Community Outreach Resource Manual
Class Project- Bar Leadership Institute Class 2018-2019
Pennsylvania Bar Association

The 2018-2019 BLI Class project is the creation of a “Community Outreach Resource Manual.” The class has begun collecting resources from local bar associations and other legal organizations and compiling them in a single manual, to be accessible to all county bar associations via the PBA. The final product will be provided to PBA in May 2019.

The goal of this Community Outreach Manual is two-fold. First, create a repository of community outreach presentations, flyers, outlines and pamphlets so that they are accessible to all bar associations and so that bar associations don’t have to recreate something that another has already developed. Second, by having these community programs available to all bar associations, it would be easier to implement/reproduce, and thus the bar associations will have a larger impact in the communities they serve.

The enclosed pamphlets, brochures, flyers, presentations and outlines were provided by the bar associations listed. Topics vary from landlord-tenant, public notary fraud, expungement clinics, wills for heroes, custody, among others. We thank those bar executives who have shared materials so far and look forward to being able to include other resources as we continue to develop this project.

The final resource manual will be organized by county and by topic. The BLI class invites all bar associations to share materials not included in this draft.

If you are interested in using any of the material listed and compiled here, kindly contact the bar association or organization listed as the author for authorization. The materials compiled and reproduced in this manual are the property of the submitting entity and not the BLI class.
Index By County

Berks County Bar Association
- Legal Services Guide
- Legal Services Guide (Spanish)
- Public Notary Fraud Prevention:
  - Notary Fraud Brochure
  - What are Notaries Power Point Presentation
- Landlord Tenant
  - What Every Tenant Should Know Handout
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  - Tenant Clinic Presentation and Power Point
  - Landlord Tenant Clinic FAQ

Bucks County Bar Association
- Bucks County PFA Representation Project*

Butler County Bar Association
- Wills for Heroes*

Centre County Bar Association
- Expungement Clinic*

Chester County Bar Association
- Legal Services Guide

Community Legal Services of Philadelphia
- Clean Slate Summary and Flow Chart

Dauphin County Bar Association
- Driver’s License Restoration Intake Clinic Flyer
- Expungement Flyer
- PFA Defendant Procedural Overview *

Franklin County Bar Association
- Wills for Heroes*

Lackawanna County Bar Association
- Wills for Heroes*

*This Community Project has been identified as of interest. Materials are pending submission for the final draft.
Index By County (Cont.)

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- Expungement Clinic Flyer

Lebanon County Bar Association
- Hire Local Campaign*
- Grandparents Custody Flyer

Luzerne County Bar Association
- Guide to Juvenile Court

Lycoming Law Association
- Wills for Heroes

Monroe County Bar Association
- Clinic Process Memorandum
- Custody Clinic Relocation Domestic Violence Exception:
  - Memo, Flyer for Public, Training Outline,
- Family Law General Info Seminar Flyer
- Expungement Clinic:
  - Clinic Outline, Clinic Flyer, Ticket, Memo to PD for Volunteers, Volunteers Needed Flyer
- Mock Trial
  - Procedure Outline, Event Tracking Checklist, Solicitation Letter, Invitation, Sample Certificates, Sample Schedule and Program, Score Sheet, Save the Date Invitation, Volunteer Flyer

Montgomery Bar Association
- Your Guide to Finding the Right Lawyer
- Modest Means Program Pamphlet
- Real Lawyer Campaign
- Real Lawyer Campaign Flyers for Public- General and by Areas of Law
- You Have Rights Guide (Spanish)
- Criminal Handbook
- Elder Law Handbook

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- Auto Accident Brochure
- Bringing Suit before a District Judge Brochure
- Reporting Child Abuse Brochure
- Child Custody Brochure
- Child Custody Brochure (Spanish)
- Divorce and Separation Brochure
- Estate Planning Brochure
- Expungement Brochure
- Grandparents and Custody Brochure
- How can a lawyer help You Brochure
- Issues on Aging Brochure
- Know Your Credits Rights Brochure
- Living Will Brochure
- Protection from Abuse Brochure
- Renting a Home Brochure
- Unemployment Brochure
- Workers’ Compensation Brochure
- Wills Sample Documents*
- Stepping Out Program

**Philadelphia Lawyers for Social Equity**
- Expungement Program
  - Pardons in PA Flyer
  - Intro to Expungement Outline
  - Client Expungement Intake, Access Release, Confidentiality Agreement, and Limited Rep Sample Letter
  - Out of the County Expungement Referral List

**Pike County Bar Association**
- Wills for Heroes*

**York County Bar Association**
- Modest Means and Legal Services Flowchart
- Lawyers for the Arts
- Criminal: Act 5 and CHRIA Flow Charts
- Understanding When Grandparents and Others Can Seek Custody*

*This Community Project has been identified as of interest. Materials are pending submission for the final draft.
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Arts
• Lawyers for the Arts Flyer, York County Bar

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Criminal and Expungement
• Expungement Brochure, Pennsylvania Bar Association
• Expungement Clinic, York County Bar*
• Expungement Clinic Flyer, Lancaster County Bar Association
• Expungement Flyer, Dauphin County Bar
• Pardons in PA Flyer, Lawyers for Social Equity
• Intro to Expungement Outline, Lawyers for Social Equity
• Client Expungement Intake, Lawyers for Social Equity
• Access Release, Confidentiality Agreement, and Limited Rep Sample Letter, Lawyers for Social Equity
• Out of the County Expungement Referral List, Lawyers for Social Equity
• Clean Slate Summary and Flow Chart, Community Legal Services of Philadelphia
• Expungement Clinic, Centre County Bar*
• Criminal Law Handbook, Montgomery Bar
• Act 5 and CHRIA Flow Charts, York County Bar
• Expungement Clinic: Clinic Outline, Clinic Flyer, Ticket, Memo to PD for Volunteers, Volunteers Needed Flyer, Monroe County Bar

Driver’s License
• Driver’s License Restoration Clinic Flyer, Dauphin County Bar

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• Bringing Suit before a District Judge Brochure, Pennsylvania Bar Association

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Index by Topic (Cont.)

Mock Trial
- Procedure Outline, Event Tracking Checklist, Solicitation Letter, Invitation, Sample Certificates, Sample Schedule and Program, Score Sheet, Save the Date Invitation, Volunteer Flyer, Monroe County Bar

Estate Planning
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- Living Will Brochure, Pennsylvania Bar Association
- Wills for Heroes, Pike County Bar*
- Wills for Heroes Flyer, Lycoming Law Association
- Wills for Heroes Flyer, Lackawanna County Bar*
- Wills for Heroes Flyer, Franklin County Bar*
- Wills for Heroes Flyer, Butler County Bar*
- Wills for Heroes Sample, Pennsylvania Bar Association*

Elder Law
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- Elder Law Handbook, Montgomery Bar

Family Law
- Custody Clinic Relocation Domestic Violence Exception: Memo, Flyer for Public, Training Outline, Monroe County Bar
- Family Law General Info Seminar Flyer, Monroe County Bar
- Understanding When Grandparents and Others can Seek Custody, York County Bar*
- Grandparents Custody Flyer, Lebanon County Bar
- Child Custody Brochure, Pennsylvania Bar Association
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- Divorce and Separation Brochure, Pennsylvania Bar Association
- Grandparents and Custody Brochure, Pennsylvania Bar Association
- Protection from Abuse Brochure, Pennsylvania Bar Association
- PFA Defendant Procedural Overview, Dauphin County Bar *
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- Reporting Child Abuse Brochure, Pennsylvania Bar Association

Juvenile
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- What Every Tenant Should Know Handout, Berks County Bar
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- Tenant Clinic Presentation, Berks County Bar
- Landlord Tenant Clinic FAQ, Berks County Bar
- Landlord Tenant Presentation Power Point, Berks County Bar

## Legal Services Guide
- Legal Services Guide, Berks County Bar
- Legal Services Guide (Spanish), Berks County Bar
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- How can a lawyer help You Brochure, Pennsylvania Bar Association
- Real Lawyer Campaign, Montgomery Bar
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- Lawyer Referral Services Flyer, Montgomery Bar
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## Notaries
- Notary Fraud Brochure, Berks County Bar
- What Notaries Can and Cannot Do Power Point Presentation, Berks County Bar

## Unemployment Compensation
- Unemployment Brochure, Pennsylvania Bar Association

## Workers’ Compensation
- Workers’ Compensation Brochure, Pennsylvania Bar Association

## Stepping Out Program
- Stepping Out Program, Pennsylvania Bar Association

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Berks County Bar Association

Community Outreach Programs:

- Legal Services Guide
- Legal Services Guide (Spanish)
- Public Notary Fraud Prevention:
  - Notary Fraud Brochure
  - What are Notaries Power Point Presentation
- Landlord Tenant
  - What Every Tenant Should Know Handout
  - What Every Tenant Should Know Handout (Spanish)
  - Tenant Clinic Presentation
  - Landlord Tenant Clinic FAD
  - Landlord Tenant Presentation Power Point

Contact Information:

Kori Walter, Executive Director
Berks County Bar Association
544 Court St, Reading, PA 19601
Phone: (610) 375-4591
Email: Kwalter@berksbar.org
Berk County Services in Legal A Guide to Legal Services in Berk County

Here? Go From Where Do I

Berk County Courthouse
(610) 478-6208
Berk County Courthouse

Berk County Office on Aging
(610) 478-6500
Berk County

Farmworkers Project by Friends of the Notario Fraud

Tel: 610-374-3195, 6208
Encore Berk

Domestic Relations Berk County
Tel: 610-478-2900

Local Services - Dial 211
General Information

Other Resources

Tel: 610-370-7296, 610-370-7459
501 Washington St., Suite 308, Reading, PA 19601
Community Justice Project:
Email: aidcircles@gmail.com
Tel: (484) 962-2014
523 Walnut Street, Reading, PA
AIDCO:

Immigration
Public Defender

To find out if legal aid can help you:

Assistance for Victims of Domestic Violence
Child Custody/Child Support
Domestic Violence
Employment
Credit Card Debt Collection
Consumer
Foreclosure
HIV/AIDS
Housing
Landlord/Tenant, on Behalf of Tenant
Public

Types of cases legal aid handles:

Representation in administrative or judicial proceedings, including legal documents, and on the basis of assistance in providing information and advice, assistance in domestic abuse.

To contact The Berks County Public Defender's Office:

Call 610-375-4591

Monday through Friday - 8:00 AM - 4:00 PM

www.berkscounty.org

351 Washington Street, Suite 401, Reading, PA

Defender can help you.

Defender can help you.

Defender can help you.

Defender can help you.

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Bersks
el Conducto de
Legales en
Guía de Servicios
¿Y AHORA?
Que HAGA?

Bersks
610-374-3195, x208
Encore
(610) 478-6500
Asubors de Enmpleos
Bersks
(610) 478-6208
corte de Conducto de Bersks
(610) 478-2900
Relaciones Domésticas
Bersks
Información General
Otras Recursos

Immigrauion
Safe Bersks

www.FriendsSw.org
E-mail: friends@friendsSw.org
Llamue al (215) 733-0978 ext. 140
Victimas de Servicios Notarles Fraudulentos.
Llame a: Friends of Farmworkers.
Si cree que ha sido defraudado por un notario,
Farmworkers
Notarios de Friends of
El Proyecto Fraude por

www.9seabergs.org
de texto SAFE BENGs al 2012
1-844-794-547 (7233) o enviar al mensajr
La línea directa está disponible las 24 horas del
las formas de operación.
la Violencia doméstica. El asalto sexual y todas
la condensación y promueven la prevención de la
Programas de Derecho y educación mujer.
santos de viencia doméstica. Y agresión sexual. 
Ssate Bensa proporciona un recurso seguro y un

Sate Bens:
Telefonos: 610-370-7296 6 610-370-7459
501 Washington St, Suite 308. Reading, PA 19601
Community Justice Project:

E-mail: Adlapo@enmail.com
Teléfono: (484) 926-2014
522 Walnut Street, Reading, PA
Aldea:
Miden en Servicios Legales

Firmen en Servicios Legales

Para saber si el Defensor Público puede ayudarte:

Para saber si el Defensor Público puede ayudarte:

Atención a víctimas de violencia

Protección contra el abuso (PEA)

Custodia de menores/manejo de ninos

Desempeño

Asistencia jurídica

Consumidor

Justicia hipotecaria

Problemas con viviendas rentadas

Viviendas públicas/viviendas privadas

Tipos de casos que el Defensor Público puede aceptar:

Tipos de casos que el Defensor Público puede aceptar:

Ingresos a víctimas de delincuencia

Presidencia, para mantener su arzobispo legal en

publicado para mantener su arzobispo legal en

overruling un abogado procedente que este

ejerciendo un arzobispo procedente y ejercicio a

procesos en que atax en patrocinio del arzobispo en

materia de relatoría de defensa, se ha conferido en

el abogado en el ejercicio de defensa en

la que se ha concurso para la defensa del abogado en

debería y las medidas que impone la defensa del abogado en

abogado del defensor del pueblo, se ha conferido en

abogado del defensor del pueblo, se ha conferido en
STOP FRAUD

Notaries

In Pennsylvania

ATTORNEYS ARE NOT NOTARIES

Call: 717-787-9707
Office of Attorney General
215-733-0878

The Notario Fraud Project

Fraud, please call: 610-478-6650
Public Defender
1-800-326-9177
Mid Penn Legal Aid
610-375-4951
Bucks County Bar Association

If you or someone you know is in need of legal assistance, you can call:

Matters:
- Assist with immigration
- Draft legal documents
- Assist in understanding legal advice
- Draft legal documents for others

A Notary Public CANNOT:
- Execute wills
- Administer oaths and affirmations
- Take sworn acknowledgments
- Sign or notarize
- Legally advise

A notary public in the United States is authorized to perform specific notarial acts, they are not attorneys.
Abogados
No son los notarios
En Pennsylvania
FRAUDE
PARE EL!

Defensor Público
610-478-6650
1-800-236-9177
Servicios Legales
610-375-4591
Colegio de Abogados del
Condado de Berks

Si usted o alguien que conoce necesita
asistencia legal, puede llamar:

Cuidado y Elija una firma de abogados
legalmente autorizada.

Inmunización.
• Asistencia con asuntos de
• Un documento legal
• Ayudar a comprador con contrato de
• Asesoría legal
• Pedir otros
• Crear y llevar documentos legales

No puede:

• Inmunización.
• Certificar y dar fe de
• Administración.
• Administrar inmunizaciones
• Comprobar la firma de un documento
• Documentos.
• Identificar a los hombres de

Un Notario Público Puede:

• No pueden escribir la apótesis
notarial.
• No son abogados.
• Un Notario Público en los Estados
Unidos es un notario legal.
What Notaries Can and Cannot Do

Presented by:
The Berks County Bar Association
July 5th, 2018
Notary vs. Notario Público

Notary

A notary public in the United States is **ONLY** authorized to witness the signature of forms.

Notario Público

A *notario público* in Latin American (and some European countries) refers to an individual who has *received the equivalent of a law license and who is authorized to represent others before the government and courts of law.*
What is a notary?

A notary public is an official witness to the free and willing signing of one or more documents by one or more people whose identity the notary has verified. The purpose of all of this activity is to add a level of trust to the document.
Who can be a notary?

- Be at least 18 years old.
- Be a citizen or permanent legal resident of the United States.
- Be a resident of or have a place of employment or practice in Pennsylvania.
- Be able to read and write English.
Who can be a notary?

- Not be disqualified to receive a commission because of character, criminal convictions or prior sanctions.

- Education – All applicants must complete at least three hours of approved notary education within the six months immediately preceding their application.

- Examination – All applicants for a commission as a notary public who do not hold a current and unexpired commission in Pennsylvania must pass an examination administered by the Pennsylvania Department of State.
What can a notary do?

The primary duty of a notary is to help prevent fraud by witnessing the signing of documents and verifying the identity of the person signing the documents.

In Pennsylvania, a notary is authorized to:

• Witness or attest a signature
• Take acknowledgments and proofs
• Take affidavits and verifications
• Administer oaths and affirmations
• Take depositions in the presence of an attorney
• Certify copies
A notary CANNOT:

- Is NOT permitted to present him or herself as an attorney or perform any services that would be considered to be the practice of law.

- Is NOT permitted to give legal advice or prepare legal documents.

- May NOT translate the term “Notary Public” into “Notario Público” or “Notario”
A notary CANNOT:

- **CANNOT** promote him or herself as an immigration specialists.

- **May NOT** be qualified to translate any official government documents.

- **Is NOT** authorized to change any information including dates on documents being notarized.

- **And may NOT** draft any legal documents such as contracts, rent, leases, wills, or power of attorney.
Example of Prohibited Acts

- **Certifying Copies of Official Documents** — State and federal laws prohibit notaries from certifying copies of birth, death, naturalization certificates and copyrighted material.

- **Notarizing blank documents, documents with blank spaces and documents without notarial wording** — Because blank spaces could be filled in fraudulently at another time, a notary should ask a customer to draw lines through blank spaces before notarizing the document. If there is no notarial wording on a document, a notary cannot place their seal or signature on that document. A notary cannot pre-notarize a document for the customer to fill in later.
This is an agreement between Bobby Jones and me, Billy Thorn. I have in good faith loaned Bobby the sum of $1,000 dollars and zero cents. He agrees to pay me back in full by Oct. 1, 20XX.

Bobby Jones
Signature

August 1, 20XX
Date

Billy Thorn
Signature

August 1, 20XX
Date

Dorothy Doe

3/1/20XX

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Dorothy Doe, Notary Public
Pleasant Boro, Allegheny County
My Commission Expires May 1, 20XX
Member, Pennsylvania Association of Notaries
State / Commonwealth of Pennsylvania
County of Berks

This is an agreement between Bobby Jones and me, Billy Thorn. I have in good faith loaned Bobby the sum of $1,000 dollars and zero cents. He agrees to pay me back in full by Oct. 1, 20XX.

Bobby Jones
Signature

August 1, 20XX
Date

Billy Thorn
Signature

August 1, 20XX
Date

Sworn to and subscribed before me,
A notary public, the day and year set forth above.

Dorothy Doe
Notary Public

My commission expires: 3/1/20XX
This is an agreement between Bobby Jones and me, Billy Thorn. I have in good faith loaned Bobby the sum of $1,000 dollars and zero cents. He agrees to pay me back in full by Oct. 1, 20XX.

Bobby Jones  
Signature  
August 1, 20XX  
Date

Billy Thorn  
Signature  
August 1, 20XX  
Date

Sworn to and subscribed before me,  
A notary public, the day and year set forth above.

Dorothy Doe  
Notary Public  
3/1/20XX
I certify,

The value of the house I sold to [redacted] was of $5,000.00, it was paid in cash on the same day of the sale, with both parties agreeing that I will pay the taxes, the water bill and the arrangements are made by the new buyer.

2015, 2016, 2017, 2018 plus one water bill of $5,300.00 at [redacted] street, Reading, P.A, 19602

Seller: [redacted]

Seller [redacted]

Buyer [redacted]

Sworn to and subscribed before me this [redacted] day of [redacted] 20[redacted]

My Commission expires: [redacted] 20[redacted]
Example of Prohibited Acts

- **Notarizing by proxy** — You cannot give your notarial authority to another individual to notarize documents in your absence. Because your notarial commission is not transferable, you cannot delegate someone else to sign your name, use your rubber stamp or make entries in your notarial register.

- **Giving legal advice** — Unless you are an attorney licensed to practice in Pennsylvania, you cannot give legal advice, including telling your customers what to say in affidavits, describing, interpreting or explaining to the customers the content or legal implications of a document or choosing which notarial form to use.

- **Advertising as a Notario Público** — Do not refer to yourself as a notario or notario público. In Latin countries, this typically refers to an attorney.
- COPIAS
- SERVICIO DE FAX
- PAGO DE UTILIDADES
- TARJETAS Y VOLANTES
- NOTARIO PUBLICO
- TRADUCCIONES EN GENERAL
- ABOGADO SALVADOREÑO

BUSQUENOS EN EL SEGUNDO PISO STE. B
INCOME TAX
- Administración de Propiedades
- Documentos de Inmigración
- Traducciones de Documentos
- Envío de Dinero / Tickets Aéreos
- Copy & Fax

SEGÚR DE CARROS
- Notaría
- Pago de Billetes
- Pago de Celulares

CAR REGISTRATION
- Notaría
- Pago de Billetes
- Pago de Celulares

- Notario
- Fax y Copias
- Traducciones
- Pago de Billetes
- Número Itin
- Income Tax
- Envió de Valores
- Reparación de Crédito
- Declaración Jurada (Afidavit)
- Seguro de Auto, Casa y Negocio
- Y Mucho Más!!!

PENNSYLVANIA TABLILLAS
§325 Prohibited Acts

If a notary who is not an attorney advertises notarial services, whether orally or in broadcast media, print media, and the Internet, the notary public shall include the following statement prominently and in each language used in the advertisement or presentation:

“I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advise on legal matters, including immigration, or charge a fee for those activities.”

If the ad is not broadcast media, print media, or the Internet and does not permit inclusion because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.
Chapter 339 of The Reading City Code, Section 1, Part 3 §339-303 Provider Requirements (e) states that “when advertising immigration assistance services by sign, pamphlets, newspapers, internet, television, radio or any other means, a provider (notary) shall post or otherwise include with the advertisement a notice in English and in every language in which the person provides or offers to provide assistance. The notice shall be of a conspicuous size and shall state the following:

“The individual offering to provide assistance to you is NOT an attorney licensed to practice law or a representative accredited by the Board of Immigration Appeals. The individual cannot represent you before any immigration authority or agency and may not give legal advice or accept fees for legal advice.”

These changes are in compliance with the Revised Uniform Law on Notarial Acts (RULONA) (Act 73 of 2013, effective October 26, 2017).
Example of Prohibited Acts

- **Notarizing for friends, relatives and employers** — As long as you, the notary, have no direct personal or monetary interest in a transaction, you can perform notarial services for family members, relatives and employers. For example, you can notarize your brother’s signature on the title of his car, as long as you are not involved in buying or selling the car.

- **Notarizing your own signature or taking your own oath or affirmation** — You cannot notarize your own signature or administer an oath or affirmation to yourself.

- **Notarizing rubber stamped signatures** — You cannot take the acknowledgment of a rubber stamped signature. All signatures must be recognizable to you as original, handwritten signatures.
Example of Prohibited Acts

- **Performing marriages** — In the state of Pennsylvania, notaries are not permitted to issue marriage licenses or perform marriages.

- **Mediating disputes** — Notaries cannot mediate personal disputes or serve complaints against neighbors. Customers who need this type of service must go to a magisterial district judge.

- **Acting as a bill collector** — Placing a notarial seal on a past due bill means nothing. A notary is not a collection agent.
Excessive Fees

- A notary may choose to charge fees or provide services for free, but they are **NOT** permitted to charge more than the set fee for a particular notarial act.

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgments</td>
<td>$5.00 for the first signature and $2.00 for each additional name</td>
</tr>
<tr>
<td>Affidavits</td>
<td>$5.00</td>
</tr>
<tr>
<td>Depositions</td>
<td>$3.00 per page</td>
</tr>
<tr>
<td>Jurats</td>
<td>$5.00</td>
</tr>
<tr>
<td>Oaths &amp; Affirmations</td>
<td>$5.00</td>
</tr>
<tr>
<td>Protests</td>
<td>$3.00 per page</td>
</tr>
<tr>
<td>Verifications upon Oath</td>
<td>$5.00 per verification</td>
</tr>
</tbody>
</table>
Excessive Fees

- If a notary charges notarial fees, they are required to display a schedule of their fees where the costumer can easily see it.
- A notary may charge clerical and travel fees, provided that charges are reasonable, understood and agreed to by the costumer beforehand.
- All fees must be explained to and approved by the costumer BEFORE any notarial work is performed.
Can a notary refuse a notarization request?

YES!

If the notary is **NOT** satisfied that:

• The signer is competent and aware enough to understand what is being signed.
• The signer is signing voluntarily and without coercion or duress.
• The signature on the document matches the one presented on the signer’s identification.
• The signer’s physical appearance matches the photo on the ID.

RULONA 57 Pa.C.S. §308(a) Authority to Refuse to Perform Notarial Act
Affidavit of Single Status

I ______________________________ residing at ________________________________ personally appeared before the undersigned notary public, and under oath or affirmation make the following statements:

I was born on __________ at ___________. I am a citizen of _______________________.

My passport number is ______________. I am currently single, have never been married (or was divorced/widowed on ______________________ and have never been remarried since).

X __________________________________________  ______________________________

Signature of Affiant										Date:

State of ____________________________  )
										ss:
County of ____________________________)

Sworn to (or affirmed) and subscribed before me this _____ day of _____________, 20____ by ____________________________________________________________ who proved to me on the basis of satisfactory evidence to be the individual who appeared before me.

__ Personally Known or ___ Produced Identification

WITNESS my hand and official seal.

________________________________________

Notary Public Signature
PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing of the notice of appeal. Check applicable boxes.)

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF

AFFIDAVIT: I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No.______, upon the Magisterial District Judge designated therein on
(date of service)_____, 20_____.
☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto, and upon the appellee, (name)______, on
_____, 20_____. ☐ by personal service
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS______DAY OF______, 20_____.

______________________________
Signature of official before whom affidavit was made

______________________________
Signature of affiant

______________________________
Title of official

My commission expires on______, 20_____.


How to Report Notary Fraud?

www.dos.pa.gov
How to Report Notary Fraud?

www.dos.pa.gov
How to Report Notary Fraud?

www.dos.pa.gov

FILE A COMPLAINT

NOTARY

Formal complaints may be filed against a Pennsylvania notary public by notifying the Secretary of the Commonwealth. Pursuant to the Notary Public Law (57 Pa.C.S. §166), the Secretary of the Commonwealth may, for good cause, reject any application, revoke or suspend the commission of any notary public or order a notary public to attend education courses. The Secretary may also impose a civil penalty of not more than $500 for each act or omission which constitutes a violation of the Notary Public Law. Any disciplinary action shall be taken subject to the right of notice, hearing and adjudication, and the right of appeal therefrom, in accordance with the provisions of the Administrative Agency Law.

Members of the public, legal community and other government agencies may file a formal complaint against a Pennsylvania notary public by completing a Statement of Complaint form or by submitting a complaint in writing.

Once complaints have been received, a letter will be mailed to the complainant acknowledging receipt of the complaint.

After an investigation by the Department of State, if it is determined that there has been a violation of the Notary Public Law, then the Secretary of the Commonwealth will take the necessary steps to discipline the notary public. Notaries public are entitled to due process in the resolution of all complaints filed against them. All hearings regarding notary public complaints are held in Harrisburg. Adverse decisions may be appealed to the Commonwealth Court.

Sanctions are issued by order of the Secretary of the Commonwealth and may range from issuance of a letter of warning and mandatory attendance of a notary public education course to suspension or revocation.
# Statement of Complaint

**Commonwealth of Pennsylvania**  
**Department of State**  
Harrisburg

In order for the Department of State to initiate an investigation of possible violations of the licensing, registration, certification or notary commission laws and regulations of the Commonwealth by a licensee, registrant, certificate holder or notary commission holder of the Department, the complainant must complete and sign this form. Failure to supply complete and accurate information may result in delayed processing of your complaint. Please be aware that pursuant to Act 25 of 2009, 63 P.S. §2235.1, if you submit a complaint anonymously, the Department will not be able to share any information pertaining to the complaint with anyone, including you. Please return this completed form to: DEPARTMENT OF STATE, PROFESSIONAL COMPLIANCE OFFICE, 2601 NORTH THIRD STREET, P.O. BOX 2649, HARRISBURG, PA 17105-2649.

**Type of Complaint:**  
☐ Professional or Occupational License/Certificate/Registration  
☐ Notary  
☐ Other

## A. Complainant Information

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## C. Name and Address of Witness, If Any

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If needed, is this witness willing to support your complaint by appearing at a hearing?  
☐ Yes ☐ No

## D. Name and Address of Second Witness, If Any

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If needed, is this witness willing to support your complaint by appearing at a hearing?  
☐ Yes ☐ No

## E. Are You Willing to Appear at a Hearing in Harrisburg If Necessary?  
☐ Yes ☐ No

## F. Business Establishment Involved, If Any

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**Page 1 of 3**
H. THIS SECTION IS FOR NOTARY COMPLAINTS ONLY:

Expiration date of notary’s commission if known (this date should appear on the notary’s stamp, printed beneath the notary seal):

Date of transaction for which this complaint is being filed:

I. DESCRIPTION OF COMPLAINT

Please describe your complaint in detail below. State the facts briefly and clearly. List services provided by the licensee, registrant, certificate holder or commission holder. Provide relevant dates. List fees paid for notary services, if applicable. Attach copies of related documents that support your complaint. Do NOT enclose original documents, as they cannot be returned to you. If you need more space to describe your complaint, please continue on additional 8½ x 11” sheet(s) of paper.

Complaints should be typewritten or clearly printed in black or blue ink.
Please keep a copy of your Statement of Complaint form for your records.
J. RESOLUTION

How would you like this complaint to be resolved?

K. COMPLAINANT'S VERIFICATION

I verify that the facts and statements set forth in this complaint are true and correct to the best of my knowledge, information and belief. I understand that statements in this complaint are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

X
(First Complainant's Signature)

X
(Second Complainant's Signature, if any)

Date:

Date:

X
(Signature of person completing this form, if other than complainant)

Date:

Submit completed form by mail to:
Professional Compliance Office
Department of State
2601 North Third Street, P.O. Box 2649
Harrisburg, PA 17105-2649
Fax 717 705-2882

L. RECORDS RELEASE (Please complete if it applies to your complaint).

TO WHOM IT MAY CONCERN:

This will authorize __________________________ (Name of physician, practitioner, hospital or clinic)

to release to the Department of State and its authorized representatives any pertinent medical records and copies of x-rays relating to __________________________ (Patient's name)

for the purpose of investigating a complaint.

Signature __________________________

Witness __________________________

Date __________________________

Thank you for bringing your concerns to our attention.

Page 3 of 3
How to Report Notary Fraud?

SUBMIT COMPLETED FORM BY MAIL TO:
Professional Compliance Office
Department of State
2601 North Third Street,
P.O. Box 2649
Harrisburg, PA 17105-2649

OR BY FAX: 717 705-2882

PHONE: (717) 783-4849
Resources

*Fight Notario Fraud*
ABA Commission on Immigration
202-662-1007
202-638-3844 (fax)
FNF@americanbar.org

*The Notary Fraud Project by Justice at Work*
Vanessa Stine, Esq.
215-733-0878 ext. 140
vstine@friendsfw.org
[www.friendsfw.org](http://www.friendsfw.org)

*Berks County Bar Association Lawyer Referral Service*
544 Court Street, Reading, PA 19601
610-375-4591
LO QUE TODO INQUILINO DEBE SABER

Antes de aceptar alquilar, debe inspeccionar el apartamento o casa:

- Electrodomésticos de cocina en buen estado;
- Presión de agua fuerte, tubería sin fugas;
- Enchufes eléctricos y cableado en buenas condiciones;
- Paredes y techo pintados o empapelados sin grietas;
- La ventilación o el aire acondicionado funcionan correctamente;
- Pisos, barandas y baños en buenas condiciones;
- Salida de incendios fácil de usar;
- Los detectores de humo y monóxido de carbono están presentes y funcionando;
- Escaleras seguras y bien iluminadas;
- No roedores o insectos;
- Sistema de calefacción en funcionamiento;
- Si está amueblado, verifíquelo y anote la condición de todos los muebles;
- Ventanas y puertas operables, y cierran bien.

Antes de firmar, asegúrese de comprender:

- ¿Cuánto dura el plazo del renta?
- ¿Es un alquiler mensual o anual?
- ¿Debe tener seguro de inquilino?
- ¿Están incluidas las utilidades? ¿Qué utilidades están incluidas?
- ¿Se admiten mascotas?
- ¿Cuándo tiene que pagar la renta y cómo la paga?
- ¿El depósito de garantía es reembolsable?
- ¿A quién deberían referirse los problemas y las reparaciones?
- ¿Hay mantenimiento 24/7 si tiene una emergencia?
- ¿Cuáles son las reglas para personalizar el apartamento?
- ¿Cuál es la política de invitados?
- ¿Cómo se puede romper el contrato?
- ¿Cuánto costará romper el contrato de alquiler?
- ¿Cuánta notificación se requiere para mudarse?

¡NO OLVIDE!

Obtenga la información de contacto del propietario:

1. Nombre completo
2. Número de teléfono, correo electrónico y/o dirección postal.

Si el propietario tiene un agente, asegúrese de obtener la información de contacto completa del agente.
¿CUÁLES SON LAS RESPONSABILIDADES DEL INQUILINO?

- Pagar la renta a tiempo y con regularidad durante todo el plazo del alquiler.
- Hacer las reparaciones cuando el daño es tu culpa.
- Limpie el apartamento o la casa para mantenerlo en buenas condiciones.
- No rompa los términos del contrato. Por ejemplo, si su contrato de alquiler no permite mascotas, **no tenga** mascotas.
- Notifique al propietario por escrito por correo certificado o entregue personalmente la carta con un testigo de cualquier problema de habitabilidad y solicite que se corrija el problema dentro de un período de tiempo razonable. Si el propietario no arregla el problema, el inquilino debe ver a un abogado inmediatamente para proteger sus derechos.

**ES RESPONSABILIDAD DEL INQUILINO SABER POR LO QUE ES RESPONSABLE DE PAGAR.**

### DESAHUCIO

Un inquilino solo puede ser desahuciado por:

1. Incumplimiento del contrato de renta;
2. Falta de pago de renta, o
3. Fin del plazo del contrato de renta.

- El propietario debe darle un aviso de desalojo por escrito e indicar el motivo del desalojo.
- El propietario está obligado a dar un aviso por escrito con 10 días de anticipación si está siendo desalojado por falta de pago de renta.
- El propietario está obligado a dar un aviso de 15 días si lo desalojan por cualquier otro motivo.
- El aviso debe ser entregado personalmente o puesto en la puerta.
- **Es posible renunciar a su derecho a una notificación por escrito en su contrato de renta, es por eso que ES IMPORTANTE que lea el contrato cuidadosamente.**

### Métodos Inadecuados de Desahucio

A veces, un propietario le dirá al inquilino que se mude de inmediato, o la próxima semana, o lo amenace con hacer que el alguacil arroje al inquilino, cambie las cerraduras, apague la electricidad del inquilino, etc.

El propietario no puede hacer nada legalmente para desalojar a un inquilino que no sea seguir los procedimientos a través de la Corte del Distrito. Si el propietario intentar obligarlo a desalojar por otros métodos, el inquilino debe ver a un abogado de inmediato para proteger sus derecho.

Al visitar a un abogado, el inquilino siempre debe recordar llevar el contrato de renta, los recibos de alquiler, los avisos, las quejas y cualquier otro documento escrito que corresponda.

Dependiendo de lo que el propietario trate de hacer, puede intentar llamar al departamento de policía.

El propietario debe hacer lo siguiente para desalojarlo legalmente:

- El propietario debe presentar una acción de desahucio en la corte magisterial del distrito.
- Si el juez de distrito decide a favor del propietario, usted tendrá 10 días para mudarse.
- Después de que pasen esos 10 días, el propietario puede regresar a la oficina del juez de distrito, buscando una "Orden de Posesión".
- En este punto, cuando reciba la orden de posesión, usted tendrá 10 días adicionales para mudarse.
- Después de ese tiempo, un alguacil podrá físicamente sacarlo a usted de la propiedad.
- Un inquilino puede detener un desalojo por falta de pago de renta pagando la renta adeudado, más los costos judiciales, en cualquier momento antes de que el alguacil llegue a la puerta para dejar al inquilino en la calle.
- **El pago debe hacerse al alguacil NO al propietario, y asegúrese de obtener un recibo.**
WHAT EVERY TENANT SHOULD KNOW

Before agreeing to rent, you should inspect the apartment or house for:

- Kitchen appliances in working order;
- Water pressure strong, plumbing without leaks;
- Electrical outlets and wiring in working condition;
- Walls and ceiling painted or papered without cracks;
- Ventilation or air conditioning is properly working;
- Floors, railing and bathrooms in good condition;
- Fire escape easy to use;
- Smoke and carbon monoxide detectors are present and working;
- Stairs safe and well-lit;
- No rodents or insects;
- Heating system in working order;
- If furnished, check and write down condition of all furniture;
- Windows and doors operable and weather-tight; screens provided.

Before you sign a lease/contract, make sure you understand:

- How long is the lease term?
- Is it a weekly, monthly or yearly lease?
- Should you have renter's insurance?
- Are utilities included? Is so, which utilities are included?
- Are pets allowed?
- When is rent due and how do you pay it?
- Is the security deposit refundable?
- To whom should problems and repairs be referred?
- Is there 24/7 maintenance if you have an emergency?
- What are the rules for personalizing the apartment?
- What is the guest policy?
- How can the lease be terminated?
- What will it cost to break the lease?
- How much notice is required to move out?

DON’T FORGET!

Get your landlord’s contact information.
1. Full name
2. Phone number, e-mail and/or mailing address.

If your landlord has an agent, make sure you get the agent’s full contact information as well.

Before Renting Call or Visit:

Property Maintenance Division - City Hall
815 Washington Street, Room 1-27,
Reading, PA
Tel. (877) 727-3234

To make sure the property is in compliance with city ordinances and has proper rental permits.

If the property does not have the required rental and zoning permits DO NOT RENT!
WHAT ARE THE TENANT'S RESPONSIBILITIES?

- Pay the rent on time and regularly for the full length of the lease.
- Take care of repairs when the damage is your fault.
- Clean the apartment or house to keep it in good condition.
- Do not break the lease terms. For example, if your lease does not allow pets do not have pets.
- Notify the landlord in writing by certified mail or hand-deliver the letter with a witness of any habitability problem and ask that the problem be corrected within a reasonable period of time. If the landlord doesn’t fix the problem, the tenant should see a lawyer immediately to protect the tenant's rights.
- IT IS THE TENANT'S RESPONSIBILITY TO FIND OUT WHAT HE/SHE IS RESPONSIBLE FOR PAYING.

EVictions

A tenant may only be evicted for:

1. Breach of the lease;
2. Failure to pay rent, or
3. End of the lease term.

- Landlord must give you a written eviction notice and state the reason for the eviction.
- Landlord is required to give a 10 day written notice if you are being evicted for non-payment of rent.
- Landlord is required to give a 15 day notice if you are being evicted for any other reason.
- The notice should be hand delivered or posted at the door.
- It is possible to waive your right to written notice in your lease, therefore READ YOUR LEASE CAREFULLY.

Improper Methods of Eviction

Sometimes a landlord will tell a tenant to move right away, or next week, or threaten to get the Sheriff to throw the tenant out, change the locks, shut off the tenant's electricity, etc.

The landlord cannot legally do anything to evict a tenant other than to follow the procedures through the District Justice's office. If the landlord tries any other methods, the tenant should see a lawyer immediately to protect the tenant's rights.

When visiting a lawyer, a tenant must always remember to take the lease, rent receipts, notices, complaints, and any other written documents that are applicable.

Depending upon what the landlord is trying to do, you can try calling the police department.

Landlord should do the following to lawfully evict you:

- Landlord should file an eviction action at the magisterial district court.
- If the district judge decides in the favor of the landlord, you will be given 10 days to move.
- After those 10 days pass, the landlord may return to the office of the district judge, seeking an "Order for Possession".
- At this point when you are served with the Order for Possession, you will have an additional and final 10 days to move.
- After that time, you can be physically removed by a sheriff or constable.
- A tenant can stop an eviction based on non-payment of rent by paying the rent due, plus court costs, at any time before the Sheriff/Constable comes to the door to put the tenant out on the street.
- Payment should be made to the Sheriff/Constable, NOT the landlord, and make sure to get a receipt.
WHAT EVERY TENANT SHOULD KNOW
Before agreeing to rent, you should inspect the apartment or house for:

1. Kitchen appliances in working order;
2. Water pressure strong, plumbing without leaks;
3. Electrical outlets and wiring in working condition;
4. Walls and ceiling painted or papered without cracks;
5. Ventilation or air conditioning is properly working;
6. Floors, railing and bathrooms in good condition;
7. Fire escape easy to use;
8. Smoke and carbon monoxide detectors are present and working;
9. Stairs safe and well-lit;
10. No rodents or insects;
11. Heating system in working order;
12. If furnished, check and write down condition of all furniture;
13. Windows and doors operable and weather-tight; screens provided.
Before you move into a home…

- Document all damages by making a list, taking pictures or video;
- Ask the landlord to sign off your list of any damages before moving in.
BEFORE RENTING...

Call or visit:

Property Maintenance Division - City Hall
815 Washington Street, Room:1-27,
Reading, PA
Tel. (877) 727-3234

to make sure the property is in compliance with city ordinances and has proper rental permits.

If the property **does not** have the required rental and zoning permits

**DO NOT RENT!**
Understanding
Your
Lease
Can I afford my rent?

Berks Community Action Program

Neighborhood Housing Services of Greater Berks, Inc.

Operation HOPE
Before you sign, make sure you understand...

• Can you afford your rent?
• Is it a monthly or yearly lease?
• Should you have renter's insurance?
• Are utilities included? Is so, which utilities are included?
• Are pets allowed?
• When is rent due and how do you pay it?
• Is the security deposit refundable?
• To whom should problems and repairs be referred?
• Is there 24/7 maintenance if you have an emergency?
• What are the rules for personalizing the apartment?
• What is the guest policy?
• How can the lease be terminated?
• How much notice is required to move out?
BEFORE SIGNING...

Modest Means Lease Review Program

$75.00 flat fee with student ID

Call Tel. 610-376-8656 ext. 3215
to get an appointment.

NEVER SIGN ANY LEASE BEFORE READING IT CAREFULLY AND THOROUGHLY.
WHAT ARE THE TENANT’S RESPONSIBILITIES?

1. Pay the rent on time and regularly for the full length of the lease.
2. Take care of repairs when the damage is your fault.
3. Maintain the apartment or house to keep it in good condition.
4. DO NOT BREAK THE LEASE TERMS. For example, if your lease does not allow pets do not allow pets.

5. IT IS THE TENANT’S RESPONSIBILITY TO FIND OUT WHAT HE/SHE IS RESPONSIBLE FOR PAYING.
Tips:

Get your landlord’s contact information:
1. Full name
2. Phone number, e-mail and/or address.

NOTE: If your landlord has an agent, make sure you get the agent’s full contact information.

If you write your landlord a letter:
• Give a copy to your landlord;
• Keep a copy for yourself;

REMEMBER: Always get a receipt!
Tenant Rights to Withhold Rent or “Repair and Deduct”
Tenant Rights to Withhold Rent or “Repair and Deduct”

To withhold rent, **the problem must be serious** (and not caused by you or a guest), you must be paid up in rent and in compliance with all lease terms, and you must have met all requirements for withholding rent.
Tenant Rights to Withhold Rent or “Repair and Deduct”
Tenant Rights to Withhold Rent or “Repair and Deduct”
Tenant Rights to Withhold Rent or “Repair and Deduct”
Repairs... What should the tenant do?

- Notify the landlord in writing by certified mail or hand-deliver the letter with a witness of any habitability problem and ask that the problem be corrected within a reasonable period of time.

- If repairs are not done, file a complaint Citizens Service Center (CSC) 1-877-727-3234.

- If the problem is not corrected within a reasonable period of time, you may:
  - Move without further obligation or
  - Make the corrections yourself and deduct the cost from your rent or
  - Withhold some rent until the problem is corrected.

- Be certain the repairs you are requesting are necessary for the rental unit to be fit for human habitation.

- RISK: Your landlord may sue you for possession (Eviction) and/or money. It is possible that the court may decide that your problem IS NOT covered by the warranty of habitability and you may face eviction and/or a money damages judgment.
Requirements for Withholding Rent

1. **Notify your landlord.** Give your landlord written notice of the problem and your intent to withhold rent.

2. **Give your landlord a reasonable deadline.** Send the letter certified and ask for a “return receipt.”

3. **Collect evidence.** In case your landlord tries to evict you for nonpayment of rent, you will want to prepare your defense from day one. You’ll want to keep copies of all correspondence with the landlord, plus proof of how bad the situation was. Take pictures of the problem or ask a reputable and impartial contractor or repair person to examine the defect and give you a written, signed, and dated description of the problem and an estimate for repair.

4. **Repeat your request for repairs.** If the landlord hasn’t responded satisfactorily to your first letter, give the landlord one last deadline—say, 48 hours or whatever period you feel is reasonable under the circumstances.

5. **Deposit your rent in escrow.** This will dispel any suggestion that you are withholding rent simply in order to avoid paying it.
A tenant may only be evicted for:

- Breach of the lease;
- Failure to pay rent, or
- End of the lease term.
EVictions

• Landlord must give you a written eviction notice and state the reason for the eviction.
• Landlord is required to give a 10 day written notice if you are being evicted for non-payment of rent.
• Landlord is required to give a 15 day notice if you are being evicted for any other reason.
• The notice should be hand delivered or posted at the door.

**It is possible to waive your right to written notice in your lease.**
Landlord should do the following to lawfully evict you:

- Landlord should file an eviction action at the magisterial district court.
- If the district judge decides in the favor of the landlord, you will be given 10 days to move.
- After those 10 days pass, the landlord may return to the office of the district judge, seeking an “Order for Possession”.
- At this point when you are served with the Order for Possession, you will have an additional and final 10 days to move.
- After that time, you can be physically removed by a sheriff or constable.
EVICITION

A tenant can stop an eviction based on non-payment of rent by paying the rent due, plus court costs, at any time before the Sheriff/Constable comes to the door to put the tenant out on the street.

**Payment should be made to the Sheriff/Constable, NOT the landlord, and make sure to get a receipt.**
THE LANDLORD MAY NOT HOLD THE TENANT'S FURNITURE, PERSONAL BELONGINGS OR SELL THEM TO PAY BACK RENT.
Sometimes a landlord will tell a tenant to move right away, or next week, or threaten to get the Sheriff to throw the tenant out, change the locks, shut off the tenant's electricity, etc.

The landlord cannot legally do anything to evict a tenant other than to follow the procedures through the District Justice's office. If the landlord tries any other methods, the tenant should see a lawyer immediately to protect the tenant's rights.

When visiting an attorney, a tenant must always remember to take the lease, rent receipts, notices, complaints, and any other written documents that are applicable.

