior to the marriage or through an inheritance or gift.
- The economic circumstances of each spouse at the time of divorce, including the awarding of the right to use the family residence.
- The conduct of the parties with respect to the use of the property during the marriage.
- The parties' earnings or their ability to earn income as it relates to a division of the marital property.

Many court forms related to divorce can be found online at in.gov/judiciary/selfservice.

Alimony vs. maintenance — Alimony (cash payments from one spouse to another that are not child support) has been abolished in Indiana. However, a court may order rehabilitative maintenance, if the court makes a finding that there is a need for a spouse to be rehabilitated. The court makes this determination by looking at the educational levels of each spouse and whether the spouse quit or postponed work or education to assume homemaking and/or child care responsibilities. However, the court may only order rehabilitative maintenance in an amount that is necessary, and it may not be for more than three years. In addition, a court may order maintenance if a spouse is physically or mentally incapacitated to the extent that the ability of the individual spouse to support himself or herself is materially affected. Under those circumstances, the court may find that maintenance is necessary during the spouse's period of incapacity. The court may also order maintenance when a spouse does not have sufficient property to provide for his or her own needs and is the custodian of a child who is physically or mentally incapacitated, requiring the spouse to forgo employment.

Domestic violence

Although the State of Indiana typically stays out of your private married life, you can be assured that the authorities can and will get involved to protect spouses and children from physical, mental or emotional abuse. If either you or your children have been subjected to abuse of any sort, you should immediately seek help from an attorney, welfare department, spouse abuse center and/or prosecutor in your area. Forms for the purpose of filing a petition for an Order for Protection *pro se* (meaning without an attorney), are now available statewide through your county clerk's office.

CHAPTER 4

RENTING YOUR OWN APARTMENT

Possibly your first experience getting out on your own will involve securing an apartment or house to rent. That may be your first opportunity to deal with a lease as you enter into a landlord-tenant relationship. The more you understand about this relationship and the basic legal concepts, the more enjoyable the experience should be.

Signing the lease

A lease is an agreement that sets out your rights and obligations as a tenant, or renter, and likewise does the same for the landlord. It should be in writing, but an oral lease is also enforceable under Indiana law if its length is for less than three years. However, it is strongly recommended that your lease always be in writing. You should read and understand each provision in the lease before signing it. If you don't understand all the terms in the lease, seek assistance. You can ask an attorney for help or work with some other trusted individual who has experience in reviewing contracts, especially leases.

Carefully review the important terms of the lease, some of which include the length of the lease, the amount and due date of rent payments, late charges, who is responsible for utilities, the amount of any security deposit and what that deposit may be used for, and any other conditions of the lease that may be important to your particular situation. Often there will be a provision including the landlord's policy on pets. Another provision may state the policy on making repairs to common areas as well as to your own private space.

Habitability: Repairs made necessary by the careless or irresponsible acts of a tenant or guests probably will not be paid by the landlord. Ordinary wear and tear to the premises and fixing malfunctioning equipment or systems will usually be the responsibility of the landlord, but remember, the tenant must give notice of the problem first.

It is always the landlord's responsibility to provide a habitable or livable dwelling. If you have given notice that a repair is needed and a reasonable time has passed and the repair has not been made, you may have the right to have the item fixed yourself and then deduct the repair cost from your rent. Be certain to review the lease or have an attorney review the lease to ensure what notice provisions you must give to the landlord before you can either make or pay for the repairs yourself. This will likely apply only to

systems or items that would make your apartment or home unlivable (uninhabitable), and it may become a point of argument. Communication with your landlord is necessary, and it is always best to do so in writing (and keep a copy for yourself).

Lease term: The length of the lease term is always important, especially as it relates to the right to terminate or end the lease. It is common for apartment leases to obligate the tenant to pay rent for a 1-year period initially, during which time the amount of rent is fixed;



the rent is usually paid monthly. Keep in mind that the lease terms control the tenant's obligations. You should make the landlord explain the policy to you. Otherwise, unless altered by the terms of the lease, apartment leases in Indiana that do not have a termination date are for an indefinite time and will continue for a year. At the conclusion of the year, absent lease terms otherwise, the lease will renew for a year unless terminated by either party with proper notice.

For example, if the lease is for an indefinite period and doesn't say more, it will require one month's written notice by the tenant or the landlord to terminate the lease. If the lease is for a year-to-year period (like most apartment leases), it will require three months' written notice of termination given by landlord or tenant prior to the end of the year. This can be a dangerous pitfall because without good communication with your landlord, your lease may automatically roll into another one-year period. Sometimes a landlord will agree to lease month-to-month after successful completion of the first year but you need to get this in writing.

Generally, you may be evicted by the landlord for committing waste (causing excessive damage to the property), remaining in possession after the lease term has expired, failing to comply with payment obligations or violating other conditions of the lease. In the absence of a specific agreement, 10 days' notice to move out is all the landlord must give you if you are late on rent, unless the rent is brought current within the 10 days following the notice to move out. The lease may provide a longer period for the tenant to cure the violations before being evicted.

The landlord cannot discriminate against you

No landlord may refuse to rent an apartment or house to you, or alter the terms of a proposed lease, solely on the basis of your race, religion, sex, nationality, ancestry, disability or use of a guide dog. In fact, the landlord may not even ask questions about any of these matters on a form or application. Any landlord who does any of these things may be guilty of discrimination in violation of both state and federal laws.

Return of security deposits

Your security deposit, minus any past due or accrued rent, and minus any damages the landlord has or will suffer as a result of your noncompliance with the law or the rental agreement, and minus any unpaid sewer or utility charges you are responsible for, must be returned to you within 45 days after termination of the lease. Any amount subtracted by the landlord from the security deposit must be specifically itemized and provided to you in writing within the 45-day period. If the landlord fails to notify you within 45 days of the amount he or she is withholding for damages and charges, then the landlord may not later assert any charges or damages and must return the full security deposit to you immediately. However, the 45-day period begins only after you have given the landlord your new address. If the landlord fails to return your deposit, you may file a lawsuit against the landlord for the return of the deposit and require him or her to pay any legal fees you may incur in the process.

