

Expungement Law Update: Can Your Criminal Case Be Kept Confidential Now?

By Brooke Chesney*

The public has online access to many court records. Some types of cases, like juvenile cases and divorces in progress, are confidential. Most types of cases are on the public list. A lot of people look at the online court docket to see what crimes may be on someone's record. Employers, day care providers, parents of school children and anyone who wants to find out can see most court cases filed against a person.

Adult Criminal Case Records

When it comes to adult criminal records, the public can see all criminal cases in which a person was charged. Even if the outcome of the case was "not guilty" or "dismissed," the public can still see it. A change in the law takes effect July 2013. Some types of cases will no longer be on the public list.

Sometimes the final decision listed on a criminal case is a "deferred judgment."

- A deferred judgment is when the court:
 - ▷ Does not make a judgment right away,
 - ▷ Puts a probation order in place,
 - ▷ Orders the person to pay restitution and/or costs, and
 - ▷ Waits to see how the person does on probation.
 - ▷ The court will not enter judgment if the person:
 - Has no more criminal charges during the probation, and
 - Follows the court order.
- If the person violates his or her probation, the court will remove the deferred judgment and enter judgment.



Many people did everything the court ordered but the crime remained on the online court docket. Lawmakers saw this as unfair.

Certain Cases Must Be Removed from Online Court Records by July 2013

By July 2013, the court administrator must make changes. Cases where no judgment is entered must be removed completely from the online records.

Potential employers, friends, family and others will not be able to see cases where a person received a deferred judgment, completed probation and judgment was never entered.

*Brooke Chesney is a staff attorney at Iowa Legal Aid's Davenport Intake Office.

Claim All the Tax Credits You Earned! Find Out What the Earned Income Credit (EIC) Can Do For You When Tax Time Comes!

By Tamara Borland*

What is the Earned Income Tax Credit?

The Earned Income Tax Credit is sometimes called EITC or EIC. It is a refundable federal income tax credit to help you keep more of what you earned. If you worked in 2012 – full-time or part-time – you may qualify. Even if you don't owe income tax, you may get the credits.

Who Can Get the EIC and what are the amounts for Tax Year 2012?

- If you have qualifying children, you can get up to \$5,891 in the EIC.
 - ▷ Families with **one child** who earn less than \$36,920 in 2012 (or less than \$42,130 for married filing jointly status workers) are eligible for a credit of up to \$3,169.
 - ▷ Families with **two children** who earn less than \$41,952 in 2012 (or less than \$47,162 for married filing jointly status) are eligible for a credit of up to \$5,236.
- Families with **three or more children** who earn less than \$45,060 in 2012 (or less than \$50,270 for married filing jointly status) are eligible for a credit of up to \$5,891.
- If you are a worker **without children**, you can get up to \$475.
 - ▷ Workers **without a qualifying child** who earn less than \$13,980 in 2012 (or less than \$19,190 for married workers) are eligible for a credit of up to \$475.



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IowaCare Expansion

By Chris Kerbawy*

IowaCare is a health care program. It provides limited services for people not otherwise eligible for Medicaid. The goal of IowaCare is to provide some health care coverage to people who would otherwise have no coverage.

Iowa Medicaid's IowaCare program expanded on January 1, 2012. Changes include the addition of primary health care providers at Federally Qualified Health Centers. There is now an emphasis on developing a "Medical Home" at providers that take part. Before the changes took effect, IowaCare services were only available at Broadlawns Medical Center in Des Moines and the University of Iowa Hospitals and Clinics in Iowa City. Now, all IowaCare members have access to closer primary care at a designated Medical Home.

The IowaCare Provider Network of Medical Homes is:

- Community Health Center of Fort Dodge
- Broadlawns Medical Center, Des Moines
- Crescent Community Health Center, Dubuque
- Peoples Community Health Clinic, Waterloo and Clarksville
- Council Bluffs Community Health Center, Council Bluffs
- Primary Health Care, Marshalltown
- University of Iowa Hospitals and Clinics, Iowa City
- Siouxland Community Health Center, Sioux City

The map below shows the counties each Medical Home covers.



Who Is Eligible for IowaCare?

IowaCare covers the following people:

- Ages 19 through 64;
- Whose family income is no more than 200% of the federal poverty level;
- Who are not eligible for Medicaid;
- Who are uninsured or whose insurance does not cover the medical condition for which they need treatment; and
- Who are citizens or lawful permanent residents.

How Much Does IowaCare Cost?

For people whose income is 150% or less of the Federal Poverty Level, there is no monthly premium for IowaCare. For people whose income is between 151% and 200% of the Federal Poverty Level, the monthly premium is between \$47.00 and \$80.00. A hardship allowance may allow waiving premiums for IowaCare members.

Continued on Page Two...

Claim All the Tax Credits You Earned! Continued from Page 1

No more than \$3,200 of earnings can be Investment Income.

How Can I figure Out How Much I Could Get from the Earned Income Tax Credit?

The Internal Revenue Service has an EITC Assistant on their web site to help you figure out what the Earned Income Credit would be for you, based on your income and family size.

Here is the url of the EITC Assistant:

<http://www.irs.gov/individuals/article/0,,id=130102,00.html> .
The information is normally updated in January of each tax year.

What Children Qualify?

Qualifying children must have lived with you for more than six months during the tax year. The children must be under age 19, or under age 24 if they are full-time students. This includes:

- Sons, daughters, stepchildren, grandchildren and adopted children.
- Brothers, sisters, stepbrothers and stepsisters - and the children of any of these.
- Foster children who are placed with you by an authorized government or private placement agency also qualify. The children must be under age 19, or under age 24 if they are full-time students.
- Totally and permanently disabled children of any age are also qualifying children.

The taxpayer and the children claimed for the earned income credit must have Social Security numbers valid for employment.

How Do I Get the Earned Income Credit?

You must file a tax return.