Depending upon what the landlord is trying to do, you can try calling the police department.
Security Deposit

- Most residential leases and rental agreements in Pennsylvania require a security deposit. This is a dollar amount, usually one month's rent, that's intended to cover damage to the premises beyond normal wear and tear, and to cushion the financial blow if a tenant skips out early on the lease without paying.

- Under Pennsylvania law, a landlord must return the tenant's security deposit within 30 days after the tenant has surrendered the rental property to the landlord (that is, returned the keys and vacated the property).
Ordinary Wear and Tear: Landlord's Responsibility

1. Curtains faded by the sun
2. Minor marks on or nicks in wall
3. Moderate dirt or spotting on carpet
4. A few small tack or nail holes in wall
5. A rug worn thin by normal use
6. Faded paint on bedroom wall
7. Dark patches of ingrained soil on hardwood floors that have lost their finish and have been worn down to bare wood
8. Warped cabinet doors that won't close
Damage or Excessive Filth: Tenant's Responsibility

1. Cigarette burns in curtains or carpets
2. Broken tiles in bathroom
3. Large marks on or holes in wall
4. Broken refrigerator shelf
5. Door off its hinges
6. Rips in carpet or urine stains from pets
7. Lots of picture holes or gouges in walls that require patching as well as repainting
8. Toilet won't flush properly because it's stopped up with a diaper
How do I get my security deposit back?

When you move out, your landlord may do a walk-through with you or check out the place after you’re gone. For your protection, it’s a good idea to take photographs before you move in and before you move out, to show the condition of the apartment when you got the keys and when you left it.

- The landlord checks the apartment for damages;
- The landlord makes any necessary repairs;
- The landlord sends you an itemized list of damages and repair costs, along with any remaining balance on your security deposit.

When you move out, **be sure to give your landlord your new address**. They are legally required to send you an itemized list of damages and the balance of your security deposit within a certain time period, but they can’t do that if they don't know where to find you.
Need help finding an attorney?

Berks County Bar Association Lawyer Referral Service
544 Court Street
Reading, PA 19603-1058
Please call for an appointment: (610) 375-4591

If you feel you cannot afford an attorney, please call for an appointment to determine your eligibility:

MidPenn Legal Services
501 Washington St., Suite #401
Reading, PA 19601
Tel. (800) 326-9177
What Every Tenant Should Know

Before agreeing to rent, you should inspect the apartment or house for:
Kitchen appliances in working order;
Water pressure strong, plumbing without leaks;
Electrical outlets and wiring in working condition;
Walls and ceiling painted or papered without cracks;
Ventilation or air conditioning is properly working;
Floors, railing and bathrooms in good condition;
Fire escape easy to use;
Smoke and carbon monoxide detectors are present and working;
Stairs safe and well-lit;
No rodents or insects;
Heating system in working order;
If furnished, check and write down condition of all furniture;
Windows and doors operable and weather-tight; screens provided.

Before you sign a lease/contract, make sure you understand...
How long is the lease term?
Is it a monthly or yearly lease?
Should you have renter's insurance?
Are utilities included? Is so, which utilities are included?
Are pets allowed?
When is rent due and how do you pay it?
Is the security deposit refundable?
To whom should problems and repairs be referred?
Is there 24/7 maintenance if you have an emergency?
What are the rules for personalizing the apartment?
What is the guest policy?
How can the lease be terminated?
What will it costs to break the lease?
How much notice is required to move out?

WHAT ARE THE TENANT'S RESPONSIBILITIES
Pay the rent on time and regularly for the full length of the lease.
Take care of repairs when the damage is your fault.
Clean the apartment or house to keep it in good condition.
Do not break the lease terms. For example, if your lease does not allow pets do not have pets.
Notify the landlord in writing by certified mail or hand-deliver the letter with a witness of any habitability problem and ask that the problem be corrected within a reasonable period of time.
6. IT IS THE **TENANT'S RESPONSIBILITY** TO FIND OUT WHAT HE/SHE IS RESPONSIBLE FOR PAYING.

TIPS:
Get your landlord's contact information:
1. Full name
2. Phone number, e-mail and/or address.
If your landlord has an agent, make sure you get the agent’s full contact information.

If you write your landlord a letter:
Give a copy to your landlord;
Keep a copy for yourself;
Keep good records (rent receipts, repair requests, etc.);
Take photographs.

REMEMBER: Always get a receipt!

Before Renting Call or Visit:
**Property Maintenance Division - City Hall**
815 Washington Street, Room:1-27,
Reading, PA
Tel. (877) 727-3234

To make sure the property is in compliance with city ordinances and has proper rental permits.
If the property does not have the required rental and zoning permits
**DO NOT RENT!**

**EVICTIONS**

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Breach of the lease;
Failure to pay rent, or
End of the lease term.

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When visiting an lawyer, a tenant must always remember to take the lease, rent receipts, notices, complaints, and any other written documents that are applicable.
Depending upon what the landlord is trying to do, you can try calling the police department.
THE BASICS OF LANDLORD TENANT LAW
*Today’s Agenda*

1. What Laws Apply and When?
2. The Lease and its Terms.
3. Security Deposits
4. Recovery of the Property (The Eviction Process)
Landlord Tenant Law is the specific rules and requirements that govern the landlord’s relationship with its tenant.

To apply, there must be a “Landlord Tenant” relationship between the owner and the occupier of the real estate.

If a landlord tenant relationship does not exist, then the rules and requirements under Landlord Tenant Law do not apply.
* No specific definition or action triggers a “landlord tenant” relationship.
* Must consider the circumstances:
  * Lease: written or oral; implied or expressed
  * Payment of Rent
  * Exclusiveness of the residence
  * Services provided

*A “Landlord Tenant” relationship Defined:*
Land-Sale Contracts

Guests (i.e. family members who don’t pay rent)

Boarding Houses/Inns/Nursing Homes

* Courts will look at the circumstances, not the language used by the owner to define the housing situation

* Side Note: What is NOT a “Landlord Tenant” Relationship?
✓ The State and Federal Constitutions
✓ Federal Law
✓ State Law
✓ Common Law (Court Decisions)
✓ Local Government Law (i.e. Municipal Ordinances)
✓ The Contract - also known as the LEASE

*What Laws Apply to “Landlord Tenant” relationships*
* The State and Federal Constitutions:
  * Right to Due Process of Law: no self help evictions
  * Right to Freedom of Association

* Federal Law:
  * Fair Housing Act and the Americans With Disabilities Act (ADA)
  * Residential Lead-Based Paint Hazard Reduction Act

* Limited Role of Constitution and Federal Law
* State Law
  * Landlord Tenant Act of 1951 (68 P.S. § 250.101 et seq.)
  * General Consumer Protection Statutes
    * Plain Language Act
    * Fair Credit Extension Uniformity Act
    * Unfair Trade Practices and Consumer Protection Act
  * Pennsylvania Human Relations Action

* Local Laws
  * Tenant registration requirements
  * Zoning and Building Code enforcement
  * Nuisance tenant laws

* State and Local Laws play a more active role
i.e.: *Pugh v. Holmes*, 384 A.2d 1234 (1978)

* Created an Implied Warranty of Habitability for all residential rental agreements

* Landlord Tenant relationship to be viewed as a consumer contract, rather than a real estate transaction.

* **Common Law (Court Decisions related to Landlord Tenant Issues)**
Contract between the parties that establishes the rights and responsibilities of the parties

Look to the lease to define the rights and responsibilities that are not defined by the other sources of law

*The LEASE*
* Parties must have “expressed” or “implied” agreement to rent property
  * “Whether a lease has been created is a question of law for the court’s determination” *Mirizio v Joseph*, 4 A.3d 1073 (Pa.Super. 2010)
* The Parties must have the capacity to enter into a contract
  * Pennsylvania requires a person to be at least 18 years old
* A lease may be written or oral

*What makes a LEASE*
* The law will impose certain requirements on an oral lease
  * Cannot be over 3 years
  * Cannot waive requirement to give notice to quit
* When other terms are unclear, the law will look to the actions of the parties to define the rights/responsibilities of the parties
  * i.e. term of the lease, amount of rent, utility services, number of occupants

* Oral LEASES
* Clearly define the terms of the tenancy
  * i.e. describe the property to be rented, including access to common areas like a basement or garage

* Use plain language
  * The Pennsylvania Plain Language Act: must use short words, sentences, and paragraphs; not technical, legal or archaic terms
    * Examples: responsible v. liable
                  person signing below v. undersigned

* Have both Parties sign the agreement
  * Provide a copy to the tenant/keep a copy for yourself

* Written LEASES
Many form leases can be found in use and online

* Be careful the lease is drafted to your specific needs and situation and is consistent with Pennsylvania law

* Make sure it conforms to the Plain Language Act

* The Pennsylvania Attorney General’s Office will review your lease and approve its language as being in compliance with the Plain Language Act

* **Written LEASES**
Side Note on changing terms of a lease

* Have the tenant initial any changes or handwritten additions to the lease

* After a lease is executed, there must be additional *consideration* for any changes to the lease during the term of the lease

* Provide written notice well in advance of the end of the lease term of any changes taking affect after the lease term is over
**Length of the Lease**

- Important to define a set period of time
  - Commonly month-to-month or year long terms

- Define what happens at the end of the lease period
  - Does the lease automatically renew for the same period, change to month-to-month?

- Allows a landlord to end the lease without needing a reason
  - Can be helpful if tenant’s activities are hard to prove in court
  - **Caution:** cannot use as a pretense to evict someone protected by the Fair Housing Act
Rent

- The amount of rent is a bargained-for exchange between the parties
- Generally, there is no limit on how much rent may be charged, as long as the parties agree
  - Local rent control ordinances may apply
  - Warning: Fair Housing Act violation if the rent is raised in order to exclude a protected person/family
- Always state the amount due and *when* it is due
- Always state where/how the rent should be paid
  - **Note:** Good Practice to give receipts and keep excellent records of rent paid
- Always state that rent is due without demand

*LEASE Terms*
**Late Fees**

- Must clearly state in the lease when the charge will apply and how much will apply.
- Don’t use a % fee so that you avoid invoking the laws/regulations that apply to finance charges.
- The amount must be reasonably related to the cost of a missed payment.
  - Excessive late fees will be considered a penalty, which is unenforceable under Pennsylvania contract law.
- The Charge must be stated in plain language, avoid using confusing terms (i.e. discount for early payment).

*LEASE Terms*
Utilities

- Lease should specifically define responsibilities for payment
  - Otherwise, law will presume landlord’s responsibility
- If keeping bill in your name but charging tenant, make sure to provide tenant with an actual copy of the bill
  - Puts tenant on notice of unusually high usage

Public Utilities vs Municipal Utilities

- Public Utilities are regulated by the PUC (also called regulated utilities)
  - Examples: gas, electric, Penn American Water
  - Debt is not lien on real estate
  - Cannot charge tenants more than the rate set by PUC (the tariff), so must create a method of billing that reflects actual usage: can be very complicated if want to individually charge tenants of multi-unit building
- No Foreign Loads
- Municipal Utilities are supplied by local Municipal Authorities
  - Debt is a lien on the real estate (even if bill in tenant’s name)
  - No prohibition on how to charge tenants, but should apply the charges fairly
Note on Foreign Loads

- PUC *prohibits* foreign loads on any regulated utility
- Definition: when a tenant’s bill includes usages from another unit or from a common area
  - Examples: hallway light, community laundry machine, basement storage used by landlord
- If discovered, utility company must put the entire account balance in landlord’s name and keep it in landlord’s name until the foreign load is removed.

* LEASE Terms
Lead Paint Disclosure

* Residential Lead-Based Paint Hazard Reduction Act (42 C.S.C. §§ 4851-4856)

* Requirements:
  * Landlord MUST provide tenant with EPA approved pamphlet on lead-based paint
    * Go to http://www.epa.gov/lead/real-estate-disclosure
  * Landlord MUST disclose to tenant any known lead-based paint or lead-based paint hazards present in the home
  * Lease must include a standard warning about dangers of lead-based paint

* Applies to any housing constructed prior to 1978
  * Includes written or oral leases

* Penalty includes up to $10,000.00 civil penalty; HUD can seek injunction against landlord

* Lease is no valid until information is provided

**LEASE Terms**
Control over the property

* Defining who may live in the unit
  * Put in the lease any limits on who is allowed to live in the unit (i.e. only those approved by landlord and on the lease)
  * **Caution:** Fair Housing Act violation if designed to limit families

* Accessing the property
  * General rule: tenant has exclusive possession of the property
  * If routine inspections are desired, then should clearly state that in the lease
  * Landlord must provide tenant with reasonable notice prior to entering the residence (reasonable is not defined under the law, I find at least 48 hours)
    * Unless emergency conditions require immediate access

* Excluding particular activity (i.e. running a business)
  * Must state in the lease that activity is prohibited
  * No Pet Clauses - **Caution:** Fair Housing Act violation if pet is necessary to help with tenant’s disability
  * Any legal activity (i.e. violation of zoning rule or drug dealing) is a violation of the lease under the Landlord Tenant Act (if it’s in the lease or not)
Maintenance of the Property

* Responsibility for maintenance and repairs may be bargain for between landlord and tenant
* The lease should clearly state any responsibilities that the tenant will have for maintaining the property (i.e. lawn care, snow removal, etc.)
  * Benefit to landlord of assigning responsibility to tenant is that it may relieve landlord of liability for injury that occurs as a result of a condition on the property that was unknown to landlord.
  * Problem for landlord is that tenant may not do a good job with the maintenance or repairs

* Implied Warranty of Habitability:
  * Requires landlord to provide tenant with a safe, secure and sanitary home
  * Cannot be waived by tenant (Fair v. Negley, 390 A.2d 240 (Pa 1978))
* Applies to all landlords with more than 3 single family homes or with any multifamily dwelling
  * Pennsylvania Human Relations Act applies to all rental housing in the state
* Prohibits discrimination on the basis of a protected class:
  * Race, color, religion, sex, national original or disability
  * Sexual Orientation is a common protected class added by municipal code
* Prohibited Acts: refusing to rent a property, advertising a preference or limitation, creating different terms, conditions or privileges for a tenant
* Penalty
  * Tenant may bring lawsuit against landlord for damages and injunctive relief
  * HUD or PHRC may investigate and enjoin landlord’s behavior

* Reasonable Accommodations:
  * Prohibits denial of a tenant’s request for a reasonable accommodation to the rules that would allow a disabled tenant to take full advantage of his or her housing
    * Request must be reasonably related to the tenant’s disability
    * Request cannot be an undue burden or financial hardship on landlord
    * Tenant’s behavior must not be a direct threat to others
Example 1
Tenant occupies a one bedroom apartment with her boyfriend. They have a child. The landlord sued to evict the family because the landlord does not want more than 2 people living in the apartment.

➢ If the building code does not prohibit occupancy, then landlord may be violating the Fair Housing Act.

Example 2
Landlord has a no pets policy. Tenant applies and tells the landlord that he has a dog for emotional support. Landlord denies the tenant’s application because he doesn’t want pets in the building.

➢ If the tenant has a disability and the dog helps with the disability, then the landlord will need to accommodate the tenant’s pet.
Landlord Tenant Act regulates the administration of Security Deposits

- Must hold Security Deposit in a separate escrow account
- Maximum Security Deposit:
  - First year: up to 2 months rent
  - Second and subsequent years: only 1 month’s rent
- Interest:
  - After 2 years, must escrow the security deposit in an interest bearing account
  - Must pay out interest to Tenant each year on the anniversary of the lease
  - Landlord may deduct a fee equivalent of 1% interest
Return of the Security Deposit

- Tenant must provide the landlord with a forwarding address
- Within 30 days, Landlord must send tenant:
  1. the full security deposit; OR
  2. an itemized list of the damages for which the Landlord is withholding all or some of the security deposit

Failure to comply: If the landlord fails to provide the security deposit or the list of damages, then:
- Landlord cannot sue tenant for damages
- Tenant may sue Landlord for DOUBLE the security deposit
- The Law is unclear if this applies only to physical damage or to unpaid utility bills and rent as well - Be Safe and Send the List!

* Security Deposits
**Grounds to Evict**

1. **End of Lease Term**
   * If oral lease, then generally month-to-month
   * Consider any renewal clauses in lease if term has already expired

2. **Failure to Rent**
   * Requires a formal demand for rent before bringing suit unless demand for rent is waived by lease

3. **Breach of a Term of the Lease**
   * Must be a material breach of the lease
   * Look to the defined terms of the lease
   * Implied terms: no disturbing of other tenants/neighbors, no illegal activity (drug activity), no damage to the property

* **Recovery of Property (Eviction)**
Damages (Request for Money)

* With a landlord tenant complaint, the landlord can also request compensation for any damages
  * i.e. unpaid rent, late fees, utility bills and property damage
  * If tenant has moved out, then the landlord files a standard civil action (different rules of court)

* Landlord has a duty to mitigate damages
* Landlord cannot charge Tenant for normal “wear and tear” on the property

*Recovery of Property (Eviction)*
Procedure

- Two methods to recover possession:
  1. File Landlord Tenant Complaint at the Magisterial District Court where the property is located
     - Expedited process authorized by the Landlord Tenant Act
  2. File an “Ejectment Action” in the Court of Common Pleas
     - Generally more complicated, may costs more and may take longer to obtain relief

*Recovery of Property (Eviction)*
Notice to Quit

- BEFORE filing a lawsuit, Landlord must provide Tenant with a Notice to Quit
  - Must be in Writing (Make a COPY for your records)
  - Must be clear, explicit and unequivocal
  - Should state the ground(s) for eviction
- Notice to Quit must be provided:
  - 10 days in advance for failure to pay rent cases
  - 15 days in advance for end of the lease or breach of the lease
- Notice to Quit must be served personally or posted conspicuously on the residence
  - Posting by first class mail does not meet the requirement!
  - Certified mail, if signed for by tenant, may meet the “in person” requirement
- The lease can waive the requirement to send a Notice to Quit
  - Since this is a waiver of a tenant right, the lease must comply with the plain language act regarding the clarity of the language
- Federally Subsidized Housing has special rules for the contents and the delivery of the notice

*Recovery of Property (Eviction)*
Procedure at Magisterial District Judge

- File Complaint
  - Magisterial District Court has standard form to be completed by landlord
  - Magisterial District Court will serve tenant with notice of hearing and complaint
- Hearing before Magisterial District Judge
  - Scheduled 7 to 15 days after complaint filed
  - If not a lawyer and not the owner, then must have owner complete authorization form in order for third party to represent landlord’s interest in court
  - No default judgments - must attend hearing and prove case
  - Amendments (requests for additional rent) can only be made if tenant attends the hearing
  - Continuances: granted at discretion of the Judge
- Judgment Issued by Magisterial District Judge
  - Mailed to parties within 3 days of hearing

*Recovery of Property (Eviction)*
How to win your case

- **Documents:**
  - Lease
  - Rent Ledger
  - Copy of Notice to Quit
  - Photos of any damage
  - Criminal Docket showing conviction for a criminal offense

- **Witnesses!**

  - **Note on Hearsay:** an out of court statement made by someone other than the tenant who is not in court to testify
    - Letters or written complaints from other tenants are hearsay
    - Police Reports are hearsay

*Recovery of Property (Eviction)*
The Judgment

- Possession of the Property: 2 options
  1. Straight Possession: no right to cure
  2. Pay and Stay: tenant may stop the eviction if he/she pays all the rent that is due and the court costs
     * The total amount to be paid is only what the court states in the judgment, not any rent coming due thereafter

- Monetary Damages
  * Rent Arrears
  * Other damages (i.e. utilities, property damage)
  * Court Costs

- Monthly Rent: set by the Judge
  * Important in case the tenant files an appeal

* Recovery of Property (Eviction)
**Recovery of Property (Eviction)**
**Appeal Process**

- Appeals are made to the Court of Common Pleas
- **Filing Deadline:**
  - 10 days from date of judgment to appeal judgment for possession
  - 30 days from the date of judgment to appeal judgment for money only
- **If Tenant appeals, must post bond with the Prothonotary to avoid eviction during the appeal**
  - This is known as the supersedeas bond
  - Bond is 3 months of rent or the amount owed, whichever is less, at the time of the appeal and then one month’s rent each month thereafter
  - Low income tenants need only pay 1/3 of a month’s rent at the time of the appeal, then 2/3 of a month’s rent within 20 days, and then one month’s rent each month thereafter
  - If bond is not paid during the appeal, then landlord may file a praecipe with the Prothonotary (Department of Court Records) to terminate the supersedeas bond

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**Recovery of Property (Eviction)**
Execution of the Possession Judgment

- After appeal period expires (10 days from the date of the judgment) or after the supersedeas bond is terminated, Landlord may apply for an Order for Possession
  - Must request Order for Possession within 120 days of the judgment
- Constable will serve tenant with the Order for Possession
- Tenant will have 10 days to vacate. If Tenant fails to leave, then Landlord may instruct constable to forcibly evict tenant
  - Order for Possession expires 60 days after it is issued

*Recovery of Property (Eviction)*
Self-Help Evictions are Illegal

- Must obtain court order and have officer of the court execute on the order to recover possession of the property

- Changing the locks, terminating the utilities, or otherwise interfering with the tenant’s use of the residence is illegal
  - Landlord may be liable for damages under the Pennsylvania Unfair Trade Practices and Consumer Protection Act

*Recovery of Property (Eviction)*
Disposition of Personal Property left behind

- If tenant does not remove personal property, then landlord must:
  - Send tenant a notice by mail
    - Addressed to the property and any forwarding address
    - Must state: “Personal property remaining at (address) is now considered to have been abandoned. Within ten days of the postmark date of this notice, you must retrieve any items you wish to keep or contact your landlord at (telephone number and address) to request that the property be retained or stored. If requested, storage will be provided for up to thirty days from the postmark date of this notice at a place of your landlord’s choosing, and you will be responsible for costs of storage.”
  - Store property for the tenant
    - Tenant has 10 days to respond to landlord that he/she intents to come get personal property
    - Landlord must store personal property up to 30 days
    - Landlord cannot charge tenant for the first 10 days
  - If tenant does not respond or retrieve personal property within the 30 days, then landlord may dispose of the property

- Landlord’s violation of the act exposes it to treble damages and attorney fees
- Does not apply when tenant dies

*Recovery of Property (Eviction)*
Question Time
*The End*
Centre County Bar Association

Community Outreach Programs:

- Expungement Clinic:
  - Flyer
  - Explanation/Outline
  - Flow Chart
  - Clinic Participation Agreement

Contact Information:

Hollyce Winters, Executive Director
Centre County Bar Association
192 Match Factory Place, Bellefonte, PA 16823
Phone: (814) 548-0052
Email: hollyce@centrecountybar.org
FREE EXPUNGEMENT PAPERWORK PREPARATION

CENTRE REGION EXPUNGEMENT CLINIC

OCTOBER 25, 2018
3:00 PM - 7:00 PM

at South Hills School of Business & Technology
480 Waupelani Drive, State College, PA 16801

Learn whether your criminal charges may be eligible for expungement or sealing. Participants will be provided forms and advice on filing expungement petitions.

Pre-register at:
https://centrecountybar.org/expungement-clinic-registration/

Questions: email Sarah at sls362@psu.edu or call Kathy at (814) 238-4958, Ext. 1127

Sponsored by Centre County Bar Association and MidPenn Legal Services
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Learn whether your criminal charges may be eligible for expungement or sealing. Participants will be provided forms and advice on filing expungement petitions.

Pre-register at:
https://centrecountybar.org/expungement-clinic-registration/

Questions: email Sarah at sls362@psu.edu or call Kathy at (814) 238-4958, Ext. 1127

Sponsored by Centre County Bar Association and MidPenn Legal Services
Expungement, Limited Access Orders, Pardon, and Clean Slate

**Expungement**  
An expungement is a court-ordered administrative act of destroying or removing an individual’s criminal history record information. Expungement can be requested for only certain types of records:

- Non-conviction data: charges that resulted in a disposition of not guilty, withdrawn, dismissed, dismissed-YOP/YES, or nolle prosse.
- Underage drinking convictions: once the individual turns 21 and has completed all court-ordered requirements, including the driver’s license suspension
- Summary Offenses: after 5 years and the individual has been free from arrest or prosecution during that time
- Misdemeanor or Felony Convictions: after the individual turns 70 years of age and has been arrest/prosecution-free for ten years

**Limited Access Order**  
A Limited Access Order seals criminal history record information so it is no longer publicly available, and employers who conduct Pennsylvania criminal background checks may no longer ask about or obtain the record. Criminal justice agencies, children and youth services, and state licensing agencies, and employers who conduct federal background checks are still able to obtain the record.

Eligibility: Limited Access Orders may be requested for ungraded misdemeanors and misdemeanors of the second and third degrees after an individual remains free from arrest or prosecution for 10 years and has paid all costs and fines. There are many exceptions, including sexual offenses and offenses against minors, so it is best to talk to an attorney if you think you might be eligible for a Limited Access Order.

**Pardon**  
The only way to remove a criminal history record for convictions that are not eligible for expungement is to obtain a pardon. If a pardon is granted, the record can be expunged. Pardons are rarely granted. Consideration of a pardon application takes several years and may require that the applicant demonstrate years of living a productive, law-abiding life before beginning the application process.

**Automatic Sealing**  
When Pennsylvania’s new Clean Slate provisions go into effect in June 2019, non-conviction data (dispositions of not guilty, dismissed, withdrawn, or nolle prosse) and some summary and lower level misdemeanor offenses will be eligible for sealing or will be sealed automatically. A sealed record will no longer be available through the Commonwealth of Pennsylvania but will remain available to law enforcement entities, state licensing entities and federal background checks.
Is Your History Eligible for Expungement or Sealing?

CRIMINAL CHARGES
Criminal record information is created, saved, and shared

NON-CONVICTION DATA
Acquittal, not guilty, nolle prosse, dismissal, charges withdrawn

CONVICTION DATA
Guilty verdicts and pleas

UNDERAGE DRINKING
Turn 21 years old

SUMMARY OFFENSE
Arrest/conviction free for 5 years

PARDON
If granted by the governor

Some Ungraded, First, or Second Degree Misdemeanors
Arrest/prosecution free for 10 years after serving sentence
All costs and fines paid

EXPUNGE MENT

Limited Access Order

Expungement and Limited Access Orders are not automatic; you must file the required court petitions.
Expungement Clinic Participation Agreement

Thank you for attending the [________] Expungement Clinic. The purpose of the clinic is to provide expungement information to individuals who have had contact with the criminal justice system and to prepare expungement petitions for participants with criminal record information that is eligible for expungement in the Court of Common Pleas of [_____ County].

The attorneys you will meet are volunteers and are providing these services at no cost for the sole purpose of advising participants regarding Pennsylvania expungement laws and drafting expungement petitions for eligible participants. Volunteer attorneys are not able to help with any other types of legal issues. No attorney-client relationship or other professional relationship of any nature whatsoever will be deemed to have been created by your participation in the expungement clinic.

All information will be kept confidential and is for the sole purpose of providing you expungement advice. Copies of documents prepared on your behalf will not be retained by the Clinic. You are responsible for keeping your documents in a safe location.

In advising whether your criminal history information is eligible for expungement, volunteer attorneys will rely upon criminal background information provided by you. Your signature below acknowledges that the advice and documents given to you are made solely in reliance upon the information provided by you during your meeting with a volunteer attorney.

You are responsible for filing your expungement petition in the [______ _____] Court of Common Pleas and paying the court’s expungement filing fee. Any expungement petition prepared on your behalf will not be processed and your criminal history information will not be expunged until you have filed the petition according to the instructions provided by a volunteer attorney and have paid the filing fee or successfully petitioned the court for a waiver of the fee.

__________ (initials) I understand and agree that the [_______] Expungement Clinic will not file an expungement petition on my behalf and that I am responsible for filing any expungement petition prepared for me by a volunteer attorney.

__________ (initials) I understand and agree that any attorney-client relationship that may form through my participation in this clinic terminates at the end of my meeting with a volunteer attorney.

______________________________________________  ________________________
Signature        Date

______________________________________________  ________________________
Printed Name
Chester County Bar Association

Community Outreach Programs:

- Legal Services Guide

Contact Information:

Wendy Leeper, Executive Director
Chester County Bar Association
15 W Gay St #2, West Chester, PA 19380
Phone: (610) 692-1889
Email: wleeper@chescobar.org
CHESTER COUNTY BAR FOUNDATION

CONNECTED TO THE COMMUNITY.
COMMITTED TO THE FUTURE.

OUR MISSION:
To help Chester County citizens understand, gain access to and benefit from our legal system.

In 1985, a group of highly committed Chester County attorneys recognized a growing gap between the legal system and the citizens it serves. In an effort to connect the citizens to community legal resources and strengthen the ties between the citizens of Chester County and our justice system, those lawyers came together to form the Chester County Bar Foundation.

The Foundation's goal, then and now, is to fund initiatives which strengthen the ties between the citizens of Chester County and our justice system.

15 W. GAY STREET | 2ND FLOOR
WEST CHESTER, PA 19380
610.692.1889
www.chescobar.org

As a 501(c)(3) charitable organization, contributions to the Chester County Bar Foundation are tax-deductible to the extent allowed by law.
Access to the Legal System

It is vitally important that the citizens of Chester County have access to our legal system. The Chester County Bar Foundation supports the award winning and state recognized Access to Justice Program where volunteer attorneys provide pro bono legal services to the working poor in Chester County.

Standing by Our Mission

With its focused mission, the Chester County Bar Foundation took a giant leap forward in its efforts to raise funds through our annual Golf Classic and Key Gala. With the ongoing support of these events, the Chester County Bar Foundation Endowment is well positioned to support numerous programs and services and make an impact in our community now and into the future.

The Chester County Bar Foundation supports many programs and services that help Chester County citizens understand the legal system and inform them of their legal rights and responsibilities. Whether buying or selling a house, signing a lease, getting married or divorced, executing a Will or setting up a business, an understanding of our legal system is essential and our attorneys are committed to providing their knowledge and expertise.

Understanding the Legal System

Our Programs

Law Related Education

Birth Certificate Program

Diverse Law Student Internship Program

Charles E. Swope Scholarship

Helping Chester County citizens understand, gain access to and benefit from our legal system.

Go to www.chescobar.org (Navigate to Bar Foundation)

Annual Grant deadline: September 1

To apply for a grant from our Foundation:

• Legal Aid of Southeastern Pennsylvania
• Family Service of Chester County
• Domestic Violence Center of Chester County
• Chester County Elder Abuse Task Force
• Birth Certificate Clinic
• Diverse Law Student Summer Program
• Charles E. Swope Scholarship
• Law Day Celebration
• Peoples’ Law School
• Access to Justice Program
• Law Related Education Program

The Chester County Bar Foundation provides financial support for programs and services related to the law, and promotes access to justice.

The Chester County Bar Foundation has supported the Law Related Education Program since 1988. Chester County attorneys volunteer in classrooms throughout Chester County to teach students in grades two through twelve on law-related subjects that coordinate within their curriculum. Over the past 25+ years, more than 45,000 students have been educated and exposed to various areas of law and the legal system.

Clinics are held throughout the year to help individuals obtain birth certificates which are required in order to obtain many social services. Volunteer attorneys assist with the process and the Chester County Bar Foundation provides funding for all document processing.

Our Diverse Law Student Summer Internship Program is designed for first and second-year law students who self-identify with those groups historically discriminated against on the basis of disability, gender, race, ethnicitiy, sexual orientation, gender identity, and/or gender expression or who otherwise come from a disadvantaged background. The goal of this program is to achieve greater diversity in the Chester County Legal Community. Each year, the Chester County Bar Foundation supports the placement of one student in this program.

The Charles E. Swope Scholarship was established in 1992 to provide financial assistance towards post-high school education to a high school senior planning to pursue a career in law or a law-related field. Scholarship applicants must have demonstrated academic excellence and outstanding community citizenship. A student is awarded a scholarship as well as the opportunity to designate a matching grant to a law-related organization.

To apply for a grant from our Foundation, go to www.chescobar.org (Navigate to Bar Foundation)
Community Legal Services of Philadelphia

Community Outreach Programs:

- Clean Slate Summary and Flow Chart

Contact Information:

Community Legal Services
1424 Chestnut St. Philadelphia, PA 19102
Phone: (215) 981-3700
Clean Slate Summary – Act 56
Expanded and Automated Sealing of Criminal Records in PA

<table>
<thead>
<tr>
<th>Petition-Based (Manual) Sealing of Misdemeanors</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Rule Permitting Sealing</strong></td>
</tr>
<tr>
<td><strong>Time Conviction-Free</strong></td>
</tr>
<tr>
<td><strong>Excluded Convictions</strong></td>
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<tr>
<td><strong>Disqualifying Convictions</strong></td>
</tr>
<tr>
<td>(review rest of record; convictions in one of these categories disqualifies a person from sealing otherwise eligible misdemeanors)</td>
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<tr>
<td><strong>Additional requirement</strong></td>
</tr>
<tr>
<td><strong>Effective Date</strong></td>
</tr>
</tbody>
</table>

**Notable changes from existing law (Act 5):**

- Many M1s can now be sealed (especially for theft, drugs and DUI).
- A single M1 no longer disqualifies an M2 or M3 from being sealed; two or more M1s are disqualifying only for 15 years.
- All M2 and M3s are now eligible for sealing by petition.
- M2 simple assault can now be sealed and no longer disqualifies a person for sealing other offenses.
- M3s no longer disqualify petition filers.
- 10-year waiting period runs from date of conviction, not completion of sentence.
- Arrests and summary convictions during the 10-year waiting period are no longer disqualifying.

Summary offenses continue to be eligible for expungement by petition after five years; non-convictions can continue to be expunged immediately.

Other notable provisions of Act 56:

- Clarifies that when a case is expunged or sealed, the former defendant can’t be asked about case by employers and others, and if asked, can respond as if the case did not occur.
- Sealed cases will no longer be used for decisions on occupational licenses.
## Automated Sealing of Misdemeanors

<table>
<thead>
<tr>
<th>General Rule Permitting Sealing</th>
<th>Convictions with grades of M2, M3, M (not M1s)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Time Conviction-Free</strong></td>
<td>10 year period must have passed from date of conviction of misdemeanor to be sealed <strong>without another felony or misdemeanor conviction.</strong></td>
</tr>
</tbody>
</table>
| Excluded Convictions (misdemeanors that can’t be sealed by automation) | • Art. B offenses (crimes of violence)  
• Art. D offenses (crimes against the family)  
• Firearms offenses  
• Tiered sexual offenses, or required to register as sex offender  
• Corruption of minors or cruelty to animals offenses  
• Attempt, conspiracy, solicitation to commit any of above |

### Additional requirement
All financial obligations for the case to be sealed must be resolved

### Effective Date
June 28, 2020

### Automated Sealing of Summary Offenses and Non-Convictions

<table>
<thead>
<tr>
<th>Summary offense convictions</th>
<th>Summaries will be sealed by automation 10 years after conviction if the financial obligations are satisfied. The person is not required to have been conviction-free during that 10-year period.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Non-convictions</strong></td>
<td><strong>Non-convictions will be sealed by automation after 60 days.</strong></td>
</tr>
</tbody>
</table>

Notable:

- No automated partial sealing of cases with both convictions and non-convictions; petitions for partial expungement of non-convictions can continue to be filed in such cases.
- **M1s and simple assault will not be sealed by automation,** but may be sealable by petition.
- The disqualifications for automation are broader than for petitions. For instance, a single felony conviction or two M1s eliminate automated sealing of otherwise qualifying M2s or M3s. But those convictions do not necessarily prevent sealing by petition; check those rules.

### Key: Grades of Offenses, Highest to Lowest

<table>
<thead>
<tr>
<th>Type of Offense</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st degree felony</td>
<td>F1</td>
</tr>
<tr>
<td>2nd degree felony</td>
<td>F2</td>
</tr>
<tr>
<td>3rd degree felony</td>
<td>F3</td>
</tr>
<tr>
<td>1st degree misdemeanor</td>
<td>M1</td>
</tr>
<tr>
<td>2nd degree misdemeanor</td>
<td>M2</td>
</tr>
<tr>
<td>3rd degree misdemeanor</td>
<td>M3</td>
</tr>
<tr>
<td>Ungraded misdemeanor</td>
<td>M</td>
</tr>
<tr>
<td>Summary offense</td>
<td>S</td>
</tr>
</tbody>
</table>
Clean Slate - Automatic Sealing
(§§ 9122.2 & 9122.3)

What are you trying to seal?

- F
- M1
- M2
- M3
- Ungraded M, max 2yrs
- Summary Offense
- Non-Conviction

(.2a1) In the last 10 years, have you been convicted of any M or F?
- Yes
- No

(.2a1) Do you have any outstanding court fees or fines?
- Yes
- No

(.2a2) Are you trying to seal a non-conviction charge?
- Yes
- No

(.2a3) Is the offense a summary offense that is at least 10 years old?
- Yes
- No

(.3a1) Is the conviction you’re trying to seal
- Pt. II Art. B offense – danger to person
- Pt. II Art. D offense – offense against family
- Ch. 61 offense – firearms/other dangerous articles
- 42 Pa. C.S. § 9799.14 offense – sexual offense/tier system
- § 5533 – cruelty to animal
- § 6301 – corruption of minors

- Eligible
- Excluded

(.3a2) Have you ever been convicted of
- A felony
- 2+ M1s or higher
- 4+ Ms
- § 3127 – indecent exposure
- § 3129 – sexual intercourse w/ animal
- § 4915.1 – failure to comply w/ registration req’ts
- § 5122 – weapons/implements to escape
- § 5510 – abuse of corpse
- § 5515 – prohibiting paramilitary training

- Excluded
- Disqualifying Convictions

- Not Eligible
- Eligible

After Sealing
If you were convicted of a M or F after your record was sealed, the court may unseal your previously sealed convictions [9122.4(b)]

Prepared 6/2018 By Community Legal Services
Clean Slate – Petition Based Sealing
(§ 9122.1)

What are you trying to seal?

F

M1

M2

M3

Ungraded Offense, max 5 yrs

Summary Offense

Non-Conviction

(b2i) Have you ever been convicted of murder, F1, or offense punishable by more than 20 yrs?

Yes

No

(a) In last 10 years, have you been convicted of any M or F?

Yes

No

(a) Do you have any outstanding court fees or fines?

Yes

No

(b1) Is the offense you're trying to seal an M1 of any of the following?

- Pt. II Art. B offense – danger to person
- Pt. II Art. D offense – offense against family
- Ch. 61 offense – firearms/other dangerous articles
- § 6301 – corruption of minors

Yes

No

(b2i) Within the past 15 years, have you been convicted of

- 2+ M1s or higher or
- Any of the following: indecent exposure; sexual intercourse w/ animal; failure to comply w/registration req'ts; weapons/implements for escape; abuse of corpse; prohibiting paramilitary training

Yes

No

(b2ii) Within the past 20 years, have you been convicted of either:

- Felony for any of the following:
  o Pt. II Art. B offense – danger to person
  o Pt. II Art. D offense – offense against family
  o Ch. 61 offense – firearms/other dangerous articles
  o 4+ M2s or higher

Yes

No

NOT ELIGIBLE

ELIGIBLE

After Sealing

If you were convicted of an M or F after your record was sealed, the court may unseal your previously sealed convictions [9122.4(b)]
Dauphin County Bar Association

Community Outreach Programs:

- Driver’s License Restoration Intake Clinic Flyer
- Expungement Flyer
- PFA Defendant Procedural Overview *

Contact Information:

Patrice Merzanis, Executive Director
Dauphin County Bar Association
213 N Front St, Harrisburg, PA 17101
Phone: (717) 232-7536
Email: patrice@dcba-pa.org
Looking to get your Driver’s License Restored?

**Driver’s License Restoration Clinic**

**Where:** PA CareerLink® Capitol Region
100 N Cameron St, Harrisburg

**What:** Attorneys will meet with you to review your PennDOT Restoration Requirements Letter and help you plan your next steps.

**To participate you MUST have your:**
1. PA Driver’s License Number
2. Social Security Number

**Registration:** Space is limited. Please register at jobgateway.pa.gov events Dauphin County or call 717-783-3270

PA CareerLink® Capitol Region, 100 N Cameron St.

**Cost:** There is no cost to attend. Any costs that occur will be those that you need to pay the state to restore your license.

[Company Name]
Is your Criminal Record a barrier to employment and housing? We may be able to help!

Join our

**EXPUNGEMENT AND RE-ENTRY CLINIC**

For formerly convicted or incarcerated citizens who would like assistance to determine whether their criminal record or non conviction data can be expunged or whether the newly enacted **Second Chance Law** might help seal all or part of their criminal record.

**April 18 from 5:20 to 7:30 p.m**

Where: CareerLink, 1 Alexandra Ct, Carlisle, PA 17015

Space is limited.

Please register at “jobgateway.pa.gov
or Contact: (717) 243-4431
or brendajcareerlink@gmail.com

- Capacity is limited to 40 seats. Pre-registration is strongly preferred.
- Orientation begins promptly at 5:30 pm.

Attorneys will be available to meet to discuss whether any of the charges may be eligible for expungement or sealing. If you are eligible for Mid Penn Legal Services, your case will be referred to an attorney in the Mid Penn network, otherwise you will be provided information regarding
Lancaster Bar Association

Community Outreach Programs:

- Expungement Clinic Flyer

Contact Information:
Steven Grumm, Executive Director
Lancaster Bar Association
28 E Orange St, Lancaster, PA 17602
Phone: (717) 393-0737
Email: steve.grumm@lancasterbar.org
We may be able to help!

EXPUNGEMENT CLINIC
SPONSORED BY

REP. MIKE STURLA

For formerly arrested, charged, or convicted citizens who would like help to know if their criminal records including non-conviction data can be expunged or sealed.

Wednesday, May 30, 2018 – 4:00pm to 7:00pm

PA CareerLink® Lancaster County
1016 N. Charlotte St, Lancaster, PA 17603 – free parking
Register Online: www.jobgateway.pa.gov. Click on Events, filter by Lancaster County.
If you do not have access to a computer, please call (717) 509-5613 ext. 237

Capacity is limited to 30 seats. Pre-registration is required.
Questions call: 717- 509-5613 ext. 237
Bi-lingual, Spanish & English, services available.

Attorneys will be available to meet and discuss if any of your charges/convictions may be eligible for expungement or sealing. If you are eligible for MidPenn Legal Services, your case will be referred to a volunteer attorney for free representation, otherwise you will be provided with information about other attorney services available.

Pennsylvania CareerLink™ Lancaster County
LANCASTER BAR ASSOCIATION
MidPenn Legal Services
BENTLEY, GIBSON, KOPECKI, SMITH, PC

A proud partner of the AmericanJobCenter network

LANCASTER BAR ASSOCIATION FOUNDATION

This project is funded in part with an LBA Foundation grant
Lebanon County Bar Association

Community Outreach Programs:

- Hire Local Campaign*
- Grandparents Custody Flyer

Contact Information:

Lebanon County Bar Association
547 S 10th St, Lebanon, PA 17042
Phone: (717) 273-3113
Email: lebcobar@verizon.net
New Law Expands
Custody Rights for Grandparents

An increasing number of Pennsylvanians are taking on the role of primary caregivers for their grandchildren, in large part because of the opioid epidemic.

There is new hope for grandparents and other caring individuals who want custody of kids whose parents are unable or unwilling to raise them.

Learn more about the new Pennsylvania custody law by getting a free copy of the brochure, “Understanding When Grandparents and Others Can Seek Custody,” by calling the Lebanon County Bar Association at 717-273-3113 or by visiting www.lebanoncountybar.org.
Wilkes-Barre Law & Library Association (Luzerne County)

Community Outreach Programs:

- Guide to Juvenile Court

Contact Information:

Joseph Burke, Executive Director
Wilkes-Barre Law & Library Association (Luzerne County)
200 North River Street, Wilkes-Barre, PA 18711
Phone: (570) 822-6712
Email: Joseph.Burke@luzernecounty.org
Your Guide To Juvenile Court

“What is going to happen to me?”

Juvenile Defender Unit
Public Defender’s Office

Luzerne County
Penn Place Building. Suite 235
20 N. Pennsylvania Ave
Wilkes-Barre, PA 18701

570-830-5116
What Do I do

My Lawyer’s Name: ________________________________

My Lawyer’s Phone Number: _______________________

My Next Court Date: ______________________________

For What: _______________________________________

Where Court Is: __________________________________

My Probation Officer’s Name: _______________________

Contact:
The Juvenile Defender Unit
Public Defender’s Office
570-830-5116

DISCLAIMER: This Guide is no substitute for in-person legal advice, but it does give you the basics about your rights and responsibilities in the Juvenile Court System. Always talk with a Lawyer for advice about your legal problems and options.
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The printing of this booklet was proudly sponsored by the Wilkes-Barre Law & Library Association – The Bar Association of Luzerne County.
Think It Is No Big Deal? Maybe your friends told you that you have nothing to worry about? Well, think again. **JUVENILE COURT IS A BIG DEAL!**

What happens here may affect you for the rest of your life.

**You Are Here**

You are here because the Police say you broke the law by committing a criminal act. In Juvenile Court this is called a: **“Delinquent Act”**.

You probably got a paper in the mail called a **“Written Allegation”** which tells you the delinquent act the police believe you committed and why they believe you committed it. You can enter the Juvenile Court System for any “delinquent act” the police say you committed between the ages of 10 through 18.

**You Need A Lawyer**

If You Trust Anyone, Trust Us, Your Lawyers.

We can help you understand the Juvenile Court System.

“Don’t be afraid, for although we are older than you, we were kids once too.”

We Will Not Judge You.
We Are Here To Help You.
Your Lawyer

( “ASSISTANT PUBLIC DEFENDER” OR “DEFENSE ATTORNEY” )
We are your Lawyers. We work for you, not your parents, the police or the probation office. We will help you during court hearings and speak to the Judge for you. Don’t worry that you cannot pay for a Lawyer. The Court must give you a lawyer free of charge.

The Judge

The Judge will decide if you broke the law. If the Judge decides you broke the law, he or she will decide what happens to you next.

The Juvenile Probation Officer

This person works for the Court and recommends whether you should stay in a detention facility or go home, recommends a disposition plan to the Judge, recommends services for you and watches you if you are placed on Court Supervision. (Probation)

Assistant District Attorney

( “PROSECUTOR” ) This is the State’s Attorney that represents the people of Pennsylvania. He or she will try to prove that you broke the law.