Moving and storage of your personal property

If you fail to remove your property from the rented apartment or house after you move out, the landlord may, after receiving a court order, deliver it to a storage facility. The storage facility may keep the property until you pay any fees or charges for the storage. If you fail to claim your property within 90 days, the storage facility may sell it to satisfy any charges. The landlord may not destroy, throw away or sell your property. The landlord must remove and deliver the personal property to a storage facility.

CHAPTER 5

YOUR RIGHTS AS A CONSUMER

In any given day, you might have to make several consumer choices — such as where to get lunch, where to stop for coffee, which car repair shop to use, which online retailers to buy from, and which cell phone plan is best for your needs. As you move out of your parents' home and start taking more responsibility for earning and budgeting your money, these choices become more important.

Sometimes ample information and time are available to help you make the best consumer choices, while other times you might have to decide quickly and with little assurance that the seller, product or service is trustworthy. Since you may not find out that a product or service is defective or disappointing until well after the transaction, it's important to do your homework ahead of time and equally important to know your rights as a consumer in the event you didn't get what you expected.

Consumer protection

State and federal law provides you with basic consumer rights when businesses or individuals deceive you or misrepresent the quality or benefits of particular items or services. For example, you don't have to accept or pay for unsolicited merchandise that is delivered to your house or apartment without your authorization. Also, if someone sells you a product that they claim works but later turns out to have been damaged or broken, you may have legal remedies to get a refund or a replacement product.

Some of these consumer transaction disputes can be resolved with a simple phone call or email to the business that sold you the good or service. Other disputes may require the services of an attorney, your state attorney general's office or another government agency. It's wise to get consumer transaction agreements and quality and consumer satisfaction guarantees in writing, especially for large purchases.

Credit cards

Like older adults, many young people have one or more credit or debit cards that they use for daily purchases. Credit card purchases are paid for after the fact; debit card transactions are paid for directly from your bank or checking account. Credit card purchases that aren't paid off in full when the next monthly statement arrives will incur interest charges, so consider how long it will take you to satisfy the original price and associated interest obligations before you decide to swipe your card at the point of purchase.

When opening a credit card account, pay attention to these important terms:

- The interest rate for balances that aren't paid off during the grace period
- Whether the interest rate is fixed or variable
- The total credit limit
- Promotional interest rates and terms
- Late payment fees, over-the-limit fees and annual fees

Credit card statements will indicate a required minimum monthly payment, but be careful of paying just this amount each month. Because interest may accrue at amounts similar to or even higher than the payments you're making, it can take several years to pay off a sizable balance with minimum monthly payments.

Your credit card issuer is required to notify you of any interest rate increases or credit limit changes, so pay close attention to any notices you receive electronically or in the mail. Also, make sure not to miss payments or to become delinquent on your accounts. Missed payments can damage your credit rating, and serious delinquencies can result in collection procedures or lawsuits being filed against you.

Lost or stolen credit or debit cards and identity theft

If you lose your credit or debit card, contact the company that issued the card immediately to cancel the card so unauthorized usage is prevented or minimized. Many companies have 24-hour toll-free hotlines or dedicated email addresses where lost or stolen cards can be reported. It's always a good idea to follow up phone calls with certified letters reporting the card loss or theft.

Federal law limits your liability to \$50 for unauthorized charges on your credit card, but you may be able to avoid any liability if you report the loss or theft before fraudulent charges are made. For unauthorized use of debit or ATM cards, your liability under federal law depends on how quickly you report the fraudulent activity. If you report the loss or theft of the card before it's used, you aren't responsible for any subsequent charges. If the loss or theft is reported within two business days, your liability is limited to \$50. You may have pay up to \$500 for unauthorized charges not reported within two business days, and you may be held responsible for all fraudulent charges if you don't report them within 60 days of receiving your billing or bank statement. Quick action after discovering that your card has been lost, stolen or improperly used is extremely important in minimizing your damages. You should also promptly report fraudulent use or attempts to use your account numbers or personal information to commit identity theft to your local law enforcement agency.

If the thief or scam artist stole or obtained access to your Social Security number, date of birth, driver's license number, or other personal information in addition to your credit or debit card account number, you may face a higher risk of identity theft. You can place a security freeze on your credit reports, which are discussed further in the next section, to prevent new accounts from being opened in your name, and you should closely monitor your credit reports and account statements for evidence of fraudulent activity being committed in your name.

Credit reports and credit scores

When companies decide whether to issue a credit card or loan to you, they will order a credit report detailing your credit history to assist in determining whether you are an acceptable credit risk. Private companies referred to as credit reporting agencies or credit bureaus compile and assemble information about your bill payment history, credit limits, number of credit accounts and other information to create your credit report. Under federal law you are permitted to receive a free copy of your credit report once per year from each of the three nationwide credit reporting agencies — Equifax, Experian and Trans Union. You can order your free reports online at annualcreditreport.com.

You can also pay for additional credit reports or your credit score — an industry ranking of how your credit rating compares to other individuals — for a fee. With your authorization, such as when you apply for a car loan or a new store credit card, companies can obtain your credit report to decide whether you are likely to pay back your debts and therefore whether they will extend credit to you.

