What Does the Future Hold?

By Dennis Groenenboom

The end of our 40th year of operation is rapidly approaching. My tenure with the program, which has spanned most of that 40-year history, is also ending.

Over the past 40 years, I have been privileged to work with an organization that has made the promise of “equal justice under law” a reality for thousands of Iowans.

But what does the future hold?

There are always many unknowns. Over its 40-year history, Iowa Legal Aid has had to respond to unexpected developments and emergency situations. There are numerous illustrations of how the program addressed emerging problems. For example, Iowa Legal Aid took a leading role in assisting financially distressed farmers in the mid-1980s. The program assisted communities impacted by severe flooding, particularly in 1993 and 2008. The program responded to the foreclosure crisis in 2008.

There are five areas, however, that I believe are likely to impact the work of Iowa Legal Aid in the future.

- Iowa Legal Aid has had a long-term commitment to providing a full range of services to clients. This commitment includes addressing systemic issues clients confront. As a result of cases that Iowa Legal Aid has handled, the law in Iowa has been clarified and constitutional rights protected.
- Technology will continue to change. Modern technology allows Iowa Legal Aid to more efficiently serve clients. Iowa Legal Aid will need to stay on top of these new technologies.
- Iowa Legal Aid has and will likely continue to commit to community education. The Equal Justice Journal, Iowa Legal Aid’s quarterly newsletter, has been in place for most of Iowa Legal Aid’s 40 years. The program also has a robust website that has educational materials available for clients and the public at large. Iowa Legal Aid provides volunteer lawyers with the resources needed to assist eligible clients.
- Raising funds necessary to provide critical legal services to low-income and vulnerable Iowans will always be a challenge. Iowa Legal Aid has worked hard in this area. The program currently has over 90 funding sources, up from 30 in 1993. An innovative step about fundraising was the formation of the Iowa Legal Aid Foundation. This separate organization exists to raise funds to support the work of Iowa Legal Aid and raise awareness of why access to the court system is essential for low-income Iowans.
- Access to the judicial system is a critical component of addressing systemic problems in our communities and among special populations. Expanding collaborative partnerships to address these issues will be an important element of Iowa Legal Aid’s work. Iowa Legal Aid already has collaborative partnerships with many organizations. For example, Iowa Legal Aid partners with United Way organizations across the state to address issues of income, education, and health. Medical-legal partnerships have been formed with hospitals and health centers to address the social determinants of health. These types of partnerships are critical to the work of Iowa Legal Aid and help make Iowa a more fair and just state.

The bottom line is that over the past 40 years, Iowa Legal Aid has established access for low-income Iowans to our court system. I hope you agree that Iowa Legal Aid services are of critical importance to this state and our residents. Iowa Legal Aid is an “anchor not-for-profit” that is vital to the not-for-profit community. Iowa Legal Aid helps give meaning to the motto on Iowa’s flag: “Our rights we prize and our liberties we will maintain.”

Dennis Groenenboom is Iowa Legal Aid’s executive director.

Emancipation: One Legal Option for Children With Problems at Home

By Cat Nelson

Children are not allowed to make their own decisions. Instead, they rely on parents to help them make good decisions. However, sometimes a child’s parents are unable to make good decisions for the child. Sometimes a parent is unable to overcome obstacles in his or her life, such as substance abuse, domestic violence, or mental illness. An older child may wish to be independent and to get away from problems at home. It is important to know what the law can do to ensure children are safe or pursuing the best options.

A parent can give another adult the right to care for the child by signing a durable power of attorney for a minor child. This document provides another adult the power to make some decisions on the child’s behalf. A durable power of attorney does not involve a court order. An interested person, including a child who is 14 years of age or older, can ask the court to appoint an adult as a guardian for the child. A court order is necessary to set up the guardianship. Another option is emancipation.

Emancipation is where the child is treated as an adult and is no longer cared for by an adult. An emancipated minor makes his or her own adult decisions, including deciding where to live. Emancipation comes with responsibilities, including being responsible for supporting himself or herself and being held responsible for any contracts signed.