The Police

It’s the Police Officer’s job to protect the public and catch people who break the law.
Detention Hearing

If you are arrested and put into a Juvenile Detention Facility, you will be held there until your Court hearing, which must take place within 72 hours. **If this happens, either you or your family should contact this office as soon as possible.** If you are not put into a Juvenile Detention Facility, then your first experience with the Court will involve meeting with a Juvenile Probation Officer at a Probation Intake Interview.

Probation Intake Interview

This is the first step in the Juvenile system where you, together with your Lawyer and your parents, will meet with a Juvenile Probation Officer who is hired by the Court to decide how to handle your case. At this meeting, the Juvenile Probation Officer will ask you a lot of questions about your school, family, friends, hobbies and the "Written Allegation."

Just remember to answer all of the Probation Officer’s questions truthfully. At the end of the meeting, the Juvenile Probation Officer will decide whether to have you go before a Judge or have you instead follow certain rules.
What Happens Next

Informal Adjustment

This is a way of dealing with your case without going before a Judge. The Juvenile Probation officer can require you to undergo counseling or follow other rules which the Juvenile Probation Officer believes are important for you to follow so that you don’t get into trouble again. Some of the rules you may have to follow are: Not Skipping School, Drug Testing, Nightly Curfews, Community Service, Meeting With Your Probation Officer and most importantly, Staying Out Of Trouble.

Follow The Rules And The Charges Will Not Be Formally Filed.

Delinquency Petition

If you are not given an Informal Adjustment by the Juvenile Probation Officer or put into another diversionary program, such as Youth Aid Panel, a Delinquency Petition will be filed in the Luzerne County Clerk of Courts Office and you will be scheduled for Court. If this happens, you will go before the Juvenile Court Judge.

Your Lawyer Will Stand Next To You And Will Protect Your Rights.

Consent Decree

You appear before the Judge and he or she temporarily stops the Court case against you. The Judge can place you under the supervision of your parents and require you to follow certain rules, much like an Informal Adjustment. The Assistant District Attorney must agree to a Consent Decree. Follow the rules, behave and any charges filed against you will not be prosecuted.

If You Don’t Behave, The Assistant District Attorney Will Bring The Charges Back.
Adjudication Hearing - Trial By Judge

You Do Not Have The Right To A Jury Trial In Juvenile Court.

ONLY THE JUDGE CAN HEAR YOUR CASE AND DECIDE IF YOU BROKE THE LAW.

If you want to fight the charges, you can ask for a Trial by Judge. During a Trial, the Assistant District Attorney must prove that you broke the law beyond a reasonable doubt. He or she will have the Police Officer and other people, who saw or know something about what happened, tell the Judge what they know.

*You can ask these people questions, bring your own witnesses and can even tell the Judge your story.*

Your Lawyer’s job is to show that the Assistant District Attorney did not prove that you broke the law.

The Judge will then decide if you should be “**Adjudicated Delinquent**.” which means that you broke the law and need treatment, rehabilitation or supervision. If he or she finds that you did not break the law, then your case is over.

If the Judge decides that you broke the law and need treatment, rehabilitation or supervision, then you will be “**Adjudicated Delinquent**” and come back to Court for a **Disposition Hearing** at which time the Judge will decide what will happen to you.

Sometimes, your case can be decided by a Hearing Officer. A Hearing Officer is a lawyer appointed by the Court to hear your case and then make a recommendation to the Court about you.
Admission

You can also decide not to fight the charges and make an admission to some or all of the charges against you. Your Lawyer's job is to work to get you the best deal that the Assistant District Attorney will agree to. If you make an admission and are Adjudicated Delinquent, you are given a Disposition Hearing, when the Judge will decide what should happen to you.

Disposition Hearing

At this hearing, the Judge will review a brief report from the Juvenile Probation Intake Officer, may look at your school and other records, and can hear from the victim, your teachers, parents, the police and others before making a decision on handling your case.

THE JUDGE CAN ORDER YOU TO DO A NUMBER OF THINGS, SUCH AS:
- Pay Restitution
- Do Community Service
- Get Treatment
- Probation
- Residential Placement

The Judge makes these decisions about you because he cares about you and wants you to learn that:

Your actions hurt people and you are responsible for that hurt

Everyone wants you to do good in school and grow up to be a leader

Because of what you did, people may be afraid of you, and these decisions are made so that people may feel safe
Pay Restitution

If you hurt someone or damaged their property (house, car, etc.), the Judge can make you and your parents pay the person’s medical bills and replace or fix any damage that you caused.

Community Service

You can be required to do volunteer work in the Community such as working in a soup kitchen or picking up garbage on the sidewalks. You can also do community service to help pay “Restitution.”

Get Treatment

If the Judge believes that you got into trouble because you are using drugs or alcohol or that you have other problems (such as following rules), he can make you go into a treatment program and even make your parents go to counseling with you.

Probation

You will live at home but will have to follow certain rules, called: “Conditions of Probation.” Some of the Conditions of Probation that you can be required to follow are: being tested for drugs and alcohol, attending school, writing a sincere letter of apology and attending counseling. Your Juvenile Probation Officer will help you follow the rules, but he or she may report it to the Judge if you break the rules (called a Violation of Probation). You can be supervised on probation up to your 21st birthday.
Placement

You can be forced to stay in a private or State Operated Juvenile Residential Placement Facility for up to 4 years and even up to your 21st birthday if the Judge decides that you cannot behave yourself.

Every six months, the Judge must consider his or her decision of placing you in a Juvenile Residential Placement Facility. Your parents can also be ordered to help pay for the costs of your placement.

Appeal

You have a right to appeal any final decision of the Court. Talk to your Lawyer about your rights.

Expungement

Your Juvenile record doesn’t automatically disappear when you turn 18. You must file a “Petition for Expungement” with the Court to get your record destroyed. Ask your Lawyer to file this for you.

Remember, As Your Lawyers, We Are Here To Help You.

Talk To Us.
Advice From Your Lawyers

Be Honest And Open With Us

You have a right to a Lawyer and being honest and open helps us to do our job. We are not judgmental. We will not judge you. We are here to help you.

Use Caution When Talking To People In The System

Whatever you say or do around a Police Officer or a Probation Officer is NOT CONFIDENTIAL and can come up in Court. Be careful of what you say.

Think Before You Speak.

Ask Us Questions

It is our job to help you understand the process. This is serious stuff and even if you think it is a dumb question, remember that there are no dumb questions.

Stay In Touch With Us

Always return our phone calls. Call us or our secretary and we will always get back to you. Always come to your scheduled office appointments. If we send you a letter to meet with us, this means we have something important to discuss with you and we need to talk.

FOLLOWING YOUR LAWYERS ADVICE IS OF THE UTMOST IMPORTANCE!
The Juvenile Court System Is Not To Be Taken Lightly! If you are adjudicated delinquent, you can be sent away to placement regardless of the nature of the charges.
Bringing A Parent Guardian Or Another Responsible Adult With You To Every Proceeding

**THIS IS REALLY IMPORTANT!** If you have a responsible adult with you at every stage, you’re more likely to stay at home (not be detained or sent away to placement), during and after your case.

**Start Building A Good Record NOW**

**STAY OUT OF TROUBLE!** Go to school. Go to your Court dates and your other appointments on time. Don’t smoke, use drugs or drink alcohol. Listen to and obey your parents and teachers. **People will be checking up on you.** Your behavior during this time can matter as much as anything you have done in the past. Ask friends, teachers, neighbors and family to write letters about your good qualities and give them to your Lawyer to use to help you.

**Show that You Take The Process Seriously**

**TREAT EVERYONE WITH RESPECT.** Be polite. Wear nice clothes. The Probation Officer, the Assistant District Attorney and the Judge will notice these things when they are making decisions about your case.

**Take Advantage Of The Programs And Services In The Juvenile System**

**THIS WILL HELP SHOW THE JUDGE THAT YOU ARE TRYING TO STAY OUT OF TROUBLE.** If you are doing well in a program or have completed a program, ask them for a letter and give it to your lawyer to help you.
Show Up For Your Court Hearing

EXCUSES DON'T WORK. If you miss your Court Hearing, a Warrant can be issued and you can be held in a Juvenile Detention Facility.

Be Alert

DON'T USE ALCOHOL OR DRUGS. Get enough sleep the night before. Don’t come to Court on an empty stomach. Court may last longer than you expected.

Show Respect

SHOW RESPECT FOR THE JUDGE, POLICE, PROBATION OFFICERS, LAWYERS AND WITNESSES. Fooling around, laughing and not paying attention in Court will only make things worse for you.

Dress Nice

WEAR YOUR GOOD CLOTHES AND BE NEAT AND CLEAN. Collared shirts for boys and tasteful clothes for girls are appropriate for Court.

Don’t Talk To Anyone In Court Except Your Lawyer And The Judge

REMEMBER, YOUR LAWYER REPRESENTS YOU AND WILL WORK TO GET YOU THE BEST POSSIBLE RESULT. Your Lawyer works for you first and foremost, not your parents, friends nor anyone else in the Court System.

Trust Your Lawyers And Listen To Their Advice.
“Hey Dude, I got busted by the police the other night at a party at my girlfriend’s house. The police raided the party and everyone started running. I got caught with a cup in my hand and a police officer asked me what was in it. I was scared and didn’t know what to say. Then they asked me for my I. D.. My friend, who was wasted told me I didn’t have to give it. So, I didn’t and the next thing I knew, the police officer put me in handcuffs and took me to the police station. And I didn’t do anything wrong.”

Sound Familiar?

“We are sure this and things like it happen all of the time.”

Knowing Your Rights may help you if you get arrested and are charged with a “Delinquent Act.”

WARNING: Knowing your rights does not mean that you can break the law or give the police, your teachers or your parents a hard time. Yelling, cursing or just being loud will only make things worse for you.
Dealing With The Police
Important Things To Know

Stay Calm

Any time a Police Officer asks for your I. D. or your name and address, answer them politely and cooperate in giving it.

Should I Talk to The Police?

If a Police Officer asks you a lot of questions and you are not free to leave or says that your are under arrest, you have a right to “not” answer any of his or her questions. If you don’t know whether it’s okay for you to leave, ask the Police Officer. If the Officer says “Yes” then you may leave. If the Officer says “No” or anything other than “Yes.” DO NOT RESIST, ARGUE OR BE SMART.

Be courteous but you should NOT answer any questions.

Ask For A Lawyer

Anytime the police say that you cannot leave or put you under arrest or anytime you appear in Court when charged with a Delinquent Act, politely say, “I want a Lawyer.” Don’t worry that you cannot pay for one.

The Court Must Give You A Lawyer Free Of Charge.

Once you tell the Police that you want a Lawyer or that you will not answer their questions, THEY MUST STOP QUESTIONING YOU.
Dealing With The Police
Important Things To Know

Keep Your Hands Out Of Your Pockets

If the Police stop you, **DON'T EVER PUT YOUR HANDS IN YOUR POCKETS.** They may think you have a gun or drugs.

Do Not Resist Arrest

If the Police put you under arrest, **NEVER RESIST**, even if you think the arrest was wrong.

Cooperate In A Traffic Stop

“**SHOULD I LET THE POLICE SEARCH MY CAR?**”

If the Police stop you while you are driving your car and ask you for your driver’s license, registration and insurance cards, give it politely. Sometimes the Police just make routine stops or may observe some minor motor vehicle violation. **If they ask for consent to search your car, remember you have a right to, “J ust Say No”.** Refusing to give consent to a search of your car will not get you in trouble. **However, if they proceed to search your car anyway, DO NOT TRY TO STOP THEM.**

Have A Lawyer By Your Side

It is extremely important for you to have a Lawyer with you if you decide to talk to the Police or a Probation Officer or appear in Court.

Remember, your Lawyer is there to help you and advise you to make sure that your rights are protected and that you get the best possible outcome for your case. Neither the Police nor the Court can find out anything you tell your Lawyer without your permission.
An Adjudication Of Delinquency
20 Things You Should Know

If you are adjudicated Delinquent, there are far reaching consequences that can affect you for the rest of your life.

1. Is Not An Adult Conviction But Is Often Treated Like One.
2. Can Affect Your Ability To Obtain Employment.
3. Can Affect Your Access To Public Housing.
4. Can Affect Your Ability To Enlist In The Military.
5. Can Result In The Suspension Of Your Driver’s License For Certain Drug, Alcohol And Driving Offenses.
6. Can Result In Your Expulsion From School For Certain Offenses.
7. Can Result In You Having To Do Community Service And To Pay Fines, Court Costs and Restitution.
8. Can Require You To Submit To A DNA Sample, If Found Delinquent Of Felony And Some Misdemeanor Offenses.
10. Can Affect Sentencing For A Criminal Conviction As An Adult.
11. Can Prevent You From Carry A Firearm, If For Example, You Are A Junior Hunter.

12. Can Affect Your Ability To Acquire Licenses for Certain Professions, Such As Nursing.

13. May Require You To Register As A Sexual Offender If Adjudicated Delinquent Of Certain Offenses.


15. May Be Expunged Five Years After Your Discharge From Court Supervision If You Remain Crime Free.

16. May Be Expunged When You Turn 18 If The Commonwealth’s Attorney Consents To The Expungement Petition.

17. Does Not Affect Your Ability To Vote Or Serve On A Jury When You Turn 18 Years Old.

18. Does Not Need To Be Reported On Many College Applications.


20. Juvenile Hearings And Records Are Open To The Public In Cases Involving Any 14 Year Old Who Is Charged With Or Found Delinquent Of Any Felony And For Any 12 Or 13 Year Old Who Is Charged With Or Found Delinquent Of Serious Offenses.
Stop and think about the consequences before you act. If it seems like a bad thing to do, it probably is.

1. Stay out of trouble.

Think for yourself. Don’t be a follower and follow your friend’s advice without some serious thought.

2. Be a leader.

Pick your friends for who they are on the inside and not because they look or seem “cool” on the outside. If they put you down, they are not your friends.

3. Choose your friends wisely.

A good education can be your key to success in life regardless of your upbringing and financial situation. Make this a priority in your life and reap the rewards.

4. Stay in school

These are against the law. Don’t end up with a serious problem for the rest of your life. Smoking cigarettes is dangerous to your health and can be extremely addictive. It is against the law to purchase cigarettes if you are under 18 yrs. Old.

5. Don’t do drugs or drink alcohol.
Moving Forward

The Ten Habits Of Successful Teens

This includes your parents and teachers. You can get ahead and accomplish more in life by treating others with dignity and respect.

6. Always be nice and respectful to others.

Ask for advice from an adult that you trust if you have a problem that you can’t deal with on your own.

7. Don’t be Afraid to seek Advice.

Think about the feelings of the person you are about to hurt before you bully or fight with them. Don’t put others down to make yourself feel superior or impress friends that you don’t need.

8. Don’t put others down.

Lying about even the smallest of things can get you in trouble. Be someone that others can trust.

9. Tell the truth.

Learn from the mistakes of the past. Mistakes don’t define who you are. You can have a great life ahead of you. Plan for your future starting today.

10. Be the best you can be.
Please use the space below to write down any questions you may have for your lawyer.
Alcohol / Drug Abuse

Luzerne / Wyoming Co. Drug / Alcohol Program: (570) 826-8790
Wyoming Valley Alcohol and Drug Services: (570) 704-3452
Catholic Social Services: (570) 822-7118
Serento Gardens, Hazleton: (570) 455-9902

Mental Health Crisis Intervention

Children’s Service Center: (570) 208-4034
Community Counseling: (570) 552-6000
Northeast Counseling: (570) 735-4700

Emergency Housing / Shelter

Bridge Housing (Women and Children): (570) 823-5834
McAuley House: (570) 779-2801
Youth Runway Services - Bridge Youth Services: Hazleton. (570) 455-6742

Educational Disability Concerns

Education Law Center: (215) 238-6970
JUVENILE DEFENDER UNIT

PUBLIC DEFENDER’S OFFICE

PENN PLACE BUILDING - SUITE 235

20 NORTH PENNSYLVANIA AVENUE
WILKES-BARRE, PA 18701

PHONE: (570) 830-5116
FAX: (570) 408-8580
EMAIL: carol.dulaney@luzernecounty.org

The Luzerne County Juvenile Defender Unit Hopes That This Information Will Be Widely Disseminated. Please Credit Our Office When Copying Or Quoting.

Thank You.

**The photographs of juveniles are models**
Lycoming Law Association

Community Outreach Programs:

- Wills for Heroes
- Mortgage Foreclosure Diversion Program

Contact Information:

Michele Frey, Executive Director
Lycoming Law Association
25 W 3rd St #803, Williamsport, PA 17701
Phone: (570) 323-8287
Email: mfrey@lycolaw.org
Invitation to All Pennsylvania Military Veterans
And First Responders
To Obtain
FREE ESTATE PLANS

In partnership with the Pennsylvania Bar Association Young Lawyers Division and with sponsorship by the Lycoming Law Association, we are proud to bring the Wills for Heroes program to you. Wills for Heroes is a free and easy service that provides Wills, Living Wills, Health Care and Financial Powers of Attorney to military veterans and first responders and their spouses/partners.

If you die without a Will, Pennsylvania’s intestate laws will determine who will receive your property. Undoubtedly, your loved ones’ grief will be overwhelming; a clear expression of your intent, desires, and wishes may help ease some of this inevitable burden. While nobody likes to think about an untimely death, it is best that you express your wishes through a written document. For your family’s peace of mind, please consider this invaluable opportunity, offered completely free to you and your spouse/partner.

On SATURDAY, April 7, 2018, volunteer lawyers will be conducting a Wills for Heroes Program for any Pennsylvania military veterans and first responders and their spouses or significant others (please note that proof of affiliation or DD214 will be requested at the event). This April 7th event will be held at the Old Lycoming Township Volunteer Fire Company (Station 14), 1600 Dewey Avenue, Williamsport, PA beginning at 11:00 a.m. Appointments for each person last approximately 1 hour and at the conclusion of it you will have notarized legal documents – a Will, Living Will, and Health Care and Financial Powers of Attorney (or any combination thereof). If you select that you are coming with a spouse/significant other you will have back to back appointments, and the computer will automatically schedule a second appointment. You do not need to schedule a separate appointment. Please schedule your appointment early as this event is sure to fill up fast.

ON-LINE REGISTRATION WILL BEGIN ON THURSDAY, MARCH 15, 2018 at 9:00 A.M.

Appointments must be scheduled online at: www.pabar.org/wfh/
The password is: Lycoming

If you have any questions about this event, please contact Kristine Waltz at kwaltz@dingeswaltz.com. For more information on the program visit the Wills for Heroes Foundation at www.willsforheroes.org.

** If your estate exceeds approximately $750,000, this service is unavailable to you due to the complexity of your estate and the limited time to complete the legal documents. For determining if your estate is over $750,000, include your cash, personal property, stock and bonds, real estate equity, savings, cash value of a whole/universal life insurance policy only (not the amount of the insurance policy).

PLEASE MAKE SURE THAT YOU ARE AVAILABLE ON THE WILLS DAY FOR YOUR APPOINTMENT. MANY INDIVIDUALS ARE VOLUNTEERING THEIR TIME FOR THIS PROGRAM. NO-SHOWS ARE STRONGLY DISCOURAGED!!
June 2010

New Program—Collaboration Among the Courts, the Law Association, and NPLS

To the Members of the Lycoming Law Association—

The Lycoming County Court of Common Pleas, the Lycoming Law Association, North Penn Legal Services, and STEP, Inc. have collaborated to create a Mortgage Foreclosure Diversion program to help individuals in this county who are facing foreclosure. As we all are aware, this is a problem of epidemic proportion, and while there are programs available to help these individuals, many borrowers are unaware of what is available, and the lenders have not been giving timely decisions to those that do apply for help. The program will provide a mandatory conference with the Courts, the lender, and the defendant. The lender is expected to appear with the authority to settle, if warranted. The defendant will be represented by either NPLS, his or her own private attorney, or a pro bono volunteer.

This Diversion program opens up a new PRO BONO opportunity for members of the Law Association. While any member can volunteer for this program, we are asking those members who have been unable to fulfill their 3-referral commitment, because the type of law they practice is not compatible with the type of cases that NPLS refers, to sign up as a volunteer attorney for this program. While many of you who practice transactional law may not have been directly involved previously in these types of cases, your expertise and experience is more closely related to these issues, and after the benefit of the training that will be offered, you should be a good fit for participation in this project.

The commitment on the part of the pro bono attorney will involve limited representation of defendants in mortgage foreclosure cases. The Court will order the defendant and the lender to attend a mandatory conference for the purpose of settling, by agreement, whether the defendant qualifies for one of the programs or some other option that is deemed appropriate. The pro bono attorney’s involvement will include preparation for that conference and attendance at the conference. It is expected that representation will end at the conclusion of the conference unless the defendant is able to and decides to retain the attorney privately.
As in protection from abuse cases, there will be clients who are over the income guidelines for regular representation by NPLS, but are eligible for this program. NPLS regulations allow for this in special projects when the bar association agrees to accept cases outside the income guidelines and a community need is identified. The Courts, the Law Association and NPLS have determined that this program meets that criteria.

A CLE training for pro bono volunteers will be held on June 24, 2010, over the lunch hour, at the Ross Club. Details will be forthcoming, but we have attached a preliminary outline for that training to this letter.

Please contact Jessica Engel at the LLA Office to indicate your willingness to participate in this program. Your name will be added to the pro bono referral list for the Mortgage Foreclosure Diversion Program at NPLS.

Thank you.

Lycoming County Court of Common Pleas

Lycoming Law Association

North Penn Legal Services
Monroe County Bar Association

Community Outreach Programs:

- Clinic Process Memorandum
- Custody Clinic Relocation Domestic Violence Exception:
  - Memo, Flyer for Public, Training Outline,
- Family Law General Info Seminar Flyer
- Expungement Clinic:
  - Clinic Outline, Clinic Flyer, Ticket, Memo to PD for Volunteers, Volunteers Needed Flyer
- Mock Trial
  - Procedure Outline, Event Tracking Checklist, Solicitation Letter, Invitation, Sample Certificates, Sample Schedule and Program, Score Sheet, Save the Date Invitation, Volunteer Flyer

Contact Information:

Denise Burdge, Executive Director
Monroe County Bar Association
913 Main St, Stroudsburg, PA 18360
Phone: (570) 424-7288
Email: dburdge@monroebar.org
Overview
Monroe County Bar Association (MCBA), in conjunction with North Penn Legal Services (NPLS), provides law specific customer clinics to the community. Areas of legal practice are generally determined on a needs basis, understanding the volume of and types of requests for representation through the pro-bono agency, North Penn Legal Services.

Legal areas may include employment issues such as the need for expungements in order to obtain employment, driver’s license suspensions/appeals, landlord/tenant, consumer credit or custody related issues. Each clinic is generally focused on one specific area of the general legal practice area.

While MCBA will generally host the clinic at the Bar Building, other locations may be used throughout the county based on topic and need.

Partners
North Penn Legal Services:
10 North 10th Street
Stroudsburg, PA 18360
Tel: 877.953.4250

Contacts
Jim Butz 570-424.5338 Ext 2959 jbutz@northpennlegal.org
Nicole Heritage 570-424.5338 Ext 2958 nheritage@northpennlegal.org

Volunteers
MCBA members are recruited to participate in the clinic, as opening presenters, to meet and work and follow-up with clients.
Training is generally offered prior to the event for those attorneys not as experienced in the specific clinic type.

Roles and Responsibilities
NPLS & MCBA
- Determine specific legal practice area of clinic
  - Determine maximum client appointments available within clinic time frame
- Determine date of clinic
- Identify educational needs for volunteers
  - Identify presenters for CLE as needed. Providing a free CLE to participating members may help to increase the number of volunteers
- Determine list of potential volunteers
- Jointly recruit volunteers
- Determine how to handle walk-ins
• Determine how much personal info to gather for:
  o Future advocacy
  o Impact of event
• Provide staff attorney for presentation and or client interviews – if available

MCBA
• Executive Director (ED) will create the Clinic Plan Memo (See Exhibit A), to include:
  o Brief Background
    ▪ Why clinic is needed
    ▪ When clinic will be held
    ▪ Info on any related events (CLE training, non-profit educational session and/or community outreach)
  o Event day agenda
  o Roles & Responsibilities for MCBA and NPLS jointly and each independently
    ▪ Identify possible volunteers
  o List key contacts relevant to specific clinic
  o Plan memo copies to go to:
    ▪ NPLS Attorneys
    ▪ MBCA Staff
    ▪ Pro Bono Chair
• ED will provide MCBA staff with knowledge of program and process
• ED will recruit presenters/trainers if CLE will be offered
  o Remember that CLE needs to be recorded with PACLE no less than 30 days prior to course date
• ED will recruit experts to be on hand to assist less experienced members when there are questions
• Coordinate trainer(s) and training
• Staff will, as assigned:
  o Prepare event flyers - with clinic specific details (See Exhibit B)
    ▪ What, when, where, who etc
  o Collect and enter client data - as calls come in from NPLS after intake process or call MCBA seeking either representation or basic information, entering on Client Log specifically edited/created for the upcoming clinic (See Exhibit C)
    ▪ Last / First / Street / City / Zip / Email /Phone
    ▪ Spread sheet to be created in Shared ➔ Committees and Sections ➔ ProBono with clinic specific title (ie – Custody_Relocation_and_Domestic Violence, Expungement, Landlord/Tenant etc)
  o Provide callers with basic information regarding clinic subject matter, next steps after staff gathers the personal data etc – (to be created: expectation guide) - so that clients understand timing of the process, what steps to take to be prepared for clinic and what we can tell them to insure everyone is prepared
• Communicate client data to NPLS for intake process – daily as new calls are received to insure adequate time for NPLS to contact and qualify clients
- Email to legal services contact (nheritage@northpennlegal.org) up-to-date copy of updated Client Log (See Exhibit C)
- Field clinic questions from clients
- Once NPLS notifies MCBA of clients approval or non-approval, follow-up with qualified clients, providing results and register those qualified by NPLS
- Lead the volunteer recruitment effort by
  - Identifying initial group of potential volunteers
  - Creating and distributing volunteer recruitment flyers (See Exhibit D)
  - Will determine if incentives for volunteers will be offered
    - Free CLE, drawing for 2 tickets to game etc)
  - Pro Bono Committee should help with recruitment
  - Pro Bono Participants – Not all inclusive list but historical participants
    - Mark P
    - Hillary M
    - Syzane A
    - Victoria S
    - Gary S
    - Casey S
    - David M
    - Brandie B
    - Brian J
    - Zac C
    - Janet J
    - Kevin H
    - Barbara Rt
    - Paul K
    - Kathleen W
    - Matt J
    - Leo J
    - Kim F
- Track Volunteers are tracked on the tracking form found in Shared Docs Forms_Letterhead_Graphics_Forms_ProBono_Clinic_Forms_Volunteer_Schedule_Format (See Exhibit E)
- Ask Court Administrator to communicate with judges regarding the upcoming clinic. No specific action requested but support by encouraging volunteers to assist with clinic or have attorneys with leads direct clients to MCBA
- Market for leads (potential clinic attendees)
  - Publicist may assist with marketing campaign for clients, volunteers and relevant community member attendance, at request/direction of ED
    - Employment agencies
    - Rehabilitation centers w/ focus on employment placement
    - Legislative officials and staff members
- Clients
- General Membership
- NPLS
- PD’s or DA’s office – reach out to each and ask for support from their attorneys by informing their clients
- MDJ offices (See Directory)
- Non-profit and government agencies/offices, such as:
  - PATH
  - Family Promise
  - Area Agency on Aging
  - Women’s Resources
  - Pocono Alliance
  - NHS
  - CareerLink
  - United Way
  - Crossroads Community Services
  - Salvation Army
  - Senior Centers
  - Monroe County libraries
  - Housing Authority
  - Churches
  - Legislative offices

- Follow-up w/clients pre-event day
  - Communication should be done by NPLS after intake
    - If needed NPLS should give MCBA a better scope of what to talk about, and MCBA can contact to confirm appointment and remind them what they should bring
- Schedule client appointments, based on volunteers, pre-registration and attendance
- Provide pre-event details to all attorney volunteers, including final schedule, number of attorney volunteers w/ schedules, number of volunteers with day’s assignments
- Set-up rooms, with assignments, MCBA to provide two laptop computers (no charge for space). Laptops must have “HotDocs” preloaded or NPLS will need to sign into their software
  - 3-4 client meeting rooms available
  - Have MCBA WiFi available w/password
  - Printer(s) available – need to have IT vendor available for set up or process in place to email required documents to MCBA staff for printing
- Prepare folders for attorneys – one folder per client
  - Client – Last Name, First Name
  - Supporting documentation if any
  - Client Info Sheet – complete basic info client info for attorney’s use during one-to-one meeting (See Exhibit ‘F’)
- Facilitate event day registration
- Provide welcome (Pro-Bono Chair, NPLS Rep, ED)
  - Review basic housekeeping rules
  - Overview of intake process, days agenda, and next steps for those that start the process
  - General information regarding the legal situation/topic for clinic
    - Setup snacks, move clients from room to room, direct them to the professionals
- Prepare a post-event survey for attendance, volunteers etc - paper and Survey Monkey depending on audience
NPLS

- Provide NPLS staff with program and process
- Provide NPLS staff with talking script as needed
- Provide staff attorneys for presentations and or client interviews (need to bring laptops)
- Intake process for all clients as referred by MCBA or other source
- Intake process for any direct call clients for possible attendance at clinic
- Promptly forward qualified clients to MCBA for registration purposes
- Intake Process should take priority. Dedicate time and people to the project. The MCBA funded NPLS support staff and attorney should allocate time to these events
- Determine method of communication for collection of fees – court fees and PA state police background check fee
- Assist with recruitment of attorney volunteers
- Create a one page ‘cheat sheet’ for use by volunteers, remembering that volunteers are not always experts in the specific legal matters of the clinic
- Provide ‘Limited Entry Representation’ documents/letters for volunteers to provide to clients
- After event follow-up on all clients working thru the process, including progress and results, court dates etc

Key Contacts

<table>
<thead>
<tr>
<th></th>
<th>Phone Number</th>
<th>Email Address</th>
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</thead>
<tbody>
<tr>
<td>NPLS – General Number</td>
<td>877.953.4250</td>
<td></td>
</tr>
<tr>
<td>NPLS – Nicole Heritage</td>
<td>570.704.2958</td>
<td><a href="mailto:nheritage@northpennlegal.org">nheritage@northpennlegal.org</a></td>
</tr>
<tr>
<td>NPLS – CiCi Stafiuc</td>
<td></td>
<td><a href="mailto:cstafiuc@northpennlegal.org">cstafiuc@northpennlegal.org</a></td>
</tr>
<tr>
<td>CareerLink – Debbie Harrison</td>
<td>570.620.2850</td>
<td><a href="mailto:dahmcc1@ptd.net">dahmcc1@ptd.net</a></td>
</tr>
<tr>
<td>UUPLAN – Gloria Finch</td>
<td>570.643.6961</td>
<td><a href="mailto:gfinch@ptd.net">gfinch@ptd.net</a></td>
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<td><a href="mailto:dburdge@monroebar.org">dburdge@monroebar.org</a></td>
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<td>215.995.1230</td>
<td><a href="mailto:Mikelee215@gmail.org">Mikelee215@gmail.org</a></td>
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MEMO

To: Caitlin Humphreys, Esquire – North Penn Legal Services (NPLS) Stroudsburg
David Martino, Esquire - MCBA Pro-Bono Committee Chair
Victoria Coyle, Esquire - NPLS Executive Director
Ashley Narwid - MCBA Event Coordinator
Marsha Grier - MCBA Journal Coordinator

From: Denise M. Burdge, MCBA Executive Director

Date: March 3, 2017

Re: Plan for Custody Clinic – Relocation and Domestic Violence Exception, March 31, 2017

Brief Background

Based on NPLS client needs, NPLS and MCBA will be offering a clinic specifically on the Custody – Relocation and the Domestic Violence Exception.

The will be held on Friday, March 31, 2017, at the Monroe County Bar Association building.

The goal is to bring clients together to assist them in understanding the custody and relocation process in Monroe County.

The clinic will be preceeded by two separate events: 1) A discussion at Women’s Resources of Monroe County with their clients and staff. Attorneys Mary Louise Parker, Victoria Strunk and Caitlin Humphreys host an open discussion on divorce, custody and child support on March 8, 2017. It is expected that some of the attendees will participate in the clinic.
2) A CLE will be offered to MCBA members and non-members on March 28, 2017. The lunch and learn format will provide for 1.5 credits for all attendees. The first five to register and volunteer at the clinic will attend the CLE for free. The CLE will focus on Relocation and the Domestic Violence Exception only.

Event Day Agenda

Day’s Overview –
9:00 – 9:15 Volunteer orientatin
9:15 – 9:45 Client sign-in (Prequalified thru NPLS Intake)
9:30 – 10:15 Client Meeting – Overview of Relocation and Domestic Violence
Exception rules in Monroe County
10:15 – 12:30 Client & Attorney Appointments– Overview of process, paperwork
and individual questions

Roles & Responsibilities –

MCBA –
- Provide MCBA staff with knowledge of program and process
- Prepare event flyers
- Field clinic questions from clients
- Collect client data for NPLS intake process
  - Custody inquiries- may qualify for NPLS
  - Shared>Committees and Sections>ProBono>
    Custody Clinic>Custody Client Log
    ▪ Enter data in columns
      - Last / First / Street / City / Zip / Email /Phone
  - Daily communicate client data to NPLS for intake process
    ▪ Email to Caitlin @ chumphreys@northpennlegal.org
- Provide NPLS with script outline
- When approval received from NPLS, call client – explain overview of the agenda
  for the day, confirm availability and record info if attending
- Follow-up w/ clients pre-event day
  - Call all the pre-registered clients between Wednesday and Thursday,
    March 29th and 30th
- Will determine if incentives will be offered – ie free training L&L for
  participating as volunteer
- Will ask Court Administrator, if we can have support from the judges in seeking
  volunteers
- Recruit attorney volunteers (may need to bring personal laptops)
  - Create flyer seeking volunteers
  - Create list of potential volunteers to support clinic & contact same
    ▪ Call individuals who may do child custody

<table>
<thead>
<tr>
<th>Mark Primrose</th>
<th>Erik Conrad</th>
<th>Jason Leon</th>
<th>Victoria Strunk</th>
</tr>
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<tr>
<td>Michelle Farley</td>
<td>Holly Conway</td>
<td>David Martino</td>
<td>Thomas Sundmaker</td>
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<td>Kathryn Palladino</td>
<td>John Dewitsky</td>
<td>Kevin McAliney</td>
<td>Kathleen Walters</td>
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<td>Barry Cohen</td>
<td>Lara Kash</td>
<td>Mary Louise Parker</td>
<td>Elizabeth Bensinger Weekes</td>
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<td>Craig Bluestein</td>
<td>Jeff Kash</td>
<td>Kim Fedrigh</td>
<td>Barbara Reinhart</td>
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<tr>
<td>Maria Candeleria</td>
<td>Brandie Belanger</td>
<td>Megan Reaser</td>
<td>Brett Riegel</td>
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- Call individuals who regularly volunteer or may for this event

<table>
<thead>
<tr>
<th>Syzane Arifaj</th>
<th>Kevin Hardy</th>
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<tr>
<td>Gary Saylor</td>
<td>Steve Krawitz</td>
</tr>
<tr>
<td>Andrea Di Dio</td>
<td>Casey Schweppenheiser</td>
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</tbody>
</table>
• Schedule client appointments, based on volunteers, pre-registration and attendance
• Coordinate trainer(s) and training
• Set-up rooms, with assignments, provide two laptop computers (no charge for space)
  o 3-4 client meeting rooms available
  o WiFi available w/ password
  o Printer(s) available – need to have IT vendor available for set up or process in place to email required documents to MCBA staff for printing
• Facilitate event day registration
• Provide welcome
  o Basic housekeeping rules
  o Overview of intake process, for the day, and next steps for those that start the process
• Prepare a post-event survey for attendance, volunteers etc. Paper and Survey Monkey depending on audience
• Provide pre-event details to all participants, including final schedule, number of attorney volunteers w/ schedules, number of volunteers with day’s assignments
• Publicist to assist with marketing campaign for clients, volunteers and relevant community member attendance
  o Non-profits with possible eligible clients – Family Promise, Women’s Resources, PATH
  o Clients

NPLS –
• Provide NPLS staff with program and process
• Provide staff attorneys for presentations and or client interviews (need to bring laptops)
• Intake process for all clients as referred by MCBA or other source
• Intake process for any direct call clients for possible attendance at Custody Clinic
• Forward qualified clients to MCBA to provide follow-up
  o Include phone number of charges client seeking to meeting
• Assist with recruitment of attorney volunteers
• Create a one page ‘cheat sheet’ for use by volunteers
• After event follow-up on all clients working thru custody process, including progress and results, court dates etc
• Provide limited representation letters for volunteers

MCBA and NPLS jointly –
• How to handle walk-ins
• Determine how much personal info to gather for
  o Future advocacy
  o Impact of event
## Key Contacts

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Relocation Domestic Violence Custody Clinic

March 31, 2017

Client sign-in 9:15-9:30 am
‘Relocation & the Domestic Violence’ Presentation 9:30-10:15 am
10:15 am – 12:15 pm Client and Attorney Consultations
(30 minutes appointments to be determined based on actual attendance)

Where: Monroe County Bar Association
913 Main Street, Stroudsburg

PREQUALIFICATION REQUIRED
PREREGISTRATION REQUIRED
Call 570.424.7288 for more Info

No walk-ins allowed
Preregistration must be made by phone
Space is limited and may be limited to pre-qualified individuals only
Due to the sensitive nature of the clinic, no children allowed at the clinic

- You must be a Monroe County resident with income below 125% of the poverty level to participate.
- Services of the attorneys are free of charge to qualified individuals.
- An attorney will advise you of steps required for you to take for the Monroe County Courts to consider your petition to relocate. The attorney cannot guarantee your request will be approved. Unless approved by North Penn Legal Services, the attorney will not be representing you in court.

SPONSORED BY
MONROE COUNTY BAR ASSOCIATION
LUNCH AND LEARN
PRESENTS
Custody – Relocation and the Domestic Violence Exception
Panel Discussion

Daniel M. Corveleyn, Esq.
Custody Conciliator &
Divorce Master for Monroe County

Hillary A. Madden, Esq.
Custody Conciliator for Monroe County

Victoria A. Strunk, Esq.
Amori and Associates, LLC

Caitlin M Humphreys, Esq.
North Penn Legal Services

Tuesday, March 28, 2017
11:30 am Lunch
12:00 – 1:30 pm CLE

Members: $35.00
YLD Members: $30.00
Non-Member Cost: $40.00

MCBA and NPLS will be holding a clinic for qualified clients on Friday, March 31st.
If you are interested in volunteering, please call Denise @ 570.424.7288.
The first five to volunteer are invited to attend the CLE program for free.

In accordance to the Event Payment Policy: If you reserve a seat and do not attend
you will be charged for the full amount of the CLE

ALL RSVP'S VIA PHONE, EMAIL OR WEBSITE WILL BE INVOICED

Monroe County Bar Association
913 Main Street
Stroudsburg PA 18360

**All attorneys present for entire seminar will receive 1.5 Substantive CLE credits**

RSVP by Friday, March 24, 2017
info2@monroebar.org ● 570.424.7288 ● Courthouse Box

Custody – Relocation and the Domestic Violence Exception
Tuesday, March 28, 2017

In accordance to the Event Payment Policy: If you reserve a seat and do not attend you will be charge for the full amount of the CLE

Name: ____________________________________________
Telephone: __________________________________________
Email: ____________________________________________

*If you have special dietary requirements, please contact a staff member of the MCBA*
I. Issues at Custody Conferences Regarding Relocation

A. Custodial parent relocates and non-custodial parent files petition objecting to the relocation. Custodial parent states non-custodial originally gave consent

B. Custodial parent relocates and claims either physical and/or mental abuse on the part of the non-custodial parent as basis for relocating

C. One parent moves out of state with the children immediately after the parties separate before a custody action is filed

2. Topics at Custody Conferences Regarding Relocation

A. Best interest of child

B. Trying to maintain contact and visits with the non-custodial parent while the parties await a relocation hearing

C. Assessing what type of evaluations are necessary for the Court to determine whether relocation is appropriate
   i. More so important in cases where there is no prior custody Order and the Court would essentially be determining which party should have primary physical custody of the child at the time of the relocation hearing

D. Temporary PFA Orders filed in foreign jurisdictions which are the result of ex parte communication between the petitioner and the Court.
   i. What effect should that temporary PFA have on custody
   ii. What effect should the temporary PFA have in determining how visits should occur, if at all, while the parties wait for a relocation hearing

E. Final PFA Orders either in Monroe County or in foreign jurisdiction
   i. Was the PFA entered into by the parties by agreement with no admission?
   ii. If not, was the non-custodial parent present for the hearing?
   iii. If there was a hearing, what is the length of the PFA and who is protected under the PFA?
MONROE COUNTY BAR ASSOCIATION
LUNCH AND LEARN

CUSTODY – RELOCATION AND THE DOMESTIC VIOLENCE EXCEPTION

Daniel M. Corveleyn, Esquire
Custody Conciliator

I. Authority of Conciliator to Recommend Relocation.

A. No authority to recommend relocation of the child, even after a conciliation conference with the parties is held.

B. Court shall hold an expedited full hearing on the proposed relocation after the non-custodial party files a timely objection. (23 Pa. C.S.A. §5337(g))

C. The Court shall consider factors in determining whether to grant a proposed relocation. (23 Pa. C.S.A. §5337(h))

D. Conciliation Conference – issue of relocation

   1. Best interests of the child.
   2. Reasons for relocation.
   3. Discussions between the parties prior to the intended relocation, or actual relocation of the child.
      - Agreement of the parties for relocation.
   4. Residence and living environment of the child for proposed relocation.
   5. Reasons for objection of non-custodial parent to relocation.
   6. Recommend hearing before the Court prior to actual relocation.
   7. Recommend return of child to Monroe County, Pennsylvania after custodial parent has relocated the child over objection of non-custodial parent.

E. Affect of Protection From Abuse Order on relocation.

   1. Protected party in Order is custodial parent only.
   2. Child is also protected party in Order.
   3. PFA Order issued temporarily by foreign jurisdiction (state where custodial parent has already relocated the child).
   4. Mitigation – failure to provide reasonable notice subject to mitigation if Court determines that such failure was caused in whole, or in part, by abuse. (23 Pa. C.S.A. §5337(k))
“Family Law”

Custody, Child Support and Divorce

General information regarding custody, child support and divorce in Monroe County as well as resources available through North Penn Legal Services and the Monroe County Bar Association.

A GENERAL DISCUSSION
presented by
North Penn Legal Services
and
Monroe County Bar Association

Presenters

Mary Louise Parker, Esquire
Mary Louise Parker, Esquire & Associates

Victoria Strunk, Esquire
Amori and Associates, LLC

Caitlin Humphreys, Esquire
North Penn Legal Services

Wednesday, March 8, 2017

Event Location:

Women’s Resources of Monroe County
225 J Wilson Drive
Delaware Water Gap, PA 18327

Please rsvp to Jami Kessler at 570.424.2093
MEMO

To: Caitlin Humphreys, Esquire – North Penn Legal Services (NPLS) Stroudsburg
Scott Williams, Esquire – NPLS Bethlehem
Michael Lee, Esquire – Philadelphia Lawyers for Social Equity
Gloria Finch – Unitarian Universalist Pennsylvania/Legislative Advocacy Network
Deborah Harrison, PA CareerLink – Monroe County
Susan Lyons, Library Director – Eastern Monroe Public Library
Mark Primrose, MCBA Pro-Bono Committee Chair
Victoria Coyle, Esq. and NPLS Executive Director

From: Denise M. Burdge, MCBA Executive Director

Date: September 9, 2016

Re: Expungement Clinic Update

Brief Background
MCBA was approached in the spring of 2016 to assist with an Expungement Clinic to be offered to the public in the fall of 2016. This was a result of law changes taking affect in November of 2016. The brief goal was to bring clients together to assist them in clearing their criminal records when possible, providing them with better employment opportunities in the future.

Originally the event was planned for Saturday, October 8, 2016. After much discussion, it was decided to move the clinic to Friday, October 14, 2016. The key reasons for the move:

- Limited bus routes for clients
- Difficulty in obtaining lawyer volunteers with limited support staff
- Client ability to attend without distraction

From Careerlink – expungement clinics in the past were held during the week to accommodate the population needing bus transportation, approximately 50% didn’t show even with appointments due to other issues, and adults with children were more like to be able to attend without their children.
From NPLS – in addition to the above comments from CareerLink, the number of active volunteers working with NPLS is low. If support from NPLS staff is needed, funding does not allow for Saturday hours.

From MCBA – support staff available to help with registration, room set-up, basic logistics, recruiting volunteers.

All are in agreement that our community demographics don’t lean to a community educational program to build awareness at this time. Should this event succeed and exceed our expectations, then a community awareness program or campaign may be advantageous. As a rural county, there are not many specific pockets of areas with disadvantaged residents that are well documented.