- If you were raising children, you need to file a Federal 1040 or 1040A (not the 1040EZ) income tax return.
- If you are a married couple, you must file a joint return.
- Taxpayers filing *married filing separately* cannot claim the EIC. (See exception for separated parents who can use head of household filing status.)
- If your spouse died in 2010, you remain unmarried and have a qualifying child, you can file and claim the EIC using the *qualifying widow(er)* status for tax year 2011 and 2012.
- If you are an unmarried parent who does not pay more than half of the costs to maintain the family home, you can file as single and still claim the Earned Income Credit for your qualifying child. Some single parents mistakenly believe they must use the head of household status when claiming the EIC, which can unnecessarily trigger an audit particularly if their income is very low.

Parents with children must file a form called the Schedule EIC with your tax return. You need to fill out only the front side of this Schedule EIC, and the IRS will calculate the exact amount of the credit on the back side. **If you do not file the Schedule EIC, you will not get the Earned Income Credit.**

If you were not raising children, you can file a return using any tax form including the form 1040EZ to claim the EIC. You do not have to file a Schedule EIC. If you qualify, you can write EIC next to the line that says Earned Income Credit and the IRS will calculate the credit for you.

What if I Am Self-Employed?

You are eligible for the EIC, but you must fill out a special series of forms: Schedule C or Schedule C-EZ, Schedule SE, Form 1040, and Schedule EIC (if you were raising children in your home). Call the IRS to get the forms or go online.

You need to carefully include all income and expenses for your business. Gather all business related receipts, bank statements, mileage records to accurately fill out these forms.

What If I Am a Permanent Resident Alien Who Is Working in the U.S.?

The EIC is available to taxpayers who have a Social Security number and have a child who has a Social Security number. All Social Security Numbers must be valid for work. The taxpayer must have been a U.S. resident alien for tax purposes the entire year, and the child must have lived with the taxpayer for more than six months in the United States. If the taxpayer is married and lives with his or her spouse, the spouse must also have a social security number.

What If the Parents Are Divorced or Separated?

If you are divorced and a custodial parent you may be able to claim the EIC for your qualifying child even if the non-custodial parent has been granted the right to claim the qualifying child's dependency exemption. Under the tax rules, a custodial parent is the parent the child lives with the most days during the year. A non-custodial parent may qualify for the smaller EIC for workers without children.

If you separate from your spouse for the last six months of the year and you pay more than half the costs for maintaining a household for your qualifying child, you may claim the EIC using the head of household filing status. If the other parent has no children living with him or her, the only available filing status is married filing separately and therefore he or she is not eligible for the EIC.

What if the Parents Live Together But Are Not Married?

Either parent may claim the Earned Income Credit. If both parents claim the credit, the IRS will decide who receives the credit. The parent with whom the child lived the most during the tax year will receive the credit. If they both lived with the child the same amount of time, the credit will go to the parent with the highest adjusted gross income. The parents should discuss how to claim the earned income credit to make sure the family gets the biggest credit permitted by the laws.

What If I Have Not Claimed the EIC in the Past?

You can go back and claim EIC payments for the last three years.

- If you filed taxes in 2009, 2010 or 2011, but did not claim the earned income credit and you have learned you were eligible, you can file amended returns.
- If you did not file a tax return for those years, you will have to get returns on file. This is in addition to anything you may be eligible for in the current tax year.

Therefore, you can get payments for the tax years 2009, 2010, and 2011 plus your 2012 return if you have not filed federal income tax returns during those years and you were eligible for the EIC.

For 2009, you must have the return on file no later than the due date for the 2012 tax return in order for it to be considered timely. You will need to get a Form 1040 or 1040A for those years. You can get these forms (and any other forms) by contacting the IRS at 1-800-829-3676 or by going to www.irs.gov. Select *Publications and Forms, previous years*.

PUBLIC NOTICE

Meetings of the Iowa Legal Aid Board of Directors are open to the public. We encourage the public to attend.

The next meeting of the Board of Directors is scheduled to take place on February 16, 2013. The Board of Directors meets at least four times each year. For details on the next meeting of the Board, call toll-free:

1-800-532-1275.

Can I Get the EIC with Electronic Filing?

- Electronic filing with direct deposit is the fastest way to get your refund.
- You can get the refund in as little as 10-15 days.
- Lower-income taxpayers can go to one of your local free tax assistance sites to get this service for free. You can locate a local Volunteer Income Tax Assistance site by calling the IRS at 1-800-829-1040 or an AARP Tax Counseling program at 1-877-227-7844.
- In most areas, 211 should be able to provide you with this same information.

Does the Earned Income Credit Affect Public Assistance?

EIC payments are not income for the purposes of FIP (AFDC), Medicaid (Title 19), food stamps, SSI, or public/subsidized housing in the month received. That means the Earned Income Credit will almost never affect your eligibility for these programs or the amount of benefits you get. The EIC may be counted as a resource in the following months depending on the rules for the individual program.

Where Can I Get More Information?

- For more information on tax rights and responsibilities, including more information about the Earned Income Credit, contact Iowa Legal Aid.
- If you have tax problems, you may be able to get help from Iowa Legal Aid's Low-Income Taxpayer Clinic. Call Iowa Legal Aid at 1-800- 532-1275.
- To locate Free Tax Preparation sites for most communities, you can call 2-1-1 starting in late January.
- You may also contact the IRS. If you live in Iowa, contact the IRS at 1-800-829-1040, and if you live in Des Moines, contact the IRS at (515) 283-0523. Persons with a hearing impairment who have access to TTY equipment may call the IRS number 1-800-829-4059.

The information in this article was not intended or written to be used and cannot be used to avoid penalties under the Internal Revenue Code.

***Tamara Borland is Project Manager of Iowa Legal Aid's Low-Income Taxpayer Clinic.**

IowaCare Expansion Continued from Page 1

What Services Does IowaCare Provide?

Services covered by IowaCare include:

- some inpatient and outpatient services;
- doctor and advanced registered nurse practitioner services;
- limited dental services;
- limited prescription drug benefits;
- limited transportation;
- services to help quit smoking; and
- routine preventative medical examinations.

Services will vary among the medical home providers. Members should always check with their medical home about services they have.

