

When You Need a Lawyer



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Who needs a family lawyer?

Sooner or later, almost everyone needs the advice and services of a lawyer. In our increasingly complex society, many situations require professional legal advice. The timely advice of your family lawyer can minimize or resolve your legal problems or even prevent them from occurring in the first place.

Why professional legal assistance?

To protect the public, the law says only lawyers may give legal advice. A non-lawyer may be partially trained in some specific areas, but he or she does not have the necessary legal training to competently represent you.

Your lawyer's license to practice, granted by the Nebraska Supreme Court, is your assurance he or she has met all of the necessary requirements to become a lawyer.

To practice law in Nebraska, all attorneys must be members of the Nebraska State Bar Association. To be admitted to the Bar, they must complete college and graduate from an accredited law school with a Juris Doctor degree; pass a comprehensive examination given by the Nebraska State Bar Commission; be of good character; pledge to uphold the constitutions of the United States and the State of Nebraska; and pledge to discharge their duties as attorneys to the best of their ability.

Most attorneys regularly attend continuing legal education seminars on various areas of the law. This helps them stay current on the law and better serve their clients.

A lawyer is first and foremost an officer of the court, authorized to explain and interpret the law for you and to represent your interests both in and out of court.

How do I choose a lawyer?

Selecting a lawyer is a personal matter, much like selecting a family physician or other professional. You may wish to ask a friend, relative, or employer to recommend someone they know and trust.

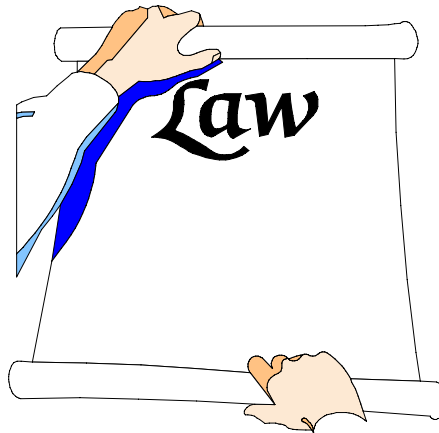
In the Omaha area, you may call the Lawyer Referral Service listed in the telephone directory. Lawyers in that area pay a fee to have their names listed with the service. When you call, you will be given the name of an attorney who will meet with you for a pre-determined consultation fee. Then you decide whether to retain the lawyer.

If you cannot find a lawyer and you meet certain financial guidelines, you may call **Nebraska Legal Services**. (877) 250-2016.

Nebraska Legal Services handles only civil matters. If you are charged with a crime and cannot afford a private attorney, the court will appoint an attorney to represent you.

Another resource is available to individuals who need legal assistance in a civil matter but cannot be served by Legal Services offices or by other lawyer referral programs. **The Nebraska State Bar Association Volunteer Lawyers Project** is a statewide volunteer legal assistance project and referral network founded in order to provide legal assistance to low income persons who cannot hire lawyers and who cannot receive assistance through legal services. VLP seeks to match people who have civil legal problems with attorneys who are willing to provide legal assistance on a pro bono, reduced fee, contingency fee, or full fee basis. Providing pro bono or reduced-fee legal services to those low-income people who need legal assistance is the primary goal of the Program.

Referrals depend on availability of attorneys in a geographic area and the areas in which those attorneys practice. Any individual with a civil legal problem may apply for



assistance from the Volunteer Lawyers Project. Prospective clients may call VLP at 800-742-3005 weekdays from 8:30 a.m. to 4:00 p.m. VLP will then try to match eligible clients with volunteer attorneys to represent them, and will notify the client if a referral is made.



Information about lawyers in your community can also be found in one of the legal directories located in most public libraries. These include basic biographical information about lawyers and often list those areas of law in which they practice. Attorneys' advertisements in the Yellow Pages, newspapers and other media may also be a source of information. A recent addition to the Yellow Pages in many parts of the state is a listing of attorneys by areas of practice such as divorce, family law, real estate and others. It is the lawyer's own choice to be listed in these areas, and there are no guarantees from the Bar association or Supreme Court that the lawyers listed have any more knowledge or experience than any other lawyer. If you use these listings as a guideline, rely on your own independent investigation as well in choosing a lawyer to represent you.

When should I see a lawyer?

In many instances, the best time to see a lawyer is not when you are in legal trouble, but before trouble occurs. Never think of a lawyer as a "last resort." Preventive law is one of the most valuable services a lawyer can perform for you. Like preventive medicine, it can eliminate potential problems and help you save money.

Some of the situations in which you should consult a lawyer are:

- Before buying or selling real estate
- When you have been injured, either on the job, in an accident, as the result of another person's negligence or because of a defective or unsafe product
- Before signing a lease or contract with major financial provisions

- Before making a will or planning the distribution of your property
- Before organizing a business
- If you are involved in an accident in which there is injury to persons or damage to property
- When there are changes in your family status—marriage, adoption, divorce
- When you have tax problems or questions
- If a lawsuit is brought against you, or you want to bring a lawsuit against someone

What if I am charged with a crime?

If you are charged with a crime, call your lawyer at the earliest opportunity after being arrested, and make no statements of any kind until you have received legal advice. Our American system of justice rests on the concept of "innocent until proven guilty."