To qualify for emancipation, the child must be at least 16 years of age and one of the following:

- the parents agree to let the child live on his or her own;
- the parents agree to let the child live out of the family home for at least three months, living on his or her own;
- the child can give reasons why the home of the parents or guardians is not a healthy or safe environment.

Continued on Page 2
Preparer fraud

By Andrea Buckley

W hen tax time comes, you must be careful when choosing someone to prepare your taxes. You may have problems if you choose a preparer who is not qualified. Sometimes, unqualified preparers misled taxpayers to claim incorrect credits or deductions to get a bigger fee. It is hard to know who to trust.

Here are some tips from the IRS on choosing a tax preparer you can trust:

• Ask the preparer for his/her IRS Preparer Tax Identification Number (PTIN). If a preparer charges for services, he/she is required to have a PTIN, be registered with the IRS, and include her PTIN on the return prepared for you.

• Ask the preparer how fees are determined. Avoid preparers whose fee is based on the amount of your refund. Preparers may add incorrect information to your return to make your refund larger, which makes their fees higher. The IRS often finds the error later, and you—not the preparer—must fix the problem.

• Avoid preparers who claim they can get you a bigger refund than another preparer. This often goes hand in hand with preparers who claim they can get you a bigger refund than another preparer. A good preparer often finds the error later, and you—not the preparer—must fix the problem.

• Always be truthful. If a preparer urges you to use false information, or claim children or other people who are not your dependents to get a bigger refund, find another preparer.

• Make sure you can e-file your return. The IRS requires paid preparers to use e-filing if they prepare more than 10 annual returns.

• Bring in documents. A good preparer will ask to see your paperwork to make sure your return is correct. The preparer will ask you questions about your dependents, household situation, and income to determine your correct tax situation. The preparer will need to see all W-2s, 1099s, or other tax documents you received.

• Never sign a blank or incomplete tax return. If your preparer asks you to sign one, go somewhere else.

• Always review your tax return before signing it. If there is incorrect information, or if something doesn’t seem right, ask the preparer to fix it. Remember, you are responsible for putting correct information on your return, so make sure it is right.

• Never have your refund direct deposited to your tax preparer. Double-check the routing number and account information on the return before you sign.

• Look to see if there is a VITA tax site nearby to serve you. Volunteer Income Tax Assistance (VITA) sites provide free tax return preparation trained by volunteers. Another free program is the Tax Counseling for the Elderly (TCE) program, which also uses IRS-certified volunteers. VITA and TCE sites can save you hundreds of dollars in fees. To find a site near you, go to IRS.gov or call 800-906-9887.

What happens if you get a notice from the IRS that there was a problem with your return? Iowa Legal Aid helps taxpayers through its Low Income Taxpayer Clinic. For help with a tax issue, call Iowa Legal Aid at 800-532-1275 or apply online at iowalegalaid.org.

Andrea Buckley is a staff attorney in Iowa Legal Aid’s Southwest Iowa Regional Office in Sioux City.

Emancipation continued from Page 1

For a court to grant an emancipation order, the child must also show he or she is self-sufficient. The emancipation order includes:

• proof of employment (state, federal, or local government assistance does not count as employment);
• showing the child can handle his/her personal matters; and
• showing the child is able and committed to attending school, a training program or employment.

In most cases, running away is not the best solution to problems in the home. There may be other choices. If you are a minor thinking about running away, stop and look at other ways to deal with the problem. For help finding out about all available options, you may contact the National Runaway Switchboard at 800-786-2929. The line is open 24/7 and is meant to help the child or parents who call for more information. You may also visit their website at 1800runaway.org.

Cat Nelson is a staff attorney in Iowa Legal Aid’s Southwest Iowa Regional Office in Council Bluffs.
Federal Law Protects Seasonal and Migrant Agricultural Workers

By Evie Ocheltree

What is the Agricultural Worker Protection Act?
The Agricultural Worker Protection Act (AWPA) has been around since 1982. AWPA guarantees certain protections and benefits to migrant and seasonal agricultural workers.