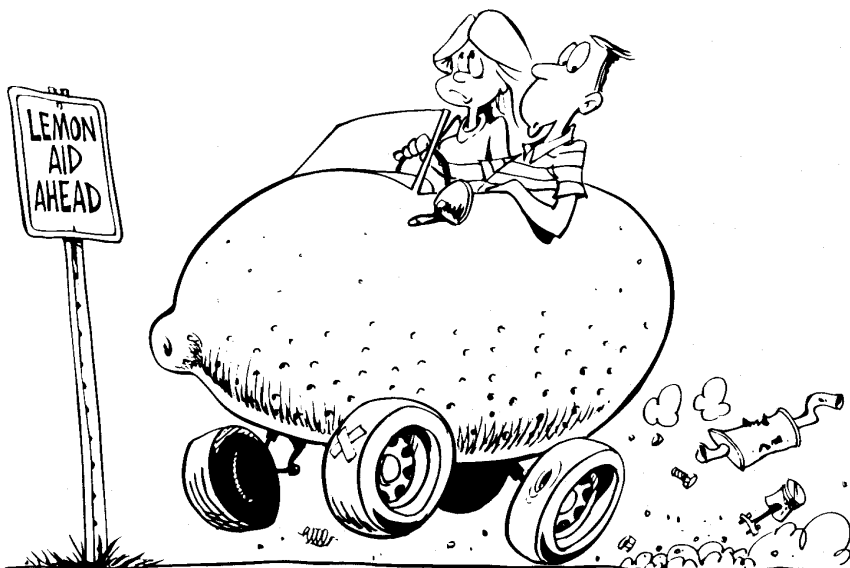
Since your credit reports can affect availability of credit and preferential interest rates and repayment terms, and since they can tip you off to evidence of fraud or identity theft involving your personal information, you should regularly order credit reports and check them closely for accuracy and completeness. Each credit reporting agency is required to have procedures in place to respond to and verify disputes regarding the accuracy of reports they produce.

Automobile purchases

When shopping for a new or used car, pay close attention to the details of the sale and any warranties that might apply. Dealers are required to disclose whether the sales agreement includes a warranty that will cover repairs that might be needed within a certain time period or before a certain number of miles have been driven after the sale. Many cars are sold “as-is” — meaning that the seller is not required to fix anything that might go wrong with the car after you drive it off the lot, so it’s important to test drive, carefully inspect and perhaps even have a mechanic take a look at cars sold on those terms.

Vehicles that are less than 18 months old or that have less than 18,000 miles on them may be covered by Indiana’s Lemon Law, which provides protection in the event that the automobile turns out to have a defect that substantially impairs the use, market value, or safety of the vehicle. To take advantage of Lemon Law protections, you have to report the defect to the manufacturer before 18 months or 18,000 miles have passed. The manufacturer or dealer is then required to make repairs necessary to fix the defect, and if they cannot do so in four attempts or within 30 business days, you may demand a refund or replacement vehicle.

Read the details of your purchase agreement before reporting a defect to see if the manufacturer has adopted an informal dispute procedure for addressing Lemon Law complaints, and make sure to follow the procedure if outlined in the documentation. Also make sure you can demonstrate that the defect was not caused by your own abuse, neglect or unauthorized modification or alternation of the vehicle, which could prevent you from being protected by the Lemon Law.



Consumer contracts

It's usually a good idea to record in writing the terms of your agreements with businesses and individuals selling goods and services so that you can prove what those terms are later if that becomes necessary. Even if the contract doesn't fully explain every aspect of the transaction, a written agreement can serve as a starting point for a court or neutral third party in resolving a dispute between you and the other party.

Some oral contracts can be enforced, but it may be more difficult to prove what was said or promised in the initial transaction if you don't have any written documentation.

But even with written consumer transaction contracts, you can run into difficulty if you fail to keep these important considerations in mind:

- Read the entire contract before signing and seek help in understanding any portions that you do not understand.
- Be wary of any party who wants to rush you into signing. In many cases, there is no right to rescind or undo the contract.
- Don't leave blank spaces on a contract; fill them in or cross them out.
- Be sure you can perform the obligations contained in the contract before you sign.
- Obtain and keep a copy of any contract you sign.
- If you co-sign for another person, be prepared to have to carry out all requirements of the contract, including payment.
- Make sure you understand the implications of breaking or defaulting on the contract, such as additional charges, lawsuits for unpaid amounts or repossession of the goods you purchased.

Bankruptcy

Filing bankruptcy is a legal option available to you in the event you are unable to satisfy your debt obligations and have no other alternatives for repaying your debts. However, filing for and obtaining a bankruptcy discharge of your debts has serious consequences for your future, such as preventing or significantly restricting your ability to get credit in the future. Furthermore, some types of debts may not be dischargeable through bankruptcy. If you are so deep in debt or so far behind on your payments that you are considering bankruptcy, you should contact an attorney or financial professional for advice. Credit counseling companies and debt management companies may provide alternatives to bankruptcy that could involve payment plans and debt consolidation, but as with all consumer agreements, be sure to read and understand any agreements with credit counselors or debt management companies before signing the contract. There are many nonprofit and government organizations available to provide information and advice regarding credit, debt, bankruptcy and related matters.

CHAPTER 6

EMPLOYMENT LAW

While going to school, you may have completed many applications for part-time jobs. Now that you have graduated, however, you may be seeking employment that could lead to a long-term or even permanent position.

As you search for employment, there are many factors that you need to consider other than the wages. Several things to consider as you evaluate possible employment include:

- Is this employer a successful and growing enterprise, or is it struggling or decreasing in size?
- Will the employer provide additional training in an area of interest?
- Does the employer have an adequate medical insurance program? Are dependents covered?
- Does the employer provide a life insurance program?
- Does the employer participate in a retirement plan with other companies or does it provide its own retirement plan?
- Does this employer allow a time off from work due to illness?
- Will the employer contribute toward educational costs?
- Are there additional benefits associated with this employment opportunity?
- How many days are allowed for a vacation the first year, the second year and subsequent years?
- If I decide to resign from a position, how will that affect me?

Types of employment

In Indiana, there are basically two types of employment available to you: at-will and term. The consequences of which type of employment you accept can be significant.