Where is Medical Care Provided?

The local Medical Home in each area provides primary care. If hospital or specialty services are needed, the local Medical Home will refer the patient to Broadlawns Medical Center in Des Moines or the University of Iowa Hospitals and Clinics in Iowa City.

Some communities provide free or low-cost transportation for health care appointments. Contact the local Medical Home if you need help getting to where you need to go for medical care.

You can get details on the IowaCare program from the Iowa Department of Human Services. You may also find out more at www.dhs.state.ia.us.

***Chris Kerbawy is a staff attorney at Iowa Legal Aid's Southwest Iowa Regional Office in Council Bluffs.**

Buying a House on Contract

By Joe Ferrentino*

Buying a home usually requires borrowing money from a bank, which can be hard if a person has a low income. It might also be hard to save up enough money for a down payment. If someone cannot get a loan from a bank or afford a down payment, they might choose to buy a house on contract.

When you buy a house on contract, you make monthly payments, just like you would if you were renting a house or if you had a mortgage with a bank. Buying a house on contract is different from renting or buying, though.

When you rent a house, your landlord is responsible for providing heat, electricity, hot water, and so on. Your landlord also has to keep the house safe and habitable. A contract seller doesn't have to do these things. It is important to be aware that these responsibilities are the contract buyer's.

Always make sure to read any contract before you sign it. When buying a house on contract, this is even more important because of the cost involved. You will want to know the total cost of the house, the interest rate, who will pay the taxes, and whether there's a "balloon payment." In some contracts, the buyer will make a regular monthly payment for a certain time, and then there will be a large payment due to pay off the rest of the debt. This large payment is the "balloon payment." Often, balloon payments are very large and may be unaffordable.

Buying a house on contract is one way for persons with low income or poor credit to become homeowners, but there are risks involved.

A contract buyer is responsible for all repairs to the house. If the furnace breaks, that is an expensive repair. If the contract buyer later misses a payment and has to move out of the house, the repairs that have been made are for a home you do not own anymore. Make sure to look for a house in good condition from the start. Many contract sales of homes have a "forfeiture clause." This means the contract seller doesn't have to go to court to forfeit

the contract if a payment is missed. The contract seller just has to give the buyer notice that there is a default. If the buyer doesn't take care of the default within 30 days, the house and all of the payments may go back to the seller. The seller can then evict the buyer in as little as about two weeks. The seller still has to take the buyer to court by filing an eviction proceeding. If there is no "forfeiture clause" in the contract, the seller must foreclose just like when there is a mortgage.

Another thing to look out for is a lien on the property. Before buying a property, it is a good idea to have a title opinion done. A title opinion looks for problems that might affect ownership of the property or unexpected fees that a contract buyer may be asked to pay.

Buying a house on contract is one way for persons with low income or poor credit to become homeowners, but there are risks involved. Buying a home is a big decision, so make sure to be careful before signing a contract. You should also talk to a lawyer first.

**Joe Ferrentino is a staff attorney at Iowa Legal Aid's Northeast Iowa Regional Office in Dubuque.*

Beware of Mortgage Rescue Scams

By John Gianola*

Are you a homeowner who is behind in mortgage payments or facing foreclosure? Help is available but you need to be careful. Many businesses and persons will promise to help you with mortgage problems and save your home. Many times, these promises are not true. They may be scams to get money without providing any help at all.

How do you spot a mortgage rescue scam?

If someone offers to help with your mortgage or foreclosure problems, you may not know for sure if it is a mortgage scam. But there are important warning signs:

- **Never work with anyone who wants money up-front to help with mortgage problems.** It's illegal in Iowa to charge any fee until all services under this type of contract are provided. You may be able to get free services in the state of Iowa from certified housing counselors and Iowa Legal Aid lawyers for mortgage and foreclosure problems.



Will I lose my home?

If you cannot make your house payments, you may be able to get free legal help from Iowa Legal Aid. Call toll-free: 1-800-532-1275. Or visit our website at iowalegalaid.org

For help with your financial problems, call the Iowa Mortgage Help Hotline: 877-622-4866 or visit the website: www.iowamortgagehelp.com. They may be able to help you find out if a loan modification or other solution is available.

- **Beware of anyone who wants you to sign papers immediately before helping you.** Never sign over the Deed to your home, for example, in exchange for some promise to get help in the future with your mortgage.
- **Beware of someone who tells you to send mortgage payments to anyone other than your lender without your lender's approval.** Some mortgage scammers tell you to send mortgage payments directly to them. Then they keep the money instead.
- **Beware of anyone claiming to be able to help you with federal programs for struggling homeowners.** Some of these programs are Making Home Affordable, Independent Foreclosure Review, or National Mortgage Settlement. These are real federal programs to help homeowners. Many mortgage rescue scammers advertise that they will provide help with these programs in order to seem trustworthy.
- **Beware of out-of-state lawyers who claim they can help you get a more affordable mortgage with your lender or help save your home from foreclosure.** Many out-of-state lawyers contact Iowa homeowners or advertise in Iowa that they can help with mortgage problems. Often these lawyers charge lots of money before agreeing to help you, but they do not do anything.

How do I get free government-approved help with mortgage/foreclosure problems?

The State of Iowa provides a free service to all Iowa homeowners who need help to save their homes due to mortgage problems. This service is Iowa Mortgage Help (877.622.4866). Iowa Mortgage Help is a partnership of state agencies, certified HUD housing counselors, Iowa Mediation Service, and Iowa Legal Aid. By calling Iowa Mortgage Help, struggling homeowners will get free housing counseling and help with getting changes to make mortgage payments more affordable. Free legal assistance may be available if the homeowner is facing foreclosure.

**John Gianola is Managing Attorney of Iowa Legal Aid's Foreclosure Project.*



Top Row, left to right: Dr. Mary Chapman, Linda Grandquist and Chaunci Hall.

Bottom Row, left to right: Dennis Groenenboom, Cindy Rybolt, Cathy Reynolds and Ivan Webber.