Who does the AWPA protect?
- A migrant agricultural worker is employed in a seasonal or temporary agricultural job and is required to be absent overnight from her permanent place of residence. AWPA protects migrant workers doing most kinds of temporary agricultural work.
- A seasonal agricultural worker is different than a migrant worker. A seasonal worker is also employed in a seasonal or temporary agricultural job but is not required to be absent overnight from her permanent place of residence. However, AWPA covers only some types of agricultural work for seasonal workers.
- For the most part, AWPA protects seasonal workers performing field work on a farm or ranch. AWPA also protects seasonal workers who are employed in things like canning, packing, and seed conditioning and who are transported by day haul. "Day haul" is defined as an employer or recruiter going to a place where people are lined up looking for work. The employer or recruiter hires them at and transports them from that place.
- AWPA does not cover immediate family members of agricultural employers or H-2A workers. Also, AWPA exempts some family businesses and small businesses. Finally, AWPA does not cover people who work a year-round agricultural job. However, AWPA may cover people who work several seasonal jobs in a row.

Who does AWPA regulate?
- Agricultural employers. A farmer, packer, or processor who recruits, hires, or transports migrant or seasonal workers.
- Agricultural associations. A grower association or cooperative of growers and farmers that recruits, hires, or transports migrant or seasonal workers.
- Farm labor contractors (FLCs). Any person who is paid to recruit, hire, employ, or transport migrant or seasonal agricultural workers. FLCs are also known as crew leaders, labor recruiters, or a labor agency. FLCs must register with the U.S. Department of Labor and have authorization for each activity that they do. FLCs must carry their registration certificate with them and show it to workers when asked. If an employer uses an FLC, they must check into whether the FLC is actually registered.
- Recruiters, including FLCs, must tell workers the following in writing:
  - Place of employment, name/address of the employer, wage to be paid
  - Crops and other activities the worker will be involved with
  - The period of employment (start and stop date)
  - The benefits that will be provided for transportation, housing, etc. and how much the worker has to pay for them
  - Whether workers compensation or unemployment insurance benefits will be provided

This information must be written in the workers' native language, and must be understandable to the worker.

What is the employer's obligation under AWPA?
Employers covered by AWPA must do the following:
- Post notices at the job-site stating, workers’ rights under AWPA
- Upon proper request, provide a written statement of terms of employment
- Make and keep detailed payroll records for each pay period
- Give each worker an itemized pay statement
- Pay workers at least every two weeks
- Pay workers the full amount due

Transportation and housing obligations
If the employer has agreed to provide transportation, they must make sure that:
- The vehicle used complies with federal and state safety standards
- The driver(s) have a valid license
- There is a proper insurance policy
- Drivers obey the traffic laws while driving
If the employer has agreed to provide housing, they must:
- Obey all federal and state health and safety laws and standards for agricultural housing
- Certify compliance with the health and safety standards with the appropriate agency. In Iowa, this agency is Iowa Workforce Development.
- Post the certificate of compliance

Other Protections under AWPA
An employer, FLC, or recruiter cannot retaliate against a worker who claims rights under AWPA. Workers whose rights have been violated may claim damages, including lost wages and statutory damages.

AWPA provides protections and benefits to migrant and seasonal agricultural workers. Iowa Legal Aid’s Farmworker Project assists workers in understanding these protections and benefits. If you think your rights as a farmworker may have been violated, you should talk to an attorney.
- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid: apply online at IowaLegalAid.org OR call 800-532-1275
- Iowans age 60 and over, call 800-992-8161
- If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at IowaBar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Evie Ocheltree is a senior staff attorney in Iowa Legal Aid’s North Central Regional Office in Mason City.
Job Corps Provides Free Education & Job Training

By Jenny Tegeler

What is Job Corps?
Job Corps is a free residential education and job-training program for young adults ages 16 to 24. Applicants must meet certain requirements to qualify for the program. There are 125 Job Corps centers located across the United States that offer career technical training in more than 100 different jobs. Job Corps center locations in Iowa are currently located in Denison and Ottumwa. The Denison center teaches carpentry, bricklaying, and skills to become a medical assistant. The Ottumwa center teaches advanced manufacturing, information technology, heavy-equipment operation, and health care. The Ottumwa center also provides the opportunity to obtain a GED. Students who are selected also live at the center where they attend classes.