At-will employment — You are most likely to be hired under an at-will employment contract. At-will employment means that the employee may be discharged at any time for any reason or for no reason at all. An employee or an employer can terminate the employment without giving any advance notice to the other party. This means that you, as an employee, may be terminated by your employer even if you are successfully performing your job. (There are some exceptions.) Similarly, you are free to leave your employment for any reason or no reason at all. However, many employers require that you provide a certain amount of notice before leaving if you want to be considered for rehiring. The terms of an employment agreement that you sign will not necessarily change the status from being at-will, nor will an employment handbook that you may be presented when you start work.

Term employment — The second type of employment that you could encounter is one in which you and your employer agree to a specific term or length for your employment. This employment contract, however, must be for an exact length of time. A contract for employment for a lifetime is not a contract for a definite period, and it is not enforceable. If you are provided an employee handbook, your employer will be required to follow the procedures in the handbook. As an employee, you are responsible for reading the employee handbook and for following the procedures in it.

Exceptions — Regardless of whether your employment is at-will or for a term, an employer may not terminate you on the basis of race, color, religion, sex, national origin, age or disability. In addition, an employer may not terminate you in retaliation for exercising your legal rights, such as filing a worker's compensation claim or attending jury duty.

Unemployment

Even though your employment may be terminated at any time under at-will employment, Indiana still provides some protection by providing unemployment compensation. You must follow the set procedures to apply for unemployment compensation upon being discharged. If you have been discharged for no cause, you may be able to obtain unemployment compensation benefits. If you seek unemployment compensation, your former employer will be notified of your application for benefits and will be given a period of time in which to request a hearing to object to the awarding of such benefits. These benefits will be denied to you if the employer is able to show that you were discharged for a just cause. The courts have held that just cause exists in situations where employees conduct themselves in a manner so as to harm the reputation of the employer. If you are off work and on the grounds of the employer, such as a parking lot or an area that is used by the public, you would be expected not to engage in conduct that is against your employer's interest. Just causes for discharge include when the employee knowingly violates a reasonable and uniformly enforced rule of the employer or a failure to comply with a duty owed to an employer by an employee.

What to remember

When you seek employment, you should consider the many factors outlined above that make employment with one employer much different from that with another. Please remember that wages alone should not be the only item evaluated in your selection of an employer. You must evaluate your own performance on the job and be sure that you are not giving your employer any justification (good cause) for terminating your employment. This alone may be all that you can do to help protect your ability to receive potential unemployment compensation upon a discharge. Also, remember that your conduct with one employer may affect your prospects for being hired by another.

Payment of wages

Indiana law requires your employer to pay you wages due at least biweekly or semi-monthly, if requested by you. Certain types of employers are exempt from this requirement.

In addition, your employer must pay you all wages due on the next pay day after your employment is terminated. If your employer fails to comply with these requirements, you may be entitled to recover damages and attorney's fees from the employer.

CHAPTER 7

STARTING YOUR OWN BUSINESS

The Indiana Secretary of State makes the needed forms for starting a business available at their office and online. The Secretary of State's Web site (in.gov/sos) is a valuable source for information on starting a business.

Some young adults start businesses after graduating from high school. Most graduates are inexperienced in business and should seek the advice of someone more experienced in this area, such as an attorney or a certified public accountant (CPA), before undertaking such a venture. Following are some of the things to consider before starting a business.

Get help first

An individual starting a business should seek assistance from the Small Business Administration (SBA) or a local civic organization such as the Chamber of Commerce. They will be able to assist you in the organization of your business and can assist you in determining whether there is a need for the product or service you want to offer.

In organizing a business, you should keep two basic principles in mind. An ideal business organization is one where the owner or owners invest as little money as possible, so that if things don't work out they won't lose too much. Some of these types of businesses are usually service-oriented, such as cleaning, lawn mowing, electrical repair, catering and delivery. If you are going into a type of business requiring the use of machinery or equipment, you can limit your risk of losing your investment by leasing the equipment instead of buying it.

The owner or owners of the ideal business should also try to limit their personal liability for the debts and obligations of the business, which they can do by choosing to operate as a corporation, a limited liability company (LLC) or limited liability partnership (LLP), rather than a sole proprietorship or partnership. The choice you make will determine not only your personal liability for the debts of the business organization, but also how the money you make will be taxed. The vast majority of individuals choose to operate their businesses as sole proprietorships. A sole proprietor is taxed on all the income generated by the business and is likewise liable for all the business' debts.

A partnership is an association of two or more persons as co-owners of a business. The partnership is managed and controlled by agreements of the partners. If your business is a general partnership, you are taxed only on your share of the partnership income, but you are personally responsible for all the debts of the partnership. If you operate a limited partnership, the limited partners are not typically liable for the obligations of the partnership. Unlike a general partnership, there are various filings and fees required by the state in forming a limited partnership.

LLCs and LLPs are forms of business organizations that combine characteristics of a partnership and a corporation. Limited liability companies and limited liability partnerships afford their members or partners limited responsibility for obligations of the business. To create such an entity, articles of organization must be filed with and a filing fee must be paid to the Indiana Secretary of State. However, the operations of these entities do not require the same formalities as a corporation.

To form a business corporation, you must file articles of incorporation with and pay a filing fee to the Indiana Secretary of State. You must also follow other rules in the initiation, management and control of the business. For example, a corporation must have directors and officers, adopt bylaws (a set of rules by which the corporation must operate), issue stock and hold annual directors' and shareholders' meetings.

If you choose to operate your business as a corporation, you will not be individually taxed on corporate profits. However, depending on how your corporation is formed and registered, you may be subject to double taxation. A traditional corporation, known as a C corporation, pays taxes on its earnings, and you also pay taxes individually on any payments you get from it as dividends. However, if the corporation is established as a Subchapter S corporation, you may avoid double taxation issues. An S corporation does not pay taxes on earnings. Any taxable profit (or deductible loss) from an S corporation is passed to the shareholders according to their percentage of ownership in the business.