It insists on appointment of legal counsel for persons accused of crimes, regardless of ability to pay.

What should I expect when I hire an attorney?

You are hiring an attorney to work for you as your advocate. You should expect your lawyer to:

- Confer with you to pinpoint the problem
- Research and analyze all available facts and information relating to your problem
- Interview those involved
- Prepare legal arguments for presentation in court, if litigation is involved
- Negotiate a settlement if both sides can reach a fair agreement
- Keep you informed about progress in your case and answer your questions
- Discuss fees with you at your first visit, and agree how the fee will be paid
- Be candid with you about your problem, your prospects for success, the time it will take and the advisability of accepting any settlement offered
- Keep in confidence anything you say

What will my attorney expect of me?

Your lawyer will expect you to:

- Be completely honest about all facts concerning your case, whether or not they are favorable to you
- Be on time for appointments and not take up excessive time with visits or phone calls relating to minor details
- Carefully consider his or her advice. Be patient and understand that legal matters are rarely "open and shut" cases; they require time and research and no lawyer can guarantee results in a contested matter
- Pay a reasonable fee for the work performed

Can I change attorneys?

You may discharge your attorney simply by informing him or her of your wishes. Giving notice is a matter of courtesy and may be necessary so if a lawsuit has been filed the attorney may ask the court for permission to withdraw.

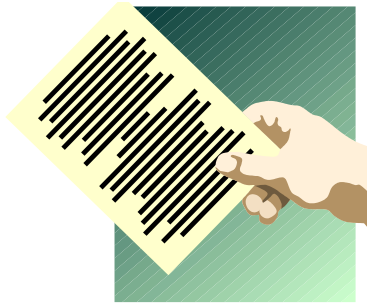
Even if you discharge your attorney, you are still obligated to pay for any services already performed and costs incurred.

How do lawyers charge for their services?

A lawyer generally makes only a nominal charge, or in some cases no charge, for the first office visit. Subsequent charges are usually based on the number of hours your lawyer spends on your case, the difficulty of the case, and his or her experience and abilities. When you hire a lawyer, you have actually retained an entire law office staff to work on your behalf.

In some instances, a lawyer may take your case on a "contingent fee" basis. If your case is successful, the lawyer receives a percentage of the judgment or settlement, plus out-of-pocket expenses. If the case is not successful, you pay only the expenses. Your lawyer may not always be able to tell you exactly what the fee will be, but he or she can usually estimate what the minimum or maximum limits would be for a particular type of work or give you an idea of the problems involved and the time that will be required. To avoid misunderstanding, you may want to request a written statement explaining the basis on which the charges will be made. The subject of fees should be discussed openly and frankly with

your lawyer, preferably on your first visit. If payment is a problem, most lawyers are willing to accept a reasonable payment agreement. For more information, write for a copy of the Nebraska State Bar Association's pamphlet entitled "Legal Fees" at the address on the back of this pamphlet.



What if I have a complaint against my lawyer?

Nebraska lawyers are governed by the Code of Professional Responsibility. Failure to follow the code can result in disciplinary sanctions against the lawyer, ranging from a private reprimand to disbarment.

Many disagreements between lawyers and clients are simple misunderstandings or failures to communicate. They can often be resolved by discussing the problem directly with your lawyer. If this approach fails or is impractical, or if you believe your lawyer has acted improperly or unethically, you may send a written complaint to the **Counsel for Discipline**, 3808 Nomal Blvd., Lincoln, Nebraska 68506.

The Counsel for Discipline will send a copy of your complaint to the lawyer and ask for a written response within 15 working days. When the response is received, the counsel will conduct a further investigation, if necessary, to determine whether the lawyer's conduct has violated the code.

Normally, disputes over the lawyer's fee are not matters which are considered by the Bar's disciplinary system. However, the code does provide fees may not be "clearly excessive" and lawyers may not engage in conduct involving fraud or misrepresentation.

The Bar's disciplinary system cannot award money damages or reimburse clients for any losses resulting from

an attorney's conduct. Any civil remedy against the lawyer is separate from the disciplinary process. In 1974, the Nebraska State Bar Association established a Client Security Fund to reimburse, in whole or in part, clients who have suffered financial losses as a result of dishonest acts by their lawyer. A number of conditions must be met before any claim will be considered for payment through the fund. For a complete explanation of how the fund operates, write for the "Client Security Fund" Pamphlet at the address on the back of this pamphlet.

Can I handle my own legal matters?

Occasionally do-it-yourself "kits" are offered for sale to obtain a divorce, make a will, declare bankruptcy, form a corporation or write a contract. It is not illegal to use these for your own legal affairs; however, be prepared to accept the consequences of such action should difficulties arise. It is illegal for any person who is not a member of the Nebraska State Bar Association to give you legal advice or to act on your behalf in a legal matter in Nebraska.

On the surface, do-it-yourself law kits may appear to save you money. But even a minor detail in your case (a detail your lawyer is trained to notice) could result in a loss far greater than what you save by trying to be your own lawyer.

This pamphlet, which is issued to inform, not to advise, has been prepared and published by the Nebraska State Bar Association. It is distributed by those who want to help you obtain your rights under the law.



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