Job Corps is a federal program that can help low-income youth acquire skills and education to build a better life. It is also important to remember that if someone applies for Job Corps and is denied, it may be possible to appeal the denial.

How does Job Corps work?
Job Corps has four stages: outreach and admissions, the career-preparation period, the career-development period, and career-transition period.

The outreach-and-admissions phase is when a student learns what the program is all about. Students are set up with an admissions counselor who provides information about Job Corps. The counselor also assists students with the enrollment process. The assistance includes selecting a desired career and finding a center.

The career-preparation period occurs over the first 60 days at the center. Students create a personal career development plan with the help of the staff. They learn about responsibilities and skills required in the workplace as well as job search skills.

During the third stage, the career-development period, students receive career training and education. Training with professionals is offered at work sites for on-the-job experience. For those students who haven’t graduated from high school, Job Corps provides the opportunity also to earn a GED. While living in the Job Corps center, students receive housing, meals, basic medical care and biweekly living allowances. It takes at least one year to gain the necessary knowledge to begin a career.

The final phase of Job Corps is the career-transition period. Job Corps assists students with successfully finding a job, as well as living accommodations, transportation and other resources necessary for continued employment. Job Corps continues to work with students and provide resources for 21 months after graduation.

Who is eligible for Job Corps?
People applying for Job Corps must be between the ages of 16 and 24 at the date of enrollment. The applicant must be a citizen or legal resident of the United States. Males 18 years or older must present evidence they meet the Selective Service Registration requirement. Applicants must show that they are low-income. To qualify as low-income, the applicant must meet one of the following conditions:

- receive or is a member of a family that receives cash public assistance payments;
- receive income that is at a prescribed percent of federal poverty guidelines;
- is a member of a household that receives or was eligible to receive food stamps or is homeless.

Applicants must also have a barrier to obtaining education or employment. The barrier may mean the individual is a school dropout, homeless, a runaway, a foster child, or a young parent. Barriers also include being basic-skills deficient; this means the person has reading, writing or math skills at or below the eighth-grade level.

The applicant must also not be on probation, parole, or under a suspended sentence. Job Corps also says that someone who owes fines or other debt to a court is also not eligible. However, if the Jobs Corps denies your application for owing court debt, you may be able to appeal.

How to apply
Applicants can submit an online application by going to the following website: jobcorps.gov.

Applicants can also call 800-733-JOBS where an operator will provide general information about the program, refer the applicant to the closest admissions specialist and mail out an information packet.

Appeals
A person who is denied admission may appeal the decision within 60 days. Appeals are made to the admissions counselor or the Job Corps center. A hearing must be held within 30 days of filing the appeal. A decision must be made within 60 days of filing the appeal.

If the first appeal is denied, the person has 60 days to further appeal the decision to the regional director. The regional director has 60 days to review the appeal and either approve or deny it.

If Job Corps denies your admission, you may want to talk to an attorney.

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  • call 800-532-1275
  • Iowans age 60 and over, call 800-992-8161
- If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

Jenny Tegeler is a former staff attorney in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.

Iowa Legal Aid’s Commitment to Medical-legal Partnerships

By Erin Planalp

Iowa Legal Aid attorneys and medical providers are focused on resolving health-harming social conditions. A hospital may treat a diabetic patient for uncontrolled insulin levels, while an attorney may be helping the same patient afford healthy food by appealing a food assistance denial. Medical-legal partnerships bring the two worlds together to detect these problems sooner and intervene quickly.