**Plan Outline**

**Day’s Overview –**
- 9:00 – 9:15 Volunteer and Limited Public Officials Registration
- 9:15 – 9:45 Volunteer and Limited Public Officials Orientation / Training
- 9:30 – 9:45 Client Registration (Prequalified thru NPLS Intake)
- 9:45 – 10:00 Client Meeting – Overview of Expungement Rules & Process
- 10:00 – 11:00 Client Meeting – Overview of Pardon process for those not qualified for Expungement
- 10:00 – 2:00 Client & Attorney appointments, Expungement Process First Steps & Expungement Question/Answers, Voting Rights/Registration

**Roles & Responsibilities –**

**MCBA –**
- Provide MCBA staff with knowledge of program and process
- Prepare event flyers, entry tickets
- Field clinic questions from clients
- Collect client data for NPLS intake process
  - Expungement inquiries- may qualify for NPLS
  - Shared>Committees and Sections>ProBono>Expungement Clinic>Expungement Clients
    - Enter data in columns
    - Last / First / Street / City / Zip / Email / Phone
  - Communicate client data to NPLS for intake process
    - Email to Caitlin @ chumphreys@northpennlegal.org
- Provide NPLS with script outline
- Forward qualified clients entry tickets – limited 25
  - When approval received from NPLS, call client and mail ticket
- Follow-up w/ clients pre-event day
  - Call all the pre-registered clients between Wednesday and Thursday, October 12 & 13
- Will determine if incentives will be offered
• Will ask Court Administrator, Renee Danser, if she can seek support from the judges in seeking volunteers
• Recruit attorney volunteers (need to bring personal laptops)
  o Create flyer seeking volunteers
  o Create list of potential volunteers to support clinic & contact same
    ▪ Contact PD’s department – Jim Gregor (570.517.3325) for PD’s support and/or referrals
    ▪ Call individuals who may do expungements
      • Jim Gregor – will circulate with PDs
        o Full time –
          ▪ James Gregor
          ▪ Chandra Bleice
          ▪ Eric Closs
          ▪ Frederick Cutaio
          ▪ Jason LaBar
          ▪ Robin Spishock
          ▪ Nicolle Wilkinson
        o Part-time
          ▪ Jason Leon
          ▪ David Skutnik
          ▪ Bill Watkins
• David Christine – DB will memo requesting support, currently on vacation
  o Full time –
    ▪ David Christine
    ▪ Matt Bernal
    ▪ Kim Butz Metzgar
    ▪ Julianne Fry
    ▪ Michael Mancuso
    ▪ Mark Matthews
    ▪ Mike Rakaczewski
  o Part-time
    ▪ Andrew Kroeckel
    ▪ David Marra
    ▪ Chad Martinez
    ▪ Curtis Rogers
    ▪ Catherine Pirolli
    ▪ Christy Schlotmann

• Mark Primrose
• Lara Kash
• Brandie Belanger
• Paul Kramer
• Kathleen Walters
• Brian Jordan
• Syzane Arifaj
• Victoria Strunk
• Zak Christman
• Matt Jinx
• Leo Jackson
• Janet Jackson

• Schedule client appointments, based on volunteers, pre-registration and attendance
• Coordinate trainer(s) and training
• Set-up rooms, with assignments, provide two laptop computers (no charge for space)
  o 3-4 client meeting rooms available
  o WiFi available w/ password
  o Printer(s) available – need to have IT vendor available for set up or process in place to email required documents to MCBA staff for printing
• Facilitate event day registration
• Provide welcome
  o Basic housekeeping rules
  o Overview of intake process, for the day, and next steps for those that start the process
• Prepare a post-event survey for attendance, volunteers etc. Paper and Survey Monkey depending on audience
• Provide pre-event details to all participants, including final schedule, number of attorney volunteers w/ schedules, number of volunteers with day’s assignments
• Publicist to assist with marketing campaign for clients, volunteers and relevant community member attendance
  o Employment agencies
  o Rehabilitation centers w/ focus on employment placement
  o Legislative officials and staff members
  o Clients

NPLS –
• Provide NPLS staff with program and process
• Provide staff attorneys for presentations and or client interviews (need to bring personal laptops)
• Intake process for all clients as referred by MCBA or other source
• Intake process for any direct call clients for possible attendance at Expungement Clinic
• Forward qualified clients to MCBA to distribute entry tickets – limited to 25
  o Include number of charges client seeking to expunge
• Determine method of communication for collection of fees – court fees and PA state police background check fee
• Assist with recruitment of attorney volunteers
• Create a one page ‘cheat sheet’ for use by volunteers
• After event follow-up on all clients working thru expungement process, including progress and results, court dates etc
• Provide limited representation letters for volunteers
• Determine crime related eligibility
• Present Pardon Process
  o Create/Provide flyer with instruction for clients

MCBA and NPLS jointly –
• How to handle walk-ins
• Determine how much personal info to gather for
  o Future advocacy
  o Impact of event

Philadelphia Lawyers for Social Equity –
• Provide staff attorney for presentation and or client interviews – If available

CareerLink –
• Direct recruitment of possible attendees to MCBA for pre-registration process
• Distribute marketing materials to clients

Unitarian Universalist Pennsylvania/Legislative Advocacy Network –
• Assist with marketing, distributing to contacts
• Assist with registration
• Provide voter registration table, man same
• Provide light snacks, drinks
• Invite local state legislatures to attend orientation (pre-registration required)

Key Contacts

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Is your Criminal Record a barrier to employment and housing? We may be able to help!

JOIN OUR

Expungement Clinic
for Formerly Incarcerated Citizens

October 14, 2016 – 9:00 am to 3:00 pm

Where: Monroe County Bar Association
913 Main Street, Stroudsburg

PREREGISTRATION REQUIRED: 570.424.7288
No walk-ins allowed. Preregistration must be made by phone. Space is limited and may be limited to pre-qualified individuals only.

- You must be a Monroe County resident with income below 125% of the poverty level to participate.
- Services of the attorneys are free of charge to qualified individuals.
- An attorney will advise you whether any of the charges may be eligible for expungement. You may then be assigned to a lawyer who may be able to help you with the expungement process.

IMPORTANT: Only some criminal records are eligible to be expunged. You can get more information about this by attending the clinic.

SPONSORED BY
MEMO

To: James Gregor, Chief Public Defender
From: Denise M. Burdge, ED
Date: September 26, 2016
Re: Expungement Clinic

Jim

Thank you for speaking with me the other day about the upcoming Expungement Clinic offered by North Penn Legal Services and MCBA.

Any help you and your team of Public Defenders can give us will be greatly appreciated. We welcome all who want to help! And, no experience is needed since we will have experts here to work with the volunteers whenever needed.

I’m providing the flyer as well – snacks and beverages will be available all day. Those working over lunch will also receive lunch.

On behalf of the MCBA Pro-Bono Committee, North Penn Legal Services, and the clients thank you for your consideration.

D
Bring this Ticket along for admission to the Monroe County Expungement Clinic Presentation by North Penn Legal Services & Monroe County Bar Association

Location: 913 Main Street
Date: October 14, 2016
Time: 9:30 am

**LATE ARRIVALS WILL NOT BE ADMITTED**

Admit One
WE NEED YOUR HELP!

NPLS & MCBA
SEEKING VOLUNTEERS FOR OUR

EXPUNGEMENT CLINIC

Assisting clients who are struggling
with employment and housing issues

Friday, October 14, 2016
9:00 am to 3:00 pm

Monroe County Bar Center
Orientation 9:15-9:45 – Update on laws, documentation
No Expungement Experience Necessary
All invited to participate – Experts available all day!

Call 570.424.7288 or email info2@monroebar.org
for shift availability

Snacks, tea, coffee and such will be available all day. Volunteering all day – we’ll have lunch too!
MONROE COUNTY BAR ASSOCIATION
Mock Trials Procedure
Invitational
Revised January 15, 2019
(Timelines should be adjusted based on event date)

CHAIR(S)
Update Annually

OVERVIEW:
The Mock Trial Invitational is designed to allow high schools practice their skills for the District, Regional and National Mock Trial Competition held annually in the late winter through spring.

The Mock Trial Invitational is held the Saturday before Thanksgiving. Location varies between the Monroe County high schools.

The Invitational is different from District and Regional Competitions in that MCBA writes the problem (ie case fact) and schools from northeastern PA and the Lehigh Valley are invited to compete. District and Regionals are in our zone only, as determined by PBA, and MCBA awards small cash prizes to the top three winners to fund their school Mock Trial program.

Internal Event Lead should use this process in conjunction with the Mock Trial Invitational Checklist. (Exhibit ‘A’)

COMPETITION DATE AND LOCATION:

Fall of Prior Year (ie - September of 2018, confirm 2019 competition date) w/ Chair

Confirm date - the Saturday before Thanksgiving, with date set in the preceding year.

List on all MCBA calendars, as ‘SAVE the DATE’ until the location is confirmed. See Website Process for instructions.

Location is done on a rotating basis through all high schools located in Monroe County. Should a school not respond within a pre-determined amount of time from when request to host is issued, move to the next on the list. Below is the tentative rotation:

Rotate the host schools – tentative schedule:

2015-East Stroudsburg South
2016-Stroudsburg
2017-Pocono Mountain West
2018-Pocono Mountain East
2019-Pleasant Valley
2020-Notre Dame
2021-East Stroudsburg South
2022-Stroudsburg
2023-Pocono Mountain West
Spring/Summer of Competition Year

Host School - Contact/email the tentative host school in late spring (April/May) before school is out for summer:

- Provide overview details for the teacher advisor to obtain approval from school using info from the standard host school letter (Mock Trial Host Ltr Template)
- Once teacher has provided verbal or written approval the formal letter as indicated below should be updated. Letter can be found: Shared Docs → Mock_Trial → Invitational_Competition → Mock_Trial_Templates_Forms → Mock_Trial_Host_Ltr_Template – Exhibit ‘B’
  o Send written confirmation with instruction information
    ▪ Letter to school should be mailed by June 1st
    ▪ Confirmation of approval of host school should be received by September, if not before by EC reconfirming by email with host school’s teacher advisor
- Follow-up email with final details to be emailed by November 1st to the 7th depending on competition date, cc’ing ED

In email to host school, include:
  o Event day instructions
  o Number of “courtrooms” needed, estimate need
    (2018 record breaking year with 18 teams pre-registered resulting in the need for 9 rooms)
  o Number of “prep rooms” needed, estimate need
    Schools with multiple teams are assigned only one room
    *Schools with multiple teams must have enough teacher or attorney advisors on hand so that each courtroom has a teacher or attorney advisor. MCBA staff and volunteers are not to act as chaperons for any of the students
  o Work room with a copier, remember to get access codes to copier
  o Room for Committee Chair(s), with the copier either in the same room or at least fairly close
  o Room for all MCBA volunteers to gather for prep meeting and lunches
  o Access to cafeteria/kitchen/coolers
    i. Note – some schools outsource cafeteria workers so MCBA may not have access to basic utensils. Staff should bring everything that may be needed.
  o Student volunteers to help with traffic, etc.

PROBLEM / FACT PATTERN

May - July - Schedule 1st Mock Trial Committee Meeting

- Old cases written by MCBA are saved: Mock Trial → Invitational → Mock Trial Problems. Case Fact Patterns can be shared with any bar association.
  Additional problems are listed in the event year
- Once case fact pattern is written, put it together in one pdf & add to website:
  o Case fact pattern will be added to the MCBA website, under Public Resources – 20XX Mock Trials Invitational Case Fact. See “Website Process”.
  o Committee should be putting the case in order. If staff does, best attempt is satisfactory.
- Deliver problem and supporting info to schools no later than September 30th
Send an email to schools on the invitation list indicating the case fact is a link on the website. Most school emails block the fact pattern due to some words used in cases. Provide link in email. Example communication:

Good Morning!

We are happy to invite you and your team to this year’s Mock Trial Invitational!

This year’s competition will take place on Saturday, **November 17th, 2018** at **Pocono Mountain East High School**. Please view the attached invitation to register!

This year’s problem and case materials can be found online on [www.monroebar.org](http://www.monroebar.org) under “Public Resources”, titled “**2018 Mock Trial Invitational Case Fact**”.

Click the file name to view the case: [Commonwealth of Pennsylvania vs Skylar Wallace](http://example.com).

Additionally, the roster form must be completed and returned to me by November X, 20XX. Please Note: If you have multiple teams do not use Team A, Team B, Team 1, Team 2 or similar naming patterns. Colors or other such identifier is acceptable just letters or numbers.

If you have any questions please call 570.424.7288 or email at info2@monroebar.org.

We look forward to a great turn-out this year, and good luck to you and your team!

Sincerely,

(EC)

**Participating School – Additional Info:**

- Email each school “Rules of Etiquette”, School Registration Form and Team Roster form with the email as above. Shared Docs ➔ Mock_Trial ➔ Rules_of_Etiquette Exhibit ‘C’
  - o Copies of the rules will go in each schools envelop/folder as well on event day.

**Member participation recruitment – Members, judges, surrounding bar associations, MDJs**

- Monroe County Judges
- Monroe County MDJs
  - o Paul Menditto -Pike volunteers: paul.menditto@gmail.com
- Surrounding Judges: Pike, Wayne, Carbon, Lackawanna, Luzerne

**September / October:**

- Update Mock Trial Forms Exhibit ‘D’ – shows MCBA created forms. Most forms are modified versions of the PBA forms for consistency unless created for Invitational only. PBA forms can be found on the PBA’s website
  - o Shared docs ➔ Mock_Trial ➔ Mock Trial Invitational
  - Team Roster Actor/Actress Roles
    - o Include competition date & due date to MCBA
- Contact schools providing them with competition information – forms can be found Shared Docs ➔ Mock_Trial ➔ Invitational_Competition ➔ Mock_Trial_Templates_Forms ➔ School_Invitation_to_Participate_Form

Schools include (Use contact info as provided by PBA staff coordinator Maria Engles)

- All Region 10 District 2 (Carbon, Monroe, Pike)
- Hazleton
- MMI
- Region 10 District 1 (Bradford, Lackawanna, Sullivan, Susquehanna, Wayne, Wyoming) if time allows
Northampton, Lehigh, Luzerne schools **if time allows**

Team registration forms includes estimated number of participating students, advisors and number of teams – need at least 2 to 3 weeks prior to insure adequate space at host school.

- When doing head count for food/drinks allow an additional ten (10) for bus drivers and ten (10) for parents in addition to students, advisors, volunteers and MCBA staff.

- Order mock trial trophies – D Gordon usually will take care of this – just confirm with ABC trophy, should be in MCBA hands approximately two weeks prior
  - Inventory trophies current on site in storage. Old trophies in the attic that can be matched and/or modified for the current year.
  - Order and/or modify to bring trophies up to:
    - Best Witness – 1st, 2nd, 3rd male or female plus 3 ‘honorable mention’
    - Best Attorney – 1st, 2nd, 3rd male or female plus 3 ‘honorable mention’
    - Team trophies: 1st, 2nd, 3rd PLUS the winning team takes the traveling trophy for the year, bringing it back the following year
  - Winning team will need to get the plaque on the traveling trophy engraved prior to bringing it back to the next competition

**FORMS:**

- Create new/modify last year’s 1st, 2nd and 3rd place award certificates. These will be updated with winning team names and mailed with winnings (check) after event – Exhibit ‘D’
  - Saved under Shared Docs ➔ Mock Trial ➔ Forms ➔ 1st Place Invitational Cert, 2nd Place Invitational Cert & 3rd Place Invitational Cert
  - Update date, chair and any other relevant information leaving school blank until after the competition. Certificate will be mailed with check.
  - Top 3 winners receive cash prize as well –
    - 1st place = $300; 2nd place = $200; 3rd place = $100

- Update Program
  - Shared Docs ➔ Events and Programs ➔ Mock Trial ➔ Mock Trial Invitational
  - Program will be updated periodically as information becomes available. Should be finalized Monday prior to competition and printed.

**Forms – Usage / Distribution**

*Should be reviewed annually against PBA forms so volunteers and students are familiar with prior to district competition*

<table>
<thead>
<tr>
<th>Name</th>
<th>Usage</th>
<th>Period Updates</th>
<th>Distribution</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agenda</td>
<td>Invitational</td>
<td>Review annually</td>
<td>Chairs, Staff, Volunteers, Teams</td>
<td>Total of Distribution</td>
</tr>
<tr>
<td>Best Witness &amp; Attorney</td>
<td>Invitational</td>
<td>Review annually</td>
<td>Courtrooms</td>
<td>Total number of competitions</td>
</tr>
<tr>
<td>Code of Ethical Conduct</td>
<td>All</td>
<td>Review annually</td>
<td>@ PBA</td>
<td>Total number of teams</td>
</tr>
<tr>
<td>Competition Schedule</td>
<td>All</td>
<td>Review annually</td>
<td>Chairs, Staff, Teams</td>
<td>Total number of competitions</td>
</tr>
</tbody>
</table>

**Chairs will match up teams for each round, and distribute to the schools. No school names will be listed,**
<table>
<thead>
<tr>
<th>only codes from “School Codes”</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Directional Arrows &amp; Signs</strong></td>
</tr>
<tr>
<td><strong>Letters / Numbers</strong></td>
</tr>
</tbody>
</table>

Staff will cut, teams will draw, and chairs will take these letters/numbers and record against corresponding schools (School Codes). This allows schools to remain anonymous to courtroom volunteers.

| Rosters | All | Review annually | Teams prior to event and day/night of event | Total number of competitions X 2 |
| School Codes | Track schools | Review annually | Chairs | 1 sheet per event day |

*Chairs assign a letter or number to each team, which will be used to match competitors for each round.*

| School Maps | All | Update based on competition locations | Chairs, Staff, Volunteers, Teams | Total of Distribution |
| Scoring & Comment Sheets (Carbon’d) | Courtroom Volunteers | Review annually using PBA’s format | Courtrooms | Total number of competitions X 4 |
| Scoring Sheets Recap per Round | Chairs | Review annually | Chairs | 1 sheet per event |

*Chairs use to track each competition results. Teams are ID’d with School Name and assigned code.* Each competition column includes “L” for loss or “W” for win; number of ballots turned in by volunteers with winning team number of wins per that competition won*; Total average points per team; if tied, tie is broken by which team Defense or Prosecution is circled.

* 2 Judges in courtroom; count number of wins and that goes on the sheet – See EXHIBIT ??

| Time Keeper Tally – Students | Courtroom Student time keepers | Review annually | Courtrooms | Total number of competitions X 4 |
| Time Keeper Tally – Bailiff | Courtroom Volunteer time keepers | Review annually | Courtrooms | Total number of competitions X 4 |
| Time Numbers | Courtrooms | Review annually Max 20 & 25 minutes | Courtrooms | Total number of competitions X 3 |

| Trial Results | Chairs | Review Annually | Chairs | 1 which will be copied to total 4 (staff taking pictures and staff for retention) |

*Chairs tally results of courtroom volunteer nominations. Students in order of most votes are logged and trophies provided to top 3 plus 3 to 7 honorable mentions for best witness & lawyer.*

*Trophies are provided to top three teams, with first place receiving traveling trophy as well.*
BINDERS Exhibit ‘E’:
Update or create binders for Chairs, Staff and Courtrooms
(Dividers with tabs are names in **bold**)

- **Chair(s)** – One binder per chair
  - **School Map** w/ Prep and Courtrooms assigned and identified
    - One prep room per school regardless of number of teams and students
  - **Schedule of Events**
  - **Rules of Etiquette**
  - **Participation list** including: County, Region & District, School, City/State/Zip, # of Teams, # of Students, Add’l people, Roster Rec’d, Teach Coach, Teacher’s Email, School Phone, Attorney Advisor
  - **Registrations**
  - **Problem – Case Fact Pattern**
  - **School Codes**
  - **Competition Results** – to track scores and winners/losers
  - **Letters & Numbers** - schools to pick or be assigned by chairs to insure teams and judges/scores don’t know which schools are in their courtroom during competition
  - **Rules of Competition**
  - **Rules of Evidence**
  - **Guidelines for Judges/Scorekeepers**
  - **Guidelines for Attorney Advisors**
  - **Tie Breaker Rules**

- **Event Coordinator (Staff) & Executive Director (Staff)**
  - **School Map** w/ Prep and Courtrooms identified
    - One prep room per school regardless of number of teams and students
  - **Schedule of Events**
  - **Rules of Etiquette**
  - **Participation list** including: County, Region & District, School, City/State/Zip, # of Teams, # of Students, Add’l people, Roster Rec’d, Teach Coach, Teacher’s Email, School Phone, Attorney Advisor
  - **Host School** info includes:
    - Insurance certificate – s/b sent to host school’s teacher advisor
    - Memo to host school’s teacher advisor requesting use of school (s/b from EC) Shared Docs
    - Letter to host school’s teacher advisor providing more specific details
  - **Registrations**
  - **Problem – Case Fact Pattern**
  - **Rules of Competition**
  - **Rules of Evidence**
  - **Guidelines for Judges/Scorekeepers**
  - **Guidelines for Attorney Advisors**
  - **Tie Breaker Rules**
- Time counting sheets

- Courtrooms Judges & Scorers – One binder per courtroom
  - Problem – Case Fact Patter
  - Score Sheets
  - Best Witness & Lawyer forms
  - Guidelines for President Judges
  - Guidelines for Jurors
  - Codes
    - Civility
    - Ethics
  - Rules of Competition
  - Rules of Evidence
  - Timekeeper Guidelines
  - Attorney Advisor Guidelines
  - Tie Breaker Rules

VOLUNTEER – RECRUITMENT

Start at least 60 days prior
- Create and distribute save the date & volunteer flyer - Exhibit ‘E’
- Create volunteer schedule, track as volunteers register

<table>
<thead>
<tr>
<th>Last Name First</th>
<th>AM Session</th>
<th>PM Session</th>
<th>Assignment</th>
<th>Phone</th>
</tr>
</thead>
</table>

EVENT SUPPLIES & FOOD

November:
- Order Lunch & Afternoon Snack – to be delivered to school cafeteria by 11:00 am
  - Place order from local to school Subway or WaWa.

Examples:

<table>
<thead>
<tr>
<th>230 – Students, advisors, volunteers + 5-10</th>
<th>310 – Students, advisors, volunteers + 5-10</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 Turkey</td>
<td>100 Turkey</td>
</tr>
<tr>
<td>75 Italian</td>
<td>100 Italian</td>
</tr>
<tr>
<td>30 Ham</td>
<td>45 Ham</td>
</tr>
<tr>
<td>25 Tuna</td>
<td>45 Tuna</td>
</tr>
<tr>
<td>20 Veggie</td>
<td>20 Veggie</td>
</tr>
</tbody>
</table>

**Allows extra for bus drivers and parents of approximately 20**
- Have one extra cookie or chip bag added to each lunch for afternoon snack to eliminate the need to order and monitor (guard) afternoon snacks

Contacts:
- Subway – Mt Pocono
  - Yogi – Store: 570.839.5833
  - Cell: 551.265.1542

- Breakfast/Drinks:
  - BJs, Walmart, Dunkin, WaWa, etc
Equivalent to number of attendance
Example of 230 total in attendance
  - Combination of mini bagels, donut holes and mini muffins 400 (e)
  - Boxes of Coffee – 4 Regular & 1 DeCaf boxes regular pre-order from local Dunkin or WaWa. Plus 2 regular if attendance is closer to 300
  - Boxes of hot chocolate – 2 pre-order/made from Dunkin
  - Boxes of hot water – 2 Pre-order from local Dunkin or WaWa, closest to school. Dunkin may charge as if you’re purchasing coffee
  - For volunteers – tray of cookies & box of individual serving chips from BJ’s
    - From MCBA
      - Hot chocolate packets
      - Teas
      - Sugar – Dunkin/WaWa
  - Plates, silverware, napkins
    - Napkins
    - Small plates
    - Stirrers – Dunkin/WaWa

PREP WORK FOR COURTROOMS & EVENT DAY
- For courtrooms – Binders for judges/scores etc
  - Mock trial binders with all the appropriate paperwork
  - Pens, paper, calculators
- For schools – Upon arrival
  - Envelop with:
    - School Map
    - Rules of Etiquette
    - Blank roster forms for changes – Need number of teams times 2
- Team Rosters from schools:
  - Should be to MCBA no later than 10 days before the event.
  - As schools arrive, rosters are submitted to chairs or staff
    - Schools will be assigned their school code. Can be set up prior.
- Make poster boards for each school – assign meeting location in cafeteria or designated location. Will be hung in main meeting area with space based on number of teams and students participating
- Prepare free Lunch & Learn certificate, per volunteer for per each half day of volunteer time.
  - Attorney advisors receive two for being advisor (new in 2018)

DAY OF EVENT – 7:00 AM START TIME FOR STAFF:
- Pick-up donuts, coffee at Dunkin Donuts ORDER DAY BEFORE or, if ordered earlier, RECONFIRM DAY BEFORE.
- Water & sodas go in cooler if available
- Setup tables for breakfast, including:
  - Breakfast foods
  - Cups & utensils
- Setup tables in cafeteria (or designated space)
• Assign schools to specific locations
  o Poster with school abbreviation are taped to wall
• Schools check in to Event Coordinator
  o Each school must provide an updated roster which will go to the Chairs
• School codes are provided by Judge Mark
  (For Invitation school names are ok, Districts, codes are used)
• Round 1 will be assigned by Chair
  o Students are directed to their class rooms
• Scoring – By each courtroom per round with a total of 4 rounds, 2 before & 2 after lunch:
  - The score sheet (aka ‘ballot) should be completed by the volunteer judges.
    - Each judge completes their own ballot.
  - Student representative or MCBA Volunteer is required to bring score sheets to prep room
  - Judge Mark, and if available ED
    - Make sure the courtroom assigned and/or school codes or names are on the forms before tallying the sheets begin
    - Confirm the addition of the scores (double check if totaled already or add if not totaled)
    - Average each teams score (Total per team by the number of ballots)
    - On the bottom of one of the score sheets, place the average scores – Commonwealth Plaintiff v Defense & the number of wins on the ballot. (three ballots, P has highest score on two, then they get credit for two wins
    - If there is a tie, then the team that the judges circled as the best wins

★★The trials will break for lunch – lunches and drinks are provided for participating students, advisors and volunteers. Parents and other guests may eat if there are extra. See “Rules of Etiquette”

AWARD PRESENTATION – CLOSING OF EVENT:

Judge Mark w/ MCBA President if in attendance:

Order of awards:
• Best Witness
  o Honorable Mention –about 3
  o 3rd, 2nd and then 1st
• Best Attorney
  o Honorable Mention –about 3
  o 3rd, 2nd and then 1st
• Team Awards:
  o Third
- Second
- First – Receives traveling trophy

Note – checks and placing certificates are mailed.

### Exhibit ‘A’
**Checklist**

#### Mock Trial Invitational Event Tracking

<table>
<thead>
<tr>
<th>Event Date &amp; Time</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td></td>
</tr>
<tr>
<td>Target Audience</td>
<td></td>
</tr>
<tr>
<td>Point People</td>
<td>Judge Mark and Attorney Madden</td>
</tr>
<tr>
<td>Staff &amp; Volunteer</td>
<td></td>
</tr>
<tr>
<td>Committee</td>
<td></td>
</tr>
</tbody>
</table>

**ALL TEMPLATE LETTERS/FORMS CAN BE FOUND:**

- **Shared Docs – Events – Mock Trials – Mock Trial Invitational**

<table>
<thead>
<tr>
<th>Task to be Performed</th>
<th>Details/Notes/Misc</th>
<th>Comp Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date – Confirm availability on MCBA Outlook &amp; Web calendar</td>
<td>The date is usually the Saturday before Thanksgiving. <em>Always check to make sure</em></td>
<td></td>
</tr>
<tr>
<td>Set Committee Dates</td>
<td>Get on Master &amp; Website as soon as possible – 1st quarter no later than June</td>
<td></td>
</tr>
<tr>
<td>Confirm availability off-site venue</td>
<td>Contacts the school who should be hosting – Send local letter</td>
<td>Do before the end of May</td>
</tr>
<tr>
<td>Create Problem with Committee</td>
<td>Create problem with committee – make sure that it is school appropriate.</td>
<td></td>
</tr>
<tr>
<td>When problem is complete</td>
<td>Once the problem is finalized send to all the schools by email. Be sure to also post it on the MCBA website (Depending on the type of case, it is some of the school servers will reject the email.) In the email indicate where they can find it on our website.</td>
<td></td>
</tr>
<tr>
<td>Order trophies</td>
<td>Order trophies from ABC Trophies – generally a committee member orders</td>
<td></td>
</tr>
<tr>
<td>Contact Public Relations</td>
<td>Contact Pocono Record/ News Media to make sure they are available the day of events. Invite them to attend the awards to take interviews and pictures of schools.</td>
<td></td>
</tr>
<tr>
<td>Confirm Venue</td>
<td>Once venue is confirmed – be sure to send a follow up letter – explaining the # of rooms you will need and the times that the school needs to be open</td>
<td></td>
</tr>
<tr>
<td>MCBA Needs a copy of Insurance to go to the school</td>
<td>When the venue is confirmed – contact the Matt Field/Hagy Insurance-get a copy of insurance with the school name and address on it.</td>
<td></td>
</tr>
<tr>
<td>Update – MCBA Outlook, web calendar w/ preliminary info</td>
<td></td>
<td></td>
</tr>
<tr>
<td>School Roster Forms</td>
<td>Once all schools have registered for the event. Send out the Roster form</td>
<td></td>
</tr>
<tr>
<td>Post the current problem on MCBA website</td>
<td>Home page - combine case and exhibits into one document</td>
<td></td>
</tr>
</tbody>
</table>

M:\MCBA_Process_Manuals\Events\Mock_Trials\Mock_Trial_Invitation_Procedure_w_Rev_01152019.docx 10/9/2018 1:43:00 PM 1/15/2019 3:12 PM 1
<table>
<thead>
<tr>
<th>Invite schools</th>
<th>Mock Trial Invitational School Info (excel sheet) – send the schools the Mock Trial Invitational invite</th>
</tr>
</thead>
<tbody>
<tr>
<td>Set RSVP Date</td>
<td>Once the school has confirmed – send volunteer request forms to members -</td>
</tr>
<tr>
<td>Invite Special guests</td>
<td>Invite the school superintendent and school board</td>
</tr>
<tr>
<td>Distribute flyers</td>
<td>Continue to distribute volunteer flyers to membership – add to weekly blast</td>
</tr>
<tr>
<td>Create program for day of event</td>
<td>Change/update program for the day of the event – what is in RED should be changed</td>
</tr>
<tr>
<td>Create Courtroom binders</td>
<td>For the binders – make sure that the rules are up to date you can find them on the PBA website under Mock Trials. There should be one full case per jury panel and exhibits</td>
</tr>
<tr>
<td>50-75 Bailiff Tracking Sheets</td>
<td></td>
</tr>
<tr>
<td>50-75 Student Tracking Sheets</td>
<td></td>
</tr>
<tr>
<td>4-5 sheets of Code of Civility and Ethics per Count</td>
<td></td>
</tr>
<tr>
<td>5-10 Guidelines for Jurors per Count</td>
<td></td>
</tr>
<tr>
<td>time tally sheets</td>
<td></td>
</tr>
<tr>
<td>150+/+ scoring sheets</td>
<td></td>
</tr>
<tr>
<td>best witness/best lawyer</td>
<td></td>
</tr>
<tr>
<td>Create binder for Judges Muth/Judge Mark (1 full book for both of them)</td>
<td>This book will have everything that the courtroom books with a few extras: Letters/numbers (coding for schools) School Codes sheets Competition Schedules sheets Competition results sheets Overall best witness/lawyer and team result sheets</td>
</tr>
<tr>
<td>Room layout/setup</td>
<td>The host school mock trial students prepare the Courtrooms – usually the night before the trial begins. 2-3 desks in the front of the room for judges to sit 1 desk for witness in front of the room 3 for Commonwealth 3 for Defense</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Supplies</th>
<th>In Stock / To be Ordered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small plates, napkins, cups for coffee, plastic knives</td>
<td>See what we have at the office and purchase accordingly</td>
</tr>
<tr>
<td>Serving bowls and baskets</td>
<td>Use the baskets we have in the kitchen</td>
</tr>
<tr>
<td>Water – 10 cases</td>
<td>Purchase a few days before event</td>
</tr>
<tr>
<td>Iced tea – 5 cases</td>
<td></td>
</tr>
<tr>
<td>Coke 1 case = (For Judge Mark and Judge Muth)</td>
<td></td>
</tr>
<tr>
<td>BREAKFAST: (usually from BJs)</td>
<td></td>
</tr>
<tr>
<td>- Donut holes – 5 boxes</td>
<td></td>
</tr>
<tr>
<td>- Mini Muffins – 2-4 boxes</td>
<td></td>
</tr>
<tr>
<td>- Mini Bagels – depending on number in bag, total bagels abt 50-60</td>
<td></td>
</tr>
<tr>
<td>- Butter/cream cheese – individual packets of butter and cream cheese works best for this event (creates no line – kids can grab and go)</td>
<td></td>
</tr>
<tr>
<td>- 1 box of hot chocolate (large box from BJs)</td>
<td></td>
</tr>
<tr>
<td>- 1 box tea – if from Dunkin get 1-3 boxes (15 per box)</td>
<td></td>
</tr>
<tr>
<td>Coffee: (Dunkin Donuts)</td>
<td></td>
</tr>
<tr>
<td>- 4 Regular Boxes of Joe</td>
<td></td>
</tr>
<tr>
<td>- 1 Decaf</td>
<td></td>
</tr>
<tr>
<td>- 2 Hot water</td>
<td></td>
</tr>
<tr>
<td>LUNCH: (Subway on 5th Street, Stroudsburg)</td>
<td></td>
</tr>
<tr>
<td>* Box lunches</td>
<td></td>
</tr>
<tr>
<td>20 Veggie</td>
<td></td>
</tr>
</tbody>
</table>
25 Tuna  
100 Italian  
30 Ham  
100 Turkey

| SNACKS: |  |
| - Chips/or pretzels – 3 bags – largest bags available  
 - Cookies – 8 packs (4 for AM break 4 for PM break) (inexpensive cookies larger packages) |

**NOTES for next year:**

- Get 4 radios for staff and school host 
- In cafeteria make sections for each school – **color code them** maybe (worked well) – easier to locate who is where  
- Assign the schools a team room (aka prep room). Schools need to be back in cafeteria prior to start 
- Maybe have courtroom ambassadors – each courtroom has a student from the host school to make sure the judges have all the info correct and to bring results to the judging room to be tallied.  
- Make copies of the school layout for all MCBA volunteers with which classrooms are what courtrooms – all court rooms are numbered as well  
- Be sure to give MCBA staff assignments and update them before the event.  
- For each courtroom – give them a big envelop for all results for each round – this makes it easier so the papers from each courtroom don’t get mixed together. (Didn’t do this in 2017, should do in future. Makes things safer because most of the scores don’t put the code or courtroom on the scoring sheets, witness and lawyer sheets  
- On the scoring sheets make sure they indicate which courtroom it is and who is against whom.  
- Get clipboards and enough binders for event ahead of time  

Make sure pens are in the classrooms with the competition binders

Staff binders – one for ED and at least one for staff to share (decide do we each need one)
- Include:  
  - Volunteer schedule  
  - School names, contacts  
  - Headcount breakdown  
- All competition supplies (like forms, pens, etc.) should be in the tally room

Judge binders – volunteer judges  
- At least 15 score/ballot sheets  
- At least 15 best witness sheets  
- At least 15 best lawyer sheets
Exhibit ‘B’
Mock Host School Solicitation Letter

<Insert Date>

<Insert Principal’s Name>
<Insert School’s Name>
<Insert School Address>

Re: Host 20XX Mock Trial Invitational Saturday, November XX, 20XX

Thank you for considering hosting the 20XX Mock Trial Invitational. This year’s trials are scheduled to take place on Saturday, November XXth. As you are aware, the event, organized and sponsored by the Monroe County Bar Association, is held annually and rotated between the participating school districts. This year we are pleased that <Insert School> will be welcoming the students, advisors, and families as well as members of the Monroe County Bar Association (MCBA).

In order to execute this event on November XXth, we would ask that the school provide us access to the following:

- The cafeteria for opening assembly, breakfast, breaks, lunch, and final awards ceremony. The space should accommodate approximately two hundred to two hundred-fifty (200-250) people. Access to the cafeteria would be needed from 7:00 for breakfast set up through the close of the awards ceremony at approximately 5:00 pm. We would require access to refrigerator space for storing drinks, as well as some basic kitchen utensils and paper plastics.
- <Insert School> would supply garbage containers and clean-up. MCBA staff does assist with clean-up only to the point of placing items in garbage containers supplied by the school.
- <Insert School> would supply either large tables or counter space for the food. MCBA will be supplying all food, drinks, paper plates, napkins, etc. If possible access to hot water for tea and hot chocolate would be appreciated.
- A staff member, familiar with the kitchen and/or a maintenance staff person available for support should it be needed would be appreciated. Note that MCBA will reimburse <Insert School> for the expenses as related to this employee if requested.
- Multiple rooms as below:
  - Scorekeeping/Tally Room with access to a photocopier. The room will be utilized throughout the entire day by the Mock Trial Invitational Committee Chairs and MCBA staff.
  - Approximately twenty (20) classrooms. All rooms will be utilized throughout the entire day. Specific rooms will be determined based on the participation of the invited schools.
    - Eight to ten rooms will be used as courtrooms. Specific layout requirements will follow.
    - Ten rooms for schools to use as prep/meeting rooms.
Exhibit ‘C’
Rules of Etiquette

Monroe County Bar Association
Mock Trials
Rules of Etiquette

- Arrive on time.
- Please follow all directions as provided by MCBA staff, volunteers and advisors.
- Schools should designate one point person per school. Communications to MCBA staff and volunteers should only be made by this person during event day.
- Each team must have one teacher advisor, attorney advisor or designated chaperone in each courtroom.
- Students should remind parents that food, snacks and drinks are for students, teacher and attorney advisors and Mock Trial event volunteers. Should there be extra available, MCBA staff will offer to parents.
- Schools should gather in designated location. MCBA will indicate location in the order of arrival. Please look for your team.
- Food lines will be opened by MCBA staff. Please do not go thru the line(s) until MCBA staff opens the lines. During any presentation, including welcome, announcements and award ceremony food and drink lines are closed.
- Please move through the food and drink lines quickly.
- Clean up after yourself. Do not leave water bottles, cans, plates etc on the tables. Schools are responsible for cleaning up their designated prep rooms, “courtrooms”, and your designated meeting space in the common area.
- Please give all presenters your full attention. Refraining from conversation during these times is appreciated.
- Once court is in session, no one can enter or exit.
- Students should refrain from leaving items in the cafeteria when competitions are being held. MCBA staff and volunteers are not responsible for items left unattended by them or their school representatives.
- No food or drink in any area other than the cafeteria or designated lunch room.
- Students and schools are responsible to take all belongings at departure. MCBA staff and the host school is not responsible for the return of items left at the host school.
School Registration Form

THE MONROE COUNTY BAR ASSOCIATION
Is proud to announce it's
2018 MOCK TRIAL INVITATIONAL TOURNAMENT

Graciously hosted this year by
Pocono Mountain East High School
Swiftwater, PA

Your school is invited to compete on
November 17th, 2018
8:30 am Registration
Trials begin promptly at 9:00 am

To register your team fill out the form below and return to our office by November 2, 2018

School Name:
School Address:
School Phone:
Primary Teacher Coach:
Primary Teacher Coach Phone (Day):
Primary Teacher Coach Email:
Assistant Teacher Coach:
Assistant Teacher Coach Phone (Day):
Assistant Teacher Coach Email:
Team Attorney Advisor:

My Team needs an Attorney Advisor

Monroe County Bar Association
913 Main Street, Stroudsburg, PA 18360
Telephone: 570-634-7788 Email: info@monroebar.org
2018 Mock Trial Invitational Tournament
Saturday, November 17, 2018

Team Roster

MONROE COUNTY BAR ASSOCIATION
MOCX TRIAL CONTESTION

School Name:

Team Members:

Name  
Signature

Date:

Name  
Signature

Date:

Name  
Signature

Date:

Name  
Signature

Date:
Exhibit ‘D’
Winner Certificates

MONROE COUNTY BAR ASSOCIATION
20XX MOCK TRIAL INVITATIONAL

1st Place Winner

Prize $300.00

The Honorable Jonathan Mark
Tournament Director
November 17, 2018
Program

SCHOOLS AND ADVISORS/COACHES

Abington Heights
Leonard Rometty
Daniel Curren, Esq.
Tom Spacht, Esq.
Julie Zietzki, Esq.

Delaware Valley High School
Thomas Baller

East Stroudsburg High School – South
Paul Tangeman
Joseph Donegan, Esq.
John O’Brien, Esq.

Hazelton Area High School
Greg Mazzarelli

MMI Preparatory School
D. Scott Wepfer
Emelene Disier, Esq.

Notre Dame Sr. JH High School
Mattheine Martino
Alexandra Lopiano Refly, Esq.

Pocono Mountain East High School
Maria Hein-Bancer
Ryan Campbell, Esq.

Stroudsburg High School
Anthony Lenfrank
Robert Schaff, Esq.
Vincent Rubino, Esq.

2017 MOCK TRIAL COMMITTEE MEMBERS

Tournament Director:
The Hon. Michael Myth
The Hon. Jonathan Merl

Ryan Campbell, Esq.
David Gorden, Esq.
Kevin Hardy, Esq.
Cintia Humphreys, Esq.
Hillary Madden, Esq.
Michael Westrella, Esq.
Nettie Wilkinson, Esq.

MCBA Membership
Event Volunteers

The Hon. Jennifer Shih
The Hon. David Williamson
Chynna Bistro Esq.
Brandy Bostaner, Esq.
Janet Cafme Esq.
Sharron Cooper, Esq.
Michele Fellers, Esq.
James Fuller, Esq.
Kaitlin Palmer, Esq.
Darshan Huffman, Esq.
Caitlin Humphreys, Esq.
Mack Law, Esq.
Hilary Madden, Esq.
Vickie Shink, Esq.
Michelle Thoma, Esq.
Richard Tanto, Esq.
Teddi Wizemann, Esq.
Loriann Whitefield, Esq.
Nicolle Wilkinson, Esq.

Thank you to all the volunteers.

SCHEDULE OF EVENTS

8:30 am
BREAKFAST & REGISTRATION
Cafeteria

8:45 am
WELCOME
The Hon. Michael Myth
Cafeteria

9:00-12:00 pm
TRIALS

12:00-1:00 pm
LUNCH
Cafeteria

1:00-4:00 pm
TRIALS

6:00-8:00 pm
CLOSING / AWARDS

Snacks available in the cafeteria for all participating students and advisors

COURTROOMS & CLASSROOMS

#1  243
#2  238
#3  224
#4  216
#5  213
#6  207

Judges’ Room:
Faculty Lounge A028

Tally Room:
Faculty Lounge A028

Team Meeting Areas:
Classrooms: 118, 120, 122,
127, 128, 131, 132, 136

For special needs assistance,
please contact a
Monroe County Bar
Association staff member.

The MCBA wishes to thank...

Pocono Mountain West
High School
Pocono Summit, PA
Host of the 2017
Mock Trial Invitational

PMW Speech and Debate Team
and the Mock Trial Team
for all their help.

And thanks to the following companies for providing a discount donation for breakfast and lunch:

DUNKIN' DONUTS
SUBWAY

MONROE COUNTY BAR ASSOCIATION

MOCK TRIAL INVITATIONAL TOURNAMENT

NOVEMBER 18, 2017
Pocono Mountain West
High School
Pocono Summit PA
Exhibit ‘E’
Binder Contents

Schedule of Events

8:30 am  Breakfast & Registration  Cafeteria
8:45 am  Welcome Hon. Judge Jonathan Mark Tournament Director  Cafeteria
9:00 am- 12:00 pm Trials  As Assigned
12:00-1:00 pm Lunch  Cafeteria
1:00-4:00 pm Trials  As Assigned
4:00-4:30 pm Awards  Cafeteria

Snacks and soda will be available in the Cafeteria while the results of the final round are being tabulated.
Moore County Mock Tri Competition Scoring Sheet

<table>
<thead>
<tr>
<th>Team #/Letter</th>
<th>W/L Ballots Points</th>
<th>W/L Ballots Points</th>
<th>W/L Ballots Points</th>
<th>W/L Ballots Points</th>
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<td>A-ESS-A</td>
<td>L0 87.47</td>
<td>L0 87.47</td>
<td>W2 102</td>
<td>BYEN 210</td>
<td>22 2 210</td>
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<td>B-DELVA-A</td>
<td>L0 78.6</td>
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<td>L0 101</td>
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<tr>
<td>C-HAZ-A</td>
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<tr>
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<td>L0 104</td>
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<tr>
<td>F-PV</td>
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<td>W1 85.5</td>
<td>L0 74.5</td>
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<td>22</td>
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<tr>
<td>G-NO B</td>
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<td>W3 98.33</td>
<td>L0 87.5</td>
<td>W1 67</td>
<td>2-2</td>
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<tr>
<td>H-STBG</td>
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<td>W3 86.5</td>
<td>W2 93</td>
<td>L0 92</td>
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<td>I-MM1-1</td>
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<tr>
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<tr>
<td>9-NO-C</td>
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<td>L1 81.0</td>
<td>L0 79</td>
<td>L0 74</td>
<td>1-3</td>
</tr>
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</table>
### SCORE SHEET

**Team Codes:** Plaintiff: __________  Defense: __________  Date: __________

Using a scale of 1 to 10, rate the P and D in the categories below. DO NOT award any fractions of zeroes. NO TIES ALLOWED IN TOTAL POINTS.

- Not effective: 1-2
- Fair: 3-4
- Good: 5-6
- Excellent: 7-8
- Outstanding: 9-10

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<th>Points</th>
<th>Defense</th>
<th>Points</th>
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<td>Cross Examination →</td>
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<td>Witness Presentation →</td>
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<tr>
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<td>Direct Examination →</td>
<td>Cross Examination →</td>
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<tr>
<td>2nd Witness</td>
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<td>Cross Examination →</td>
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<tr>
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<tr>
<td>General</td>
<td>Overall Performance →</td>
<td>Overall Performance →</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL POINTS →**

[TIE BREAKER BOX →]

(Write 0 or 0 in this box to indicate the team you intend to win this round, 0 in both for a tie.)

The team with the higher second total number of points wins this round.

COMPLETE THIS SCORE SHEET INDEPENDENTLY.
Exhibit ‘F’

THE MONROE COUNTY BAR ASSOCIATION

SAVE THE DATE

2017 MOCK TRIAL INVITATIONAL TOURNAMENT

Saturday, November 17, 2018

Graciously hosted this year by POCONO MOUNTAIN EAST HIGH SCHOOL
SWAYMATE, PA

Volunteers Needed!

Competition Judges/Scorekeepers: On the day of the event, we will need volunteers to grade new the competition titles and to mark the results. Please also let us know if you can help out in any other way.

Attorney Advisors: For those of you that are involved as greater involvement with the program, being an attorney advisor to a team is an extremely rewarding opportunity. Mentoring the team throughSELECTED TO FINALISTED TO NATIONALSTUDYING THE CASE WORKING ON THE CASES

 Trials begin at 9:00 am
Lunch 12:00 pm
Trials begin again at 1:00 pm

Light Breakfast and Lunch will be provided by the Association.

All volunteers will receive a Volunteering "Free Lunch and Las" voucher per half day session.