The advantages of a corporation are that you, as a shareholder, will usually not be liable for the corporation's debts beyond the amount that you have invested in the corporation unless you personally guaranteed the debts or other obligations of the corporation. There are similar advantages to being a member of a limited liability company and a partner in a limited liability partnership.

The banker

Establishing a good relationship with your local bank is the first step after deciding whether your business should be a sole proprietorship, partnership, LLP, LLC or corporation. It is important to establish a good relationship with a bank officer or representative. This can provide you with a valuable source of advice and assistance in obtaining loans, cashing checks and dealing with other banking matters. Many view the bank as having some sort of mystical power. However, the bank is a business just like any other. The bank is in the business of selling its financial services to you and values you as a customer. The banker is your partner in business, not your adversary. Keep in mind that the banker wants your business to succeed but also wants to make sure that the debts of the business will be paid if it fails. For this reason, the banker will often request that the



owners of a business personally guarantee its debts. Don't be alarmed or offended if you are asked to make a guarantee, but simply ask that the bank take a security interest in the assets of the business instead. This request may not be granted if your business has few assets. Be sure to check with several banks, because they often vary not only in their interest rates but also in their policies and procedures.

“Things are going great — let's expand!”

A business which offers a product or service that is in high demand often finds that there is a need to expand. If your business has established a good relationship with a bank, it may be able to expand. This may involve purchasing more equipment or hiring employees. Two drawbacks to employing others to assist in the operation of your business are (1) the business is responsible for withholding and remitting local, state and federal taxes from the earnings of its employees, including the employer's share of Social Security and Medicare taxes, and (2) the business is legally responsible for the actions of its employees that result in harm to third parties.

Many businesses attempt to avoid responsibility for making the required withholdings from the worker's earnings by claiming that the individual is an independent contractor. The Internal Revenue Service will, in most cases, find that the worker is an employee of the business, if the business had the right to control the activities of the individual. Likewise, the business may be liable to third parties for the actions of an individual it claims to be a contractor, if the business exercises too much control over the individual.

The factors listed here are only a few of those that are important to consider before starting a business, and in no way are they a substitute for competent legal and accounting advice. If the business involves a lease of premises or other financial obligations, it is a good idea to consult an attorney for advice before entering into such agreements.

CHAPTER 8

SMALL CLAIMS COURT

The purpose of Small Claims Court is to provide an inexpensive forum for dispensing speedy justice so that people with particular problems can go to court without the expense of an attorney. Filing fees vary from county to county and typically range from \$40 to \$65.

Practically any type of complaint you may have which involves a dollar figure less than \$6,000 can be heard and determined by a Small Claims Court. Counties may have different limits, so you should check with your Small Claims Court or local Clerk before filing. Furthermore, the Indiana Rules for Small Claims apply to all small claim proceedings in the state of Indiana and should be referenced by any party for a more detailed description of the rules and explanations discussed herein.



How to file

To take a small claim action, you must file a simple unverified Notice of Claim in your local Small Claims Court. You will need to file in the Small Claims Court of the county where the transaction took place, where the debt was incurred or obligation was to be performed, or where the defendant lives or works. There is a filing fee and it changes frequently. The Notice of Claim includes the following:

The court: The name of the court.

The parties: Contact information for yourself and the defendant — name, address and phone number.

When and where: The place, date and time when the parties are to appear in court. The date will be set by the court after you file. You should offer the court staff assistance in choosing a date that fits your schedule.

Brief description: Details of the nature and amount of your claim together with a copy of the contract, lease, itemized account or any type of written evidence, if the complaint involves these types of documents.

Pursuant to Indiana state law, the clerk of the court is required to provide you with the necessary forms and, if requested, to assist you in the preparation of your case. All parties may appear either in person or by an attorney.

Serving them with the papers

Service of process — Like any other lawsuit, each defendant is entitled to receive a copy of your Notice of Claim. The clerk of the court generally handles serving notice to the defendant(s). Service of process is usually accomplished by sending the Notice of Claim either by registered or certified mail with return receipt requested, by delivering a copy to the defendant personally or by leaving a copy at the defendant's residence. If a copy is left at the defendant's residence, the server is also required to send it by first-class mail to their last known address.

Informality of proceedings — Perhaps the most unique feature of Small Claims Court is that it dispenses with the formal rules of evidence and limits the pretrial procedures to the issuance of subpoenas (a command to appear in court), which are to be issued by the court to persons whom you may wish to call as witnesses. If discovery is sought, it must be done with prior approval of the court. Indiana state law requires a Small Claims Court trial to be informal with the sole objective of dispensing speedy justice between the parties according to general principles and rules of law.

If you are sued in Small Claims Court, you have the right to bring a counterclaim against the plaintiff, defend yourself in person or be represented by an attorney of your choice. Corporations must go to the expense of hiring a lawyer unless the claim is not more than \$1,500, at which point a full-time employee of the corporation may appear and either defend or present a claim of the corporation against the other party. Should you be unavailable on the date and time which the court sets for your trial, you may apply for a continuance, which changes the date, but each party should be limited to only one continuance and there are specific rules in each county on the advance notice required to obtain a continuance. Furthermore, a party to the cause of action is entitled to a jury trial and such a right is waived unless it is requested within 10 days after the receipt of the notice of claim.

What if they don't show?

Default judgment — If the defendant fails to appear at the time and place specified for your Small Claims Court trial, you should ask for a default judgment against him or her. At this point, the judge must determine the following:

- The defendant was served with Notice of Claim (he or she knew about the trial date).
- The defendant is not legally disabled and has a sufficient understanding to realize the nature and affect of the Notice of Claim (he or she was physically and mentally able to attend).
- The plaintiff has a legitimate claim against the defendant (you are telling the truth).

What if I didn't attend the hearing but have a good reason?