For 11 years, Iowa Legal Aid has shared in this commitment to finding justice where health and the law intersect. In 2006, Iowa Legal Aid’s Health and Law Project began with partnerships in community health centers in Sioux City, Council Bluffs, Des Moines, Dubuque, Fort Dodge, and Ottumwa. Iowa Legal Aid has translated those start-up projects into a successful, statewide program that now includes funded partnerships with six health systems. Through these partnerships, Iowa Legal Aid attorneys have educated medical staff across the state to identify and refer patients with health-harming legal needs. Attorneys are also on site in hospitals and clinics to meet with patients one-on-one and work side-by-side with the medical staff.

Together, Iowa Legal Aid and the medical providers are committed to building healthier communities.

Erin Planalp is a senior staff attorney in Iowa Legal Aid’s Southwest Iowa Regional Office in Council Bluffs.
Are You a CDAC Provider? Your Income May Be Tax Free

By Chris Merkle

What is a CDAC provider? A Consumer Direct Attendant Care (CDAC) provider is someone who provides certain services to an elderly person or a person with disabilities under Medicaid. CDAC providers allow many people to stay in their homes instead of assisted living or nursing homes. Medicaid pays CDAC providers. Sometimes CDAC workers do not have to pay taxes on the money they earn.

CDAC providers usually provide non-medical services. There are two types of non-medical services: personal care and habilitation. Personal care means help with everyday activities like eating, bathing, dressing, and light housework. It can also include running errands and helping the person with personal affairs. Habilitation means help with building self-help skills necessary for an elderly person or a person with disabilities to reside successfully in his or her home.

Be aware that the CDAC providers are allowed to provide medical services—called skilled care—with the supervision of a licensed nurse or therapist. Examples of these medical services are intravenous therapy, parenteral injections, catheter care, tube feedings, post-surgical nursing care, colostomy care, therapeutic diets, and recording vital signs.

The Iowa Department of Human Services (DHS) is the state agency that administers the Medicaid waiver programs and the CDAC program. Managed care organizations (MCO) also play a role. A person must apply and be approved by DHS and an MCO before receiving CDAC payments.

Do I have to pay income taxes on my CDAC income? On January 3, 2014, the IRS stated that some Medicaid payments for CDAC providers are not taxable. This income actually cannot be included in someone’s gross income on tax returns. The reason for this decision was that these payments save taxpayer money by avoiding institutionalization of the people who need care. For this reason, these payments are not considered income for tax purposes.

There are some limitations to this. Medicaid payments to the CDAC must be for services performed in the home where the CDAC provider and the person receiving the services both live. If a CDAC provider lives in a different home from the person being helped, the payments are not tax-free. The IRS defines a CDAC provider’s home as “the place where the provider resides and regularly performs the routines of the provider’s private life, such as shared meals and holidays.” The Medicaid waiver individual care plan must list the home of the CDAC provider. However, it does not matter if the CDAC provider and the service recipient are related. The income may not be tax-free if the CDAC provider helps more than one person.

Also, payments to CDAC providers for room and board, vacation pay, or payments to the CDAC provider directly from the person who is receiving the care are taxable. Finally, any payments for medical services a CDAC provider may help with are taxable. The CDAC provider may find it difficult to figure out what part of the payments come from services that are taxable.

Do I have to pay self-employment taxes on my CDAC income? Independent contractors usually have to pay a self-employment tax as well as income tax. Self-employment tax goes to pay for Social Security and Medicare. CDAC providers are usually independent contractors. However, CDAC payments that are not taxable are also not subject to self-employment tax or FICA withholdings.

What do I do when it’s time to file taxes? After a tax year ends, the MCO will send an IRS form 1099-MISC to the CDAC provider. This form reports these CDAC payments as income to the IRS. The MCO will not withhold income, social security, or Medicare taxes. If a CDAC provider believes that the income received may be tax-free, the CDAC provider should contact an attorney or tax preparer to get help with preparing a tax return. Preparation of the tax return can be complicated.

If you have questions about your tax rights and responsibilities, Iowa Legal Aid’s Low-Income Taxpayer Clinic may be able to help.