If you may and help with any projects you will receive an additional "Free Lunch and Las"

Please return this form to the Monroe County Bar Association by November 1, 2018.

MCBA 2018 Mock Trial Invitational Tournament: on Saturday, November 17, 2018

Name: _____________________________
Address: __________________________
City: _____________________________ State: ______ Zip: ______
Email: ____________________________ Telephone: ____________

I would like to volunteer in the:

[ ] AM Session [ ] PM Session [ ] All Day

I am available to be a: [ ] Judge [ ] Scorekeeper [ ] Attorney Advisor

If you are interested in volunteering, please contact us at: 570-826-2585

MCBA 2018 Mock Trial Invitational Tournament: on Saturday, November 17, 2018

Name: _____________________________
Address: __________________________
City: _____________________________ State: ______ Zip: ______
Email: ____________________________ Telephone: ____________

I would like to volunteer in the:

[ ] AM Session [ ] PM Session [ ] All Day

I am available to be a: [ ] Judge [ ] Scorekeeper [ ] Attorney Advisor

If you are interested in volunteering, please contact us at: 570-826-2585
Montgomery Bar Association

Community Outreach Programs:

- Your Guide to Finding the Right Lawyer
- Modest Means Program Pamphlet
- Real Lawyer Campaign
- Real Lawyer Campaign Flyers for Public- General and by Areas of Law
- You Have Rights Guide (Spanish)
- Criminal Handbook
- Elder Law Handbook

Contact Information:

Jim Mathias, Director of Marketing, Communications and Public Affairs
Montgomery Bar Association
100 West Airy St Norristown, PA 19404
Phone: 610.994.3660
Email: JIM@montgomerybar.org
Let us refer you to a qualified, local lawyer or someone who can help:

Online 24 / 7 / 365
Visit MONTGOMERYBAR.ORG

Call Us
610-994-3656
(Mon.-Fri., 9 AM - 4 PM)

In-Person
100 West Airy Street
Norristown, PA 19401
(Mon.-Fri., 9 AM - 4 PM)

Access Online Referrals Anytime @ MontgomeryBar.org

With one free call, we'll help you find someone who can help resolve your legal matter.

There are times in our lives when help from a legal professional may be needed. Your Montgomery Bar Association offers several needs-based referral options for a wide-range of legal matters, including:

/ CUSTODY AND DIVORCE
/ LANDLORD/TENANT
/ WILLS AND ESTATES
/ POWER OF ATTORNEY
/ IMMIGRATION
/ PERSONAL INJURY
/ BANKRUPTCY/FORECLOSURE
/ COLLECTION (DEBTOR/CREDITOR)
/ ACCIDENTS AND CRIMINAL MATTERS
/ EXPUNGEMENTS
/ CONTRACTS
/ CIVIL RIGHTS MATTERS
/ BUSINESS START-UP/BUSINESS LAW
/ EMPLOYMENT
/ EDUCATION -- AND MORE!
Not sure where to turn when faced with important legal matters? Look no further than your Montgomery Bar Association.

We’ve been upholding standards for the practice of law in Montgomery County, and providing education and support to neighbors like you, since 1885.

Legal matters can be life-changing. Don’t trust them to just anyone.

Montgomery Bar Association has long served as the cornerstone of the legal community, providing legal assistance, education, and support to neighbors like you since 1885. As part of our commitment to public service, we offer a FREE Lawyer Referral Service (LRS) to people and businesses in our community. Our LRS specialists are not lawyers, and therefore cannot provide legal advice, but they do have knowledge of local legal and other resources which may be available to you. Should your matter require the services of an attorney, an LRS specialist will refer you to one who is conveniently located and happy to assist with your specific situation. Unlike the growing number of “pay-to-play” referral services and online legal service providers (a/k/a ROBOLAWYERS), our attorneys must be fully licensed and insured, and actively engaged in the practice of law in Montgomery County. If your matter does not require an attorney, we will help connect you with other resources. Simply put, no other referral service is better equipped to meet YOUR unique needs.

How much will it cost?
There is no cost to call our service. Our experienced, compassionate staff will ask you for some basic information and explore any options and resources that may be available to you. If your matter calls for hiring an attorney, we’ll provide you with a free referral to an attorney who can help. Should you then elect to contact the referred-attorney and schedule a 30-minute case assessment and strategy session, he or she will provide this service to you at a reduced fee of no more than $40.* At this time, you and your attorney will discuss fee arrangements you will be responsible for if you then decide to retain his or her services.

What if I can’t afford an attorney?
If you think you may qualify for free or reduced-fee legal services, contact Legal Aid of Southeastern PA at 877-429-5994 or online at LASP.org. They will determine if you qualify for pro bono assistance through their organization or for reduced-fee legal assistance through Montgomery Bar Association’s Modest Means Legal Access Program.

*In certain types of cases, this fee may be waived by the consulting attorney at his/her discretion; however, payment is typically expected by attorneys at time of service. If paying this fee is of concern to you, please discuss this with your attorney when making your appointment and prior to your initial case assessment / strategy session.

Be sure to ask your MBA LRS representative about these and other free or discounted legal services offered by your Montgomery Bar Association:

THE CENTER FOR MEDIATION & ARBITRATION - a service for parties seeking expeditious resolution to civil disputes while avoiding costly litigation. For more info on this service, visit CMAADR.com

GUARDIANSHIP & INCAPACITY PANELS - a service for seniors and/or their caregivers, offering a variety of needs-based referral options. Ask your LRS representative for more information.

MODEST MEANS LEGAL ACCESS PROGRAM, COMMUNITY RESOURCE ASSISTANCE and MORE!

CALL FOR A REFERRAL TODAY
Call us at 610-994-3656 Monday - Friday, 9:00 AM - 4:00 PM.

ONLINE LAWYER REFERRALS
Receive your referral in minutes 24/7/365 by visiting RealLawyers.org and completing our simple, 5-step online form. It’s that easy.

WALK-IN LAWYER REFERRALS
We are conveniently located just one block from the Montgomery County Court House, at 100 W. Airy Street (on the corner of Airy and Cherry Streets) in Norristown.

MODEST MEANS LEGAL ACCESS PROGRAM
The Modest Means Legal Access Program is for people with moderate incomes that exceed the eligibility requirements for Legal Aid. Participants must be preapproved through Legal Aid of Southeastern PA to qualify based on income and other factors. To see if you qualify, call Legal Aid toll-free at 1-877-429-5994, M-F, 9 AM-1 PM.

Be sure to ask your MBA LRS representative about these and other free or discounted legal services offered by your Montgomery Bar Association.
Expanded Modest Means Legal Access Program offers qualified individuals quality legal representation for less.

If you’re an individual who does not meet the eligibility requirements to qualify for Legal Aid, and whose income is no more than 200% over the Federal Poverty Guidelines, you may be still be able to receive quality legal representation from a local attorney at deeply discounted rates. Call your local Legal Aid office to see if you qualify for the Montgomery Bar Association’s recently expanded Modest Means Legal Access Program. Services now offered in the following areas by real local lawyers, at deep discounts:

- Civil Expungement
- Consumer Collection (on behalf of the Debtor)
- Consumer Protection (on behalf of the Consumer)
- Domestic Relations (except Equitable Distribution - Includes Custody, Divorce, PFA, Support)
- Elder Law (Living Wills, Power of Attorney, Wills)
- Incapacity/Guardianship
- Landlord and Tenant (on behalf of Tenant)
- Mortgage Foreclosure (on behalf of Debtor)
- Personal Bankruptcy
- Tort Defense
- Unemployment Compensation Claims

a special outreach service of your:

MONTGOMERY BAR ASSOCIATION

To see if you qualify, please contact:

CALL 1-877-429-5994
SHORT-TERM OBJECTIVES, GOALS AND AIMS:

- To educate consumers on the value of real [local] lawyers who are members of our bar association in good standing; who know and understand local rules; enjoy collegial, professional relationships with other bar members and members of our bench and care about the community they live in and share with their clients;
- To promote our bar association’s LRS and compete effectively on a limited budget with the growing glut of “RoboLawyers” (i.e. deceptive online legal services, “pay-to-play” lawyer rating sites, and commercial “for-profit” referral services);
- To increase member participation and firm buy-in;
- To improve the “quality” and volume of cases referred to our participating attorneys through our Lawyer Referral Service.
- To generate goodwill for our bar association and our members (who are “real [local] lawyers”) in the communities we serve, by helping to raise awareness of programs like our Modest Means Legal Access Program and other available services.

LONG-TERM OBJECTIVES, GOALS AND AIMS:

- To create a repository of royalty free resources, social media content and messaging, and to pool resources to promote a common message like, “trust your bar association, not your search engine for a real [local] lawyer who can help” or others (tbd);
- To encourage collaboration among bar associations in our area, region, dma, state, and beyond -- who share a common interest in raising awareness for bar association services, and in competing head-to-head with the growing number of deceptive “for-profit” referral providers;
- To create or contribute to a more user-friendly “RealLawyers.org” web portal, for the betterment of the profession and the communities we serve.
MOBILE & EXPERIENTIAL MARKETING

Montgomery County, PA is home to over 174,000 library card holders, and each year, Montgomery County - Norristown Public Library’s (MC-NPL’s) BookMobile can be spotted at over twenty-five major community day celebrations and expos throughout the county, while making scheduled weekday appearances at over two-dozen high-traffic retail centers, township buildings, and recreation centers throughout the county. The full-service mobile library also makes regular stops in municipalities that don’t have their own physical branches, circulating tens-of-thousands of items to patrons in Montgomery County each year.

Upon learning MC-NPL would retire its previous BookMobile after 20 years of service and would be taking delivery of a new vehicle at the end of 2017, I approached MC-NPL’s executive director with a creative offer: I would conceptualize and design graphics for their new vehicle, and upon their approval, would cover all costs to wrap the vehicle with a product rated for 10+ years, if they would afford us promotional space for the life of the product, or a minimum of 10-years. According to the MC-NPL’s’s annual report, staff answered 35,144 reference questions last year alone, and since we already had signage and material at 30+ local branches, having our content on board to answer legal questions was a logical extension of our informational / promotional materials and their service.

In the end, for about the same expense we’d pay for 3-months of advertising on a fixed-route transit bus, we now have living ambassadors in BookMobile staff and high visibility exposure throughout our county for the next decade. Moreover, with stops at township and municipal buildings, our services are often being exposed to people at places where their next call may in-fact be to a real local lawyer who can help.
COMMUNITY EVENT MARKETING

MBA staff and volunteer attorneys attended over twenty (20) community events throughout the county in the past year, showing an approachable side in “You have rights - real lawyers protect them” T-shirts, and talking with potential clients about the value of our Lawyer Referral Service and hiring real local lawyers.

EVENT “SWAG”

With dozens of area restaurants and drinking establishments clamoring for the patronage of our 2,100+ members, and a half-dozen off-site member events held annually, finding a home for 2,000 “free drink coasters” was easy with the help of some loyal and influential members.

Graphics were repurposed for use on the backs of T-shirts and family-friendly “flexi-flyers.” The soft, flexible flying giveaways draw lots of attention from kids and adults alike, and the eye-catching “RoboLawyer” image and minimalistic messaging is just enough to spark curiosity at community and chamber events, business expos, and other local gatherings. We also make these available to members who participate in student career days and events they attend on their own. Hopefully the same level of curiosity will drive traffic to our website.

IN-HOUSE PRINT CAMPAIGN

In addition to enjoying a prominent presence on our county’s website, and on all Notices to Defend, LRS information and materials like these can now be found in our District Courts, Common Pleas Courts, and Row Offices, as well as in libraries and other strategic locations throughout Montgomery County. Over 150 framed posters (as shown on the following page) have also been placed in the past year.
OVER 150 FRAMED POSTERS PLACED AND COUNTING!

- Each modified to speak to a unique captive audience; designed and printed in-house on 12” x 18” 60 lb. cardstock.
- Plastic frames, purchased in bulk provide a finished look and protection. Frame posters have a much greater chance of survival than items tacked to a bulletin board or taped to a wall.
- At this time over 150 posters have been printed and hung in high traffic locations throughout our county. Our aim is to double this number by year end. These can be customized and ordered from the MBA.
Our new MONTCO.Today “Ask a Real Lawyer” program allows interested MBA LRS panelists a unique, high-visibility opportunity to promote their practices, while distinguishing themselves as local thought leaders or subject matter experts. Participation is free with enrollment in our Lawyer Referral Service.

Questions sent to AskARealLawyer@montgomerybar.org are fielded by me, and circulated anonymously to participating LRS attorneys. Attorneys who wish to be featured submit a one- to two-sentence brief, which factors into the decision process. Other factors which are considered include where they fall in the rotation, and relevance to their primary area of practices.

Answers submitted are reviewed and published, along with headshots and bios on the popular MONTCO.Today website. The local online digest reaches over 24,000 subscribers daily (M-F) and boasts a 26.8% open rate. Its typical readers are Montgomery County business owners and professionals -- potential clients our attorneys want to reach! Q&A’s also appear in the “For the Public” section of our website and on social media.

Since the biweekly feature hits on Monday’s, we’re also able to include teasers about these features in our Monday afternoon “BAR NEWS” member eNews every other Monday. Some panelists or their respective firms have even opted to promote features on their own, which can expand the program’s reach considerably.

Another major benefit of the “Ask a Real Lawyer” Q&A features is that the archived articles provide quality web content, which has improved our websites organic search performance considerably since launching the program. Since Q&A features that appear on MONTCO.TODAY link back to a static article archive on our website, the practice of SEO (optimization) is consistent a seamless.

Finally, enrollment in the program for member attorneys and firms has also increased since the launch of the “Ask a Real Lawyer” program as lawyers and firms look to increase their exposure, and grow their respective brands through social media, specialization and thought leadership.

At the suggestion of our LRS Committee, we plan to launch a new online video-based program as well in the coming months called, “Legal perspectives.” With video playing such a critical role in search these days, we expect this will be even more attractive.

USEFUL “ASK A REAL LAWYER” LINKS:

OFFICIAL “ASK A REAL LAWYER” PILOT ANNOUNCEMENT on MONTCO.TODAY

RECENT “ASK A REAL LAWYER Q&A FEATURES on MONTCO.TODAY
https://montco.today/?s=Ask+a+Real+Lawyer%

“ASK A REAL LAWYER” Q&A FEATURES - Archived at MONTGOMERYBAR.ORG
At the root of every campaign lies the need to inform and remind members of the bar association’s efforts and promise — especially when faced with sweeping change. Social media platforms are used passively as a means to communicate with members and consumers. Whether it’s a reminder about how many more days until Tax Day, photos from a community event, or a teaser about this week’s “Ask a
In addition to biannual mailers, emails, advertisements and articles in our quarterly SIDEBAR Magazine, a new newsletter was created to educate members about our LRS and to keep them informed of all we're doing to promote referrals.
Legal Matters?  
Let us help.

When you need help with a legal matter, make Montgomery Bar Association your first call. We’ve been helping neighbors like you since 1885.

Legal matters can be tough. Fortunately, finding help for your legal matter doesn’t have to be. Call us first. Our experienced, compassionate staff will ask you for some basic information, and explore any options and resources that may be available to you. If your matter calls for hiring an attorney, we’ll provide you with a free referral to a qualified attorney who can help. Should you then elect to contact the attorney referred to you and schedule a 30-minute case assessment and strategy session, he or she will provide this service to you at a discounted rate of no more than $40.* Why make matters tougher than they have to be? Call us today.

* In certain types of cases, this fee may be waived by the consulting attorney at his/her discretion; however, payment is typically expected by attorneys at time of service. If paying this fee is of concern to you, please discuss this with your attorney when making your appointment and prior to your initial case assessment / strategy session.

Be sure to ask your MBA LRS representative about these and other FREE or deeply discounted legal services offered by your Montgomery Bar Association:

- Modest Means Legal Access Program  
- Community Resource Assistance  
- Guardianship Panels / Incapacity Panels  
- Center for Mediation and Arbitration

NEED ASSISTANCE? Call us today at 610.994.3656 (M-F, 9 AM-4 PM)  
or request an instant referral online 24/7/365 at REALLAWYERS.ORG

ALL PROGRAMS ARE PROVIDED AS A PUBLIC SERVICE BY YOUR  
MONTGOMERY BAR ASSOCIATION  
Serving the community and upholding standards of our county’s legal profession since 1885  
100 West Airy Street, Norristown, PA 19401
You’re not alone in this. Let us help.

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Serving the community and upholding standards of our county’s legal profession since 1885

100 West Airy Street, Norristown, PA 19401
Need a good business lawyer? Let us help.

Next time you have a business law matter, make Montgomery Bar Association your first call. We’ve been assisting businesses like yours since 1885.

Running a business can be tough, but finding a good lawyer who can help doesn’t have to be. Call us first. Our experienced staff will ask you for some basic information, and explore any options and resources that may be available to you. If your matter calls for hiring an attorney, we’ll provide you with a free referral to a qualified attorney who can help. Should you then decide to contact the attorney referred to you and schedule a 30-minute situational assessment and strategy session, he or she will provide this service to you at a discounted rate of no more than $40.* Why make it any tougher than you have to? Call us today.

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Real Estate Matters?
Let us help.

Next time you have a real estate matter, make Montgomery Bar Association your first call. We’ve been assisting neighbors like yours since 1885.

Finding answers for your residential or commercial real estate matters doesn’t have to be tough. Call us first. Our experienced staff will ask you for some basic information, and explore any options and resources that may be available to you. If your matter calls for hiring an attorney, we’ll provide you with a free referral to a qualified attorney who can help. Should you then decide to contact the attorney referred to you and schedule a 30-minute assessment and strategy session, he or she will provide this service to you at a discounted rate of no more than $40.* Why make it any tougher than you have to? Call us today.

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Let us help.

If you have a family legal matter, make Montgomery Bar Association your first call. We've been a trusted resource for neighbors like you since 1885.

Legal matters can be tough. Fortunately, finding help for your legal matter doesn't have to be. Call us first. Our experienced, compassionate staff will ask you for some basic information, and explore any options and resources that may be available to you. If your matter calls for hiring an attorney, we’ll provide you with a free referral to a qualified attorney who can help. Should you then elect to contact the attorney referred to you and schedule a 30-minute case assessment and strategy session, he or she will provide this service to you at a discounted rate of no more than $40.* Why make matters tougher than they have to be? Call us today.

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Call Us First.

Ask here about free legal resources and information compliments of your

MONTGOMERY BAR ASSOCIATION

NEED A REAL [LOCAL] LAWYER WHO CAN HELP?

Contact Montgomery Bar Association’s Lawyer Referral Service (M-F, 9am-4pm)

610-994-3656

or request an instant referral online 24/7/365 at:

REALLAWYERS.ORG

We are located just one block from the Courthouse in Norristown at the corner of Airy Street and Cherry Street - Enter at Ann Street

(100 W. Airy Street, Norristown, PA 19401)

Serving our community since 1885
Legal Matters? Let us help.

Ask our staff about free resources and information available here, compliments of your

MONTGOMERY BAR ASSOCIATION

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Serving our community since 1885
¿Asuntos legales?
¡Le podemos ayudar!

Si necesita ayuda con un asunto o problema legal haga su primera llamada a la Asociación de Abogados del Condado de Montgomery. Hemos estado ayudando a la comunidad desde 1885.

Los asuntos legales pueden ser difíciles, afortunadamente para encontrar ayuda no tiene que ser así. Llámenos, nuestro dedicado y entrenado personal le pedirá información básica y explorará las opciones y recursos que puedan ayudarle en su caso. Si su caso requiere la intervención de un abogado, lo referiremos de forma gratuita a un abogado calificado que le pueda ayudar. Los abogados que participan en nuestro servicio de referencias han acordado de cobrar $40.00* (cuarenta dólares) por la primera media hora de consulta para evaluar su caso. ¿Porque hacer las cosas más difíciles de lo que tienen que ser? Llámenos hoy.

*A en ciertos tipos de casos, el abogado podrá decidir no cobrar la consulta basado en su decisión; sin embargo, pago por los servicios es necesario en el momento de la consulta. Si no puede hacer el pago, manifestar su problema al hacer la cita y antes de su consulta o evaluación del caso. Ud. es responsable por cualquier otro servicio prestado por el abogado después de la primera media hora de consulta, verifique los costos previamente con el abogado antes de la consulta.

Asegúrese de preguntarle al representante del Servicio de Referencias a Abogados por otros servicios legales que podrían ser gratuitos o de bajos costos que la Asociación de Abogados del Condado de Montgomery podría recomendarle, entre ellos:

- Programa de Acceso Legal de Medios Modestos
- Asistencia de Recursos Comunitarios
- Paneles de Tutela y de Incapacidad
- Centro de Mediación y Arbitraje

¿NECESITA AYUDA?
Llámenos al 610-279-9660 Opción 3, y 1 para español.
(lunes a viernes de 9 am. a 4 pm)
E: AyudaLegal@montgomerybar.org
o visite nuestra página web: www.montgomerybar.org
(For the Public - Lawyer Referral Service)

TODOS LOS PROGRAMAS SON SUMINISTRADOS COMO SERVICIO AL PUBLICO Y A LA COMUNIDAD POR LA
ASSOCIATION DE ABOGADOS DEL CONDADO DE MONTGOMERY
Sirviendo a la comunidad y manteniendo los estándares de la profesión legal en nuestro condado desde 1885
MONTGOMERY BAR ASSOCIATION | 100 W. Airy Street, Norristown, PA 19401
¿Necesita Ayuda?
Llámenos al 610-279-9660
Opción 3, y 1 para español.
(lunes a viernes de 9 am. a 4 pm.)

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100 W. Airy Street, Norristown, PA 19401
E: AyudaLegal@montgomerybar.org
THE MONTGOMERY COUNTY

Criminal Law Handbook

A FREE PUBLICATION

published by

MONTGOMERY BAR ASSOCIATION

Serving the Community Since 1885
THE MONTGOMERY COUNTY CRIMINAL LAW HANDBOOK

This publication is not copyrighted because its authors and publishers offer its information to everyone who needs it; any or all pages may be copied. This guide can also be viewed on the Montgomery Bar Association web site: www.montgomerybar.org. For more information, please contact the Montgomery Bar Association, 100 West Airy Street, P. O. Box 268, Norristown, PA 19404-0268; telephone 610-279-9660; fax 610-279-4321.

DISCLAIMER

The materials presented in this handbook have been prepared for informational purposes only and are not offered for and do not constitute legal advice or legal opinion on any specific fact or issue. Many complex situations are addressed in a simplified way so no one should attempt to use this book instead of competent legal advice. Access to these materials or any information herein is not intended to create an attorney-client relationship with any person associated with the Montgomery Bar Association and/or any contributor to this publication.

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The Montgomery Bar Association

For

Residents of Montgomery County
Pennsylvania

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Nancy R. Paul
Executive Director

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FORWARD

This handbook is designed to provide basic information to anyone who becomes involved with the criminal justice system in Montgomery County. Obviously, no publication can answer all questions asked by every victim or defendant but this guide explains various processes, describes services and ways to access them, and points out areas which may require specific legal expertise.

ACKNOWLEDGMENTS

The original version of this guide was the result of a suggestion by the Rev. Charles Quann and its affirmation by other members of the MBA's Community Outreach Committee, including J. Edmund Mullin, Esq. and Samuel D. Miller, III, Esq., who chaired the committee at that time. Then-MBA President Marc Robert Steinberg, Esq., promptly enlisted our Criminal Defense Committee. Our members contributed specific articles which were then shaped into a consistent and user-friendly text by Doris L. Freeman, COC member. Additional information came from Jane Dobkin Lichterman of the Victim/Witness Unit in the District Attorney’s Office. Each draft was reviewed, tempered and expanded by members of our committee and the document was then turned over to the highly skilled staff of the MBA, headed by Executive Director Nancy R. Paul, and moved to publication.

This current edition was revised and updated voluntarily by the member contributors listed on the opposite page, under the leadership of Criminal Defense Committee Co-Chairs Michael F. Dunn, Esq., Steven F. Fairlie, Esq., and Adam D. Zucker, Esq.

We are very pleased to be able to offer this handbook to any person in Montgomery County who becomes involved in the criminal justice system. It required countless hours of volunteer work by attorneys and interested members of our community and we sincerely appreciate their efforts.

This handbook, along with the Montgomery County Elder Law Handbook, is evidence of the Montgomery Bar Association’s continuing commitment to its long-standing tradition of public service.
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FOUNDATIONS OF CRIMINAL LAW

Democracy in this country is based on the rule of law enshrined in the Constitution and our full respect for the rights of individuals. One of the fundamental precepts in our legal system is the presumption of innocence, meaning those accused of crimes are legally innocent until they either plead guilty or are convicted in a trial. The burden of proof is on the prosecutors, not on the defendants. For a jury to convict, Prosecutors must prove the accused is guilty “beyond a reasonable doubt.”

The Constitution also contains a Bill of Rights, which provides specific protections for the rights of those accused of committing a crime:

- The Fourth Amendment - prohibits arrest without probable cause and against unwarranted search and seizure;
- The Fifth Amendment - allows the accused to remain silent during questioning to protect against self-incrimination;
- The Sixth Amendment - ensures the right to counsel, to a speedy and public trial, and the right to call witnesses and cross-examine the government’s witnesses;
- The Eighth Amendment - prohibits excessive bail and cruel and excessive punishments, such as any form of torture or an unreasonably long sentence;
- The Fourteenth Amendment - ensures all people are granted equal protection under the law.

Additional guarantees of our individual rights have been added through federal legislation (fix paragraph break) and case law, i.e., the rulings of federal courts year after year. Also important are the various laws of the Commonwealth of Pennsylvania, case law in our state and the ordinances of our county’s various municipal governments.

DESIGNATION OF CRIMES

Crimes in the Commonwealth of Pennsylvania are divided into these categories:

- Felonies: the most serious crimes which include murder, rape, aggravated assault, robbery, burglary, kidnapping, arson, possession of a controlled substance with intent to deliver, and other offenses;
- Misdemeanors: generally, less serious crimes including driving-under-the- influence, simple assault, minor thefts, and other offenses;
- Summary offenses or infractions: include harassment, disorderly conduct, defiant trespass, and most traffic offenses;
- Violations of local ordinances: Cover a wide range of topics and include rules regarding parking on snow removal routes or applying for a permit before burning leaves, among other offenses.

Over the years many state legislatures have responded to community pressures and have passed laws regarding drunk driving, physical abuse of children, family violence, sexual harassment, and other behaviors. Since the laws are constantly changing, most states now list their current statutes, criminal codes, and criminal procedure codes on-line. Pennsylvania rules and regulations are available at www.pacode.com. Go to http://www.legis.state.pa.us/ for Pennsylvania’s laws. Hard copy is available at the Montgomery County Law Library located at the lower level of the Court House.
DEFENDANTS

Choosing a Defense Attorney

If you become involved in the criminal justice system as a defendant, you will most likely need help to guide you through the legal process, which is not as simple as we see depicted on television. You should review your options and consider how to find an attorney to help you. Each defendant has different needs, depending on the details of their case and the crime charged. For recommendations about attorneys, you may consult friends, relatives, business colleagues, clergy and others. The internet is also a useful tool for finding an attorney in your area. Another good source of information is the Montgomery Bar Association Lawyer Referral Service, telephone 610-279-9660, ext. 201 or 1-800-560-5291.

If you are unemployed or believe you qualify under low-income guidelines, you may contact the Montgomery County Public Defender’s Office on the second floor of the Court House at Swede and Airy Streets in Norristown, telephone 610-278-3295.

As you make your choice you should look for an attorney who specializes in criminal defense. Attorneys who work in criminal defense law are specialists in an intricate and ever-changing body of knowledge including legislation, case law, regulations and procedures, and are experts of the specific challenges facing criminal defendants. These lawyers are experts at using their energies and talents to counter the power and resources of law enforcement agencies and government prosecutors. The unique demands of the criminal defense process usually require additional training and experience for those who engage in this branch of the legal profession.

Attorney Client Relations

You want to develop a productive partnership with your criminal defense attorney. In your initial consultation you should ask about his or her background, legal training, experience in cases similar to yours, and familiarity with the procedures and staff of the local court system. Remember that your lawyer will be speaking for you and helping you make decisions throughout the case, so you should be comfortable and at ease with that person. You want to be represented by someone who will answer your questions, research relevant laws, review police records, gather evidence, question witnesses, work out a defense strategy, and present your case to judges and jurors with confidence.

Our democratic tradition protects the innocent by guaranteeing the rule of law through our court system. In our country it is judges and jurors, not the police, who decide who is guilty of a crime. Even if you have committed a crime, your lawyer is bound by professional rules to give you the best possible defense.

Rules of Professional Conduct

The American Bar Association’s Model Rules of Professional Conduct guide professional practice. You should know that under these rules no defense attorney can make promises about the outcome of a criminal case. You should also know that even if someone else is paying the fee, your lawyer’s duty is to you alone as the client. He/she is expected to keep your confidential communications strictly confidential, to inform you about developments in your case, to answer your questions, and to give you candid advice about your options.

Professional Fees

Two basic rules you should remember: 1) contingency fees, where lawyers get paid only if they win, are never allowed in criminal cases; 2) fee agreements should always be in writing. Usually your attorney’s fees are based on the complexity of your case, their experience, and the range of legal fees in your community.
Criminal Investigations

Providing Information

As outlined above, the United States Constitution, the Bill of Rights and subsequent court decisions impose many rules regarding law enforcement and it is very important that the police follow them to respect our rights as individuals. However we as citizens also rely on police officers to protect our communities from crime; to meet that challenge they obviously need to conduct criminal investigations.

Police do not need probable cause to investigate a crime. An officer or detective can ask you to provide information without having any level of suspicion that you committed a crime or were involved in a crime. At the same time, the law does not require a citizen to respond when an officer seeks information. You are under no obligation to assist in any criminal investigation. This is especially true if you are the subject or focus of the investigation because you have the right not to incriminate yourself, granted by the Fifth Amendment to the United States Constitution. Anytime an individual who may be the focus of an investigation is asked to speak with law enforcement officers that person should consider retaining counsel first.

Investigatory Stops

At times police have a reasonable suspicion that criminal activity is taking place. When they do, they can perform an “investigative detention.” Such a detention is not an arrest; it is a stop that subjects you to a brief period of detention so that the officer can determine if, in fact, there is criminal activity going on. However, all investigative stops must be reasonable in scope and nature; the officer called upon to testify in court must be able to point to specific and articulable facts of a certain nature that warrant that initial stop.

When a police officer actually observes unusual conduct which leads him/her reasonably to conclude in light of his/her experience that criminal activity may be afoot, the officer may briefly stop you as a suspicious person and ask questions aimed at confirming or dispelling those suspicions. The officer may also search your person if there is reason to believe that you are armed and dangerous. Any evidence located during such a search may or may not be suppressed if you are subsequently arrested.

Note that there can be a significant difference between an investigatory stop and an arrest. Ultimately, the courts determine whether contact with the police was merely investigatory or was indeed custodial in nature. Remember that you are up against the power and resources of the law enforcement community. That means that it is important for you to contact an attorney immediately if you are placed under arrest following a stop by the police. Your attorney will review the details and explain to you whether or not the police followed the rules. You may face serious repercussions so you should review your options.

Miranda Rights

The United States Constitution guarantees every citizen the right to remain silent. Under the Fifth Amendment to the Constitution, you cannot be compelled to incriminate yourself. In the famous case of *Miranda v. Arizona*, the United States Supreme Court ruled that your privilege against self-incrimination is triggered when you are placed in custody or your freedom is otherwise deprived and you are subjected to questioning. Most people know that the police must advise you of your rights but many do not realize that both of those conditions must exist before the police are required to do so. The *Miranda* Court defined custodial interrogation as “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his/her freedom of action in any significant way.”

Immediately prior to undergoing a custodial interrogation, a suspect must be apprised of his/her *Miranda* rights. If the warnings are not given, any statement made during a custodial interrogation cannot be used in the prosecution of your case, subject to certain exceptions. The most effective way to secure your right to remain silent is to ask for a lawyer because police must
then terminate any interrogation until your lawyer is present. Note that the remedy for a Miranda violation is suppression of the evidence obtained illegally and not automatic dismissal of all charges.

**Search and Seizure**

The Fourth Amendment to the United States Constitution prohibits “unreasonable” searches and seizures by the government. With certain exceptions, the police need to apply to a Judge for a warrant (permission) if they want to search your home or personal belongings. This search warrant must be based upon “probable cause” — the probability that evidence of a crime will be located in your home. The warrant cannot be based on speculation or conjecture and it must specifically identify the residence to be searched and the possible evidence to be found. A neutral and detached magistrate must issue the warrant after reviewing the facts submitted by the police.

The police also need a search warrant to search your motor vehicle, unless certain exceptions exist that would allow them to search without a warrant. Because automobiles are highly mobile and evidence in them can be quickly lost, an illegal warrantless search often occurs.

If you are arrested, the police will undoubtedly search your person. They do not need a search warrant to do so if they have lawfully arrested you. Any evidence of a crime or illegal contraband that they find during a search incident to your arrest will be used against you in court. If you are arrested while driving your car, the police must obtain a search warrant to search your vehicle unless certain circumstances exist.

The government cannot normally tap your telephone lines and listen to your conversations because that is considered an unreasonable search and seizure. However, if a law enforcement agency can show probable cause, they can obtain a wiretap order which is issued by a Judge and then proceed within the law.

Evidence obtained in an unreasonable search or seizure cannot be used against you in Court. This is known as the “exclusionary rule.” This and other related rules are complicated and they change constantly so it is important that you obtain legal counsel to determine if any of the evidence found by the police will be admitted in Court and thus used against you.

**Arrest and Indictment**

**Arrest**

Arrest is usually the first step in a criminal case and you should be aware of various problems which can begin immediately. You should of course answer any questions about your identity but if you voluntarily offer more than that you could be adding to the case against you. You have your rights as outlined above but any statements you volunteer could later work to your disadvantage.

**Resisting Arrest**

You should remember that if you are arrested your behavior toward law enforcement officers can become part of your case. You are better off if you do not struggle or threaten or shout because your attempts to resist arrest might be used against you and could jeopardize your safety. Courts have ruled that even if there is clearly no probable cause, arrestees do not have a right to use force against an officer of the law. The issue is one for the Court, not for the street, and this protects both you and the law enforcement officer.

**Use of Force in Making Arrests**

Every community should be concerned that the local police enforce laws fairly, working under policies and using procedures which are appropriate to the needs of each case. And common sense tells us that as individuals we should be very careful in situations that could lead to violence. Generally officers are only allowed to use “reasonable” measures but in cases where a suspect threatens or seems to threaten an officer with a weapon or what appears to be a weapon, they
are authorized to use deadly force. If you believe more than reasonable force is used, you should discuss this problem with your attorney.

**Probable Cause**

The law requires that police have “probable cause” before making an arrest or taking you into custody to face any charge for any crime. Probable cause exists if the officer has reasonably trustworthy information that would lead a reasonable and cautious person to believe that you committed or are actually committing a crime.

**Arrest Warrants**

You can be arrested with or without an arrest warrant. To get an arrest warrant — permission of a neutral person — the police must apply to the local District Justice and they must support their request with written, sworn affidavits. They are required to obtain warrants to make arrests for most misdemeanors unless the crime is committed in the presence of the police officer. Police must have a warrant to arrest you inside your home, unless emergency circumstances exist that would justify a warrantless arrest. However, the police do not need a warrant to arrest you if they have probable cause to believe that a felony such as murder, robbery or rape has been committed and that you are the felon.

An arrest made without probable cause is not a lawful arrest. The rules are complex and consequences can be serious if the police do not follow procedures when they arrest you. A criminal defense attorney can determine whether this first step was lawful and advise you on the action you should take to defend your position. You should therefore seriously consider immediately hiring an attorney who has the expertise to assist you.

**After the Arrest**

**Booking**

If you are arrested, police are of course allowed to ask questions to establish your identity: your name, address, date of birth and Social Security number. Beyond that, as a general rule it is best to treat law enforcement officers with courtesy but to refrain from answering questions beyond identification unless so advised by your lawyer. Remember that everything you say is “on the record” and that, in fact, everything you say can and will be used against you in court. Remaining silent is always your right. Officers may press for information about the case or even a confession because it is in their interest to get on with their investigations. However, the wisest course for you is to keep silent and ask your lawyer to guide you. You can never go wrong following these three rules:

1. Clearly ask for an attorney; and then
2. Remain silent.
3. Be respectful to the law enforcement officers at all times.

When you are booked, the details of your case are made part of the police records and you may be fingerprinted and searched. Your personal effects will be inventoried and put away to be returned when you are released; you should receive a receipt for these items. You will be allowed to make at least one phone call and then you will most likely be put into a cell to await your meeting with the Magisterial District Judge (commonly referred to as the “DJ”). Some police departments allow some prisoners to make several phones calls but permission may hinge on your attitude and actions while you are in custody. Visiting privileges may also hinge on your behavior. You should be aware that once you are under arrest, you have limited rights to privacy. The only “privileged” communication — that can not be used against you — is between you and your counsel. Since officials can legally listen to your other conversations you must remember that anything you say to others can be used against you. Discussions with your religious adviser, personal doctor or therapist may be privileged but laws are changing and you should ask your attorney.
Your should be careful of your behavior while you are in custody. Do not trust other inmates who could become informants against you. You should accept nothing from them and should certainly refrain from fighting or other negative action.

You should remember that police officers are not responsible for determining your sentence so they can not make definitive promises about leniency. In Pennsylvania it is the prosecutor and the Judge who bring about those decisions in criminal justice cases.

You should be aware that once you are under arrest, you have limited rights to privacy. The only “privileged” communication — that cannot be used against you — is between you and your attorney. Since officials can legally listen to your other conversations (including those with family members and loved ones), you must remember that anything you say to others can be used against you. Discussions with your religious adviser, personal doctor or therapist may be privileged but laws are changing and you should ask your attorney.

You should be careful of your behavior while you are in custody. Do not trust other inmates who could become informants against you. You should accept nothing from them and should certainly refrain from fighting or other negative action.

You should remember that police officers are not responsible for determining your sentence so they cannot make definitive promises about leniency. In Pennsylvania, it is the prosecutor and the Judge who bring about those decisions in criminal justice cases, and this happens much later in the process.

Dealing with the Media

Your case may become a focus of attention by the media and you are wise to resist any temptation to try to defend yourself by answering questions or explaining your side of the story. You should respond by politely referring to your attorney, and then remaining silent. You can also gently refuse to pose for photographs but if a camera is pointed in your direction you should face it squarely and in a serious manner. If you snarl or try to hide you might appear to be less than law-abiding and that will not help your defense. Indeed, lashing out at the media will only increase their interest in your case.

Keeping silent will also give you the best chance of minimizing your situation’s digital record. Even if you are eventually found not guilty or get your record otherwise expunged (erased), the media is not subject to expungement orders.

Preliminary Arraignment

The next step in the criminal justice process is a court proceeding called the preliminary arraignment when you appear before a District Justice. You receive a copy of the criminal complaint and/or the arrest warrant with the supporting affidavits which explain the circumstances of your arrest.

At the preliminary arraignment the District Justice reads the complaint to you and informs you about the following:

1. the right to secure counsel of choice and/or the right to assigned counsel; if you are unemployed or believe you qualify under low-income guidelines, you should contact the Montgomery County Public Defender’s Office on the second floor of the Court House at Swede and Airy Streets in Norristown, telephone 610-278-3295.

2. the right to have a preliminary hearing;

3. if your offense is bailable, the Magisterial District Judge will set the bail. Bail is cash or cash equivalent, which you give to a Court to insure that you will reappear when so ordered. If you appear, the Court refunds the bail; if you do not, bail will be revoked, may be forfeited and a warrant will be issued for your arrest.

4. the date and time for the preliminary hearing which cannot be less than three (3) or more than ten (10) days after the preliminary arraignment.
The time for the preliminary arraignment usually depends on the type of crime for which you were arrested. In arrests for a felony or for some misdemeanors, the preliminary arraignment is held without unnecessary delay. If you are arrested for a less serious charge, the preliminary arraignment is not held until the date and time fixed for the preliminary hearing. In most misdemeanor cases, you are released after you are arrested and are given notice of the preliminary hearing with a summons mailed to your home address.

If you are arrested for a less serious offense called a summary offense a preliminary arraignment is often not required. You have to appear for a preliminary arraignment only if an arrest warrant is issued or if you are arrested without a warrant and the arresting officer finds that detention may be appropriate.

**Right to Counsel**

Perhaps the most important purpose of a preliminary arraignment is to notify you of your right to counsel. As outlined earlier, your best first step as a defendant in a criminal process is to obtain counsel. If you do not have a personal lawyer, you should contact people in the community whom you trust or call the Lawyer Referral Service of the Montgomery Bar Association, 100 West Airy Street, Norristown, PA 19404 at 610-279-9660, ext. 201 or 1-800-560-5291.

If you believe you qualify under low income guidelines you should contact the Montgomery County Public Defender’s Office at 610-278-3295. If you are free on bail, you must appear in person at the Public Defender’s Office on the second floor of the Montgomery County Court House in Norristown. If you are incarcerated and incapable of making bail, you can obtain the services of the Public Defender by submitting a request to Social Services in the prison.

**Setting of Bail**

Another important part of the preliminary arraignment is the setting of bail which can be one of five types:

a. Release on recognizance (ROR)
   
   You are released, conditioned only upon your written agreement to appear. ROR is generally granted only in cases when you and/or your family have a firm standing in the community, you are employed and have little or no record of recent wrong-doing, and/or the offense is so minor in nature that you are likely to show up for Court.

b. Release on non-monetary conditions
   
   You are released upon your agreement to comply with certain non-monetary conditions, such as having no contact with the victim of the crime.

c. Release on unsecured bail bond
   
   You are released upon your written agreement to be liable for a fixed sum of money if you fail to appear as required or fail to comply with the conditions of the bail bond.

d. Release on nominal bail
   
   You are released after depositing a nominal amount of cash such as $1 which the bail authority determines is sufficient security for your release.

e. Release on monetary conditions
   
   You are released upon compliance with a monetary condition imposed upon you with one or more combinations of the forms of security listed below. Note that the Court refunds bail money at the end of your case if you have followed all of the rules such as attending each court session as ordered and paying your fines on time.
   
   - Cash in the full amount of bail or, in certain cases, a deposit of ten per cent
   - (10%) of the full amount;
   - Bearer bond of the U.S. Government, the Commonwealth of Pennsylvania, or any other political subdivision of the Commonwealth;
• Real Estate;
• Security bond of a professional bondsperson, who are listed under Bail Bonds in the yellow pages. In this instance you pay a bond seller to post a certain amount of money with the Court and the Court keeps the bond in case you don’t appear as ordered. You can usually buy a bail bond for about ten per cent (10%) of the amount of your bail; this fee is paid to the bondsperson for taking the risk and thus it will not be refunded to you.

If a District Justice sets a monetary condition for bail, he/she can accept payment immediately. Thereafter if you cannot secure bail, you are committed to jail as provided by law.

**Line-Ups**

The prosecution must prove beyond a reasonable doubt all elements of crime[s] charged. Witness Identification is an element in all crimes. Witness Identification occurs outside of court and in court. There are several different types of Witness Identification that can be used by the police [arresting agency] and prosecution [District Attorneys] to identify the one who committed the crime[s].

Some types of witness identification are: the Show-Up; Photographic Array; Line-Ups, Voice, Video, Audio, and Handwriting Identification; all of which occur at different stages of prosecution, both outside of court, and in court, at the preliminary hearing, and at trial.

This section is about Line-Ups, so, briefly, the Show-Up is when the police take a suspect who was apprehended shortly after the alleged crime took place, and take the suspect back to the crime scene for identification. The Photographic Array is when witnesses look at photographs, with or without the perpetrator in the photos.

There is no right to an attorney at Show-Up’s if the defense will be able to use the photos. The Pennsylvania Supreme Court has yet to address whether one has a right to an attorney at the Photographic Array. However, the Pennsylvania Superior Court stated that as long as the photos used to identify an offender are available to the defense there is no right to an attorney at a Photographic Array.

At the preliminary hearing, and at trial, witnesses will identify the alleged offender in court, on the record. Although, one has a right to an attorney at all critical stages of prosecution, an attorney will not be provided, unless the alleged offender is incarcerated, or cannot afford an attorney.

A Line-Up is where the arresting government agency places the suspected offender in a group of people, who fit the description of the suspected offender, who committed the alleged crime that was initially reported by the complainant/victim, and/or other witnesses, to establish the identity of the person[s] who committed the alleged crime[s].

Under Federal and Pennsylvania Constitutions pretrial line-ups are critical stages of prosecution, thus, an alleged offender has a right to counsel at the pretrial Line-Up, especially since absence of counsel may take away the accused’s right to a fair trial and the line-up procedure is one “riddled with innumerable dangers and variable factors which might seriously, even crucially, derogate from a fair trial.” See United States v. Wade, 388 U.S. 218 (1967), United States v. Ash, 413 U.S. 300 (1973), and U.S. Const. amend. VI, Commonwealth v. Jackson, 323 A.2d 799, 804 (Pa.Super. 1974), and Commonwealth v. McKnight, 457 A.2d 931, 934 (Pa.Super. 1983).

When one is arrested whether by summons or arrest warrant, get a Montgomery County Attorney to defend you at all critical stages of prosecution, including Line-Ups [Witness Identification] especially if you want the best of the best.

For more information about Witness Identification and the Right to an Attorney, see the United States Constitution, Pennsylvania Constitution, Sixth Amendment Article I, Section 9, United States v. Wade, 388 U.S. 218 (1967), United States v. Ash, 413 U.S. 300 (1973), Commonwealth

The Preliminary Hearing

You must appear at the time and day set by the District Justice for the preliminary hearing. In this session, the District Justice serves as the first level of our justice system for he/she is the neutral person who must decide whether or not to hold you over for trial.

The Prima Facie Case

The question which the District Justice must answer is this: have representatives of the Commonwealth (either a police officer or representatives of the District Attorney’s office) provided enough evidence to make a prima facie case against you as the defendant?

To answer that question, the District Justice hears testimony and reviews the evidence presented by the Commonwealth. At this preliminary hearing level, representatives of the Commonwealth do not have to prove the case beyond a reasonable doubt. They need only to present enough evidence to show that a crime was committed and that you probably committed that crime. The prima facie case is one which is true, valid or sufficient at the first impression.