Prairie Meadows Helps Fund Iowa Legal Aid's Outreach Efforts

On May 16, Iowa Legal Aid was presented with a check for \$14,331 from Prairie Meadows. Iowa Legal Aid's Legal Hot-line for Older Iowans used \$10,000 to conduct a three-hour seminar over the Iowa Communications Network (ICN) on November 1, 2012. The seminar was broadcasted to 31 locations in Iowa, with at least ten being located in Polk and adjacent counties. The seminar educated older Iowans, their caregivers, and service providers about elder law issues involving Medicaid eligibility for long-term care and other public benefits; life-planning issues such as health care directives, powers of attorney, and guardianships; and consumer and financial issues involving predatory lending, debt collection practices and foreclosures. There were over 450 people who attended the seminar.

The remaining \$4,331 was used to help support outreach efforts of Iowa Legal Aid's Health and Law Project in Des Moines. The Health and Law Project helps improve the lives of low-income and other vulnerable Iowans by addressing the underlying legal problems that are causing or exacerbating their health problems. Prairie Meadows helped pay the costs associated with conducting outreach and intake at local community health care centers, homeless shelters and domestic violence shelters in the Des Moines area.

Iowa Legal Aid is grateful to Prairie Meadows for their financial support of these two very important projects that help central Iowa's most vulnerable residents.

The Equal Justice Journal is published four times a year by Iowa Legal Aid. The Equal Justice Journal is free to low-income people in all counties of Iowa. All others must pay a \$10.00 annual subscription fee. The EJJ is available in a larger print edition upon request. It is also available online at iowalegalaid.org.

All correspondence should be sent to:



**The Equal Justice Journal
Iowa Legal Aid
1111 9th Street, Suite 230
Des Moines, Iowa 50314-2527**

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Note: Photographs in this newsletter are produced independently of text and bear no relationship to cases or incidents discussed herein (except where noted below a picture).

Tips for Happier Holiday Shopping

From the Attorney General of the State of Iowa

Before tackling your holiday shopping list at your local retailer, a shopping mall or online, spending some time on research may save you some spending money, and can also save you from aggravation. If you know what you're looking for, make sure it's a good product at a good price from a reputable seller.

- Is it a quality item or is it something that's simply cheap? A cheap price isn't always a better bargain.
- What do you know about the seller – is this a store or website you know and trust?

Take your ads with you. If you're headed to a store, make sure the product and price match the ad.

Keep your receipts and paperwork. Most stores won't give refunds without a receipt, and many won't offer exchanges without a proof of purchase. If you really think you need a service contract and end up paying for one, be sure to save the paperwork. (Find out more about service contracts at www.ftc.gov and type "service contracts" in the search box.)

Returns and layaways: Make sure you know a store's policies on returns, layaways, restocking fees, and return shipping costs for online retailers before you make a purchase. Remember, no state law requires stores to give a refund, exchange, or credit for merchandise that is returned or taken off layaway (unless the store advertises that it accepts such returns, or unless an article is defective or was misrepresented). Keep in mind that Iowa's three-day-right-to-cancel law only applies to door-to-door sales, or sales made away from a seller's usual place of business. In short, most refund policies are up to individual retailers.

Buying online? Shop with reputable sellers. Make sure the seller lists an address or phone number, just in case you have a problem. Be sure purchases are refundable in case you're not satisfied. Get all details on shipping and handling fees, refund and return policies, and complaint procedures. Consider printing and keeping them. Also print and keep records of your purchase. Pay by credit card. Avoid using a debit card or check, so you can dispute the bill and withhold payment if necessary. Use only secure websites. Secure sites utilize an "https://" prefix for their website address, with the "s" signifying that it's secure. Emailing credit card or financial information is not secure! Be wary of online classified ads and auctions, and avoid providing financial information directly to classified ad sellers.

Mail orders: If you order gifts by mail, by telephone or through a website, you have certain protections. Federal law requires the seller to ship your purchase within 30 days, unless the offer or ad specifies a later date. If there is a delay, the seller must notify you, allow you a chance to cancel your order, and send a full refund if you choose to cancel. Don't send cash or use your debit card – a credit card gives you the most protection.

Gift certificates and gift cards: Check the retailer's policy. Find out if the retailer will give a credit or cash return if the purchase price is less than the value of the gift certificate, and know any other terms the store places on the certificates. Money on a gift card cannot expire for at least five years from the date of purchase, or from the last date you loaded any additional funds onto the card. The card's expiration date must be clearly disclosed on the card, and fees must be clearly disclosed on the card or its packaging.

To file a complaint or get more information, contact the Iowa Attorney General's Consumer Protection Division, Hoover Bldg., Des Moines, IA 50319. Call 515-281-5926, or toll-free to 888-777-4590. The website is: www.iowaattorneygeneral.gov.

Iowa Legal Aid Helps With Pension Problems

Iowa Legal Aid provides FREE help with your pension issues! You can call our toll-free number at 1-800-992-8161. Des Moines area residents can also call 282-8161.

The *Pension Rights Project* provides help with employer, union and government pensions. This includes traditional defined benefit plans as well as plans like 401(k)'s. Our services include:

- Contacting pension administrators on your behalf;
- Finding "lost" pension funds when companies merge or go out of business;
- Helping you apply for your benefits;
- Helping with appeals if your pension is denied;
- Getting survivor benefits;
- Checking benefit calculations;
- Assisting with pension issues in divorces;
- Sending out information about pension issues.

The *Pension Rights Project* is partially funded by the U.S. Administration on Aging. Services are free to all Iowans without regard to age or finances.