To apply for help from the Low-Income Taxpayer Clinic:

- apply online at IowaLegalAid.org OR
- call 800-532-1275

NOTE: The information in this article is not a substitute for legal advice. As a general rule, Iowa Legal Aid’s Low-Income Taxpayer Clinic does not prepare tax returns.

Chris Merkle is a staff attorney in Iowa Legal Aid’s Cedar Rapids Regional Office.

Appealing an MCO Decision: How Do I Find Out the “Why” Behind the Decision?

If your managed care organization (MCO) makes a decision you disagree with, you can file an appeal. You also have a right to request information about why the MCO made the decision. Check the Notice of Action from your MCO for an address to which you can send a request for information, or phone number to call and request the information. You should do this as soon as possible after you receive the decision from the MCO. The MCO may take days or weeks to get the information to you.

Send your requests for information to:

AmeriHealth Caritas Iowa*
Attn: Request for Criteria
Member Appeals Dept.
601 East Locust St., Suite 900
Des Moines, IA 50309

* AmeriHealth Caritas is withdrawing from the Iowa Medicaid program effective November 20, 2017. It is not clear what will happen with pending appeals.

United Healthcare
Appeals - Via fax: 801-994-1082 or
UnitedHealthcare
P.O. Box 31264
Salt Lake City, UT 84131-0364

Amerigroup
• For pharmacy and other denials, call Amerigroup Member Services at 800-600-4441
• Medical Providers can call Amerigroup’s Medical Management Department at 844-227-8345.
• Pharmacy Providers can call Amerigroup’s Pharmacy Management Department at 800-454-3730

The MCO may send you documents (for example, medical records), policies, or regulations that the MCO relied on to make its decision. These records may be helpful to you in your appeal. You can also submit these records to the MCO or a judge at a state fair hearing if you file an appeal. A state fair hearing is a hearing where you can tell an administrative law judge why you think the decision the MCO made was wrong.

Why would I want to know the “why” behind the MCO decision? It can be helpful to understand what information the MCO relied on to make its decision. If MCO believes one thing, but you can prove otherwise, it may increase your chances of winning your appeal. Likewise, if the MCO is relying on a policy that does not apply to your situation, you can point that out when you appeal.

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- To apply for help from Iowa Legal Aid: apply online at IowaLegalAid.org OR
- call 800-532-1275

Iowans age 60 and over, P.O. Box 31364
• call 800-532-1275

Liz Norris is a senior staff attorney in Iowa Legal Aid’s Iowa City Regional Office.

By Liz Norris
Know the Rules: You Could Lose Your Section 8 Benefits If You Are Absent From Your Apartment or Rental House Too Long

By Ericka Petersen

You could lose your Section 8 benefits if you are gone from your apartment or rental house too long. The agency that gave you the Section 8 benefits is called your housing authority. If you have Section 8 housing, it is essential to know your local housing authority’s rules before you go away overnight.

Under federal law, you can leave your home for short periods of time without losing your Section 8 benefit. Federal law says that you will be considered absent if you are gone for 180 days. However, local housing authorities can make different rules. Your housing authority could say that you were absent too long if you are gone for as little as fourteen (14) days or less. You could lose your benefits if the housing authority says you were gone too long. Some housing authorities’ rules say that you need to tell them in writing before you are going to be absent from your home.

Every housing authority has written rules. These rules are called an administrative plan. The administrative plan usually states how long tenants can be gone from their home before it becomes a problem. You should make sure you know the rule before leaving overnight. You can ask to see the housing authority’s administrative plan.

If you moved to Iowa from another state, you might have a greater chance of losing your voucher under these rules. Some housing authorities do not believe people who move to Iowa from other states really want to live in Iowa. They believe people from out of state may be pretending to live in Iowa to receive Section 8 benefits. Federal law says that the housing authority says you were gone too long. Some housing authorities’ rules say that you need to tell them in writing before you are going to be absent from your home.