During the preliminary hearing, representatives of the Commonwealth have no obligation to present all evidence in their possession or to call all witnesses they would call at trial. They usually present the least amount of evidence and testimony possible to have you held over for trial.

Behavior of a Defendant

You can help your defense by trying to make a positive impression at all times. You are innocent until proven guilty so you should try to underscore the reasonable doubts about the charges against you. This means dressing as well as possible and using your best manners to show full respect for the Court and the people you see there. It is also very important to be punctual for every session for which you are ordered to be present.

Need for Guidance

Some people think that they do not need a lawyer at these early stages of criminal proceedings. You could ask yourself before you move further into the process if you feel confident that you can do the following:

- make all of the legal arguments in your favor that a prima facie case has not been made by the Commonwealth at the preliminary hearing;
- negotiate with the police officer or Assistant District Attorney to allow for reduction of bail or the dropping of some or all of the charges against you;
- arrange for a court reporter to be present at your preliminary hearing because a transcript of the proceedings can be used to pin witnesses down to their story at an early stage of the proceedings and can also provide the basis for filing motions with the Court of Common Pleas to show that that the Commonwealth failed to make a prima facie case;
- question witnesses in order to elicit useful information in preparation for trial;
- move for sequestering witnesses so that each is barred from listening to the testimony of others;
- ask for removal of the Judge if there is good reason to believe he/she has a bias against you;
- invoke all of the various unforeseeable constitutional issues that might arise, such as the need for a line-up before being viewed by witnesses.

You may conclude that the earlier you involve an attorney in your case, the stronger will be your defense.
First-Time, Non-Violent Offenders

There are several courts in Montgomery County that serve the special needs of first-time non-violent offenders. These are Drug Court, Veterans’ Court and Mental Health Court and you may be eligible for these programs which could avoid a conviction on your record. First time offenders may also be eligible for ARD.

If you are a first-time, non-violent offender, you may be allowed by the District Attorney to move into the ARD program. Primarily used in driving-under-the-influence (DUI) cases, ARD can provide for shorter terms of license suspension, community service and probation if you waive your preliminary hearing. New procedures in Montgomery County require you to make decisions about ARD at the preliminary hearing so it is critical to have your own attorney at the preliminary hearing if you plan to apply. For more information about this program, see page 17.

Defendant’s Testimony

Defendants should almost never testify in their own behalf at a preliminary hearing; there is little justification for you to reveal your version of the facts since that can forecast your (and your lawyer’s) strategy for the long-term resolution of the case and has little or no effect on the District Justice’s decision of whether to hold the case over for trial. What very often happens at a preliminary hearing is that the Commonwealth representatives call their witnesses and then your lawyer cross-examines these witnesses and makes legal arguments to show that a prima facie case does not exist.

Arraignment

At the preliminary hearing, the District Justice gives you written notice of the date, place and time of the arraignment. Arraignment is the point in your criminal prosecution when you appear before the Court to hear the charges alleged by the prosecutor and to enter your plea. You are required to appear at the arraignment unless you are represented by an attorney and you have filed a written waiver of the arraignment, signed by your attorney, with the Clerk of Courts and the District Attorney’s office prior to the arraignment date.

You should be aware that a warrant for your arrest will be issued if you do not appear at arraignment or if you fail to waive arraignment according to the rules. If you fail to appear for any scheduled appearance in Court you put yourself in a position to be hit with fines and other penalties including forfeiture of bail and incarceration.

Charges

The District Attorney’s office has some latitude in deciding what charges to bring in your case; they review the arrest reports, victims’ statements and your prior criminal record. They may have to wait for laboratory test results or information from forensic experts. Then they will decide whether to file charges on each offense listed by the police or they may decide not to file any charges at all, depending on their assessment of the strength and seriousness of the case. It is possible that the prosecution will file more charges than they actually intend to prove at trial, to facilitate plea bargaining.

Discovery

After the arraignment, you are entitled to the information in the possession of the prosecution that is material to the case. The information sought may include police reports, examination of physical evidence, statements by witnesses and yourself, your prior criminal record, and reports from experts. Once discovery is complete, you and your attorney can determine how best to proceed with your defense.
Writ of Habeas Corpus

Under our Constitution, you have the right to seek dismissal of all charges through a petition for a writ of habeas corpus which is a request to a Judge to review the legality of those charges. Depending on what transpired at the time of the preliminary hearing, you may have the right to confront the witnesses needed by the Commonwealth to support the charges. As at the preliminary hearing, the Commonwealth’s burden of proof here is less than it would be at trial.

Accelerated Rehabilitative Disposition (ARD)

ARD is a way for the District Attorney and Defendants to resolve certain minor cases. It is very important to the District Attorney, because it allows them to handle approximately 1/3 of all of their cases through the program. It’s important to the Defendant, because the consequences of a crime are minimized and the Defendant has a chance to get the arrest expunged (to have the arrest “wiped-clean”) from his record.

Most ARD matters are Driving Under the Influences cases. In the typical DUI case, a Defendant would end up with a one-year license suspension. In ARD, however, his or her suspension will probably be reduced to one or two months. Further, in most DUI cases that are resolved by ARD, the Defendant does not have to serve a jail sentence.

Many Defendant are understandably embarrassed when they get arrested for DUI or other offenses. On the day of the ARD hearing, you will find out that you are not alone in having done something stupid. The Courthouse will be crowded with people similar to you who have made the mistake and want to get the case over with. Defendants are also usually very nervous when they have to go to the courthouse. There is no need to be nervous. There is a lot of security, and helpful people everywhere. If you have trouble finding your way around, just ask someone.

All of the various costs involved in an ARD DUI case usually amount to more than $2,000. Even still, ARD is usually the way most people choose to handle their first time minor offense cases. Most people who admit their crime are better off applying for ARD and meeting the requirements for the program.

Anyone who goes through the ARD program must keep in mind that the consequences are very severe if they drive during their period of license suspension. These cases are taken very seriously by the authorities and by the Department of Transportation. You will almost certainly serve at least 60 days in jail if you are caught driving while you are suspended for a DUI related case.

Please keep in mind that ARD is available for many other kinds of minor offenses. For example, minor theft cases often result in ARD. In those cases there would be no license suspension. Most Magisterial District Judges in Montgomery County will be able to provide you with an application form for ARD. Fill the form out carefully and mail it in to the District Attorney. As of December, 2015, an average waiting time from application to ARD hearing date is about seven months. However, new District Attorney Keven R. Steele has indicated that he will study whether it makes sense to devote additional personnel to the ARD unit, so that these cases can be handled much more quickly.

The legal implications of a case like this can be overwhelming. It is not required to have a lawyer, but many people prefer to have representation to make sure everything goes smoothly and to answer their questions. If you don’t know how to find a lawyer, the Montgomery Bar Association has an excellent lawyer referral service. They can be contacted at 610-279-9660, extension 201, 1-800-560-5291, direct dial at 610-994-3656, or email at lrs@montgomerybar.org.

Remember, ARD is not cheap or easy, but it is cheaper and easier than going to trial.
Pre-Trial Conference

The pre-trial conference is scheduled after the formal arraignment and is conducted by the Judge to whom the case been assigned. At the conference, the Judge is available to discuss pre-trial issues with your counsel and the attorney for the Commonwealth. The conference is usually held in the Judge’s retiring room outside the courtroom though it may be held in open Court for those defendants who are not represented by an attorney. It usually will be the first opportunity to learn what the Commonwealth is offering for sentencing should you decide to plead guilty.

The Plea

At the pre-trial conference you face the crucial decision: whether to plead guilty or advise the court you wish a trial. Your attorney is the one to give you guidance. If you do plead guilty, you are admitting that you committed the crime and thus you are convicted without going through a trial. You may be sentenced that day and immediately incarcerated.

Another seldom-used option is to plead *nolo contendere*, meaning that you will not admit the charges but that you will not contest them. In the eyes of the law, *nolo contendere* is the same as pleading guilty but you have one advantage in that if you are sued later for damages in a civil suit, your plea can not be used as evidence. Obviously these are factors which your attorney will review with you. A *nolo contendere* plea can only be made with the consent of the Commonwealth and the Judge.

Plea Bargaining

Sometimes you, your lawyer and the District Attorney come to a “plea agreement” and the Judge decides whether or not to accept that agreement. Your best move may be to negotiate a plea bargain wherein you plead guilty which usually allows you a lesser sentence. The great majority of criminal cases are settled through negotiation which saves the Commonwealth the cost of those trials, a considerable issue. Again, your attorney tries to argue in your behalf and to bargain to find the least worst, most positive scenario for your case.

When you, your lawyer and the District Attorney cannot agree on a recommendation, you may enter an open plea, which is otherwise known as throwing yourself on the mercy of the Court thus leaving the decision of the sentence to the Judge.

If two sides reach a resolution of the case, which is agreeable to the Judge, the case will be called that day, usually before noon. If no resolution is reached, the Judge directs that the case is placed on the trial list. Soon thereafter, notice of the trial date is sent to you and the Commonwealth representatives.

On To The Trial

All criminal defendants have an absolute right to a speedy public trial, the process through which evidence is tested to determine guilt or innocence. In Montgomery County that process normally moves ahead on the first available trial date determined at the Call of the Trial List. The Trial Judge inquires whether the case will be resolved by a guilty plea, trial by a judge or trial by a jury or by other disposition. Your lawyer explains the status of your case if you are represented or you advise the Judge of the status yourself if you are not. If a plea bargain is worked out, the guilty plea will be entered then; cases called for trial are normally rescheduled to a later date.

Pre-Trial Motions

Pre-trial motions in Montgomery County are typically handled on the day the trial begins but they must be filed within thirty days of the formal arraignment date. These might include a motion to suppress illegally obtained evidence; motions *in limine* which seek advance rulings on the admissibility of evidence, requests that the prosecution show their additional evidence, and
requests to split your trial from your co-defendants if any, a request to change the trial’s location or any of numerous other potential motions. Once any pre-trial motions have been resolved, a trial on any remaining charges can begin.

**Bench Trial or Jury Trial**

Your trial may be a bench trial before a single trial Judge or a jury trial before a jury of twelve citizens and you should consult your attorney about this important decision. You should consider whether the prosecutor would be more likely to convince one Judge or twelve jurors of your guilt, whether your defense turns on questions of law or fact or if you foresee a potential for juror prejudice. The Commonwealth has an equal right to a jury trial even if you do not choose to have one.

**The Trial: A Summary**

Generally procedures include the review of issues about evidence to decide what can be admitted or excluded; the opening statements; presentation of the main case with direct examination of prosecution witnesses by the prosecutor; cross-examination by the defense; the redirect wherein the prosecutor reexamines its witnesses and then rests his/her case. Then the defense can make a motion to dismiss the case which can be accepted but if denied the defense presents its case through direct examination of defense witnesses.

At this point, the prosecutor then cross-examines the defense witnesses followed by the redirect by the defense and resting of his/her case. The prosecution has the opportunity for rebuttal and in the case of a jury trial, the prosecution and the defense work with the Judge to agree on instructions to be given by the Judge to the jury. Both sides are then given the opportunity to make their closing arguments.

The Judge then takes up the case or in a jury trial, instructs the jury about what law should be applied in the case. The jury proceeds to deliberate and agree on a unanimous verdict. If they deliver a guilty verdict, the defense often makes post-trial motions for retrial but the Judge almost always denies these requests and moves on to sentencing of the accused. If the jury cannot agree on a unanimous verdict, the Judge usually declares a mistrial and the prosecution can decide whether to force a second trial.

**Selecting the Jury**

If you decide on a jury trial, potential jurors are selected from a pool of the registered voters and licensed drivers in Montgomery County; this program is administered by the Montgomery County Jury Commission whose members are elected officials. Through a process called *voir dire* both sides are allowed to ask questions of the prospective jurors as they try to create the most favorable jury panel from their special perspective.

**Presenting Evidence**

The Commonwealth representative - the prosecution - has the burden of presenting evidence and must state a *prima facie* case or risk having the charges against you dismissed. They are required to prove these charges beyond a reasonable doubt. Witnesses are called, take an oath to tell the truth, and the prosecutor uses direct examination to ask them questions which are intended to support their view of the criminal action. Your defense attorney then may cross-examine these witnesses, asking questions to bring out your side.

The defense also has the right to present witnesses, documents and physical objects into evidence, sometimes through use of the *subpoena* power which requires the person to be present at the trial, either as a witness or as the person in custody of the document or object. You are entitled to present as much evidence as you wish or none at all and you have the right to testify in your own defense, but also the right not to testify. The prosecutor is not allowed to comment on the fact that you have not taken the stand nor presented evidence; however these are critical decisions for you and your attorney who has your best interests as the highest priority.
Recent changes in the law provide that children who are victims of sexual abuse are allowed to testify via closed circuit TV and the trial may be closed to the public. However, in all cases, the defendant can view the testimony and the defense attorney can cross-examine the child.

Witnesses almost always discuss their testimony ahead of their appearance. Attorneys almost always urge witnesses to limit their answers to the questions asked, warning them about offering extra information and reminding them to ask that a question be repeated or rephrased if they do not understand it.

All evidence is presented according to the rules of evidence which are developed by the Pennsylvania Supreme Court. Judges have a great deal of responsibility in interpreting these guidelines and in instructing jurors about considering evidence. Your attorney has the responsibility to question the admissibility of any documents or statements which he/she thinks do not meet the standards. Basically, witnesses must have personal knowledge in order to offer firsthand information, evidence must be relevant and must fit into a logical prosecution. But not all relevant evidence is admitted, particularly if it is prejudicial or unfair. Character testimony, documenting that your are a law-abiding person in a way which is relevant to your alleged crime, is always admissible.

More rules govern “hearsay” evidence, out-of-court statements, government records, expert testimony, chain-of-custody regarding evidence, the manner of testimony, forensic evidence, DNA reports, polygraph reports, handwriting and fingerprints. Again, it is the Judge who is required to determine what will be considered in your trial and again you can see that it is important to have an attorney you trust to employ every avenue in your best interests.

After all evidence is presented and both sides summarize their arguments, the Judge instructs the jury about the laws which are relevant in your case, the meaning of “reasonable doubt” and how they should go about their deliberations. The jury then retires to analyze each offense, deciding if the prosecution has proven beyond a reasonable doubt that you should be found guilty of that offense. In a jury trial the verdict must be unanimous. If the jury cannot reach a unanimous decision, the Judge declares a mistrial and the prosecution must decide whether to retry the case.

**Sentencing**

If our justice system works, you as a defendant are given a fair trial with a just verdict and, if you are found guilty, a fair punishment. The Judge decides the sentence, usually based upon a pre-sentence investigation prepared by the Montgomery County Probation Department.

**Sentencing Guidelines**

The Court uses sentencing guidelines to make sure that the punishment is fair and in line with sentences throughout the Commonwealth of Pennsylvania. Guidelines are based on two factors:

1. An offense gravity score from 1 to 13 is assigned to each and every offense; the more serious the crime, the higher the number;

2. The prior record score running from 0 to 5 is assigned to each conviction you have in your past; the more convictions and the more serious the crimes, the higher the number.

There are two additional categories of prior-record score for anyone with a serious record: Repeat Felony Offender (RFEL) and Repeat Violent Offender (REVOC) which carry higher guidelines.

A sentence with a maximum period under two years is called a county sentence and is generally served in the Montgomery County Correctional Facility in Eagleville. If the sentence is two years or greater it is considered a state sentence and is usually served in a state correctional institution such as the one in Graterford.

If you are serving a county sentence you are generally eligible for time off for good behavior, known as “good time credit”; defendants are routinely released upon serving the minimum sentence unless there has been some infraction of the rules during the time of incarceration. However, a
state prisoner does not enjoy that benefit. In fact, the Pennsylvania State Parole Board can decide that you should serve additional time beyond your minimum sentence.

Mitigating Circumstances

In Pennsylvania, you have the opportunity to present your perspectives of the case which might reduce your sentence. These mitigating factors could begin with your feelings of remorse and an apology to your victims, your plan to make restitution, your feelings of responsibility to participate in a program providing alcohol or drug rehabilitation, or even psychiatric counseling as specific as training to prevent physical violence. The Judge usually decides how you make your presentation and also provides a format for victims of your crime to make their own recommendations about the sentence you will receive.

Pre-Sentence Investigation

Before sentencing, the staff of the Pre-Sentence Investigation Unit of the Montgomery County Adult Probation and Parole Department prepares a report for the Court. This covers such areas as prior criminal record, family history, educational and employment history, as well as prior treatment history for any type of addiction or illness.

Decision by the Judge

Following the pre-sentence investigation and argument by counsel, the Judge will impose a sentence, taking into account all applicable factors including prior record as well as positive factors like service to the community and employment. The Judge will utilize the state’s sentencing guidelines, which include the Offense Gravity score (seriousness of the offense) and prior record score based upon prior convictions. You may be placed on probation; sent to prison; placed on house arrest with an electronic monitoring device with the possibility of work release. In addition, you may be required to pay a fine, court costs, and restitution in addition to performing community service. The Judge may also require a Stay-Away Order that prohibits you from having contact with the victim or to complete a program for alcohol abuse or anger management. Most Judges will tailor the terms of community service to the specific defendant.

Probation

Following the sentence, most defendants are directed to report to the Montgomery County Adult Probation and Parole Department located on Ross Road in King of Prussia. All probationers will promptly receive a probation officer to whom they will report on a regular basis. The conditions of probation generally include the following:

- Performing community service with a municipal organization;
- Paying fine and costs as well as restitution, if any;
- Participating in a specialized program such as drug rehabilitation; mental health, or alcohol rehabilitation;
- House arrest including wearing an electronic monitoring ankle bracelet;
- Consenting to random urine tests (generally in drug cases);
- Refrain from the use of drugs or alcohol;

If you violate probation by committing another crime or a technical violation such as failure to report or failure to pay fines and costs, your probation officer may place you in jail with a detainer until you have a hearing before your Judge.

Parole

Defendants serving a state sentence (with back time over 12 months) will be supervised by the Pennsylvania Board of Probation and Parole. Re-parole can only be granted by the Board
following a probation violation (Gagnon Hearing). The Board believes parole is a privilege rather than a right and you may serve more than your minimum sentence before parole is granted.

After you petition the Parole Board for release, the Board will collect information decision prior to your minimum sentence. Some of the factors include your residence, place of employment, treatment needs, psychological and the adjustment in prison. They consider comments from the District Attorney, the Sentencing Judge as well as the victim prior to making a decision.

The decision is generally made by a Board member or hearing examiner rather than the entire Board. Information collected about you including notes from the interviews and the victim’s comments are reviewed by all Board members in order to make a final decision.

If the Board grants you reinstatement on parole, you will continue to be supervised by a parole officer. If that parole is violated you could be subject to serving the balance of your back time.

**Restitution**

If you are sentenced to pay restitution to any victims who have suffered financial loss because of your criminal conduct, the Victim’s Assistance Unit in the Office of the District Attorney will send a form to the victim to complete and attach copies of bills, receipts as well as claims for medical expenses and property losses. Note that lost wages, legal fees or time incurred are not reimbursed by Defendant. Restitution is generally a part of the sentence and if not paid constitutes a violation.

**Appeals**

If you choose to challenge the sentence you receive, you may appeal to the Superior or Supreme Court. The time frame for appeal is thirty (30) days or you forfeit your right to appeal. You may petition the trial judge to set bail pending your appeal. If the Court denies your request for bail, you should request a hearing before the appellate court, which will make the determination.

The appellate court will review the record of your trial together with a brief and oral argument by your attorney. The appellate court will strictly adhere to the rules of appellate procedure and will not review a brief that does not adhere to the rules.

**Driving Under the Influence of Alcohol and Controlled Substances (DUI)**

It is illegal to operate or be in physical control of a vehicle while any of the following apply:

1. You are under the influence of alcohol or certain drugs to such a degree that you are incapable of safe driving.
2. Your blood-alcohol content (BAC) is .08% or higher within two hours of driving.
3. You have any level of certain enumerated drugs, solvents, noxious substances or metabolites (by-products) thereof, in your system.
4. You are under the influence of a combination of alcohol and drugs which impairs your ability to safely operate a vehicle.
5. You are a minor with a BAC of .02% or higher within two hours of driving.
6. You are operating a commercial vehicle with a BAC above .04% within two hours of driving.

There are numerous exceptions and unique circumstances covered by the DUI Statute so anyone looking for guidance regarding what conduct is legal should consult an attorney and/or review the legislation personally in case any of the exceptions or unique details apply to his or her personal situation.
Penalties

The penalties for the DUI offenses described above range from six months probation for a first offense with a BAC between .08% and .10% to a mandatory minimum of one year in jail for repeat offenders with higher BAC’s. The maximum jail sentence for a first offense DUI under the new law is six months, while multiple offenders will face maximum sentences as high as five years of prison. In addition to these penalties, fines, court costs and costs of administering the Court’s rehabilitative programs are normally imposed. These generally include the cost of attending an alcohol highway safety school and of preparing a rehabilitative report by the court-reporting network, plus various other court costs and the restoration of any victims to pre-offense status. Defendants must also pay fines and the Court may add additional requirements based on individual treatment needs. See Chart on page #38.

Driving Under the Influence and the Accelerated Disposition Rehabilitation (ARD) Program  (See also page 19)

You may be eligible for the ARD program but your eligibility is solely at the discretion of the District Attorney for the County in which your offense occurred. There are numerous circumstances for which a District Attorney may not grant admission to the ARD program, such as the occurrence of an accident, the presence of young passengers, or having a suspended license at the time of the DUI arrest. Conditions for participating in the ARD program include successful completion of an alcohol highway safety school, evaluation by the court-reporting network to determine your involvement with drugs and alcohol, completion of a licensed alcohol and drug treatment program if ordered by the Court, successful completion of a probationary period, restitution to any party injured as a result of the DUI, and the payment of court and administrative costs associated with your participation in the ARD program and completion of community service hours. Failure to complete the requirements of the ARD program, including attending the alcohol highway safety school, paying all fines, court costs and restitution, will allow the District Attorney to revoke your participation in the ARD program and prosecute the case to the fullest extent of the penalties that can be imposed.

Currently (2015) the fines and costs for the ARD Program in Montgomery County average $1,800.00 to $2,000.00. Montgomery County prefers all fines and costs to be paid prior to the ARD Hearing. If you pay all fines and costs by the day of your ARD Hearing you may get a six-month ARD probation. If you cannot pay them in full, you will most likely get a one-year ARD probation.

Suspension of Driving Privileges

Under the current law, the length of a driver’s license suspension will vary depending on the blood alcohol content (BAC) as follows:

1. First conviction - .08 to .099 or incapable of safe driving: no driver’s license suspension;
2. All other ungraded misdemeanor offenses under the Act: 1 year license suspension;
3. All first degree misdemeanor offenses: 18 months license suspension. See Chart.

Note that occupational limited licenses will be permitted for all first offenders provided they serve a 60 day suspension of all driving privileges. Occupational limited licenses will be permitted for an 18 month license suspension provided that offenders first serve 12 months of a full suspension and then consent to have an ignition interlock installed on the vehicle which they will operate for the remaining six months of suspension. ARD suspensions are usually 30 to 60 days depending on your blood level of alcohol/drugs.

Implied Consent to Take Tests

Under the law in Pennsylvania if you are driving a motor vehicle on the highway you have consented to take a chemical test if requested by the police. A refusal to submit to chemical testing will result in a license suspension as follows:
1. 12 months license suspension for refusing to submit to chemical testing;

2. 18 months license suspension for refusing to submit to chemical testing if you have already been suspended for a prior refusal or if you have been convicted of a DUI.

Police officers are required to inform arrested persons of both civil and criminal penalties for refusing chemical testing. You cannot choose the type of chemical test you wish to take and you do not have the right to talk to a lawyer or anyone else before you take a test.

Needless to say, because of all of the various legal issues that can arise if you are pulled over for an alleged DUI, you should immediately hire a lawyer to help you understand what your rights are and how you can effectively defend yourself.

Expungement

The Pennsylvania Department of Transportation (PENNDOT) will maintain a record of your ARD participation for ten years; they are now required to expunge the record of ARD upon the expiration of the ten-year period without requiring an order from the Court to do so. This rule does not apply to commercial drivers. Some counties like Bucks County currently automatically expunge your record upon successful completion of the ARD program. However, in most counties you have to either hire a lawyer to do your expungement or you can attempt to obtain the expungement yourself.

Restricted Licenses and Ignition Interlock Devices

Pennsylvania’s law as it applies to ignition interlock states that all second and subsequent offenders are required to install an ignition interlock device on all vehicles owned or registered to the offender. It will be required that repeat offenders get an ignition interlock restricted license upon completion of their regular license suspension. The administration and supervision of the ignition interlock system will be done by PENNDOT.

Economic hardship and employment exemptions are provided in the new law. For example, an economic hardship exemption would permit you to petition PENNDOT to install an ignition interlock system on only one of your vehicles to avoid undue financial hardship. The applicant would only be permitted to operate that particular vehicle. An employment exemption would permit individuals to operate employer owned vehicles without an ignition interlock only in the course and scope of the individual’s employment. The penalty for operating a vehicle without an ignition interlock system (when required) is up to 90 days imprisonment and up to $1,000 fine.

A new offense for operating a motor vehicle without an ignition interlock system has been established where the BAC is greater than .025% or a controlled substance is found in the driver's system. The penalties for this offense would be a third degree misdemeanor carrying a maximum fine of $1,000 and a jail term of not less than 90 days. The penalty for tampering with an ignition interlock system would carry a fine up to $1,000 and up to 90 days in prison.

Driving Under Suspension

The offense of driving while operating privilege is suspended or revoked carries penalties including minimum fine of $200.00 as well as the possibility of mandatory imprisonment. Subsequent convictions of Driving while Operating Privilege is Suspended or Revoked – Non-DUI-related shall result in a sentence of a fine ranging from $200.00 to $1,000.00 and imprisonment for not more than six months.

If one is convicted of Driving while Operating Privilege is Suspended – DUI-related (DUS-DUI), whether or not the person tests positive for alcohol or controlled substance, or has refused testing of blood or breath, the consequences are much more severe with penalties ranging from mandatory imprisonment of 60 days to two years and fines ranging from $500.00 to $5,000.00.
The Vehicle Code imposes a minimum one-year suspension in the event of a conviction for Driving while Operating Privilege is Suspended and where the record of the Department of Transportation shows that the individual is under a revocation at the time of the violation, it can result in a two-year revocation.

**Drug Cases**

Drug cases have become a unique sub-category of the criminal justice system. Laws of the Commonwealth of Pennsylvania now designate certain substances as “controlled substances” and there are stiff and severe mandatory state prison sentences for various drug offenses. Sentencing is typically related to the type and weight of the drug, prior record, and proximity to a school zone.

The severity of mandatory sentencing frequently compels anyone charged with drug offenses to “cooperate” with authorities. If you become involved in this process, you should be aware that this cooperation is generally governed by a complex, highly detailed “proffer” letter that is signed by the defendant and an Assistant District Attorney. Cooperation with the Commonwealth should not begin if there is no formal proffer letter because you could be left without evidence of your agreement in the event that discord arises at the time of sentencing. You should seriously consider seeking counsel to explain your options and assist you in this complex process.

Most drug offenses involve possession or possession with intent to deliver the specific controlled substance. A vast body of case law addresses the doctrine of constructive possession, whereby a person who did not have actual, physical possession of a controlled substance may be deemed to have possessed it anyhow. Similarly, there is also extensive case law regarding the concept of “possession with intent to deliver.” It is important to note that the law does not require a sale or exchange of money as it may be inferred that drugs are possessed with intent to deliver based on packaging, drug weight, absence of paraphernalia for ingestion, and other circumstances. You should be fully aware that possession with intent to deliver a controlled substance is a felony charge usually involving jail time upon conviction.

**Property Forfeitures**

Any property, whether real or personal, that is used in connection with facilitating a crime, can be forfeited, or seized. Forfeited property is when the Commonwealth takes over title to one’s property. Seized property is under the control of the Commonwealth, but title is not taken. Whether forfeited or seized, the civil rules apply. Property taken is considered the contraband per se, or derivative contraband, basically meaning that there is a nexus, connection between the property and crime.

One’s property is forfeited on the theory that the property [real or personal] is guilty of a crime. Forfeitures are quasi criminal, however, the hearing and procedures follow the Pennsylvania Civil Rules of Procedure, thus, all civil discovery tools, motions, can be used, and although one has a right to a jury trial, one must make a demand for a jury trial in a civil case or that right is waived. Further, if there are no genuine material issues of fact are in dispute, nothing the trier of fact, whether by a Judge or Jury, would have to determine, then the Commonwealth through the prosecuting agency [District Attorney or PA Attorney General] can move for Summary Judgment and one’s case and right to a jury trial is over, so get a Montgomery County Attorney as soon as one’s property is forfeited or seized.

There are civil procedures that the Commonwealth must perform properly under the Forfeiture rules and civil procedure rules, and if not done correctly, one who could win on a technicality. Further, a skilled Montgomery County Attorney can file a Motion to Return Property right away. Once the Motion to Return Property is filed a hearing will be scheduled very quickly. And, after filing the Motion to Return Property, the negotiations [offers to settle, return property] will begin with the District Attorney. Especially in situations where a parent, or one lets a friend [or other situation] use their car, without knowledge that the car was being used to further a crime, so that one can get their car back, without having to have a hearing.
Do not mess around when one's property has been forfeited. When one's property is forfeited because of an alleged connection with a crime, one has a right to due process, an opportunity for fair trial. However, because forfeitures are primarily civil in nature, the Pennsylvania Rules of Civil Procedure apply, along with the civil burdens of proof, which is not beyond a reasonable doubt, it is the preponderance of evidence, meaning more likely than not the property is connected to a crime, and one must make a demand for a Jury Trial. Also, one must hire an attorney since one does not have an inherent right to an attorney, like in criminal cases for those who do not have the necessary funds to hire a private attorney, will have a Public Defender, or court appointed attorney.

In order for the Commonwealth to succeed at trial there must be a factual nexus between the property taken and criminal activity. For example, when U.S. Currency [“money”] is taken it is not enough that drug-sniffing canine alerted on the currency because the majority of money is already infected with trace amounts of contraband, not enough for one who is innocent to know, but enough to alert a drug-sniffing canine, thus, a factual nexus must be proved by the preponderance of evidence showing the money was used to facilitate selling drugs.

Remember, forfeited property [real or personal] is not primarily governed by criminal law. It is the criminal act and nexus to the property that triggers forfeiture. Forfeited property is primarily governed by civil law. Under civil law one can waive their rights regardless of not knowing it, and there are timed deadlines, so do not go it alone, get a Montgomery County Attorney.

**JUVENILE DEFENDANTS**

Our Constitution does not delineate special rights or responsibilities for children but legal foundations have been set over the years by rulings from federal, state and local Courts as well as through legislation at state and national levels. Basic rights for juveniles now include the right to notice of charges, to have counsel, and to have a parent or other person present during interrogation where possible.

In Pennsylvania, the juvenile justice system traditionally had rehabilitation rather than punishment as its goal. Although rehabilitation is still a primary goal of the juvenile system, over time, rougher, stricter and more punitive rules have been put into place. The juvenile rules may have life-long consequences for youthful offenders. For that reason it is important that any juvenile charged with a crime should have representation. There are many qualified attorneys in Montgomery County that handle juvenile cases and the Public Defender’s Office has a juvenile division.

**Initial Encounter**

The call comes from your local police department, telling you that your child is in police custody for any one of a number of alleged crimes, from shoplifting to underage drinking to possession or sale of drugs or even a crime of violence. If you have never been in this situation before, you will be scared, bewildered and confused. What is the first thing you should do?

First, tell the officer that you will come immediately. Second, do not give permission for anyone to speak with your child without an attorney. Third, call an attorney with experience in criminal defense. A criminal defense attorney can help make sense of a very confusing situation and try to prevent any further or future harm to your child. A list of qualified attorneys is available through Lawyer Referral Service of the Montgomery Bar Association at 610-279-9660, Ext. 201 or 1-800-560-5291.

If the alleged crime is not serious, your child may be released to your custody with a juvenile citation filed against him/her or the citation may be filed at a later date and mailed to you. You will also be issued a subpoena and commanded to appear with your child at a certain time, place and date. After this initial contact with law enforcement, your child’s case can take one of many directions.
Youth Aid Panel

Many communities in Montgomery County have developed special groups as a way of diverting juvenile cases away from the formal court system. The panels are under the direction of the District Attorney’s office and local police departments. Members are chosen from community volunteers who are specially screened and they must complete a fifteen hour training program before they can serve.

The panel will act as a sort of judge and jury, hearing the specifics of your child’s case. If they find your child responsible, they may impose a judgment of sorts by requiring your child to perform community service. When he/she has successfully completed the assignments, charges can be dropped. This process is the most desirable and least serious method of resolving a juvenile charge. Early assistance by a qualified attorney may help divert the less serious case to the youth aid panel program.

Preparation for Juvenile Court

Intake Interview

An intake interview may be scheduled to determine what track your child’s case will take. Often both parent and child are interviewed; this will most likely take place at the Montgomery County Youth Center (540 Port Indian Road, Norristown 19403; telephone 610-631-1893; fax 610-631-5394) or at Juvenile Probation (530 Port Indian Road, Norristown, 19403; telephone 610-630-2252; fax 610-630-1749).

Consent Decree

If your child’s offense is of a less serious nature, your attorney may be able to get a consent decree where your child admits to the offense and is placed on probation without an adjudication of delinquency. This means your child will not have to go to Court. If then your child successfully completes the period of probation, he/she may have the charges dismissed.

Court Hearings

Detention Hearing

If our child’s crime is of a serious nature or if the authorities feel that he/she is a threat to the community, your child may be detained at the Montgomery County Youth Center. The Court must schedule a hearing on the detention to allow you and your child an opportunity to be heard by the Court regarding the Commonwealth’s detention of your child, pending trial. Representation by an attorney is essential at this stage as your child’s freedom is at stake.

Adjudication Date

On the date set by the Court for adjudication, your child will either “admit” to the crime alleged or request a trial which will be held at a later date. If your child “admits”, he/she will be adjudicated delinquent by the court and a disposition date will be set requiring another appearance. If your child is in detention, he/she will continue to be held, pending the trial or disposition hearing.

Trial

If your child has requested a trial it will take place in the court room at the Montgomery County Youth Center. The trial will be in front of the presiding Juvenile Judge for the county. The process will be essentially the same as if it were in adult court with the exception that the juvenile is not entitled to a jury and the public is not permitted in the court room. Your child may be
either acquitted or found delinquent — there is no finding of guilt in Juvenile Court. If the Judge decides that your child is delinquent — an adjudication of delinquency — he/she becomes a ward of the Court. This means that the Court has continuing interest and authority over your child and a disposition hearing will be scheduled.

Planning for Disposition

In between an adjudication of delinquency by admission or by trial and the disposition hearing, you and your child will be visited by a juvenile probation officer who will review your child’s schooling, the family, home and living situation and several other factors that will be analyzed in order to recommend a placement for your child. In this phase, an attorney’s guidance can be very helpful. A juvenile probation officer’s recommendation carries a tremendous amount of weight in the Judge’s determination of what to do with your child at the disposition hearing.

Disposition Hearing

The disposition hearing is similar to a sentencing hearing for an adult; the prosecution presents evidence to persuade the Court to follow their recommendation regarding what to do with your child. Through your child’s attorney, you will be able to present evidence to convince the Judge to impose a more suitable, perhaps less restrictive method of rehabilitation. Often an attorney can work with the juvenile probation office by providing them with favorable information regarding your child so you can agree on a disposition prior to the disposition hearing.

Placement

The juvenile system handles offenses committed by people under eighteen years of age. However, once in the system, a person can be under the authority of the Court up to age twenty-one. The Court can impose any one of a number of dispositions from probation to a secure placement which is essentially a prison for juvenile offenders. The Court may also impose intermediate punishments including but not limited to house arrest, intensive probation, “boot camp” and placement at a special school or wilderness program — whatever the Court decides will best match the rehabilitative needs of your child.

Probation Conditions

If probation is assigned, your child will be required to comply with all conditions which might include some or all of these:

- attending school regularly;
- obeying all school rules;
- getting permission from parent or guardian for all activities, before and after school and during weekends;
- abiding by curfew rules;
- providing restitution to any victims and/or repairing damaged property;
- forfeiting driver’s license;
- restricting contacts with certain others;
- participating in a counseling program;
- performing work projects as supervised community service.
Caution

The Pennsylvania juvenile justice system is primarily geared to rehabilitation. However, in certain instances, juvenile adjudications be used for sentencing purposes in adult court. Even more serious is the fact that, depending on the crime committed, your child — even though under age eighteen — could be charged as an adult, tried in adult court and sentenced to an adult prison. An attorney who is versed in criminal and juvenile law can guide you and your child through potential dangers in the juvenile justice system.

VICTIMS

Pennsylvania’s Basic Bill of Rights for Victims,

You have a right …

1. To receive basic information on the services available.
2. To be notified of significant actions and proceedings within the criminal and juvenile justice systems.
3. To be accompanied to all criminal and all juvenile proceedings.
4. To submit prior comment on the potential reduction/dropping of a charge or change in a plea in a criminal or delinquency proceeding or diversion of any case, including an informal adjustment or consent decree.
5. To submit prior comment on sentencing decisions or the disposition of a delinquent child to include the submission of a written and oral victim impact statement.
6. To be restored to the pre-crime economic status through restitution, compensation through the Crime Victims Compensation Program, and the expeditious return of property.
7. To be given the opportunity to provide prior comment on and notice of post-sentencing release decisions involving an offender who is sentenced to a state correctional institution when a personal injury crime is involved.
8. To receive notice of the release of an offender from a local correctional facility and immediate notice of the escape and subsequent apprehension of such offender in cases involving personal injury crimes.
9. To receive notice of the release of a juvenile and immediate notice of the escape and subsequent apprehension of such juvenile, including failure to return from temporary leave or home pass.
10. To receive notice of transfer of a juvenile who has been adjudicated delinquent from a placement facility and to have the opportunity to express a written objection prior to the release or transfer of the juvenile.
11. To receive immediate notice of the release of an offender on bail from a local correctional facility when the offender either violates a Protection From Abuse Order or commits a personal injury crime against a victim protected by the order.
12. To receive notice when an offender is transferred from a state correctional institution to a mental health facility and of the discharge, transfer or escape of the offender from the mental health facility.
13. To have assistance in the preparation of, submission of and follow-up on financial assistance claims to the Crime Victims Compensation Program.
14. To be notified of the details of the final disposition of the case of a juvenile offender.
15. To be notified of the termination of the Courts’ jurisdiction.
16. To be present at trials, including murder trials, and the right not to be excluded from the trial if the victim will be providing input at sentencing.
17. To be present at executions providing the victim has registered with and been selected by the Victim Advocate (PA Act 80 of 1998).
Victim’s Responsibilities

In order to receive the services outlined above, a victim must provide a valid address and telephone number to the requesting agency. You are also responsible for providing timely notices of any changes in that information.

Information you provide is confidential and may not be disclosed to any person other than a representative of a law enforcement agency, prosecutor’s office or corrections agency without prior written consent. The victim’s responsibility falls to the parent or legal guardian for child victims, or to a surviving family member in the case of a homicide.

Agencies Assisting Victims in Montgomery County

The agencies listed on the following pages are available to assist you and to provide information. Telephone numbers marked HOTLINE are staffed twenty-four hours a day. All other numbers are available during regular business hours. If you have any questions regarding these agencies, you should contact the Victims Assistance Unit in the Office of the District Attorney at 610-278-3144.

Court Issues

Information on victims’ rights and services in the justice system and community:

Victim Assistance Unit in the District Attorney’s office

Business: 610-278-3144

Juvenile justice system services and information on crime victims’ rights:

Victim Assistance Unit - Juvenile Division of D.A.’s office

Business: 610-278-6292

Compensation for out-of-pocket medical bills, lost wages/support, counseling, funeral expenses or cash loss benefits as a result of a crime, if eligible:

Victims Compensation Division, Bureau of Victims’ Services of the Pennsylvania Commission on Crime and Delinquency

Business: In PA 1-800-233-2339 - Out of state 1-717-783-5153

Assistance for victims’ oral or written testimony for input into the parole process; also victim-offender mediation which may give a victim of a violent crime the opportunity to communicate with the offender in a safe and secure setting:

Office of the Victim Advocate

Business: 1-800-322-4472

Additional Agencies for Victim Assistance

Shelter from Domestic Violence

Shelter with counseling and other services for victims of domestic violence:

Laurel House

HOTLINE: 1-800-642-3150

610-277-1860 info@laurel-house.org

Domestic Violence - Legal advocacy, counseling and other services for victims of domestic violence:
Women’s Center of Montgomery County

**HOTLINE:** 1-800-773-2424  email: mcwebmail@dca.net

**Business:** Norristown - 610-279-1548
Pottstown - 610-970-7363
Jenkintown - 215-885-5020
Korean Language - 215-886-8725

**Personal Injury Crimes (Non-Domestic Violence):**
Counseling, advocacy, assistance with crime victims’ compensation applications, assistance with victim impact statements and other services to victims of burglary, robbery, personal injury crimes and surviving family members of homicide victims.

Victim Services Center of Montgomery County

**HOTLINE:** 610-277-5200 for Sexual Assault and Child Abuse
**HOTLINE:** 610-ASSIST-1 for all other crimes
**TOLL FREE:** 1-888-521-0983 and 610-277-0932
**PA SAVIN** – Pennsylvania Statewide Automated Victim Information & Notification
**TOLL FREE:** 1-866-972-7284 - http://www.pacrimlevictims.state.pa.us

Services for Special Groups

*Support and counseling for crime victims over 60 and their caregivers:*

**Lincoln Center for Family and Youth - ElderWise Program**
**Business:** 610-275-3715
Counseling, advocacy and other services for elder victims of crime:

**Montgomery County Office of Aging and Adult Services**
**HOTLINE:** 1-800-734-2020
Placement, counseling and other protective services for children:

**Montgomery County Office of Children and Youth**
**HOTLINE:** 1-800-278-5800
Counseling, advocacy and other services for victims of drivers under the influence of alcohol and/or illegal drugs:

**MADD (Mothers Against Drunk Driving)**
**Business:** 610-825-4902 – email: pa.state@madd.org

Victims and Witnesses at a Criminal Trial

**On-Call Procedures**
If you are involved as a victim or witness in a criminal case that is scheduled for trial, you may receive a subpoena which is a legal order for you to appear at a specific time and place. Your cooperation is essential to the justice system so the District Attorney has established convenient on-call procedures. This system allows you to remain at home, school or work until you are actually needed to testify at the criminal trial, provided you leave a telephone number where you can be reached by the Victim/Witness Clerk in the Office of the District Attorney at 610-278-3428. To avoid unnecessary inconvenience and frustration, do not appear unless contacted by the District Attorney’s Office.

You need to know that the defendant may decide to plead guilty on the day of the trial without advance notice to the District Attorney’s Office. Victims and witnesses who wish to observe such
Proceedings should plan to be at the Courthouse by 9:00 AM on that designated day. If the defendant pleads guilty on the day of the trial, on-call victims and witnesses will not normally receive a call to come to the Courthouse. However, when the defendant requests a trial and you have been sent a subpoena but are not yet present, you will be telephoned to come to the Courthouse.

Criminal trials are public hearings and each courtroom provides seating for a limited number of spectators.

**Planning Ahead for the Trial**

As outlined above, it is essential in our system of justice for you to make yourself available to testify. When you receive a subpoena you should call the Victim/Witness Clerk at the Office of the District Attorney, telephone 610-278-3428, as soon as possible to give them your telephone number. Also you may be sent information about and the forms which are required for determining your eligibility for restitution for certain monetary losses. You should return these forms promptly, well ahead of the trial date, so they can become part of the case records, if appropriate. The Court can not order restitution if you do not submit complete restitution information prior to the trial.

You should also plan to arrive promptly and fully-prepared at the Courthouse in Norristown.

**To get directions:** Check the Montgomery County website: www.montcopa.org or ask the Victim/Witness Assistance Unit at 610-278-3144 or 610-278-5244.

**Child care:** Montgomery County provides free licensed drop-in child care at One Montgomery Plaza, across Swede Street from the Courthouse, for children from six weeks old through school age. You should check www.montcopa.org/ccis or call the Victim/Witness Assistance Unit at 610-278-3144 for information or for a brochure about this service.

**Parking:** Free parking is available in the garage under the Courthouse with an entrance on Main Street. You should bring your parking ticket with you for validation by the receptionist on the fourth floor.

**Subpoena:** You must bring your subpoena so you can turn it in to the Assistant District Attorney after you testify so it can be processed for payment of a nominal witness fee plus mileage, which you will receive a few weeks after your appearance.

**On The Day of The Trial**

You will find that any of these events may occur on the scheduled trial date:

1. If a defendant does not appear, a bench warrant will be issued for his/her arrest. The case will then be rescheduled for trial on a later date after the defendant has been apprehended.
2. The trial date may be continued (postponed) if either the defense or the prosecution is not ready for trial. In case of a continuance, a new trial date is usually set immediately by the Court.
3. The defendant may plead guilty; it is important to note that sentencing for a guilty plea may take place on the morning of the trial date, or may be deferred for 60 - 90 days.
4. The defendant may request a trial either before a judge or a jury. Most often it is not known until the morning of the designated trial date which of those events will occur.

**Testifying at the Trial**

The purpose of a trial is to determine the truth and in our system we try to determine the facts through two forms of questioning: direct examination and cross examination. The Assistant District Attorney who calls you to testify will question you about your observations about the crime. This is called direct examination. After this, the defense attorney has the right to ask you questions, in the cross-examination.

To be as effective as possible as a witness, you may wish to consider these suggestions:

- present a neat appearance;
- review the facts of the case in your own mind before you testify;
• do not discuss your testimony with other witnesses or victims;
• try to remain calm and courteous even if the questioning becomes stressful;
• listen carefully to all questions;
• wait until any objections are made and ruled upon by the Judge before responding to questions;
• speak clearly and precisely;
• answer all questions to the best of your knowledge;
• never make up an answer if you are not sure of the facts;
• be responsive to the questions but do not volunteer information;
• freely admit to your conversations with others about the case (i.e., police, Assistant District Attorney) when cross-examined except with your attorney;
• you are under oath so you must always tell the truth; any lie can discredit your entire testimony. In addition, failure to tell the truth can result in perjury charges being brought against you.