The Pension Corner – Mergers and Acquisitions

By Bill Nassif*

Question: *I work for a company with a defined benefit pension plan that just announced it would merge into another company. What can happen to my pension plan?*

Answer: Mergers and acquisitions can impact defined benefit pension plans in various ways. A defined benefit plan is a kind of retirement plan that promises to pay you a specific monthly benefit for life. When your employer is merged into or bought by another company, the surviving company has several different options to deal with your defined benefit plan. These options include:

- **Keeping your existing plan.** In this case, your pension would likely stay the same.
- **Merging your plan.** If this happens, your accrued benefits would be transferred to the surviving company's plan. Your starting point in the new plan would have to be at least as good as the ending point under your old plan. Your benefits going forward would be based solely on the new plan.
- **Terminating your plan.** Unless specifically prevented by some kind of agreement (a union contract, for example), an employer can terminate your defined benefit pension plan. Federal laws give some protections to members of terminated plans. For example, you would immediately be fully vested even if you have not yet met the plan's normal vesting requirement. If, for example, a company terminated a plan that required 5 year vesting and you had only been there 3 years, you would be fully vested.

The termination of a defined benefit plan can be a "standard" termination or a "distress" termination. In a "standard" termination, the plan must have enough money to pay all benefits. In that case, the benefits would be fully paid as provided in the plan. In a "distress" termination, a plan does not have enough money to pay all the benefits. Examples of "distress" terminations include United and other airlines that have gone into bankruptcy in recent years. In these cases, the Pension Benefit Guaranty Corporation (PBGC) takes over the plan. The PBGC is a federal government agency. It acts much like the FDIC that insures bank deposits. But, like FDIC insurance, protection is limited. For plans ending in 2012, the maximum protected pension benefit is \$4,653.41 per month. This limit is for workers who retire at age 65. The amount is lower if you retire before 65 and may be higher if you retire after 65.



Keep Records! Note you should always keep a file on any pension or retirement plans you have during your career. Your file should include at least one year's worth of statements, plus any notices or other information about the plan. This could be crucial in establishing your rights to benefits when you reach retirement age. This is especially important if a company you once worked for is ever involved in any mergers or acquisitions.

While there are protections for your pension if your company is purchased or goes out of business, there are also some risks. If you have questions about pension-related issues, you should contact Iowa Legal Aid's Pension Rights Project at 1-800-992-8161.

*Bill Nassif is a staff attorney with Iowa Legal Aid's Pension Rights Project

Iowa Legal Aid helps low-income Iowans

Did you know..

After calling what looked like a local number for "legal aid" in the phone book, some Iowans got return calls from somewhere in Georgia?



Don't be misled . . .

- Iowa Legal Aid provides **FREE** legal assistance to those who qualify.
- Iowa Legal Aid helps low-income Iowans with civil legal problems including:
 - Domestic violence
 - Housing
 - Public Benefit Programs

The intake number for Iowa Legal Aid is

1-800-532-1275

Telephone intake hours 9–11 am and 1:30–3:30 pm Monday - Friday except Thursday afternoon.

Iowans age 60 and over, call Iowa Legal Aid's Legal Hotline for Older Iowans at

1-800-992-8161

9:00 am – 4:30 pm Monday through Friday



Advocates Recognized for Years of Service

As Iowa Legal Aid celebrates its 35th Anniversary, staff members also observed milestones of their own. Employees recognized at Spring and Fall Work Group Training Days are pictured below. These advocates represent a combined total of 235 years of experience working for hope, dignity and justice for low-income Iowans.

Advocates recognized at Iowa Legal Aid's Spring Work Group Training Day on May 30, 2012

From left to right, Front row: Bryan Baker, Jennifer Donovan, Gail Klearman, Anastasia Bissell and Steve Norby. Back row: Michele Van Wyhe, Arlys Kness, David Loetz, Sandie Nelson and Brooke Chesney. Not pictured: Janet Caldwell, Susan Harris, Derek Johnson and Laura Jontz.



Advocates recognized at Iowa Legal Aid's Fall Work Group Training Day on October 24, 2012

From left to right, Front row: Donna Bothwell, Charles Pierce, Catherine Alexander, Tasha Johnson
Middle row: Christopher Kerbawy, Charles Hill, Jessica Taylor, Jan Rutledge and Bethany Hempel.
Back row: Christopher Rottler, Jennie Wilkerson and Andrew Nordstrom.
Not pictured: Andrea Jenkins

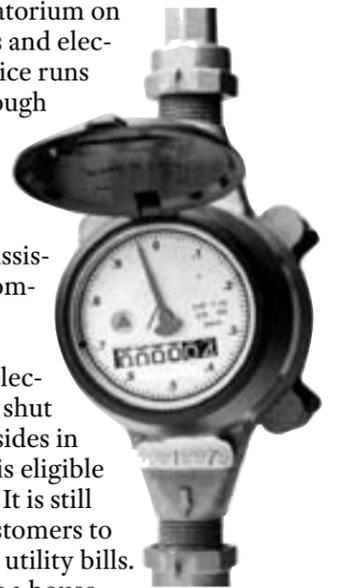
Changes in How Iowa Provides Mental Health and Disability Services

A new law improves how the State of Iowa provides mental health and disability services. Governor Branstad signed Senate File 2315 on May 25, 2012. The law also changes funding for services. In the past, counties managed and paid for many mental health and disability services. The new law sets up mental health and disability services regions.

The goal of the changes is to provide important core services across the state. Counties will be forming regions to implement the law. There will be changes in how mental health and disability services are provided but details are not yet known. Updates will be included in future issues of the *Equal Justice Journal*.

IMPORTANT REMINDER: Keep Paying On Utility Bills

The winter moratorium on shutting off gas and electric utility service runs from November 1 through April 1. During this time, LIHEAP-eligible ("LIHEAP" stands for "Low-Income Home Energy Assistance Program") customers of gas and electric services have special protections. Gas and electric utilities cannot be shut off if someone who resides in the home applies and is eligible for energy assistance. It is still very important for customers to keep paying on the utility bills. It can cost a lot to heat a house during the winter months. Paying nothing on these bills during the winter months can result in a big problem next spring. The amount due from unpaid bills can grow very fast.



If a customer pays nothing during the winter months, the utility company can, and probably will, send a notice in March threatening to shut off the utility after April 1. The notice will say that the utility service will be shut off if the back bill is not paid unless the customer enters into a payment agreement. The back bill from the winter months may be so high that the customer cannot pay it to prevent their utility services from being shut off. This is why it is very important to keep paying on your utility bills during the winter moratorium.