There are steps you can take so the housing authority will not wrongly think that you are not living in your home. Here are some things to do as soon as you move in:

- Give your new address to everyone who sends you mail.
- Fill out a change of address form with the local post office, or online at usps.gov.
- Check your mailbox every day and do not let mail sit in the mailbox.
- Find a doctor close to where you live.
- Change your address with the Social Security Administration and the Iowa Department of Human Services so all letters and benefits go to the address where you live.
- If you use a bank, it should be a local bank.
- Be careful where you use your food assistance card. The housing authority can see every place that you use your food assistance card. If you only use the card out of town, the housing authority may think that you no longer live in your home.

Expunging the deferred charge is supposed to happen automatically. However, individuals who received a deferred judgment may discover the Court did not expunge the charge. This could be due to a mistake by the clerk, because the person did not complete all the requirements, or because the Court was unaware that the person had completed the requirements.

Other kinds of expungement

Some types of criminal cases are eligible for expungement if the individual does not get any new convictions during a two-year period after the case. These include public intoxication, possession of alcohol under the legal age, and juvenile prostitution. Traffic tickets that resulted from identity theft may also be eligible for expungement.

Juvenile sealing

Another type of record clearance in Iowa is called juvenile sealing. In certain situations, juvenile courts may seal the records of persons who were found delinquent by the court. The person must not have been referred to adult court under a process known as youthful offender status. The person also must not have been convicted of a new felony, aggravated misdemeanour, or serious misdemeanour.

For felonies and aggravated misdemeanours, Iowa’s juvenile courts have authority to decide whether a charge is eligible for sealing. The court has to determine whether sealing is in both the interest of the public and in the interest of the juvenile. Under a 2014 law, once a juvenile court decides that a charge is eligible for sealing, it must set a hearing two years later or when the person turns 18, whichever is later.

Unlike expunged records, which are removed from public view but continue to exist, a sealed record no longer exists as a matter of law. When a person asks a court official about a sealed record, the court official must reply that the record no longer exists. The only two exceptions to this are when a researcher gets special permission from the court to do research, or when the subject of the criminal record gets a court order, allowing him or her to view the file.

More information about expungement and juvenile sealing are available at iowal egalaid.org.

Rob Poggenklass is a staff attorney in Iowa Legal Aid’s Cedar Rapids Regional Office.

Did You Know...

- Under Iowa law, children must have an eye exam before kindergarten and again before third grade?

Talk to your pediatrician, school nurse, or daycare provider about the exam. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) may cover your child. EPSDT is also known as Iowa Care for Kids program, Iowa’s Medicaid program for children. You could also contact Iowa Kidsight, a joint project of the Lions Clubs of Iowa and the University of Iowa Stead Family Children’s Hospital, Department of Ophthalmology & Visual Sciences. Iowa Kidsight provides free vision screening for young children throughout Iowa.

For more details, see: medicine.uiowa.edu/kidsight.
What do I do if my landlord won’t make repairs?

Tenants have rights under Iowa law to take action when repairs are needed. Tenants have at least three options when repairs are needed that the landlord is responsible for: 1) you may make the repairs yourself and deduct them from your rent, 2) you may end the lease and move out, or 3) you may ask a judge to order your landlord to make the repairs. Before the tenant can take any of these actions, the tenant must first give the landlord written notice of the problem and give the landlord a chance to fix the problem. The repairs must be ones that the landlord is required to fix. Not all repairs are ones the landlord has to fix.

How do I make the repairs myself and deduct them from the rent?

The cost of correcting the problem cannot be more than one month’s rent. Tenants may repair problems themselves and deduct the cost of the rent if the problem violates the rental agreement or Iowa law. Problems could include building code violations that are material to health and safety. It could include a mold problem, an insect problem, or problems with the plumbing system, the electrical system, heating and the air-conditioning system, a broken appliance, garbage pickup, window repair, or entrance door repair. This would not include items such as painting or decorating.