Intimidation of Victims or Witnesses

If you, either as a victim or witness, are threatened by the defendant or his/her friends or family in any way, you should immediately contact your local police department and the Office of the District Attorney at 610-278-5244. Criminal charges can be brought against the person making the threat, and if the defendant threatens you, his/her bail may be revoked.

At the Sentencing

The defendant is found guilty or not guilty and sentencing may occur immediately after a guilty verdict or may be deferred to a future date. In most cases resulting in a guilty verdict, the Judge has the option of imposing several types of sentences including imprisonment, supervised probation, non-reporting probation and/or a fine, court costs, and restitution.

Special Provisions

Some sentences require that the defendant has no contact with a victim or witness. The court can also demand that the defendant make restitution for monetary losses suffered by a victim as a result of property damage or physical injury caused by the crime. Before the trial, you are required to fill out a restitution information form and the District Attorney will, if appropriate, request the Court to order that restitution is a condition of the sentence. The final decision lies with the Judge whose ability to order restitution in criminal cases is limited by case law governing the types of expenses that are recoverable.

Victims of a personal injury crime, burglary, robbery or driving-under-the-influence may wish to prepare a written impact statement for use at sentencing. This is an opportunity to describe the emotional, physical and financial losses caused by the crime; the statement is usually one or two pages in length so it can be read in three to five minutes. You should contact the Victim/Witness Assistance Unit in the Office of the District Attorney at 610-278-3144 to obtain forms and additional information.

Victims of personal injury crimes whose offenders are sentenced to incarceration at either county or state prison may also enroll in a Victim Notification Program with the appropriate office. Once enrolled, you will be notified of the inmate’s status, such as: home furloughs, work release, release to treatment facilities, parole, pardon, community corrections placement, escape or final release from total confinement. You must contact the Victim Assistance Unit in the Office of the District Attorney at 610-278-3144 for enrollment forms and information; this does not happen automatically.

Victims are also allowed to make confidential oral or written statements as input into the parole process, near the time when the defendant has served the minimum sentence. Pennsylvania’s
Act 8-1995 established the Office of the Victim Advocate to represent the rights and interests of crime victims before the Department of Corrections and the Board of Probation and Parole. The Victim Advocate is authorized to petition the Board to deny parole, or set conditions of parole, upon the request of the crime victim. For more information about timelines and specific details of this process, call 1-800-563-6399.

Pennsylvania Program for Victim Compensation

You may also be eligible for compensation to recover certain losses from the state’s compensation program. The Pennsylvania Crime Victims Compensation Act of 1976 created a fund and established eligibility guidelines for providing certain benefits to crime victims. This fund consists of fines and penalties assessed against persons convicted of crimes. No general tax revenues of the state are used, therefore persons convicted of crimes support a program to benefit their victims.

Victim Eligibility

You may be eligible for services of the Victims Compensation Program if:

1. The crime occurred in Pennsylvania or the crime occurred to a Pennsylvania resident who was injured or killed in a terrorist attack in a foreign country.
2. The crime was reported to the appropriate authorities within 72 hours unless good cause is shown or a Protection From Abuse Order is filed within three days.
3. You have cooperated with law enforcement and the courts.
4. Your claim is filed within one year after the crime or two years with good cause.
5. In cases of child abuse, filing may be extended to five years with good cause, provided the victim was under 18 years of age at the time of the occurrence, and the offender is a parent, a paramour of a parent, an individual residing in the household, or a person responsible for the victim’s welfare.
6. You were not engaged in illegal activity.
7. You meet minimum loss requirements:
   - if under age 60 -
     • a minimum of $100 total qualifying out-of-pocket expenses or
     • a loss of at least two or more continuous weeks’ earnings.
   - if age 60 or over -
     • no minimum out-of-pocket loss.

Allowable Expenses

A maximum award of $35,000 may be paid with limits for death or any one injury including:

1. medical expenses - medical, dental and other expenses related to the injury (includes physical therapy, medications, home health care, medical equipment and transportation costs to medical and counseling appointments);
2. counseling - if a crime results in death, the spouse, children, parents or siblings who, at the time of the crime, lived in the same house as the victim are eligible for compensation for counseling expenses. In other crimes, compensation for counseling covers only the victim;
3. loss of earnings or support - if deprived of earnings as a result of injuries received in a crime incident, you may be paid for such loss provided all requirements are met. If
deprived of support due to the death of a victim as a result of a crime incident, you may be eligible for compensation;

4. stolen cash benefits - if Social Security, veteran’s retirement, railroad retirement, pension/retirement, disability, or court ordered child/spousal support is the main source of income and the loss occurs through robbery, assault, rape, homicide, kidnapping or burglary, you may be compensated within certain limits;

5. if you paid or are liable to pay the funeral bill for a deceased victim, you may be compensated for your loss, within certain limits.

**Expenses Not Covered**

The fund will not reimburse victims for:

1. pain and suffering; Civil suit
2. stolen or damaged property except those personal care items essential to immediate bodily functions, such as prosthetic devices, wheelchairs, walkers, canes, prescription eyeglasses, hearing aids, dental devices, or prescription medications;
3. auto- or watercraft-related injuries, except if inflicted in either a DUI crash, or the Title 18 Crimes of Reckless Endangerment or the Intentional Use of a Vehicle as a Weapon. (Hit-and-run and homicide-by-vehicle are crimes eligible for compensation.)

**Additional Rules**

The Crime Victims Compensation Fund is regarded as “the payer of last resort.” Other sources must be utilized and exhausted before payment from the state's program can be considered. "Other source” means that payment will be reduced by the amount of any other source. These include but are not limited to disability, health or life insurance, Medical Assistance, Medicare, Workers’ Compensation, Social Security or leave paid by an employer.

There are no costs to file a claim and you do not need an attorney. Also it is not necessary for the offender to be prosecuted, or even arrested, for a claim to be filed. However, you must cooperate with law enforcement authorities in the investigation and prosecution of the offender if one is known.

In special circumstances, an emergency award of up to $1,000 may be considered

**Decisions on Compensation**

After all information on your application is verified, you will be notified if you are eligible for compensation. The time required for this decision varies considerably, depending on the complexity of the claim. You will be mailed a copy of the decision. If your claim is denied, the reason will be explained to you along with the procedures for an appeal.

**The Victim Assistance Unit**

For complete information and application forms, a victim should contact the Victim Assistance Unit, Office of the District Attorney, P. O. Box 311, Norristown, PA 19404-0311; telephone 610-278-3144; e-mail via website: www.montcopa.org/da - scrolling down and clicking on Contact an ADA link on the left side of the screen. The website for the Victims Compensation Division, Bureau of Victims’ Services of the Pennsylvania Commission on Crime and Delinquency is www.pccd.state.pa.us; click on Victim Assistance link.
<table>
<thead>
<tr>
<th>General Impairment Penalties</th>
<th>1st Offense</th>
<th>2nd Offense</th>
<th>3rd Offense</th>
<th>Subsequent Offense(s)</th>
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<tr>
<td>§3802(a)</td>
<td>Ungraded misdemeanor</td>
<td>Upgrade misdemeanor</td>
<td>2nd degree misdemeanor</td>
<td>2nd degree misdemeanor</td>
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<tr>
<td>BAC of 0.08% to 0.99%</td>
<td>No license suspension</td>
<td>1 yr. license suspension</td>
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<td>Individuals Incapable of Safe driving</td>
<td>Mandatory minimum of 6 months of probation</td>
<td>Mandatory minimum of 5 days of incarceration</td>
<td>Mandatory minimum of 10 days of incarceration</td>
<td>Mandatory minimum of 10 days of incarceration</td>
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<tr>
<td>Maximum of 6 months of incarceration</td>
<td>Minimum levels of controlled substances in blood</td>
<td>Maximum of 6 months of incarceration</td>
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<td>$300 fine</td>
<td>$300 - $2,500 fine</td>
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<tr>
<td>House arrest/work release eligible</td>
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<th>High Rate of Alcohol</th>
<th>1st Offense</th>
<th>2nd Offense</th>
<th>3rd Offense</th>
<th>Subsequent Offense(s)</th>
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<tr>
<td>§3802(b)</td>
<td>Ungraded misdemeanor</td>
<td>Upgrade misdemeanor</td>
<td>1st degree misdemeanor</td>
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<td>BAC of 0.10% to 0.159%</td>
<td>No license suspension</td>
<td>1 yr. license suspension</td>
<td>18 months license suspension</td>
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<td>Minors with 0.02% BAC</td>
<td>Mandatory minimum of 48 hrs. of incarceration</td>
<td>Mandatory minimum of 30 days incarceration</td>
<td>Mandatory minimum of 90 days of incarceration</td>
<td>Mandatory minimum of 1 yr. of incarceration</td>
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<td>CDL drivers with 0.04% BAC</td>
<td>Maximum of 6 months of incarceration</td>
<td>Maximum of 6 months of incarceration</td>
<td>Maximum of 6 months of incarceration</td>
<td>Maximum of 5 yrs. of incarceration</td>
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<tr>
<td>School bus/vehicle drivers with .04% BAC</td>
<td>$500 - $5,000 fine</td>
<td>$750 - $5,000 fine</td>
<td>$1,500 - $10,000 fine</td>
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<td>BAC of .16% and above</td>
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<td>Minimum levels of controlled substances in blood</td>
<td>Mandatory minimum of 72 hrs. of incarceration</td>
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Collateral Consequences

Crimmigration:
The Intersection of Criminal and Immigration Law

It is important to note that any criminal conviction, and in some cases, criminal conduct alone, even if it does not lead to a conviction, may have collateral consequences for the immigration status of foreign-born defendants. The reason is that many decisions as to grant a particular immigration benefit (i.e., citizenship) are left to the discretion of federal immigration authorities. And criminal conduct or a criminal conviction of any kind is taken into account by those authorities making discretionary determinations.

The primary statutory authority for immigration law is the Immigration and Nationality Act ("INA"), found at Title 8 of the U.S. Code ("USC"). The INA contains two major sections that impose immigration law sanctions for crimes--INA Section 212(a) [8 USC § 1182(a)], and INA Section 237(a) [8 USC § 1227(a)]. Both INA sections fall under the larger canopy of removability: foreign-born persons who can be removed from the United States for criminal activity.

INA Section 212(a) lists the grounds of inadmissibility for foreign-born individuals who have committed or been charged with certain crimes. In theory, the term "admissibility" applies to persons seeking to enter the United States. However, the grounds of inadmissibility contained in §212(a) apply in certain circumstances to foreign-born defendants who are already physically present in the United States. These individuals are seeking to "improve" their status; for example, by adjusting from nonimmigrant (i.e., student on a student visa) to immigrant (i.e., legal permanent resident) status.

On the other hand, INA Section 237(a) applies to foreign-born defendants who have been formally admitted into the United States in some status, be it nonimmigrant (i.e., student visa, tourist visa, etc.) or immigrant (legal permanent resident).

It is imperative, therefore, that when a foreign-born individual commits, is charged, or is soon to be convicted of a crime, he/she must get the advice of an immigration law attorney, in conjunction with his/her criminal defense counsel. An immigration attorney will advise the foreign born on any of the following:

- Immigration consequences of criminal convictions;
- Working with criminal counsel and fashioning a plea;
- Avoiding Aggravated Felony convictions;
- Categorical/Modified Categorical Approach to a certain conviction;
- Criminal Detainers - how long can a foreign-born defendant be held?;
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Business: 610-326-8280

Lincoln Center for Family and Youth - ElderWise Program
Business: 610-275-3715

MADD (Mothers Against Drunk Driving) Business: 610-631-6882

Mental Health/Mental Retardation/Drug and Alcohol Program
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Public Defenders Office
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Victim Assistance Unit
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HOTLINE: 610-ASSIST-1 for all other crimes
TOLL FREE: 1-888-521-0983
Victims’ Services of the Pennsylvania Commission on Crime and Delinquency

**Business:** In PA 1-800-233-2339  
Out of state 1-717-783-5153

Office of the Victim Advocate

**Business:** 1-800-322-4472

Women’s Center of Montgomery County

**HOTLINE:** 1-800-773-2424

**Business:** Norristown - 610-279-1548  
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Elder Law

Elder law is the term used by the legal profession to focus on the special legal rights and problems of senior citizens. Attorneys who work in this field need to master an ever-changing body of law, legislation and regulations which deal with financial planning, health care and housing as well as discrimination, abuse and consumer fraud. Such a challenge usually requires training and experience in this special area of the law.

Attorney-Client Relationships

Elder law attorneys often find that it is a son or daughter who brings an aging parent into the office for an initial consultation. However, the parent and child may have conflicting interests. In general, one lawyer cannot represent both sides when clients have differing agendas. Gifting of assets, for example, may appeal to the child, but may not necessarily be in the parent’s best interest. Therefore, if more than one person visits a lawyer’s office, the attorney must clearly identify the client. The lawyer must state who will be represented, and clearly communicate who is not represented.

Many elder law attorneys choose to represent the aging parent. Frequently the lawyer will ask to meet with the senior in private. This practice of meeting alone with the client facilitates candid communication and can help protect documents such as powers of attorney and wills from charges of undue influence. The lawyer is required to keep what is said private, and is generally not authorized to release confidential information to third parties, even children, without permission.

The Pennsylvania Rules of Professional Conduct require lawyers to set forth fee arrangements in writing. Sometimes legal services are charged hourly, and sometimes fees are billed at a flat rate. A fee agreement or “engagement letter” should clearly identify the client, state what work is to be performed and explain how legal fees are to be calculated.

If a serious fee dispute arises, contact the Montgomery Bar Association at 610-279-9660 to determine whether the matter can be referred to the Montgomery Bar Association’s Fee Dispute Committee. Improper conduct by an attorney, such as improper use of client funds, can be reported to the Office of Disciplinary Counsel, District II, 820 Adams Avenue, Suite 170, Trooper, PA 19403; telephone 610-650-8210.

Pennsylvania Lawyers Fund For Client Security

Although the percentage of lawyers involved in theft is extremely low, the legal profession created a fund many years ago designed to compensate those who have suffered such losses. If client funds are misappropriated, the Pennsylvania Lawyers Fund for Client Security may be able to help. The fund does not arbitrate fee disputes or claims of ineffective representation. It will review cases where it is alleged that an attorney accepted a legal fee but did not do any work. Claim forms may be obtained by contacting Pennsylvania Supreme Court, Pennsylvania Lawyers Fund for Client Security, Pennsylvania Judicial Center, P.O. Box 62585, Harrisburg, PA 17106; telephone 1-800-962-4618, or www.palawfund.com.

Choosing An Elder Law Attorney

To choose the best person to act on your behalf in elder law matters, you should first think about your goals. Is it a simple question of updating your will? Or is it the more complex process of planning the series of financial steps for retirement or changes in life situations such as the need to plan for long-term care? Once your objectives are outlined, you can consult friends, relatives, business colleagues, clergy and others for recommendations. Word-of-mouth is frequently the best way to find the right attorney. Another source of information is the Montgomery Bar Association’s Lawyer Referral Service; telephone 610-279-9660, Option 3.
OLDER AMERICANS ACT

One of the most important laws affecting the elderly is the Older Americans Act of 1965. This law sets up Area Agencies for the Aging (AAAs) all over the United States. In Pennsylvania, AAAs are administered by the Pennsylvania Department of Aging, 555 Walnut Street, 5th Floor, Forum Place Building, Harrisburg, PA 17101-1919; telephone 717-783-1550.

Montgomery County Office of Aging and Adult Services

Our local AAA is called the Montgomery County Office of Aging and Adult Services (MCAAS). This agency is responsible for planning, coordinating and monitoring services for county residents who are age 60 and older. These services and programs are available regardless of race, religion, physical handicap, sex, color, residence, national origin or political beliefs. Consumers may be asked to share the cost of some of the services provided, or in some cases, to make a donation. Staff members at MCAAS will help you with information regarding programs relating to elder needs and protective services. The MSAAS website is www.montcopa.org/mcaas.

General phone calls about senior services should be placed to (610)278-3601. However, if you believe a senior is being abused or neglected, or if you are concerned about their well-being, you should make a report to Protective Services by calling the elder abuse hotline at (800) 734-2020. You may call anonymously.

Montgomery County Aging And Adult Services Office Location and Mailing Address:

Central Office
Human Services Center
1430 DeKalb Street
P.O. Box 311
Norristown, PA 19404-0311
Phone: 610-278-3601
Monday through Friday, 8:00 AM - 4:30 PM

MCAAS Mission

The mission of the Montgomery County Office of Aging and Adult Services is to link consumers and their families with appropriate resources and services. Visit the local office of Aging and Adult Services or their website to learn more about available services and programs. The following list illustrates what services are offered:

Aging services:
• Care Management provides casework support to plan and monitor consumer services to meet their individual needs.
• Family Caregiver Support Program assists caregivers through a reimbursement program for supplies and services.
• Home Care Services provides assistance with personal care, home delivered meals, adult day care and home support.
• Long Term Care Assessment provides a determination of appropriate level of care.
• Ombudsman Services provides investigation of complaints and conflicts within long term care facilities.
• PDA Aging Waiver Program provides intensive in-home services to consumers meeting financial and medical guidelines.
Protective Services provides intervention in cases of abuse, neglect, exploitation and abandonment for those at risk over age 60. The elder abuse hotline is (800) 734-2020

**Adult services:**
- Case Management provides casework support to low-income individuals and families who meet certain criteria of need.
- Emergency Shelter Services are available to assist homeless individuals and families in need.
- Rental Assistance provides resources to eligible individuals and families who are homeless or near-homeless and meet program guidelines.
- Supportive In-Home Services assist disabled low-income adults with services such as personal care, home-delivered meals and home support.
- Transitional Housing provides assistance to individuals and families in meeting long term goals through Bridge Housing and other self-sufficiency programs.

**Community-Based Long-Term Care Services**

Montgomery County Aging and Adult Services provide an alternative to people who need nursing facility care by assisting them in receiving community-based long-term care services. Specifically, the Pennsylvania Department of Aging 60+ Waiver Program (“Aging Waiver Program”) and the OPTIONS Program provide home and community-based services to qualifying seniors who would otherwise require nursing facility care, but can be safely cared for at home.

Community-based services can include adult day centers, personal care, home delivered meals, respite care, home health care and home support. A medically eligible senior may qualify for the Aging Waiver Program if that senior is age 60 or older, has gross monthly income under $2,205/month and countable resources under $8,000. Certain assets such as a car or residence may be excluded from the resource computation. Additional assets can also be protected for spouses of individuals faced with long-term care costs. Some elder law attorneys specialize in helping seniors qualifying for public benefits to cover home care services, and can be hired to provide legal services.

Though you may want to contact an elder law attorney in order to learn the eligibility rules and how to protect assets before applying, the process can be initiated by contacting your local branch office of Montgomery County Aging and Adult Services. The central office number for Montgomery County Aging and Adult Services is 610-278-3601.

**Resources**

To assist residents, MCAAS has many easy to follow brochures outlining the programs and assistance described above. To obtain a brochure, please call (610)278-3601 and ask for the topic or topics that you would like information on and these can be mailed to your home. You can also pick them up at the MCAAS central office in Norristown. Brochures are available on these topics:

- Senior Centers
- Adult Day Services
- Waiver Program
The Pennsylvania Department of Aging publishes an annual guidebook “Benefits and Rights for Older Pennsylvanians” which is available from any member of the Pennsylvania Legislature or by calling the Pennsylvania Department of Aging at 717-783-1550 or from MCAAS locations.

For listings of Montgomery County nursing homes, adult day centers, assisted living facilities or for PACE and tax rebate forms, contact the MCAAS office or visit their website: www.montcopa.org/mcaas.

**FINANCIAL PLANNING**

As people grow older they become increasingly aware that “…in this world, nothing is certain but death and taxes.” Senior citizens need to plan now, while they are able, in order to make sure that their estates pass to the intended beneficiaries. Planning can reduce death taxes, administrative expenses and the possibilities of disputes among family members. Peace of mind comes with knowing that one’s financial affairs are in order.

**Income Tax Planning**

An excellent starting point for information affecting senior citizens is IRS Publication 554, “Tax Information for Older Americans.” This brochure is available free of charge by calling the IRS Forms Distribution Center at 1-800-829-3676. You can also order forms online at www.irs.gov.

**Tax Preparation**

Many times senior citizens, especially those with fixed incomes, find it difficult to hire a tax professional. For elderly people with limited means, volunteers are available in many areas to prepare basic tax returns. The IRS’ “Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those who are 60 years of age and older, specializing in questions about pensions and retirement-related issues unique to seniors. Your local public library is usually able to help you locate the nearest volunteer income tax assistance program. See Appendix A on page 64 for the list of public libraries in Montgomery County. The Internal Revenue Service also provides help with tax preparation free of charge, by appointment. For the IRS service center nearest you, call 1-800-829-1040. Be sure to identify all the deductions and credits that may be available to you as a senior citizen, such as the Homestead Rebate and others.

**Standard Deduction at Age 65**

You should be aware that you are allowed an additional standard deduction when you reach age 65. A basic chart is offered below but you will want to go over all instructions very carefully, especially as you choose between using the standard deduction and itemizing deductions. When elderly taxpayers itemize deductions, they lose any benefit from the additional standard deduction listed below:
<table>
<thead>
<tr>
<th>Filing Status</th>
<th>2017 Standard Deduction</th>
<th>Additional Standard Deduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
<td>$6,350</td>
<td>$1,550</td>
</tr>
<tr>
<td>Married filing jointly</td>
<td>12,700</td>
<td>2,500</td>
</tr>
<tr>
<td>Married filing separately</td>
<td>6,350</td>
<td>2,500</td>
</tr>
<tr>
<td>Head of household</td>
<td>9,350</td>
<td>1,550</td>
</tr>
<tr>
<td>Surviving spouse</td>
<td>12,700</td>
<td>1,250</td>
</tr>
</tbody>
</table>

The general rule is that a person must have attained age 65 before the end of the tax year. However if your birthday is on January first, you are permitted to increase the standard deduction for the tax year prior to reaching age 65.

**Medical Expense Deductions**

Beginning in 2017 the rule is that a taxpayer, even a senior taxpayer, may only take medical deductions if they exceed 10% of the taxpayer’s adjusted gross income. In prior years seniors were granted a more favorable and lower threshold of 7.5% of adjusted gross income. The medical expense deduction is limited to unreimbursed, i.e. out-of-pocket, expenditures. Such medical expenses are only deductible if the taxpayer is itemizing. You calculate the amount to deduct on Schedule “A” of Form 1040. Those electing to take the standard deduction do not benefit from medical expense deductions.

The entire cost of a long-term skilled care facility, nursing home, including meals and lodging, is a deductible medical expense if the principal reason for admission to the facility is the availability of medical care. However, in many cases the fees paid to an assisted-care facility may be partly personal in nature, and not entirely deductible. Consult IRS Publication 502 for details on when assisted living and memory care expenses are tax deductible.

Equipment and home modifications to accommodate the handicapped (no age limit) that do not increase the market value of the home are deductible as a medical expenses. Examples of such deductible improvements include building wheelchair ramps and widening entrances to the home.

When a person dies owing medical expenses, and those expenses are paid by the estate within one year, a medical expense deduction can be taken on the decedent’s final income tax return (Form 1040) or on the federal estate tax return (Form 706). If the estate is under the federal taxable limit, $5,490,000 in 2017, or if there will be no estate tax due because of the unlimited marital deduction or otherwise, it makes sense to deduct these expenses on the personal income tax return.

**Sale of Residence; Exclusion of Gain from Income**

The tax laws have been simplified for the sale of your home. Generally speaking, capital gains are the increase in value of a home from the date of purchase, less the cost of major improvements made over the years such as a new roof or new windows. An unmarried taxpayer may exclude up to $250,000 of capital gains realized on the sale of a principal residence; married taxpayers can exclude up to $500,000 of capital gains. To qualify for the capital gains exclusion, one must have used the real estate as their principal residence for at least two of the five years prior to sale. Many senior citizens will not have to pay a capital gains tax on the increase in the value of their home when they sell it.
Tax Basis; Special Rules for Surviving Spouse

You or your tax preparer will need to know the “tax basis” rules whenever calculating capital gains tax on the sale of appreciated property, such as stocks or mutual funds. The capital gains tax rate for long-term investments in 2017 ranges from 0% to 20%. The 3.8 Medicare surtax increases the effective top rate to 23.8%. In simplified terms, capital gains tax on appreciated stocks and mutual funds is paid on the difference between the purchase price and sales price of the security. Special rules apply however, where one owner of jointly-held property dies. For a surviving spouse, these rules, known as the tax basis rules, can result in significant tax savings when they sell jointly-owned stock or other appreciated property after the death of a spouse.

The following illustrations show the potentially significant tax savings involved, and assume the 15% capital gains tax rate:

**Illustration 1:**
If during their lifetimes, a husband and wife sold jointly-owned stock worth $10,000 which they bought for $1,000, they would pay capital gains tax on $9,000, the sale price minus the purchase price. The tax due would be about $1,350 at the 15% rate.

**Illustration 2:**
If the husband in Illustration 1 dies and the same jointly-held stock is worth $10,000 on the date of death, the tax basis is increased from $1,000 to $5,500, one half of the date-of-death value plus half the purchase price. If the surviving spouse later sells the stock for $10,000, taxable gain is only $4,500 and the tax due is cut in half to $675.

The savings can be significant. Many married people own at least part, and perhaps all, of their property jointly. Even if no inheritance tax is due, the date-of-death values of jointly owned assets should be obtained for future reference in computing capital gain. Since the tax basis rules are important and complicated, elder couples may wish to discuss these issues with a qualified tax professional to avoid paying more tax than necessary.

Reverse Mortgages (Home Equity Conversion)

A reverse mortgage is a special type of home loan that lets a homeowner convert the equity in their home to cash. The lender loans money to the borrower age 62 or older using the borrower’s home as security. The amount of cash you can get from your home depends on your age, value of your home, and interest rates. The loans may be dispersed in a lump sum, monthly payments, or through a line of credit. Unlike traditional mortgages which require monthly payments, reverse mortgages require no monthly payments and are repaid upon death, or when the owner can no longer live in the home. There are no monthly payments until one of these events happens. These mortgages can be a way to overcome the “house rich but cash poor” dilemma that confronts many elderly homeowners.

All of the reverse mortgages have costs; and almost all of them can be put into the borrowed amount so that the only up-front cost to the senior is the appraisal. Borrowers must undergo counseling with a HUD-approved nonprofit organization before they can obtain a reverse mortgage. For a list of HUD-approved counselors near you, contact HUD’s interactive phone system at (800)-569-4287 or go to the HUD website: www.hud.gov. You should consult with your elder law attorney and have all reverse mortgage documents reviewed prior to signing so that you fully understand the loan conditions, fees, and repayment terms.
Basic Requirements

- Borrowers must be age 62 or older; there is no maximum age limit. If there is more than one borrower, they must both be 62 or older.

- The mortgaged property must be used as the principal residence of the borrower and can be one to four units. If the borrower can no longer reside in the home due to extended illness or disability, then the property will at a certain point no longer be considered the borrower’s principal residence and the loan may be called by the lender, potentially forcing the sale of the home. This is a significant concern for seniors who may need to move out of their homes for an extended period of time when they require more care than can be provided at home.

- The property must be in good repair; proceeds from the reverse mortgage may be used to make needed repairs.

- The property to be mortgaged must be free and clear of a mortgage or almost mortgage-free. The borrower will be required to pay the balance of the existing mortgage from the proceeds of the reverse mortgage. While not a factor in the past, good credit history is now considered when applying for a reverse mortgage. Pre-existing judgments and liens against the property will likely need to be paid off with the proceeds of the loan.

Impact of Reverse Mortgages

A reverse mortgage has no impact on an individual’s receipt of Social Security or Medicare benefits, but it may have an impact on an individual’s ability to receive Supplemental Security Income (SSI) and Medicaid benefits. Reverse mortgage payments to an individual are not income since they are loans. But if an individual receives reverse mortgage proceeds and holds them beyond the month they are received, they are considered “liquid assets” and may adversely impact eligibility for SSI and Medicaid benefits.

Another important feature of these loans is that you can never owe more than the value of the home. In banking terminology they are known as “non-recourse” loans.

You may find more information on reverse mortgages from the American Association of Retired Persons Home Equity Information Center, 601 E. Street, NW, Washington, D.C. 20049; telephone: 1-888-687-2277 or www.aarp.org.

Another excellent source of information is the National Center for Home Equity Conversion. This organization is a purely private, non-commercial wealth of information on this topic. They can be reached at their website: www.reverse.org.

Property Tax and Rent Rebates

In Pennsylvania, homeowners or renters age 65 or older, widow/ers age 50 or older, or individuals permanently disabled during all or part of the claim year, and are 18 years or older during the claim year, and are unable to work because of a medically-determined or mental disability, with a total household income under the limit ($35,000 for homeowners, and $15,000 for renters) may file a claim with the Pennsylvania Department of Revenue for a real property tax or rent rebate of up to $975. Claimants exclude 50% of their Social Security/ Railroad Retirement income when determining eligibility. Check the form for the applicable filing deadline. To request a Property Tax/Rent Rebate Program application or assistance, call (888)-222-9109 or visit their website: www.revenue.state.pa.us or contact a PA Department of Revenue district office, Aging and Adult Services, senior center or a state legislator’s office.
If you qualify for the property tax and rent rebate program, you may also be eligible for PACE or PACENET, which are prescription drug programs funded by the Pennsylvania lottery. For further information regarding property tax and rent rebates you can contact the Pennsylvania Department of Revenue Property Tax and Rent Rebate Unit at 1-888-222-9190 to talk with a representative. You can get help in filling out PACE and tax rebate forms through any of the Montgomery County Aging and Adult Services offices or at any local senior center.

**ESTATE PLANNING**

Many people think the term “estate planning” applies only to very wealthy people. Nothing is further from the truth. An “estate” is simply what you own. If you own property, you need to plan ahead in order to make sure the desired people or charities inherit your property after your death.

If you die without planning your estate, your home, money and other property will be distributed to various relatives, sometimes distant relatives, according to a rigid formula fixed by law known as “intestacy law.” This law applies to every person who dies without a will and does not consider special needs of any individual or family.

Without a will, your property may be inherited by people you do not want to share in your estate. Without a will, individuals in control of your estate may not be the people you prefer and they may not even cooperate with each other. If you have no will, the Commonwealth of Pennsylvania essentially makes a will for you, according to the terms of the intestate law, which controls the distribution of the shares of your estate.

The existence of a well-considered estate plan, most importantly a will, can help avoid disputes among your heirs and will give you the peace of mind that comes with knowing that your final wishes will be carried out.

**The Will**

A will is an important legal document and the cornerstone of most estate plans. In a will, you direct how your property is to be distributed and you also name a personal representative to administer your estate.

The personal representative named in a will is commonly referred to as the “executor.” An executor collects the estate assets, pays the estate debts and makes distributions to the beneficiaries you have designated in your will.

Some estate planning attorneys believe it is generally advisable to nominate one executor and an alternate in your will rather than naming two individuals to serve together as co-executors. Co-executors sometimes have difficulty arriving at mutually agreeable decisions or getting paperwork signed in a timely manner. These problems can sometimes delay the estate administration. On the other hand, some parents feel strongly that their children should work together and name them to act jointly.

If you already have a will, take it out and re-read it. Do you understand what it says? Do you agree now with the arrangements you made earlier? Update your will if circumstances have changed. Marriage, death, divorce, birth, asset growth, moving to a different state or a change in estate tax laws are events that may trigger the need for you to revise your will. A good rule-of-thumb is to review your will at least once every five years.

Keep your original will in a secure place such as a fireproof box, a safe deposit box at your bank or with your attorney. If your lawyer is holding your will, ask whether it is being held in a fire-proof filing cabinet or other protected location.
If you are afraid that somebody might tamper with or destroy your will if they were to read it, leave it with your lawyer or place it in a safe deposit box where its contents will be kept private. In Pennsylvania, access to a safe deposit box is frozen upon the owner’s death. However, access to the box is allowed for the limited purposes of retrieving the decedent’s will and cemetery deed. Under Pennsylvania law, the safe deposit box is not frozen, i.e. sealed, if the co-owner of the box is the surviving spouse.

You have the right to request your original estate planning documents from your attorney at any time. The documents belong to you, not your lawyer. You also have the right to revoke your will and write a new one at any time you choose, providing you have the mental capacity to do so.

**Trusts**

Your attorney might recommend a “trust” in larger estates, estates with young beneficiaries and in situations with special circumstances. What is a trust? Many estate planners explain that a trust is like a box where you can place your property. A person places money in the box, the trust, and designates a manager, known as the “trustee,” to safeguard the contents of the box. The trustee then distributes trust assets to the beneficiaries you select, in such amounts and at such times as you direct. Of course the money is not really put in a box. The “box” is usually a brokerage account or a bank account where the funds are invested by your trustee.

For example, a grandparent may wish to set aside money for a disabled grandchild, but may be afraid to do so for fear of disqualifying that grandchild from certain government benefits. A grandparent could place the money in a carefully drafted trust, designate a trustee to invest and safeguard the funds and enable the disabled child to benefit from the trust while maintaining eligibility for government benefits such as Medicaid or Supplemental Security Income (SSI) payments. This trust is sometimes called a special needs trust, or supplemental needs trust.

There are many other types of trusts. Credit shelter trusts, also called “bypass” trusts, are commonly used to help protect large estates from federal estate taxes. Trusts can also be used to set aside money for designated purposes, such as for education. Discretionary trusts and “income only” trusts can be written to protect spendthrift beneficiaries from squandering their inheritance through wasteful spending habits.

Trusts usually cost more money to create because they are more complicated and should be customized for each particular situation. In addition to the costs of drafting a trust, there are often continuing attorney’s fees and trustee’s commissions over the years as a trust is administered. Many trusts require the filing of fiduciary income tax returns. Accordingly, an accountant’s services are often needed to help prepare and file these tax returns. You need to consider the ongoing administrative costs as you decide whether it makes sense to create a trust.

**Revocable Living Trusts**

Before having a lawyer prepare a living trust, you must determine whether it will be useful for your situation. Living trusts may be helpful, for example, when you own out-of-state real estate and wish to avoid probate outside Pennsylvania.

Some people are confused by the complexity of revocable trusts and may experience or feel a loss of control over the assets in the trust. Moreover, many feel the benefits of a costly trust can be obtained through less expensive alternatives, such as through the use of a general durable power of attorney or by re-titling accounts to designate beneficiaries.
Living trusts are suitable for some people, but are clearly not for everybody. Consumers should approach sales pitches for “revocable living trusts” with a high degree of caution. In recent years a number of older consumers have been defrauded by salespeople who push the supposed benefits of living trusts in “free” seminars and mail solicitations. Living trust sales pitches are frequently accompanied by an effort to sell high-commission annuities. These annuities typically have expensive surrender penalties when money is withdrawn within the first few years after the annuity purchase. These surrender penalties are especially punishing to seniors who may need to withdraw funds sooner than expected in order to pay long-term care costs. Not all annuities have high surrender penalties, and some products specifically provide for the penalty-free withdrawal in cases where the annuity owner requires nursing home care. When considering the purchase of an annuity, work with a reputable financial advisor, and consider having your estate planning attorney review the annuity before making the investment.

Living trusts can be more expensive than you might initially be led to believe, when properly prepared and funded. There are costs involved in the re-titling of your assets into the trust and they do not avoid Pennsylvania inheritance taxes.

If you wish to get a low-cost second opinion from an estate-planning attorney before proceeding with a living trust or annuity purchase, call the Montgomery Bar Association Lawyer Referral Service at 610-279-9660 extension 201 between 9:00 am. and 4:00 pm. Tell the service representative that you would like to meet with an estate-planning attorney before going forward with the preparation of a living trust to make sure that it is right for you. A half-hour consultation costs only $40. This meeting might save your money and your peace of mind by making you aware of options not mentioned by the trust and annuity salesperson.

Non-Probate Property

Just as you need to review your will periodically, you should check the beneficiary designations on your life insurance and retirement accounts to make sure they are up-to-date. Your will is not intended to control the disposition of non-probate property. Many people select beneficiaries when purchasing a life insurance policy or opening their accounts but never revisit these decisions. It is particularly important to do so as family situations change over the years.

You also need to be aware that jointly-held property, any accounts or annuities held “in trust for” (ITF), marked “payable on death” (POD) or “transferable on death” (TOD) do not pass according to the provisions of your will. Rather, these items pass by law to designated beneficiaries or to the survivor listed on the account. Be sure these beneficiary designations are carefully reviewed when developing your estate plan.

Inheritance, Estate and Gift Taxes

Over the years, senior citizens have watched tax regulations at all levels grow more and more complicated. Guideline information is offered below with the advice to consult with a professional if you have questions.

Pennsylvania Inheritance Tax

This death tax must be paid by the estate within nine months of death to avoid having to pay interest and potential penalties. To the extent that all the inheritance tax is paid within three months after the date of death, a discount of 5% may be obtained.
The following inheritance tax rates are effective for individuals whose dates of death occurred on or after July 1, 2000:

- The tax rate for transfers to a child, father, mother, grandfather, grandmother, step-child, lineal descendant or their spouse is 4 1/2%.
- The tax rate for transfers to a spouse is zero %.
- The tax rate for transfers from a child age 21 or younger to a natural parent, an adoptive parent or a stepparent is zero %.
- The tax rate for transfers from a decedent to a sibling is 12%. The Inheritance Tax Act defines a sibling as “an individual who has at least one parent in common with the decedent, whether by birth or adoption.” This includes a sibling by birth, a step-sibling by birth as well as a sibling by adoption.
- The tax rate for transfers to all other collateral beneficiaries (nephews, nieces, aunts, uncles, cousins, other non-lineal relatives, friends, etc.) is 15%.
- Gifts to charitable or government entities continue to be deductible from the estate.
- Pennsylvania inheritance tax has been eliminated on certain real estate maintained by a family for agricultural or family business purposes, if certain conditions are met.

**Federal Estate and Gift Taxes**

The federal estate tax exemption is $5,490,000 for 2017. Federal taxation is not a concern for estates with assets under the amount covered by the exemption. Additionally, the unused exemption of one spouse can be used by the surviving spouse if a tax return (Form 706) is timely filed making the “portability” election. Most decedents’ estates are below the federal estate tax limit at present, and only need to pay Pennsylvania inheritance tax.

For tax year 2017, gifts of $14,000 or less per person, per calendar year are excluded from gift tax. Thus a husband and wife, combined, may transfer up to $28,000 to each donee (i.e. $28,000 to each of their children and others) per year, without being subject to federal taxation. There is no federal limit on gifting, but gifts which exceed the $14,000 exemption amount may be considered taxable gifts and reduce your lifetime exemption from estate and gift taxes. See your estate planning attorney for guidance on the taxation of gifts.

**Planning For Gifts**

Gifting can be surprisingly more complicated than it would seem. Although well-intended, some gifts can have unexpected adverse consequences. In order to avoid potentially costly mistakes, it is recommended that you consult with an attorney before making any gifts that exceed $500 in a given month. That’s $500 in total, not per person. If you are an agent under power of attorney for another person then you should consult with an attorney before making ANY gifts.

**Medicaid 5-Year Look-back and Transfer Penalty.** Under federal law, gifts can make you ineligible for Medicaid long-term care benefits many years after the gift is made. When a person applies for Medicaid benefits to help pay for long-term care costs, such as nursing home costs, caseworkers with Pennsylvania’s Department of Human Services will examine bank records going back five years in order to see if any gifts were made. Gifts within the 5-year look-back can create periods of Medicaid ineligibility and a denial of your application for Medicaid long-term care benefits. It is therefore quite risky for seniors to make gifts if they might need nursing home care within that window of time. Only those with sufficient resources to pay privately for nursing home care for five years after the gift can ignore the
Medicaid transfer penalties. Seniors should make sure their own long-term care needs can be met and exercise caution when it comes to making gifts. The annual exclusion amount of $14,000 per person does not apply in the Medicaid application context. There is no $14,000 exemption when it comes to determining eligibility for Medicaid long-term care benefits. Medicaid rules can impose a period of ineligibility (transfer penalty) for non-exempt gifts that exceed $500 per month (in aggregate, not per person) within the 5-years prior to the filing of an application for Medicaid long-term care benefits.

**Gifting by Agent under Power of Attorney.** An agent under a power of attorney is not permitted to make gifts unless the document permits gifting. If the document does not specifically describe what gifts are permitted, and to whom, then gifting is likely not allowable under the power of attorney document. If the agent makes gifts anyway, he or she can be sued and potentially be personally liable. Even if permitted under the power of attorney document, there are often very good reasons for the agent under power of attorney to NOT make gifts. Inadvisable gifting can result in significant personal liability for the agent under power of attorney.

**Charitable Gifts.** You may want to consider a gift to charity. Many not-for-profit institutions have resources to aid you in making gifts, particularly in setting up a charitable gift annuity, which allows you to give cash or securities while providing you with a guaranteed, lifelong income. Under certain conditions you could enjoy a significant charitable tax deduction without incurring a capital gains tax if you give appreciated securities with a low cost basis.

**Federal Gift Tax.** The Internal Revenue Service defines a gift as “any voluntary transfer of property from a donor to a donee without what is called full and adequate consideration”. A gift occurs when the donor gives up control over the transferred asset. Your gift to anyone during a calendar year will be a “taxable gift” if it exceeds the annual exemption amount. Your payment of educational or medical expenses for another individual is not generally subject to federal gift tax when paid directly to the school or medical provider. The value of a gift for federal gift tax purposes is the “fair market value” of the property transferred. Fair market value is generally defined as the “price which would probably be agreed upon by a seller willing to sell and a buyer willing to buy where both have knowledge of the facts.” A gift tax return, Form 709, should be filed in April when you file your personal income tax return if taxable gifts have occurred, or if a married couple desires to “split” a gift. Unless you make very large gifts, your “taxable gifts” will probably only result in a reduction of your lifetime exemption from federal estate and gift tax, not in the need to write a check for gift tax.

**Meeting With Your Lawyer**

Perhaps the most difficult part of the estate planning process is overcoming procrastination and scheduling that initial consultation. For the best results, you need to deal with an attorney who provides estate planning services on a regular basis. When you call to schedule your appointment, be sure to ask whether there is a fee for the initial consultation. Many attorneys do charge for the initial consultation. At your first conference, be sure to ask about the total cost to have your documents prepared. Some lawyers charge for documents on a flat fee basis, while others bill at an hourly rate. In either case, reputable lawyers always discuss fees up-front at the initial consultation and they will put the fee arrangement in writing.

Before you visit your lawyer, you can make the initial meeting more productive by bringing the following information:

- a list of what you own;
- a list of your intended beneficiaries with their names, ages and addresses;
• your choice of executor and at least one alternate;
• a list of all the questions you have about estate planning.

With this information, your lawyer will be able to spend more time developing a plan with you and less time writing down basic information. If you suspect someone might contest your will, or sense disharmony among your children, mention this to your attorney so the issues can be addressed. Remember that anything you discuss with your attorney is confidential client information.

After working with you to develop your plan, your lawyer will then prepare the necessary documents. It is very important that you understand all papers you sign. Then, once signed, make sure everything is kept in a secure, fire-proof location.

**POWER OF ATTORNEY**

A durable power of attorney is a written document authorizing a named person, called the “agent,” to handle certain specified types of transactions for the person granting the power of attorney, called the “principal.”

General powers of attorney are very broad and allow many types of transactions. They can cover financial and healthcare matters. Limited powers of attorney convey the authority to an agent to handle a specified task, for example, to sign documents at a real estate settlement.

The power of attorney is “durable” in that it remains valid even after the principal no longer has legal capacity to convey property or handle similar transactions, perhaps due to an injury or an illness such as Alzheimer’s disease. However, legal capacity must exist when the power of attorney is first executed. All powers of attorney executed since 1993 in Pennsylvania are durable unless otherwise stated.

A “springing” power of attorney can be executed so that it will only take effect if the principal’s legal capacity has diminished or the principal becomes disabled. The agent’s power to act then “springs” into effect upon the happening of an event such as disability. A major question of a springing power of attorney is: when does it take effect? Springing powers of attorney can include a mechanism that involves one or more physicians attesting to the fact that the principal has lost their capacity or is disabled in order for the power of attorney to take effect. Documentation that the triggering event has occurred is normally required.

Pennsylvania now requires a special statutory notice to appear in capital letters at the beginning of every financial power of attorney. The document must have two witnesses (other than the agents named in the document) and be acknowledged before a Notary Public. PA law further requires that an acknowledgment be signed by agents indicating that they have read the power of attorney and understand certain basic duties. This is often the last page of the document. The agent should not commingle any assets of the principal with his or her own assets.

Pennsylvania law also permits you to allow the agent to make gifts of your assets - or not! Granting such power in a POA is very risky, so exercise great caution when allowing another person to make gifts of your money. A well-drafted gifting clause can be customized by your estate planning attorney so that your POA is specific as to what gifts can or cannot be made by your agent. If the power of attorney is silent on the topic of gifting, then gifting is generally prohibited.
Revoking A Power of Attorney

As long as the principal has legal mental capacity, he or she can sign paperwork to revoke the power of attorney, name a new agent, or designate a co-agent to check on the actions of the first agent. Financial institutions will sometimes require an attorney or the agent to sign a “certification” saying that the power of attorney has not been revoked and is still in full force. Under Pennsylvania law, a power of attorney does not lapse by mere passage of time. A court can take away the power of an agent under power of attorney.

Failure To Act

With the rise of identity theft, banks have become more cautious when it comes to following the instructions of someone who says they are an agent under power of attorney. Normally you can work things out with the financial institution directly. If needed, an attorney can help if you are having difficulty getting financial institutions or other third parties to honor a power of attorney.

Fraud

A power of attorney is a valuable tool in aiding an elderly individual, but in the wrong hands it can also be used to perpetrate fraud. There are steps you can take to minimize the potential for financial abuse:

- Choose the right person to act as your agent under a power of attorney. Make sure that the individual is someone you can trust.
- Be careful about what powers you give to an agent under a power of attorney. Make sure you understand what powers are included in any power of attorney before you sign the document. Powers of attorney can be broad or narrow, allowing a full grant of authority to act for an individual or providing only a limited power of attorney for a particular event or situation, eg. power of attorney for the sale of real estate. Exercise great caution in granting the power to make gifts. Consider limiting or prohibiting self-gifting.
- You may consider appointing more than one person to act as your agent. While this may be more cumbersome and less efficient due to your agents having to agree, it provides a system of checks and balances.
- To prevent premature use of the power by your agent, you can withhold the document until it is needed or require that the document be held by a non-agent with full instructions for release to the agent.
- You may require your agent to account periodically to a disinterested third person or require bank statements to be sent to a friend or relative.