Also, the families of deployed military service members have special protection during their deployments. Regardless of the time of year, the gas and electric utility service of families of deployed service members cannot be shut off if the utility is notified of the deployment of one of the heads of the household. This protection continues for 90 days after the deployment ends.

While it is best to keep paying during the winter moratorium, or while a family member is deployed in the military, it is NOT a good time for LIHEAP-eligible customers or deployed service members' families to enter into payment agreements with utilities on past-due bills. (You can enter into a payment agreement in April or when the deployment ends, if necessary, without risk of having broken a payment agreement in the meantime.)

If you run into problems with your utility service, you may wish to contact Iowa Legal Aid by calling 1-800-532-1275.

The information in this newsletter was correct as of the date it was printed. The laws may have changed. **DO NOT ASSUME THAT THE INFORMATION IS CORRECT AFTER THE DATE PRINTED ON THE FIRST PAGE.**

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this newsletter for your specific case. If you need a lawyer but can't afford one, contact Iowa Legal Aid. You may be able to get free legal help. Call or write Iowa Legal Aid.

AS YOU READ THIS NEWSLETTER, REMEMBER IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

Before You Tell Him He's The Daddy....

By Shellie Mackel*

A recent Iowa Supreme Court case said a man could bring a law suit in the following situation:

- A mother of a child tells the man he is the father, AND
- She knows, or has reason to believe, that he isn't the father, AND
- She accepts voluntary payments of child support from that man.

This kind of case is called Paternity Fraud. So, if a mother knows that a man is not (or even may not be) the father but she accepts voluntary child support from him, she can be taken to court. If she loses, she might have to pay the money back and even pay for other costs associated with the case.

Paternity Fraud does not apply to cases where there is court-ordered child support. If a man, who has been paying court-ordered child support payments, proves that he is not the father, the law will only stop future payments.

To avoid problems, it is best to be sure before naming someone as the father of your child. If you're not sure and you get money from him to support that child, you could be forced into court and financial hardship.

*Shellie Mackel is Managing Attorney of Iowa Legal Aid's Equal Justice Project in Des Moines.

TAXES AND MARRIAGE

By Tamara Borland*

When discussing taxes and marriage, there are a few myths to be examined and pitfalls to avoid.

MYTHS

Myth 1: I have to file a joint return with my spouse.

FACTS:

- Married filing jointly is an election. This means you have a choice to file jointly or separately. If a husband and a wife don't agree, they will have to file separately.
- Under the Federal Defense of Marriage Act (DOMA), same-sex couples do not have the ability to file jointly even if they have a valid marriage. Under Iowa's tax system, same-sex couples may make the same elections as heterosexual couples. Iowa has additional filing statuses not covered by this article.

REALITY:

- Filing jointly is often a better deal. Certain credits such as the Earned Income Tax Credit (EIC) are only available to married couples who file jointly. Taxes are often lower for joint filers.
- If one spouse files separately and itemizes, the other spouse will have to itemize. This is only a good thing if both have itemized deductions to take.
- Even with all the benefits of filing jointly, filing separately may be a better idea if your spouse is not a good record keeper, feels that he or she doesn't need to report payments of cash, or is "creative" with expenses. If you file jointly and the IRS audits your return, both you and your spouse will be held responsible for the debt. (But see, Pitfall 2)

Myth 2: I only have to file as a married person if I am married for the last half the year.

FACTS:

- If you are married as of December 31st, you are considered a married person for that tax year. The opposite is also true. If you are divorced as of December 31st, you are considered a single person for the tax year.



FREE LEGAL TAX HELP

- Find out about The Earned Income Credit
- Get Assistance With Tax Controversies

Call Iowa Legal Aid for details on the **Low-Income Taxpayer Clinic**.

1-800-532-1275

- If a couple is separated the last six months of the year and one spouse is maintaining the household for a qualifying person such as a minor child, then that person may be able to file as head of household instead of married filing separately.

REALITY:

- If the tax benefits or drawbacks are important enough to you, you can try to plan these events accordingly.

PITFALLS TO AVOID

Pitfall 1: When you file taxes, if you use your married name on your tax return and the Social Security Administration (SSA) hasn't changed your name in their records, your return will likely be rejected if filed electronically.

FACTS:

- The IRS checks names and social security numbers against SSA records.
- This is why it is so important to report names and social security numbers just as they appear on the card.

SOLUTION:

- If you change your name when you get married, you should apply for a social security card in your new name and provide your employer with your new name.
- If you wait until your return is rejected, you can fix your name at the Social Security Administration and your return can be resubmitted electronically or mailed in.

Pitfall 2: You filed a joint return with your spouse and now the IRS says you owe money.

FACTS:

- In special circumstances, you can ask the IRS for an exception to the joint liability rule.
- A spouse who requests relief is sometimes called an "innocent spouse."

Circumstances where relief might be granted:

- ▷ The innocent spouse didn't know or had no reason to know the other spouse was lying about income or expenses, or didn't know or had no reason to know the spouse didn't pay the tax bill.
- ▷ A widow(er) discovers stacks of hidden mail including IRS notices. The other spouse couldn't face financial problems so kept it a secret.
- ▷ The innocent spouse knew about the problems but did not feel like she could refuse to sign the return because of abuse or mistreatment.

SOLUTION:

- An "innocent" spouse will have to request relief on form 8857.
- The innocent spouse should be prepared to provide documentation and may need to appeal his or her case.



- The non-requesting spouse will be given an opportunity to respond to the request for relief.
- The IRS can be asked to withhold personal location information such as his or her address or telephone number.

See the resource "My Spouse Lied and I got the Bill" on Iowa Legal Aid's website at iowalegalaid.org. (TIP: Type "My Spouse Lied" in the search box then click "go.")

Pitfall 3: Filing a return as a married couple when you are just living together.

- If you file jointly and break up later, the IRS may want proof you are divorced before the IRS accepts a return from you as a single person.
- In the alternative, the IRS may try to collect a refund you received using the wrong filing status.