Setting aside a default judgment — If a default judgment is entered against you, you should write to the court stating your legitimate reason why the default judgment should be set aside. If your request to set aside the default judgment is done in a timely manner, and demonstrates good reason for your failure to attend, it is likely that the judge will set aside the default judgment and reschedule the case for trial so that you may tell your side. If the plaintiff fails to appear at the time and place specified for the Small Claims Court trial, you should request that the court dismiss the plaintiff's case.

Judgment — The Small Claims Court rules require that all judgments be reduced to a document signed by the court and entered by the clerk in the judgment docket. Should you win at your trial, you are also entitled to recover your court costs. This does not necessarily mean your attorney fees will be paid. Attorney fees are paid only in certain circumstances as provided by law. Once you have your judgment, you should apply to the court to assist you in collecting what you are owed. The first step is to file a Proceedings Supplemental, whereby the judgment debtor is ordered to appear in court and answer questions under oath about his or her ability to pay based upon income, assets, liabilities, family size, etc. The most common payment arrangements are in the form of a lump sum, periodic installments and/or garnishment of the defendant's wages. Since the collection aspect of Small Claims Court is slightly more complex, you may want to consult an attorney, especially if your judgment is a sizable one.

Small Claims Handbook

The Small Claims Court rules also require each Small Claims Court to have a manual available for prospective litigants, to help give them their day in court. Also, there is a helpful *Small Claims Handbook*, produced by the Indiana Judicial Center, which can be downloaded from in.gov/judiciary/center/pubs/benchbooks/.

CHAPTER 9

IF YOU'RE IN AN AUTO ACCIDENT

If you are involved in an automobile accident, you should take immediate steps to determine whether or not anyone in your vehicle or another vehicle is injured. If there are injuries involved in the accident, you should immediately seek assistance from people passing by and by dialing 911. *Take immediate action and properly report the accident!*

Duties of drivers for accidents with injuries or death

Certain actions are to be taken by the driver of a vehicle involved in an accident resulting in injury or death. In this type of accident, the driver must immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than necessary. The driver must then immediately return to and remain at the scene of the accident until he or she does the following:

- Gives his or her name and address and the registration number of the vehicle he or she was driving.
- Upon request, shows his or her driver's license to the following:
 - ~ The person injured.
 - ~ The driver or occupant of or the person attending each vehicle involved in the accident.
- Determines the need for and renders reasonable assistance to each person injured or entrapped by the accident, including the removal of, or the making of arrangements for the removal of, each person from the vehicle in which the person is entrapped and each injured person from the scene of the accident to a physician or hospital for medical treatment.

The driver must also immediately give notice of the accident by the quickest means of communication to either:

- The local police department, if the accident occurred within a city or town; or
- The office of the county sheriff or the nearest state police post, if the accident occurred outside of a city or town.
- Within 10 days after the accident, the driver must forward a written report of the accident (Indiana Operator's Proof of Insurance Crash Report SR21 — State Form 52441) to the Indiana Bureau of Motor Vehicles. It is every motorist's responsibility to make sure this report is filed with the BMV within 10 days of the accident, regardless of who initiated the accident.

Duties of passengers for accidents with injuries or death

If the driver of a vehicle is physically incapable of determining the need for or rendering assistance to any injured or entrapped persons and there is a passenger in the vehicle at the time of the accident who is capable of determining the need for and rendering reasonable assistance to injured or entrapped persons, the passenger must immediately determine the need for and render reasonable assistance to each person injured or entrapped under Indiana law.

Also, if the driver of a vehicle is physically incapable of giving immediate notice of an accident, the passenger must give notice of the accident by the quickest means of communication to either:

- The local police department, if the accident occurred within a city or town; or
- The office of the county sheriff or the nearest state police post, if the accident occurred outside of a city or town.

Duties of drivers for accidents with damages to vehicles, but without injuries or death

A driver of a vehicle involved in an accident that does not result in injury or death of a person or the entrapment of a person in a vehicle (and does not involve the transportation of hazardous materials) but does result in damage to a vehicle must do the following:

- Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than necessary.
- Immediately return to and remain at the scene of the accident until he or she does the following upon request:
- Give his or her name and address and the registration number of the vehicle he or she was driving.
- Give the names and addresses of the owner and any occupants of the vehicle the driver was driving.
- Provide proof of insurance for the vehicle.
- Show his or her driver's license to the driver or occupant of or person attending each vehicle involved in the accident.

If the accident results in total property damage to an apparent extent of at least \$1,000, forward a written report of the accident (Indiana Operator's Proof of Insurance Crash Report SR21 — State Form 52441) to the Indiana Bureau of Motor Vehicles.

Duties of drivers for accidents with unattended vehicle or causing damage other than to a vehicle

The law in Indiana also has certain requirements when a driver collides with an unattended vehicle or causes property damage to something other than a vehicle.

If a driver hits an unattended vehicle, the driver must immediately stop and either:

- Locate and notify the operator or owner of the vehicle of the name and address of the driver and owner of the vehicle that struck the unattended vehicle; or
- Leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and the owner of the vehicle that did the striking and a statement of the circumstances of the accident.

If a driver causes damage to the (non-vehicle) property of another person, the driver must:

- Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than necessary.
- Immediately return to and remain at the scene of the accident until he or she does the following:
 - ~ Takes reasonable steps to locate and notify the owner or person in charge of the property about the damage.

~ Gives the person his or her name and address and the registration number of his or her vehicle.

~ Upon request, exhibits his or her driver's license.

If, after reasonable inquiry, the driver of the vehicle cannot find the owner or person in charge of the damaged property, the driver of the vehicle must do the following:

- Notify either the sheriff of the county in which the damaged property is located or a member of the state police department; and
- Give the sheriff or state police department the information required by this section.

What should I do if I'm at fault?