The tenant first must give the landlord a chance to fix the problem. It is essential to let the landlord know about the problem in writing. Make sure the paper is dated, and let the landlord know about the problem in writing. The notice must say what repairs are needed. In the notice, the tenant writes that, unless the landlord makes the necessary repairs within seven days from the date of the notice, the tenant will end the lease and move. The problem can’t be the fault of the tenant, a member of the tenant’s family, or a guest of the tenant. The repairs must be for a condition affecting the health and safety of the tenant. If the landlord does not make the needed repairs within the seven days, then the tenant must move out by the date specified in the notice (for example, “if you do not repair these problems in 7 days, the lease will end on September 1, 2018”).

If you are not out, your landlord may evict you in court.

Do I still have to pay rent if the landlord fails to make repairs?

Yes. Even if you ask your landlord to make repairs, and the repairs are not made, you are still required to pay the rent, unless you give your landlord notice and make the repairs yourself before the rent is due. If you do not pay the rent, you may be evicted.

At the same time, it is illegal for your landlord to refuse to make repairs or shut off utilities because you are behind on the rent.

What do I do if I am unable to move or make the repairs myself?

Some repairs may be too big for a tenant to handle. For example, if the home has no heat in the winter because the heating system needs to be replaced, most tenants cannot afford to pay for such a repair. Also, some repair persons may not want to get involved with big repairs without the permission of the owner. What can you do?

One possibility is to call the rental housing inspector for your city. Many cities have a rental housing code, and inspectors to enforce it. If there is a serious violation, the city inspector finds serious housing problems, the inspector may say that the rental unit is unfit for habitation. In those cases, the tenants may have to move out right away.

If there is no housing inspector for your city, or if you are afraid the city may make you move out because the place is in bad shape, you may instead file a lawsuit. The lawsuit is based on the responsibility of the landlord to keep the rental property in good, livable, and safe condition. If the judge decides that the landlord has not lived up to his duties to provide essential services or to keep the apartment in a livable condition and that the tenants are hurt by it, the judge may order the landlord to make the repairs.

A tenant may end the lease after notifying the landlord repairs are needed, and the landlord fails to make the repairs. The tenant must tell the landlord in writing. The notice must say what repairs are needed. In the notice, the tenant writes that, unless the landlord makes the necessary repairs within seven days from the date of the notice, the tenant will end the lease and move. The problem can’t be the fault of the tenant, a member of the tenant’s family, or a guest of the tenant. The repairs must be for a condition affecting the health and safety of the tenant. If the landlord does not make the needed repairs within the seven days, then the tenant must move out by the date specified in the notice (for example, “if you do not repair these problems in 7 days, the lease will end on September 1, 2018”).

If you are not out, your landlord may evict you in court.

Do I still have to pay rent if the landlord fails to make repairs?

Yes. Even if you ask your landlord to make repairs, and the repairs are not made, you are still required to pay the rent, unless you give your landlord notice and make the repairs yourself before the rent is due. If you do not pay the rent, you may be evicted.

At the same time, it is illegal for your landlord to refuse to make repairs or shut off utilities because you are behind on the rent.

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A criminal record can leave a lasting impact. Many years after a criminal case has ended, a person’s record stays with them, creating problems for the person’s ability to get a job or housing. In some cases, it is possible to expunge or seal the record. This action means to erase it from public view, or even get rid of it altogether. Dismissal/acquittal expungements, deferred judgment expungements, and juvenile record sealing are the most common categories.

Expunging a dismissal or acquittal
In 2015, the Iowa General Assembly passed a law that allows people whose criminal charges were dismissed to file for an expungement. The same law applies to people who were found not guilty at a criminal trial. The law took effect in 2016 but applies to any case before that time as well.

Criminal cases that were dismissed or in which the person got an acquittal are not automatically expunged. The person who got the dismissal or acquittal must file papers with both the clerk of court and the county attorney.

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 Kentucky?

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 800-532-1275 (se habla español)
Iowans age 60 and over, call Iowa Legal Aid’s Legal Hotline for Older Iowans at 800-992-8161
Visit us online at IowaLegalAid.org

Can I Clear My Criminal Record?

By Rob Poggenklaas

Iowa Legal Aid is a nonprofit organization providing free legal help to low-income Iowans, receiving financial support 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 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 assist you in getting your questions answered.

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