FACTS:

- Iowa law recognizes common law marriage. However, simply living together is not enough to be considered married under common law.
- For more information about Common Law Marriage, see the resource "Common Law Marriage in Iowa" on the Iowa Legal Aid website at iowalegalaid.org.

SOLUTION:

- Get proper legal advice.
- Don't listen to tax preparers who encourage you to file as married to help the other person out. You are either married or you aren't.
- Tax preparers can't advise you about your marital status unless the preparer also happens to be an attorney familiar with family law.

Where to Go for Help with a Tax Problem

If you have tax problems, you may be able to get help from Iowa Legal Aid's Low-Income Taxpayer Clinic. Call Iowa Legal Aid at 1-800-532-1275 for details.

This article was not intended or written to be used and cannot be used to avoid penalties under the Internal Revenue Code.

*Tamara Borland is Project Manager of Iowa Legal Aid's Low-Income Taxpayer Clinic.

Questions and Answers for Tenants About Bedbugs

Once thought to be largely eliminated in the United States, bedbugs have again become a problem for tenants, homeowners, hotels and even retail stores. Bedbugs easily travel from one location to another and spread rapidly in connected living spaces such as apartment buildings. Often by the time that an individual has discovered visible evidence of bedbugs, the infestation has become widespread.

It is a common myth that bedbug infestations arise from unsanitary living conditions. While excess clutter can provide bedbugs with more opportunities to hide, bedbugs can be found almost anywhere. Pricy New York City hotels and condos have spent thousands of dollars battling bedbugs, and clothing retailer Abercrombie and Fitch was forced to temporarily close two stores in 2010 due to bedbugs. The following are some common questions and answers about dealing with bedbugs.

What are some of the signs that I may have bedbugs?

- Bedbugs, including their eggs, are visible to the naked eye. However, because bedbugs are only about the width of a credit card, they can slide into very small places.
- Bedbugs shed their skin, so you may see “bug shells” in your home.

Preventing and Getting Rid of Bedbugs From the Environmental Protection Agency

Bedbugs feed on your blood and cause itchy bites. Adult bed bugs are brown, 1/4 to 3/8 inches long, and have a flat, oval-shaped body. Young bed bugs (called nymphs) are smaller and lighter in color.



Bedbugs hide in a variety of places around the bed. They might also hide in other places, such as in the seams of chairs and couches, between cushions, and in the folds of curtains. They come out to feed on blood about every five to ten days. But they can survive over a year without feeding.

To prevent bedbugs in your home:

- Check secondhand furniture for any signs of bedbugs before bringing it home.
- Use a protective cover that encases mattresses and box springs. Check it regularly for holes.
- Reduce clutter in your home so they have fewer places to hide.
- Unpack directly into your washing machine after a trip and check your luggage carefully. When staying in hotels, put your suitcases on luggage racks instead of the floor. Check the mattress and headboard for signs of bedbugs.

To get rid of bedbugs:

- Wash and dry bedding and clothing at high temperatures.
- Use mattress, box spring, and pillow encasements to trap bed bugs and help detect infestations.
- Use pesticides if needed.

The good news? Unlike some other pests, bedbugs don't transmit and spread diseases.

- You may have small blood stains on your sheets or pillows.
- Bedbug bites generally look similar to other insect bites, though they may be lined up in “row” of bites. Common areas for bites are the arms, hands, face and neck.
- Small reddish or brownish spots on linens are often the first sign of an infestation. These spots are the bed bug's droppings and may bleed on the fabric like a marker would.

I think I may have bedbugs. What should I do?

Some leases require tenants to notify the landlord if there are bedbugs. Even if your lease does not require notice, you should contact your landlord immediately to let him or her know. Early treatment may prevent bedbugs from spreading to other units and infesting your belongings.

Send a written notice to your landlord that you believe that your unit may have bedbugs and keep a copy of this notice for yourself.

Cooperate with extermination efforts by your landlord. Early action may prevent you from losing personal belongings to bedbugs.

Because bedbugs spread rapidly, it is difficult to prove that one person or one unit is the source of a bedbug infestation. In most cases your landlord should be held responsible for the costs of eliminating bedbugs. Tenants are only responsible for damage they cause deliberately (on purpose) or negligently (not taking reasonable care).

You can also contact your city's housing inspector. If the problem is extensive, the city may intervene and force your landlord to take steps to eliminate the bedbugs.

My landlord won't do anything. Is there anything else I can do?

Iowa law lets a tenant end the rental agreement if 1) there is a “material” noncompliance with the rental agreement or 2) there is a noncompliance with the landlord's duty to maintain the unit and it “materially” affects health and safety. If you can show one of these, you can give a notice to the landlord. The notice gives the landlord 7 days to fix the problem. The notice also needs to say when the rental agreement will end if the landlord does not fix the problem within 7 days. If the landlord does not do enough to fix the problem within 7 days, the rental agreement ends on the date stated in the notice. Do not serve your landlord with a 7 day notice if you are not prepared to move if the problem isn't treated within 7 days.

CAUTION! The landlord may disagree with you about whether the landlord fixed the problem. If the landlord disagrees, the landlord may sue you for any rent that you may owe through the end of your lease. The judge would look at the landlord's actions and your actions in deciding what to do. It will be important for you to keep copies of all papers and write down what happened on what

Continued on Back Page...