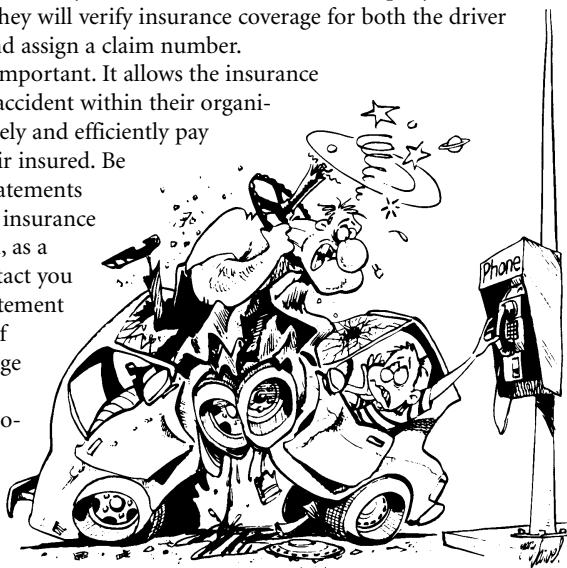
If you believe that you are at fault in causing damage to another person, car or property, you should immediately report this to your insurance agent (in addition to the requirements mentioned previously). You are required to cooperate with your insurance company or they can refuse to pay for the damages. If there is serious property damage or personal injury involved in the accident, you should be very careful of any statements made to anyone except your own insurance company and your attorney. If you are involved in a serious automobile accident, an attorney can make sure that your rights and pocketbook are protected.

What do I do if the other person is at fault?

If you're involved in an automobile accident that you believe is not your fault, you should obtain the name, address and phone number of the driver and the owner of the vehicle, together with the vehicle's license plate number and registration number. You are also entitled to examine the other person's driver's license, and you should copy all of the information contained on it.

Again, if there is serious property and/or personal injury involved in the accident, you should immediately consider contacting or having someone contact an attorney for you. Depending on the circumstances, and in addition to the reporting requirements already mentioned, either you or your attorney will contact the insurance company of the person who is at fault, where they will verify insurance coverage for both the driver and/or the vehicle involved, and assign a claim number.

The claim number is very important. It allows the insurance company to quickly track the accident within their organization so that they can effectively and efficiently pay for the damages caused by their insured. Be extremely careful about any statements you make to the other driver's insurance company. A representative will, as a practical matter, probably contact you by phone to get a recorded statement from you about the accident. If there is serious property damage or personal injury, you should refuse to talk to this person altogether and refer the claims adjuster or investigator to your attorney.



CHAPTER 10

WHEN YOU'RE DEAD & GONE

The last thing you're probably thinking about is dying. After all, you're too young to die unless you're in a fatal car accident or develop a terminal illness.

But we're all going to die eventually. It's important to be prepared by having your affairs in order to relieve the burden on your family and friends.

What happens when I die?

There are a number of things to be done when someone dies. Aside from making funeral arrangements, someone must see that your bills are paid and your remaining property is distributed as you wish. If you have children, a decision must be made as to who will care for them (generally your spouse, if he or she is living and able to do so). You can have a say in how these matters are handled if you sign a will — a legal document that says how your affairs are to be handled upon your death. To be valid in Indiana, a will must be signed by you and witnessed by two competent adults, who also must sign the will in your and each other's presence.

Regardless of whether you have a will when you die, an estate administration must generally be opened in your local probate court. Notice of your death is published in the newspaper to give creditors a chance to file claims against your estate. Someone (an executor or administrator, depending upon whether you have a will), must be appointed to oversee your estate administration. This person, also known as a personal representative, must prepare an inventory of all your property and debts. During the next several months, bills are paid and property held for safekeeping. If you leave a large estate, there may be inheritance taxes to pay. Typically about nine months to a year later, your personal representative will distribute your property to the people your will (beneficiaries) or the law (heirs) says are to receive it, depending on the value of your estate.

Depending on whether you have a will and what you say in it, and what your heirs and beneficiaries want, your personal representative can handle most of these matters without court involvement. Some cases, however, require full court supervision of every decision. Often attorneys will work with your personal representative to make sure everything is done properly.

Why have a will?

This legal document is really your last statement to your family and friends about how you want things handled. You can say who gets your property (your beneficiaries) and whether they get it with or without restrictions (as when it is given to them in trust, a means of saying how the beneficiaries get to use your property). For example, should they get only the income your property generates? Or should your property be invested until your beneficiaries reach a certain age, at which time they decide what to do with it? You've probably never thought about these questions, but the answers can be very important to your family and friends. You can answer these questions in your will.

Also, you can appoint the person who will see that your instructions are followed. This person (the executor or personal representative) is appointed by your local probate court to see that your affairs are put in order. If you don't have a will, your family (and maybe your friends) will have to decide who gets this responsibility. It may be that you

really want your best friend to handle these things, but he or she won't even be considered unless you put it in your will.

I don't have anything but debts. Why do I need a will?

No one dies with nothing. And while there are procedures for collecting property and paying bills in simple cases, maybe you'll have some items you want to leave to certain members of your family or to friends. You can only do so with a will.

And as noted above, signing a will still answers the question of who handles these matters.

Also, if you have a child, your will is one of the best ways to say who you would want to raise your child. Otherwise, the court will appoint someone as guardian of your child, and it may not be who you think is best. Although the ultimate decision is made by the probate court, a will allows you to have a say in these matters.

What happens if I don't have a will?

Aside from the decisions the court will make under the law, you should understand that the property of a single person with no children will be divided among his or her parents and brothers and sisters. Your friends will be left out.

If you're married but have no children, then your spouse and parents will share your property. If you are married and have children, then your property will be divided among them to the exclusion of other relatives and friends. Maybe this is what you want, but if you leave property to young children other than in trust, a special type of guardianship to manage the property will be required. That can cause unnecessary expense and emotional strain on your family.