Top Ten Bed Bugs Tips from the Environmental Protection Agency

1. **Make sure you really have bed bugs, not fleas or ticks or other insects.** You can compare your insect to the pictures on our bed bug Web page at www.epa.gov/opp00001/factsheets/bed-bugs-faq-fs.html or show it to your local extension agent.
2. **Don't panic!** Eliminating bed bugs is difficult, but it's not impossible. Don't throw out all of your things because most of them can be treated and saved. Throwing stuff out is expensive, may spread the bed bugs and could cause more stress.
3. **Think through your treatment options -- Don't immediately reach for the spray can.** Be comprehensive in your approach. Try other things first. Integrated pest management (IPM) techniques may reduce the number of bed bugs and limit your contact with pesticides. If pesticides are needed, always follow label directions or hire a professional. There is help available to learn about treatment options at www.vdacs.virginia.gov/pesticides/pdf/files/bb-nonchemical1.pdf.
4. **Reduce the number of hiding places -- Clean up the clutter.** A cluttered home provides more places for bed bugs to hide and makes locating and treating them harder. If bed bugs are in your mattress, using special bed bug covers (encasements) on your mattress and box springs makes it harder for bed bugs to get to you while you sleep. Leave the encasements on for a year. Be sure to buy a product that has been tested for bed bugs and is strong enough to last for the full year without tearing.
5. **Regularly wash and heat-dry your bed sheets, blankets, bedspreads and any clothing that touches the floor.** This reduces the number of bed bugs. Bed bugs and their eggs can hide in laundry containers/hampers, so clean them when you do the laundry.
6. **Don't rely on do-it-yourself freezing as a reliable method for bed bug control.** While freezing can kill bed bugs, temperatures must remain very low for a long time. Home freezers are usually not cold enough to kill bed bugs. Putting things outside in freezing temperatures can kill bed bugs, but it can take several days when the temperature is 0° F and almost a week when the temperature is 20° F.
7. **Use heat to kill bed bugs, but be very careful.** Raising the indoor temperature with the thermostat or space heaters won't do the job. Special equipment and very high temperatures are necessary for successful heat treatment. Black plastic bags in the sun might work to kill bed bugs in luggage or small items, if the contents become hot enough (about 110°F for at least 3 hours).
8. **Don't pass your bed bugs on to others.** Bed bugs are good hitchhikers. If you throw out a mattress or furniture that has bed bugs in it, you should slash or in some way destroy it so that no one else takes it and gets bed bugs.
9. **Reduce the number of bed bugs to reduce bites.** Thorough vacuuming can get rid of some of your bed bugs. Carefully vacuum rugs, floors, upholstered furniture, bed frames, under beds, around bed legs, and all cracks and crevices around the room. Change the bag after each use so the bed bugs can't escape. Place the used bag in a tightly sealed plastic bag and in an outside garbage bin.
10. **Turn to the professionals, if needed.** Hiring an experienced, responsible pest control professional can increase your chance of success in getting rid of bed bugs. If you hire an expert, be sure it's a company with a good reputation and request that it use an IPM approach. Contact your state pesticide agency for guidance about hiring professional pest control companies. Also, EPA's Citizen's Guide to Pest Control and Pesticide Safety provides information about IPM approaches, how to choose a pest control company, safe handling of pesticides, and emergency information.

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Questions and Answers for Tenants About Bedbugs *continued from page 7...*

dates. It is hard to say what a judge will do about bedbugs or how much a tenant will have to show to prove a bedbug problem.

Get rid of the bedbugs before you move!

If I have bedbugs can I stop paying my rent?

No. In Iowa, there are very few circumstances where a tenant may stop paying rent. It is likely that if a tenant fails to pay rent based on a bedbug infestation, a landlord will pursue eviction proceedings against the tenant for nonpayment of rent. A court is likely to evict an individual who stops paying rent, even if they have a bedbug issue.

Is there anything I should know before signing a new lease?

Read the lease carefully for any terms that discuss bedbugs. Some landlords have added language to leases shifting all responsibility for bedbugs to the tenant or simply stating that they are not liable for any loss of personal property due to bedbugs. It is unclear as to whether these provisions would be enforceable.

Some cities have passed ordinances requiring a landlord to disclose bedbug outbreaks to prospective tenants. However, this requirement is not common and you should ask the landlord and other tenants in the area about known bedbug outbreaks on the property prior to signing a new lease.

Where can I find details or get help?

For more information on treatments and prevention, visit the following websites: www.epa.gov/pesticides/bedbugs/ or www.ca.uky.edu/entomology/entfacts/ef636.asp

Providing assistance for legal issues involving the basic need of housing is a priority for Iowa Legal Aid. If you are having problems with a bed bug situation, contact Iowa Legal Aid. Call 1-800-532-1275 to find out if help is available to you.

Iowa Legal Aid is a not-for-profit organization providing free legal help to low-income Iowans. Financial support comes from a wide range of sources including federal, state and local governments as well as individual donors and private organizations. Iowa Legal Aid's services are supported by contributions from many United Way Agencies in Iowa.



LOW-INCOME READERS OF THE EQUAL JUSTICE JOURNAL...



If you have a question about something you read in this newsletter, call **THE EJJ HOTLINE** at 1-800-992-8161. When your call is answered, tell the receptionist you want **The EJJ Hotline**. Your call will be transferred to a staff member who will be able to respond to inquiries from persons who are eligible for free legal help from Iowa Legal Aid.

Legal Information Site Offers Easier Access to Referrals, Information and Self-help

Iowalegalaid.org, the free, statewide resource for Iowans facing civil legal issues, recently relaunched with a more user-friendly design and upgraded features making it easier than ever to find needed assistance. The website is part of the national LawHelp.org network of nonprofit legal information portals working to empower individuals to help themselves.

Iowalegalaid.org is Iowa's online resource for where to get legal assistance, know-your-rights information and a variety of self-help tools. It is maintained by Iowa Legal Aid in cooperation with Pro Bono Net, a nonprofit leader in increasing access to justice for the disadvantaged.

In addition to an updated design, iowalegalaid.org now features a more powerful search function, easier-to-find resources and more accessible referral information.

Features include online access to the *Equal Justice Journal* as well as Iowa Legal Aid's community legal education booklets. The site offers more efficient and effective assistance to those seeking help with problems including family law, housing, consumer debt, tax topics and elderlaw issues.

Iowalegalaid.org also features LiveHelp, a real-time, online chat service to help guide visitors to the information they need.

The website first launched in 2003. In addition to this public website, Iowa Legal Aid maintains online resources to support the work of volunteer lawyers, members of the board of directors and advisory councils in regional offices throughout the state.



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