If you're divorced, your spouse won't inherit from you. If he or she has custody of children, then your property could end up in your ex-spouse's hands as guardian for your children. A will can solve this problem by setting up a trust for your children. These rules apply unless you own property jointly with others subject to rights of survivorship. Under this rule, the surviving owner receives the property regardless of what you might prefer, even if you say so in a will. Similarly, life insurance proceeds are paid to the beneficiary named in the policy regardless of what your will says.

What should I do?

The point of this section is to show you that decisions will be made after you die, and whether those decisions are made in the way you want really depends upon what you do now. If you do nothing, the court will say what is to be done and how it is to be done. But you can keep control of how your family and friends are treated by keeping alert as to how you own property with others and by signing a will that says who gets your individual property, how they get it and who gives it to them.



RESOURCES — WHERE TO GO FOR HELP

INDIANA STATE OFFICES

Alcohol & Tobacco Commission, 317-232-2430, in.gov/atc/
Attorney General, 317-232-6201, in.gov/attorneygeneral/
Auditor, 317-232-3300, in.gov/auditor/
Bureau of Motor Vehicles, 317-233-6000, in.gov/bmv/
Civil Rights Commission, 317-232-2600, in.gov/icrc/
Commission on Public Records, 317-232-3380, in.gov/icpr/
Consumer Protection, 800-382-5516, in.gov/attorneygeneral/2350.htm
Correction, 317-232-5727, in.gov/idoc/
Education, 800-457-8283, in.gov/core/education.html
Emergency Management Agency, 317-232-3980, in.gov/dhs/
Employment/Training Services, 800-891-6499, in.gov/dwd/2333.htm
Environmental Management, 800-451-6027, in.gov/idem/
Family and Social Services Administrations (FSSA), 800-457-8283, in.gov/fssa/3440.htm
General Assembly (House, 317-232-9600; Senate, 317-232-9400), in.gov/legislative/index.htm
Governor, 317-232-4567, in.gov/gov/
Hazardous Waste, 317-232-8603, in.gov/idem/4995.htm
Health, 317-233-1325, in.gov/isdh/
Homeland Security (Indiana), 317-232-3980, in.gov/dhs/
Hoosier Lottery, hoosierlottery.com, in.gov/mobile/2332.htm
Information Center, 317-800-457-8283, in.gov/core/help.html
Insurance Commissioner, 317-232-2385, in.gov/idoi/
Labor (OHSA), 317-232-2655, in.gov/dol/iosha.htm
Mental Health and Addiction, FSSA, 800-662-4357, in.gov/fssa/dmha/index.htm
Missing Children and Adults, 317-232-8248, in.gov/isp/2333.htm
Natural Resources, 877-463-6367, in.gov/dnr/
Poison Control, 800-222-1222
Police/Fire Emergency Assistance, 911
Professional Licensing, 317-232-2980, in.gov/pla/
Public Defender, 317-232-2542, in.gov/judiciary/pdc/
Real Estate Commission, 317-234-3009, in.gov/pla/real.htm
Revenue, 317-232-2240, in.gov/dor/
Road and Weather Conditions, 317-261-7623, netservices.indot.in.gov/rwis/
Secretary of State, 317-232-6531, in.gov/sos/
State Police Phone Directory, <http://www.in.gov/isp/2359.htm>
State Police Public Information (non-emergency), 317-899-8293
TrafficWise (traffic conditions), in.gov/indot/2788.htm
Veterans Affairs, 800-400-4520, in.gov/dva/
Workforce Development, 800-891-6499, www.in.gov/dwd/

FEDERAL OFFICES

Citizenship and Immigration Services, 800-375-5283, uscis.gov
Consumer Product Safety Commission, 800-638-2772, cpsc.gov
Customs Service (Indianapolis Port of Entry), 317-248-4060,
cbp.gov/xp/cgov/toolbox/contacts/ports/in/4110.xml
Drug Enforcement Administration, 317-226-7977, justice.gov/dea
Equal Employment Opportunity Commission, 800-669-4000, eeoc.gov
Federal Bureau of Investigation, 317-639-3301, fbi.gov
Food and Drug Administration, 888-463-6332, fda.gov
Homeland Security, 202-282-8000, dhs.gov
Housing Discrimination Complaints (HUD Fair Housing Hub), 317-226-6303, ext. 5014,
hud.gov/complaints/housediscrim.cfm
Internal Revenue Service, 800-829-1040, irs.gov
National Labor Relations Board, 317-226-7381, nlr.gov
National Weather Service, 317-856-0360, weather.gov, weather.noaa.gov/weather/IN_cc_us.html
Occupational Safety and Health Administration, 800-321-6742, osha.gov
Postal Service, usps.com
Small Business Administration, 317-226-7272, sba.gov
Social Security Administration, 800-772-1213, ssa.gov
U.S. Attorney (Indianapolis), 317-226-6333, justice.gov/usao/ins/; justice.gov/usao/inn/
U.S. Marshals Service, 202-307-9100, justice.gov/marshals/
Veterans Administration (Benefits), 800-827-1000, <https://iris.custhelp.com/>

NONPROFIT ORGANIZATIONS

Alcoholics Anonymous, 317-632-7864, aa.org
Better Business Bureau, 317-488-2222, indybbb.org
Crisis and Suicide Hotline, 317-251-7575, 800-784-2433
Indiana Chamber of Commerce, 317-264-3110, indianachamber.com
Indiana State Bar Association, 317-639-5465, inbar.org

TAX INFORMATION

Federal: Internal Revenue Service, 800-829-1040, irs.gov
Individual Taxes: Indiana Dept. of Revenue, 317-232-2240, in.gov/dor/3336.htm
Sales Tax: Indiana Dept. of Revenue, 317-233-4016, in.gov/dor/3335.htm
Withholding Tax: Indiana Dept. of Revenue, 317-233-4015, in.gov/dor/3335.htm