Health Care Provisions in a Power of Attorney

A power of attorney usually deals with financial matters, but can also address medical issues, or is commonly a separate power of attorney limited to healthcare matters. Under Pennsylvania law, a patient’s expressed wishes concerning medical treatment will generally be upheld.

The law allows an agent, appointed by you in your power of attorney, to authorize admission to a medical, nursing, residential or similar facility, and to enter into agreements for your care if you so state. The agent may, with respect to your admission to a facility, execute consent or admission forms required by the facility and enter into agreements for your care by a facility or elsewhere. The law also allows you to authorize your agent to
arrange for and give consent for medical, therapeutic, and surgical procedures, including the administration of medications. If one person is to act as your agent for your financial affairs and another as agent for your health care, you need to specify the separation of powers, or create two separate power of attorney documents.

A living will, described below, is a separate document which allows you to specify your intent regarding medical decisions in end-of-life situations. A living will is sometimes incorporated into a healthcare power of attorney, but is also commonly a separate document. You and your lawyer must be careful that these documents complement and do not conflict with one another. Finally, a power of attorney can, if you wish, give your agent the authority to make an anatomical gift of all or part of your body.

**Health Care Power of Attorney and Living Wills (Advance Directives)**

You have the right to decide the type of health care you want in the event you become unable to understand, make, or communicate decisions about medical care. Your wishes for medical treatment are most likely to be followed if you express those wishes in advance by:

1. naming a health care agent to decide treatment for you; and
2. giving health care treatment instructions to your health care agent or health care provider.

An advance health care directive is a written set of instructions expressing your wishes for medical treatment. It may contain a Durable Health Care Power of Attorney, where you name a person called a “health care agent” to decide treatment for you, and a Living Will, where you tell your health care agent and health care providers your choices regarding the initiation, continuation, withholding or withdrawal of life-sustaining treatment and other specific directions, if you wish. If you do not write down your wishes about your health care in advance, and if later you become unable to understand, make or communicate these decisions, those wishes may not be honored because they may remain unknown to others. A living will is also sometimes referred to as an “advance health care directive” or “advance medical directive.”

You should give a copy of your advance health care directive (a living will, health care power of attorney or a document containing both) to your health care agent, physicians, family members and others whom you expect would likely attend to your needs.

The Living Will becomes operative only if you are unable to make and communicate your own decisions when you have an end-stage medical condition (which will result in death, despite the introduction or continuation of medical treatment) or if you are in an irreversible vegetative state and there is no realistic hope of significant recovery. A Living Will contains treatment instructions only under those circumstances.

Anyone of sound mind who is 18 years of age or older or who graduated from high school or has married may execute a living will at any time. The Pennsylvania law states that the document must be witnessed by two individuals each of whom are 18 years of age or older. Other states may require that the living will is acknowledged by a Notary Public, though notarization is not required in Pennsylvania. (Only two witnesses are required.) Hospitals and nursing homes must by law provide patients with information concerning living wills. However, declarations are optional and no entity can charge a different fee for medical services based on whether or not a living will has been signed.

If a patient does not execute a Living Will, there is no presumption of the patient’s intentions to consent or refuse life-sustaining treatment and there may be a need to go to court before life sustaining treatment can be removed.
Health Insurance Portability and Accountability Act (HIPAA)

Privacy requirements were enacted not too long ago under the Health Insurance Portability and Accountability Act (HIPAA). The purpose of this law is to protect the privacy of your healthcare records and information. HIPAA also enables you to access, inspect, copy and correct your health care information. This law applies to health care providers, health plans, health care clearinghouses and the business associations that deal with those entities.

Protected health information may not be disclosed to business associates unless a signed patient authorization that meets specific requirements is obtained. Your agent under power of attorney may obtain medical records and health information if specifically authorized to do so. It is therefore a best practice to include “HIPAA release language” in your healthcare power of attorney document. An elder law attorney will make sure this language is in your power of attorney.

Out of Hospital Do Not Resuscitate (DNR) Orders

Out of Hospital Do Not Resuscitate orders are now recognized under Pennsylvania law. These are known as DNR orders and can be in the form of a written order, bracelet, or necklace, the contents of which are described in the statute. They are primarily intended to direct Emergency Medical Service providers to comply with the patient’s wishes when a patient is experiencing cardiac or respiratory arrest and has both an Advance Health Care Directive (Living Will) and an out of hospital DNR order issued under the DNR Act.

Under the DNR Act, the EMS provider can withhold CPR upon observing an out of hospital order, bracelet, or necklace displayed with the patient. The EMS provider is not required to contact a medical command physician to secure approval and can follow the patient’s wishes.

Physician Order for Life-Sustaining Treatment “POLST” Form

Pennsylvania has approved a POLST form. The use of a POLST form is intended to help ensure that patients receive appropriate care at the end of life. This is achieved by creating an actionable medical order that directs care that is consistent with patients’ goals and preference for end of life care and treatment. It is provided in a form that can transfer with the patient as they move between medical providers, such as if they are admitted to a hospital from a nursing home. The POLST gives patients choices from a full range of care options, from aggressive to limited comfort care. Health care professionals can discuss options with seriously ill patients or their Agents under their Health Care Powers of Attorney, document those preferences on a standardized medical form and ensure that it travels with the individual. It differs from a living Will or health care power of attorney in that it is an actionable medical order. Although the POLST is helpful, it is still important to have living will and healthcare power of attorney documents prepared in advance.
GUARDIANSHIPS

Sometimes people are unable to make decisions about their health or finances and can no longer manage for themselves. Dementia or other progressive mental, emotional or physical illnesses can rob people of the ability to keep themselves safe. In the worst cases, individuals can become victims of others who see opportunities to take cash and possessions while “helping” or doing favors. The impaired person may even be pressed to make important decisions about medical care or living arrangements.

To provide a decision-maker for people in these situations, Pennsylvania law allows the Orphans’ Court to appoint a guardian of the person (for personal and health matters) and/or a guardian of the estate (for financial matters). Anyone interested in the person’s welfare can file the petition seeking a guardian.

To qualify for a guardian, a person must be found impaired in such a way that they are partially or totally unable to manage financial resources or meet essential requirements for physical health and safety. Because a ruling of “incapacity” and appointment of a guardian involves the curtailing of many important legal rights, stringent standards must be met. Notice must be given to the alleged incapacitated person and there is a right to request counsel.

Hearing Before the Court

The incapacitated person is required to attend a hearing before the Montgomery County Orphans’ Court unless doing so would harm the individual. An attorney for the incapacitated person is not required unless ordered by the court, as may be in cases of family conflict. When testimony by qualified persons such as a psychiatrist or other health care provider establishes clear and convincing evidence that the person is incapacitated, a guardian may be appointed. But just because an individual has periods of confusion does not mean that the person will be found incapacitated under the law.

If incapacity is established, the court will appoint a guardian of the estate and/or person with full or limited powers. It is the duty of the guardian to assert the rights and best interests of the incapacitated person to the greatest possible extent. The guardian must also encourage the incapacitated person to participate in all decisions which affect them to the maximum extent of their abilities. However, the guardian does not have to follow the wishes of that person if they are in conflict with their best interests. For example, many times an incapacitated person wants to continue to live in their home; if the guardian determines that assisted living or skilled nursing care is necessary, the guardian is authorized to admit the person to a facility, even over that person’s objections.

The appointed guardian has all powers set forth in the court order, usually including making every kind of decision with the exception of admitting the incapacitated person to inpatient psychiatric facilities or consenting to relinquishment of parental rights. Court approval is needed for consent to abortion, sterilization, psychosurgery, shock therapy, removal of a healthy organ, or to prohibit marriage, consent to divorce or to consent to experimental procedures.

Typical decisions made by guardians of the person include arranging medical care and consenting to surgery or other treatments, determining where an incapacitated person is to live and contracting for admission to nursing facilities. A guardian for the estate has the same duties as a personal representative, executor or administrator with specific requirements and limitations. Every guardian must file a detailed annual report with the Orphans’ Court.
Preparing a comprehensive power of attorney may make guardianship proceedings unnecessary and is less expensive and stressful than the court process. One may nominate a guardian in a power of attorney for the court’s consideration in the event of a guardianship proceeding.

Mediation Services

In the context of aging, there are sensitive topics such as finances, changes in living arrangements, healthcare concerns and end-of-life decision-making that need to be discussed between older adults and the significant people in their lives. Addressing these issues can be overwhelming and conversations can involve intense emotions and sometimes contain conflict. Struggles may occur regarding an older adult’s desire for independence and others’ concerns about safety.

Mediation is a way for people in conflict to talk together with the help of an impartial third party. Mediators are trained to listen carefully, clarify issues, and help older adults, their families and care providers to better understand one another and make decisions.

Older adults, their families and care providers sometimes experience conflict such as:

- **Caregiving**
  Siblings disagree over the care of a frail and elderly parent and how to share responsibilities

- **Housing Transitions**
  Conflict about moving a loved one to a new setting or the sale of the family home

- **Adult Guardianship**
  Family conflict over the need for and/or selection of a guardian and the terms of adult guardianship

- **Finances**
  Conflict regarding financial and estate matters including actions by agents under power of attorney

- **Long-Term Care**
  Conflicts among staff, residents and family members regarding care and relationships within the facility

- **Healthcare**
  Older adult or family disagree with healthcare provider about medical decisions or quality of care

- **Intergenerational Issues**
  Tension among parents, adult children and grandchildren living together

Benefits of Elder Mediation

Mediation can help older adults, their family members and care providers have productive conversations regarding issues associated with aging. Other benefits include:

- Helps older adults and others involved in the conflict to express their emotions, preferences and concerns during decision making

- Improves understanding between older adults and the important people in their lives
• Helps decrease the stress associated with conflict
• Supports collaboration with health care and long-term care providers to improve satisfaction with care
• Provides an alternative to litigation

Older adults, their families, care providers or attorneys may request mediation by contacting a mediator such as Winnie Backlund at 3075 Ridge Pike, Eagleville, PA 19403; phone: 215-694-5856; email: wgbacklund@gmail.com.

**SOCIAL SECURITY**

The Social Security Administration operates a variety of programs and benefits, including retirement and survivor benefits, Social Security disability insurance benefits, Medicare health insurance, and Supplemental Security Income benefits. In Montgomery County there are two Social Security offices:

1700 Markley Street  
First Floor  
Norristown, PA 19401  
800-772-1213

39 W. Ridge Pike  
Royersford, PA 19468  
866-964-7415

These local Social Security offices offer helpful and informative publications available free to anyone who requests them. Additionally, an attorney who works with Social Security benefits should be consulted in the event of any questions since the programs and benefits are quite complex.

Anyone who has access to the Internet can check the Social Security Administration’s official website which offers comprehensive information about all of its programs and benefits. The website is www.ssa.gov and it offers more than 10,000 pages of information. You can do a variety of tasks at this website: request a copy of your earnings record and an estimate of the benefits you and your family will receive when eligible; find out how to file a claim for retirement or disability benefits; find out how to replace a lost Social Security card or change the name on your Social Security records; locate the nearest Social Security office and get a statement verifying the amount of Social Security benefits you receive. You can also download copies of booklets and fact sheets about Social Security disability, retirement and survivor benefits and SSI benefits.

**Applying for Benefits From the Social Security Office**

Do not delay in applying for benefits for which you may be eligible. Any delay on your part could result in fewer benefits if you are ultimately found eligible for certain benefit programs operated by Social Security. When in doubt, contact Social Security to begin the application process as soon as you may be eligible. To get an estimate of your benefits you can submit a completed form SSA-7004-SM to the Social Security Administration. It takes about six weeks to receive the information. Beneficiaries can access much of this information by creating a “my Social Security account.” Go to www.socialsecurity.gov/myaccount for more information. Note that Social Security no longer issues paper checks. See www.GoDirect.gov for more information.
Deadlines

Keep in mind that Social Security will give you a deadline to finish certain tasks; such as filing an appeal if you are dissatisfied with a decision. You must comply with their timelines or you will lose your right to potential benefits. Typically, their deadlines are within 60 days. However they may be shorter for special circumstances so you must check this carefully.

Toll-Free Social Security Number: 1-800-772-1213; Website: www.ssa.gov

The Social Security Administration maintains a toll-free number which you can call to obtain information, set up an appointment, or transact other business. You can call your local Social Security office to make an appointment to meet with their staff in person so they can review your file with you. Take a friend, relative or Social Security attorney with you. People who are deaf or have difficulty hearing may call the Social Security office at their toll-free “TTY” number: 1-800-325-0778.

Written Explanation for Denial of Benefits

If Social Security denies your claim for any benefits, you are entitled to a written explanation giving the reasons for denying certain benefits. If you do not receive a written explanation, ask Social Security to provide you with this documentation and consult an attorney concentrating in Social Security law to protect your rights.

Correcting Records with Social Security

If you are receiving benefits or applying for benefits from Social Security, it is important that you contact the Social Security Administration to inform them of any changes or corrections in your records. For example, if you move, change bank accounts, or disagree with the earnings records which they have posted to your Social Security account, you should take immediate steps to inform Social Security of any changes or additions.

It has been estimated that a small percentage of Social Security participants have incorrect Social Security retirement accounts. This means that Social Security may not know about all of your earnings in your lifetime, and therefore your retirement benefits may be lower than they should be. It is important to check your records every couple of years, at least until you are receiving benefits, to verify your earnings records on file with Social Security.

Legal Assistance

If you have a problem with a Social Security claim and desire legal advice, a good contact is the National Organization of Social Security Claimants’ Representatives: 1-800-431-2804. They maintain a national listing of attorneys who concentrate their law practices in Social Security matters. You may also wish to contact your local Legal Aid office in your community or the Montgomery Bar Association Lawyer Referral Service; telephone 610-279-9660; fax 610-279-4846

Social Security Benefits

Following is a brief description of some of the benefits available through the Social Security Administration. Remember that Social Security is a system of social entitlement; it is neither welfare-based nor based on means. The system provides benefits not only during retirement but also for survivors and dependents in case of death or disability. Keep in mind that this is not a description of all of the eligibility requirements for each of these programs and benefits. Some of the eligibility requirements are complicated and cannot be fully addressed in this handbook. When in doubt, contact the Social Security Administration
and set up an in-person appointment to ask about your eligibility for benefits and consult an attorney working with Social Security benefits.

Retirement Benefits

Anyone born before 1938 will be eligible for full Social Security retirement benefits at the age of 65. However, beginning in the year 2003, the age at which full benefits are payable increased in gradual steps from 65 to 67.

No matter what your “full” retirement age is, you may start receiving benefits as early as age 62. However, if you start your retirement benefits early, they are reduced five-ninths of 1% for each month before your full retirement age. There are disadvantages and advantages to taking your retirement benefits before your full retirement age. The disadvantage is that your benefits are permanently reduced. The advantage is that you collect benefits for a longer period of time. Each person’s situation is different, so you should contact an attorney who is familiar with Social Security law before you make any decisions.

Social Security Disability Insurance Benefits (SSDI)

If you have worked long enough and earned enough Social Security “credits” to qualify for disability on your own work record, and if you are medically determined to be unable to do “substantial gainful” work for at least one year, you may qualify for Social Security disability insurance benefits on your own account. This is a complicated program and you should visit your local Social Security office in order to apply. This is not intended for a temporary condition; there is no such thing as a “partial” disability benefit program from Social Security.

Supplemental Security Income Benefits (SSI)

The SSI program is based on means. To qualify, you must have modest means (low income and assets under $2,000 if single and under $3000 if a couple) and be either medically disabled, blind, or 65 or older. However, this is not a benefit program to “supplement” your income. In other words, in addition to the other eligibility requirement, you must meet strict poverty income guidelines in order to receive this benefit. For example, for a single person in Pennsylvania, if you are medically disabled, but receive more than $698.00 per month from another benefit such as SSD, retirement, or a pension, or income, you will not be eligible for SSI benefits because Social Security will consider that you make too much money to qualify for SSI.

Survivor Benefits

When you die, certain members of your family may be eligible for benefits on your Social Security earnings record if you have earned enough credits while you were working. Family members who can collect benefits include:

- a widow or widower who is 60 or older;
- a widow or widower who is 50 or older and disabled;
- a widow or widower at any age if they are caring for a child under 16 or a disabled child who is receiving Social Security benefits;
- children if they are unmarried and under age 18;
- under age 19 but in an elementary or secondary school as a full time student;
- age 18 or older and severely disabled (the disability must have started before age 22); your parents, if they were dependent on you for at least half of their support.
• Surviving spouses can directly contact Social Security by calling 800-772-1213 in order to apply for benefits.

Benefits For a Divorced Spouse

One receives Social Security benefits in one of two ways: based on one’s contributions to the Social Security system or as a spouse of such a contributor, which benefits are called derivative benefits. The recipient will receive benefits in the manner that provides the higher benefits.

After divorce, one can receive benefits based on the contributions of a former spouse if the marriage was of at least ten years duration. Derivative benefits for divorced spouses do not affect the benefits of the contributing spouse and family allowance does not apply. If a divorced spouse seeks benefits based on an eligible former spouse’s earning record, and the former spouse is not collecting benefits, the divorced spouse can collect benefits only after two years have elapsed from the date of the divorce. In addition, the spouse from whom benefits are derived must be eligible for benefits; that is, at least 62 years of age and fully insured, even if they are not actually receiving benefits. The qualifications of the dependent spouse are: being at least 62 years of age and remaining unmarried.

If you are already a surviving divorced spouse planning to remarry close to age 60, wait until age 60 to avoid the remarriage penalty. In the event you are considering getting divorced, consider the impact on you of Social Security benefits. If you are a dependent spouse getting a divorce, at any age, and your marriage is close to ten years, defer the divorce until there are ten years from the date of the marriage to the date of the divorce decree. Before having alimony cease at age 62, consider the reduction of benefits and inability to qualify for Medicare. If a divorcing dependent spouse is planning to receive benefits based on the earnings record of the spouse who is not receiving benefits, make sure that benefits are not sought until two years after the date of divorce.

If the dependent spouse remarries, they will not be eligible for derivative benefits from a contributing spouse. However, if such remarriage terminates, the dependent spouse becomes eligible for derivative benefits once again from the former contributing spouse. If a dependent spouse has been married more than once and each time for at least ten years, derivative benefits can come from the former spouse’s contributions providing the higher benefits.

Benefits to Divorced Widow(er)s

If you are divorced, even if you have remarried, your ex-spouse will be eligible for benefits on your own earnings record if you are fully insured when you die. In order to qualify, your ex-spouse must:

• be at least 60 years of age, or 50 years of age if disabled, and have been married to you for at least ten years;
• be any age if caring for a child who is eligible for benefits on your earnings record;
• not be eligible for an equal or higher benefit on his/her own earnings record; and
• not be currently married, unless the remarriage occurred after age 60, or 50 for disabled widow(er)s.

The surviving divorced widow receives 100% of the benefits instead of the 50% received if the former spouse is alive.
Income Tax on Social Security Benefits

To determine if Social Security benefits are taxable, the test is whether the individual’s adjusted gross income combined with 50% of their Social Security benefits plus any tax-exempt interest exceeds a base amount. For individuals, that base amount is $25,000; for married couples filing jointly, the amount is $32,000, for married couples filing separately the amount is $0. The amount of benefits that will then be included in taxable income is the lesser of half of the benefits or half of the excess of the taxpayer’s combined income (modified adjusted gross income plus half of the benefits) over the base amount.

For individuals whose combined income exceeds a higher adjusted base amount ($34,000 for single individuals, $44,000 for a married couple filing a joint return), the amount of benefits that will be included in taxable income is the lesser of 85% of the benefits, or 85% of the excess of the taxpayer’s combined income over the adjusted base amount plus the lesser of half the benefits or $4,500 for a single person, $6,000 for married couples. Because these issues are so complex you may wish to consult a tax attorney for guidance.

Most pensions are not counted in the retirement test. However, when one spouse works and the other is drawing benefits, the base amount can be easily exceeded. Form SSA 1099 shows the benefits received and is sent each January to every Social Security recipient for inclusion in the federal income tax return.

Considerations and Issues to Be Aware Of if You Already Receive Some Benefit(s) From the Social Security Administration

Social Security has rules which require you, as a beneficiary of Social Security, to report changes to the Social Security Administration. There can be consequences to you if you fail or neglect to report changes to Social Security, and these consequences can include sanctions against you, such as overpayment requests, fraud charges or termination of your benefits. Here are a few of the many things to be aware of if you already receive Social Security benefits:

1. If you receive Social Security retirement or survivors benefits or wages or a salary over a specified exempt amount:
   A. You must report any changes in your address, or if you change your name, via marriage or divorce.
   B. If you are over the age of 65, you will continue to receive full Social Security benefits regardless of how much you earn in wages or salaries; this is due to a change in the law implemented in March 2000 and it was made retroactive to January 2000.
   C. However, if you are younger than full retirement age during all of 2016, $1 will be deducted from your benefits for every $2 you earned above $14,160 in 2016. If you reach full retirement age in 2016, $1 from your benefits for each $3 you earn above $37,680 until the month you reach full retirement age, will be deducted.

2. If you receive SSI disability benefits:
   A. You must report any income changes (increases, decreases) to the Social Security Administration. You should also report any changes in the income of other family members living with you (i.e. spouse, child). Income is a very broad term and includes many things, including wages from a job, the value of food or shelter that someone else gives to you or the amount of money they give you to help pay your bills, unemployment, annuities, pensions, etc.
   B. You must inform Social Security if you move and provide them with your new address.
C. You must inform Social Security if there is a change in the number of people who live with you, or if you get married or if your marriage ends. For example, if someone moves into or out of your home, or if someone who lives with you dies.

D. You must inform Social Security if you enter or leave an institution such as a nursing home, hospital, shelter or penal institution.

E. If you return to work, part-time or full-time, you must report this to Social Security. There are special SSI rules to help you try to work. In some cases, your SSI benefits may continue while you work and are still disabled; as your earnings increase, the amount of your SSI will decrease and may eventually stop if you earn too much each month.

3. If you receive SSD disability benefits, your benefits will generally continue for as long as your impairment has not medically improved and you cannot work. Social Security will review your case periodically to confirm you are still disabled. If you receive SSD benefits:

A. You must report any changes such as change of address or marriage or divorce, or changes such as improvement of your medical conditions. Failure to report such changes in your medical conditions could mean that you will get payments that are not due to you, and that will have to be repaid to Social Security.

B. If you go to work, part-time or full-time, you must report any earnings to Social Security because earnings may affect your Social Security benefits.

C. There are work incentives offered by Social Security to allow you to test your ability to work for at least nine months even after you receive disability benefits.

Trial work period - The trial work period allows you to receive your benefits regardless of how much you are earning as long as you report your work and continue to have a disabling impairment. In 2017, a trial work month is any month in which your total earnings are $840 or more. The trial work period continues until you have worked nine months within a 60 month period.

Extended period of eligibility - After your trial work period, you have 36 months during which you can work and still receive benefits for any month your earnings are not “substantial.” In 2017, earnings of $1,170 or more ($1,950 if you are blind) are considered substantial. Your free Medicare Part A coverage will continue if your Social Security Disability benefits stop because of your earnings. During the trial work period, there are no limits on your earnings. During the 36-month extended period of eligibility however, you usually can make no more than $1130 a month or your benefits will stop, unless you have extra work expenses as a result of your disability.

4. If you would like to return to work, Social Security’s new Ticket to Work Program will help Pennsylvanians with disabilities go to work under this new program.

A. Tickets will be mailed to people who receive Social Security Disability or Supplemental Security Income (SSI) disability benefits. Tickets can be used for vocational rehabilitation, job training and other employment support services. The program is entirely voluntary and beneficiaries are not required to go to work, but may attempt to do so.

B. Ticket holders may contact an Employment Network established by Social Security to assist beneficiaries in planning for employment and working.

C. Medicare Part A (Hospital) premium free coverage was extended for 4 1/2 years beyond the current limit for disability beneficiaries who work. Therefore, an individual does not have to chose between working and receiving health coverage, including Medicare Part B. SSA will not conduct a medical review of a person receiving disability benefits if that person is using a Ticket. However, income benefits can still be terminated if earnings are above the allowable limits.
D. Since 2002, individuals who have received disability benefits for at least 24 months will not be medically reviewed solely because of work activity. However, regularly scheduled medical reviews can still be performed and, again, benefits terminated if earnings are above the allowable limits. So, if you go back to work, you won’t automatically lose your benefits if you earn under the allowable amount.

E. If your benefits have ended because you have substantial gainful work activity, you can request that your benefits resume without filing a new application if you are unable to continue to work because of your medical condition. You can receive up to 6 months of temporary benefits that do not have to be repaid if you are found ineligible to receive disability benefits, as well as Medicare or Medicaid, pending SSA making a new medical determination. The medical condition must be the same as or related to your initial medical condition when benefits were granted. You must file your request to start your benefits again within 60 months of the date you were entitled to benefits.

Resources

Social Security pamphlets include:

- “Basic Facts” SSA-05-10080
- “Understanding the Benefits” SSA-05-10024
- “Retirement Benefits” SSA-05-10035
- “Disability Benefits” SSA-05-10029
- “Supplementary Security Income” SSA-05-11008
- “Survivor Benefits” SSA-05-10084
- “What You Need To Know When You Get Retirement Or Survivors Benefits” SSA-05-10077
- “What You Need To Know When You Get SSI” SSA-05-11011
- “If You Are Blind How We Can Help” SSA-05-10052
- “A Guide For Representative Payees” SSA-05-10076
- “What You Should Know When A Representative Payee Manages Your Money” SAA-05-10097
- “Receive Your Benefits By Direct Deposit” SSA-05-10123

These are available by calling the Social Security toll-free number 1-800-772-1213 or through their website at www.ssa.gov.

Medicare

Instituted in 1965, Medicare is a program administered by the federal government to assist older Americans in meeting their medical expenses. The program also assists younger persons who are disabled. Medicare is run by the Center for Medicare and Medicaid Services (CMS), under the U.S. Department of Health and Human Services.

The Original Medicare program has two parts. Part A helps to cover costs for stays in hospitals and skilled nursing facilities, and covers home health services and hospice care. Part B assists with doctors and therapists’ services, lab costs, many preventive services, and durable medical equipment. Only services that are considered medically necessary will be paid for through the Medicare program. In 2006, Medicare added Part D for outpatient prescription medication.
Most people become eligible for Medicare on the first day of the month that they turn 65. You also become Medicare eligible if you are under 65 but have been receiving disability benefits from Social Security for 24 months. Helpful Medicare resources include the official Handbook, “Medicare & You” 2017, 1-800 MEDICARE (1-800-633-4227), or www.medicare.gov help you find the answers you need.

Part A – Hospital Insurance

For most people, Part A is premium-free because Medicare taxes were withheld from your (or your spouse's) earned income during your working years. However, persons with less than 10 years of covered employment can purchase Part A insurance by paying premiums up to $413/month in 2017.

You are required to pay the first $1,316 of hospital costs per benefit period (sometimes called a “spell of illness”), which begins when you enter a hospital or skilled nursing facility and ends when you haven’t received any further care for 60 straight days. After you pay that deductible, Medicare will pay all other costs through day 60. For longer hospital stays, there are coinsurance charges of $329 a day for days 61 through 90, and $658 a day for up to 60 additional “lifetime reserve” days. You pay all costs after 150 days.

If you receive care in a skilled nursing facility following a hospitalization, you are entitled to up to 20 days each benefit period. For days 21 through 100, you will pay coinsurance of $164.50 a day.

Hospital or skilled nursing care must be medically reasonable and necessary, which means that if the treatment could safely and effectively be given in an outpatient setting, Part A will not provide coverage. However, if you are homebound, you can received certain medically-necessary home health services. Also, people who are terminally ill can receive hospice care, which is usually given in your home by a Medicare-approved service.

If you need blood, you may have to pay for the first three pints each year, unless the hospital gets the blood from a blood bank, or you or someone else donates the blood.

All of the deductible and coinsurance amounts cited above are subject to an increase every year, typically by about three or four percent. Please note that Medicare does not pay for elective and cosmetic surgery; nor will it cover vision, hearing, or dental services unless they are medically necessary. During your hospital stay, Medicare will not pay for your TV or telephone.

Part B – Medical Insurance

In 2017 the standard Medicare Part B premium is $134/month or higher, depending on your income, but most people pay less, $109/month on average. Social Security will tell you each year what your premium will be. Under Part B, you pay the first $183 in medical costs each year if you are an individual with less than $85,000 in income, or a couple filing jointly with $170,000 or less. The deductible increases depending on your income; but, after reaching that deductible, Medicare will pay 80% of the Medicare-approved amount for doctors’ services, outpatient, therapy, many lab tests and other services, and for durable medical equipment. You are responsible for the remaining 20%. (For outpatient mental health care, Medicare pays 60% and you pay 40%. In coming years, this will continue to change until it reaches the same 80%/20% shares that apply to other Part B services.)

Also, unless you or someone else (such as a blood bank) donates blood to replace what you use, you pay the cost of the first three pints of blood you receive as an outpatient, and additional blood costs are divided 80%/20%.
Part B will pay for certain medications administered in a doctor’s office (for example, cancer drugs taken as outpatient treatment). Preventive services covered by Medicare include bone mass measurement, cardiovascular screening, diabetes screening, flu shots, glaucoma tests, hepatitis B shots, prostate cancer screening, pap test and pelvic exam, a pneumococcal shot, and screening mammograms. (There is no cost for most preventative-health services.) If you are new to Medicare, you are entitled to a “Welcome to Medicare” physical exam during your first 12 months under Part B. In addition, you can receive a “Wellness” exam every year; but this is not as extensive as the kind of annual physical exam to which you may have become accustomed. It involves minimal testing and is mainly intended to monitor changes in your ability to take care of yourself.

If you (or your spouse) are still working and you have coverage through the employer’s or union’s group health insurance policy, you do not have to enroll in Part B because the other insurance will pay for these services. However, if/when your job-related insurance is going to end, you should enroll in Part B so that you can make a smooth transition to Medicare and not have a break in your health coverage. Furthermore, failure to timely enroll will result in a lifelong premium supplement.

The Part B premium and the annual deductible are subject to change every year.

The scope of services included under Part B can also change. For instance, the preventive services covered by Medicare have expanded over the years. Since 2012, most of those services are available without requiring any co-payment.

Additional Insurance for Part A and B

Medicare pays a lot, but beneficiaries also pay some of the costs through the various deductibles and coinsurance charges mentioned above. Many medical procedures can be extremely expensive; and even if Medicare picks up significant portions of the costs, your deductibles and coinsurance responsibilities could become quite substantial. Some or all of those expenses can be covered by other insurance. You can obtain additional coverage through (1) a Medicare supplement insurance policy, or (2) a Medicare Advantage plan.

Some retirees receive help with medical costs through group health insurance they have from a former employer or union, or through a spouse’s job. Such coverage usually is cost-effective; but often, if you ever decide to leave that plan, you cannot rejoin it later. Typically, retiree coverage will be provided through a supplemental insurance policy or a managed-care plan that may resemble (but is not exactly like) a Medicare-contracted plan.

Supplement (“Medigap”) Insurance

You can supplement your Original Medicare coverage by purchasing a “Medigap” insurance policy. They are nicknamed “medigaps” because they can pay for some or all of the deductible and coinsurance “gaps” in Medicare Parts A and B. In Pennsylvania, these policies are sold by some 50 or 60 insurance companies, which are regulated and must be approved by the Department of Insurance. When you purchase a Medigap policy from one of these companies, you will be charged a premium, usually payable monthly. As long as you pay your premium, the policy is guaranteed renewable no matter what changes might occur in your health conditions.

The best time to buy a Medicare supplement policy is when you first enroll in Part B, because you can select any Medigap policy sold by any company, without regard to pre-existing health conditions. Because you may develop serious health conditions as you age, you could find it very difficult to obtain a Medigap policy later in your life.
Congress established 10 standardized Medicare supplement plans in 1992 and labeled them A through N although some previously approved plans have been dropped from this alphabetic sequence. Plan F covers all the deductibles and coinsurance gaps of original Medicare and is the most popular supplement policy; Plan C is similar. Plans A and B offer less coverage but are also less expensive. The other supplement plans provide variations in gap coverage that perhaps can be tailored to suit your needs. New plans labeled K and L became available beginning in 2006 and pay for 50% or 75% of Part A and Part B deductibles and coinsurance. As if that weren’t enough to choose from, new plans M and N became available in June 2010. Besides the introduction of these two new plans, a number of other changes in the Medigap lineup occurred on June 1, 2010. Perhaps most importantly, insurance companies are no longer allowed to sell plans “E”, “H”, “I” and “J” to new enrollees, though if you currently hold one of these policies you will be permitted to keep it.

If you have Original Medicare with a Medigap supplement, you show the hospital or doctor your Medicare card and your insurance card when you receive service from them. The medical service providers will submit their claims to Medicare, which will pay the appropriate Medicare-approved amount. Then, Medicare will forward the balance of the claim to your Medigap insurance company. Depending on which supplement plan you have purchased, the insurance company will pay its share; and if there still is a remaining balance not covered under your policy, you will be responsible for that amount.

Pennsylvania law forbids medical service providers from charging more than the Medicare-approved amount. If you are charged in excess of those amounts, you are not liable. Any effort to collect such an excess charge should be reported to the Pennsylvania Department of Aging (1-717-783-8975). Only eight states have such a “limiting law.” The other seven states are Connecticut, Massachusetts, Minnesota, New York, Ohio, Rhode Island, and Vermont.

If you have a Medicare supplement policy, it will help with your costs under Parts A and B; and if you want prescription drug insurance, you will enroll in a separate Part D plan.

Medicare Advantage

You might be interested to know that this arrangement is, formally, Part C of the Medicare program. Until recently, these plans were typically composed of managed-care plans such as Health Maintenance Organizations (HMOs) and Preferred Provider Organizations (PPOs). However, they now include several new types of arrangements, known as Private-Fee-For-Service (PFFS) plans and Medical Savings Accounts (MSAs).

Medicare Advantage is the means by which the federal government pays private health insurance companies to provide your Part A and Part B Medicare-covered services – and often your Part D benefit as well. If you enroll in a Medicare Advantage plan, you are still in the Medicare program, but the billing arrangements for health services involve you, the service provider, and the plan’s company. No claims are forwarded to Medicare.

Managed care is the most common way that beneficiaries receive health services under Medicare Advantage. As is typical of managed-care plans, you make copayments for most office visits. Starting a few years ago, plans also instituted co-pays for the more expensive health-care services such as hospital and skilled nursing stays, outpatient surgery, and ambulance services. However, you also may receive some services that are not covered by Medicare, such as vision care, hearing services, perhaps dental care, and fitness programs.

You have an opportunity to change your Medicare Advantage plan during the Open Enrollment Period that begins October 15 of each year and runs through December 7. Your new plan will take effect on the next January 1. Most plans charge a monthly premium, as
well as copayments for most covered services, and these costs are likely to change from year to year. You will receive an Annual Notice of Change by the end of October that will tell you what changes are to be made to your plan for the following year. If you would like to consider a different plan – from the same company or from another company – this is the time you should do so.

The lowest-priced managed-care plans are Health Maintenance Organizations (HMOs). You are required to choose a primary care physician (PCP) who will coordinate your health care. If you need to see a specialist, your PCP must approve a referral for that service. (Nowadays, referrals are handled electronically and should not present a problem for you to obtain.) Your medical care will be restricted to service providers who are in that organization’s network; so if you go to doctors or hospitals outside the network, you will be responsible for all costs. You should make sure the doctors, hospitals, and specialists you are accustomed to seeing are in the network. However, the principal managed-care companies that serve Montgomery County (Independence Blue Cross and Aetna) have very large networks of service providers. In fact, both companies’ networks cover the entire five-county region of southeast Pennsylvania, including Philadelphia, Bucks, Chester, and Delaware counties as well as Montgomery.

Higher-priced managed-care plans such as Preferred Provider Organizations (PPOs) offer more flexibility in receiving services. They often are called “choice” plans. Although they also are network-based, you can receive services out of network (but you will have to pay part of the cost when you do so). As a general rule, referrals are not required. Because in-network services will cost you less, you should check to see that the physicians and hospitals you are likely to use are in the network of the managed-care organization you select.

Independence Blue Cross and Aetna had offered PPOs for many years; but for 2010, both companies discontinued their “choice” plans in this county. A few other companies now offer PPOs to Montgomery County residents; however, their hospital and doctor networks are apt to be quite restricted. As with any managed-care plan, make sure that your medical facilities and service providers are in the network of the plan you’re considering.

Even though networks are geographic-based, if you travel outside of your HMO (or PPO) network area (i.e., the five counties of southeastern Pennsylvania), you will be covered for emergencies or for urgently-needed care. Try to notify your doctor or call your plan as soon as it’s feasible for you to do so. Under rare circumstances, they may prefer that you return “home” when they believe you would receive better care here.

The newer Medicare Advantage plans have been introduced too recently for experience to accumulate regarding their usefulness or effectiveness. The Private-Fee-For-Service (PFFS) plans are similar to managed-care in some ways; and although they do not rely on “networks” per se, you must be sure that the medical service providers you choose to use will accept the plan’s payment schedule. Since 2012, the companies that offer PFFS plans have very small networks, and are especially limited in the hospitals that accept their payments.

The Medical Savings Account (MSA) arrangement is unique. As with other Medicare Advantage plans, Medicare pays the insurance company a specified amount for your health care. The plan then deposits part of that payment into your medical savings account for you to use to help pay your health costs. However, these are high-deductible plans, so you must first pay out-of-pocket (and/or out of your medical account) before the plan begins to pay for your Medicare-covered services. Be aware that doctors or hospitals are allowed to decide, on a case-by-case basis, whether to accept the plan’s payment terms. A Special Needs Plan (SNP) is typically for persons who have chronic or disabling conditions and/or are living in institutions and/or are enrolled in both Medicare and Medicaid. SNPs are networks of doctors and hospitals that specialize in treating conditions such as diabetes,
congestive heart failure, mental health problems, and HIV/AIDS. Unfortunately, two SNPs that formerly served persons on Medicaid in this region were terminated at the end of 2009.

All the HMOs serving Montgomery County also include Part D prescription drug coverage in their plans; so if you want this coverage, you must take it as part of your plan. If you by chance enroll in a separate Part D plan, you will automatically be disenrolled from your HMO – so be very careful of solicitations to join such “free-standing” Medicare prescription drug plans.

**Medicare Savings Program**

There are programs available to help those who are 65 and older or disabled pay for Medicare Parts A and B premiums if income and assets are below certain limits. The Medicare Savings Program is called “Healthy Horizons” in Pennsylvania and is jointly funded by the state and federal governments. Various levels of assistance are possible, depending on your income, resources, and number of people in your household. You can visit the Medicare.gov website to learn more about the Qualified Medicare Beneficiary Program (QMB Program), Specified Low-Income Medicare Beneficiary Program (SLMB Program), and Qualifying Individual Program. Contact the Montgomery County Assistance Office for help with the application process: 877-398-5571, or 610-270-3500. You can also visit the Montgomery County Assistance Office at 1931 New Hope Street, Norristown, PA 19401. If you encounter any difficulty accessing this program, contact your local state legislator.

**Notices, Questions and Appeals**

If you have Original Medicare (with or without a Medigap), claims are submitted to and processed by companies that are under contract to Medicare. For every month that claims are received and processed on your behalf, you will receive a Medicare Summary Notice (MSN) that identifies the service providers and the medical services for which they submitted claims. You should review the MSNs to make sure that you actually received the specified services.

If you are charged for services that you think you did not receive, or if you are denied Medicare benefits to which you believe you are entitled, you have the right to appeal. Your MSN will include information on when and how to appeal. YOU MUST FILE AN APPEAL WITHIN 120 DAYS OF THE DATE YOU GET THE MSN IN THE MAIL. Medicare also has a contract with an independent Quality Improvement Organization (QIO) to which you can submit complaints about the care you have received. For example, if you are denied admission to a hospital, or if you’re asked to leave the hospital before you feel you are well enough to go, or if you are dissatisfied with the quality of hospital or medical care that you received, you should not hesitate to register your appeal with the QIO.

Questions and appeals can be cumbersome, however. If you have a question about any Medicare claims, or about the nature and quality of your services, call 1-800-622-4227 (1-800-MEDICARE). You will be offered several voice-activated options. Pick “Billing” at the first prompt; then depending on what has influenced you to call, pick “hospital stay” for Part A claims, “doctor service” for Part B claims, or “medical supplies” for durable medical equipment. You will have to specify that you live in Pennsylvania, and you then will be connected to the appropriate Medicare contractor who handled those claims. If you ask for “Agent,” you will be able to speak with a customer service representative; and if you need help in another language, tell the representative.

For those who are enrolled in Medicare Advantage plans, questions and appeals are directed – at least initially – to your insurance company, which is required by law to establish procedures for you to raise your concerns and challenge unfavorable decisions. You probably
will have several levels of appeal open to you, so if you are denied at one point, you can continue to a subsequent level.

You may be able to receive some assistance with your Medicare complaints and appeals. Medicare requires that every state have a health insurance information program. In Pennsylvania, the program is called “Apprise” and is administered by the Department of Aging. In Montgomery County, Apprise is staffed by trained volunteers supervised by RSVP – the Retired and Senior Volunteer Program. Call 610-834-1040 and leave a message on the Apprise line (extension 59). Some Apprise counselors have experience with complaints and appeals and might be able to assist you. If you have a problem with your Medicare enrollment and/or with your Prescription Drug insurance, Apprise can forward your complaint to the local Medicare office for investigation and resolution.

CARIE is another excellent source of help. This group is the Center for Advocacy for the Rights and Interests of the Elderly. It serves primarily to protect the elderly from abuse and fraud, but its staff members also have a deep understanding of Medicare rules and procedures. CARIE maintains a free telephone consultation service for the elderly, their caregivers, and professionals. Their number is 215-545-5728.

The Pennsylvania Health Law Project (PHLP) provides free legal services and advocacy to Pennsylvanians who are having trouble accessing publicly funded health care coverage or services. Call their helpline at 1-800-274-3258. PHLP also publishes a couple of newsletters that are invaluable sources of information, especially for lower-income beneficiaries.

Part D – Prescription Drug Insurance

Medicare offers prescription drug coverage to everyone with Medicare. Even if you don’t take many prescriptions now, you should consider joining a Medicare drug plan when you are first eligible since if you do not have other creditable prescription drug coverage or get Extra Help, you will probably pay a late enrollment penalty if you join a plan later. To get coverage, you must join a Medicare approved plan. The plans vary in costs and drugs covered. The two ways to get Medicare prescription coverage are:

1. Medicare Prescription Drug Plans add coverage to various Medicare plans. You must have Part A and/or Part B to join a Medicare Prescription Drug Plan.
2. Medicare Advantage Plans offer Medicare RX drug coverage. You get all of your Part A, Part B, and Prescription Part D coverage through these plans but you must have Part A and Part B to join a Medicare Advantage Plan and not all of these plans offer drug coverage and you must reside in the service area of the Medicare drug plan you want to join.

Persons with very low income and limited assets may qualify for “Extra Help” under Part D, which provides for reduced or even zero premiums, low or no deductibles, and generally minimal co-pays. (See the section that follows.)

It’s important to know what’s counted in your “out-of-pocket” costs. It includes any deductible you pay, all co-pays you make for your drugs in the “initial coverage limit,” and all payments you make in the “coverage gap.” It does not include the amount of your monthly premium. If you can purchase prescription drugs (most likely generics) for less than what your plan requires as your co-pay, you might consider buying them “off-plan” – that is, without using your card.
Picking a Part D Plan

You can join switch or drop a Medicare drug plan when you first become eligible for Medicare or when you get Part B for the first time, and during Open Enrollment, between October 15-December 7 each year, or at any time, if you qualify for Extra Help. How much you pay depends on your Medicare drug plan. Your actual plan costs vary depending on many factors, such as what prescriptions you take, if they are on your plan’s list of covered drugs and what tier the drug is in, the plan you chose, since plan costs can change each year, and which pharmacy you use, and whether you get Extra Help paying your Part D costs. The monthly premium varies by plan. You pay this in addition to the Part B premium. If you have higher income, you may pay more for your Part D coverage. If your income is over $85,000 for individuals or $170,000 for married persons, you will pay an extra amount. The Yearly Deductible is the amount you must pay before your drug plan begins to pay its share of your covered drugs. Some drug plans do not have a deductible. Most Medicare drug plans have a coverage gap, also called the “donut hole”. The gap begins after you and the plan together have spent a certain amount for covered drugs. In 2017, once you enter the gap, you pay 40% of the plan’s cost for covered drugs and 51% of the plan’s cost for covered generic drugs until you reach the end of the coverage gap. Not everyone enters it if their drug costs aren’t high enough. True out of pocket costs, such as your yearly deductible, coinsurance, copayments, any discounts you get on covered brand name drugs in the coverage gap, and what you pay in the coverage gap, all count toward getting you out of the coverage gap. Once you get out of the coverage gap, you automatically get “catastrophic coverage”, where you only pay a coinsurance amount or copayment for covered drugs for the rest of the year. You can visit the Medicare Plan Finder at Medicare.gov/find-a-plan, or call 1-800-MEDICARE or 1-800-633-4227. Starting in 2017 all prescribers need to be enrolled in Medicare or have an opt-out request on file for your prescriptions to be covered by your Medicare drug plan.

Part D Late Enrollment Penalty

The late enrollment penalty is an amount that is added to your Part D premium. You may owe it if after your Initial Enrollment Period is over, there is a 63 day period when you don’t have Part D or other creditable prescription drug coverage. To avoid it, join a Medicare drug plan when you are first eligible and don’t go 63 days or more in a row without a Medicare drug plan or other drug coverage from a former employer, union, the VA or other health coverage, and tell your plan about any previous drug coverage you have had. The cost depends on how long you didn’t have other drug coverage. The penalty amount may increase each year.

Part D Assistance for Persons with Low Income

Medicare provides extensive subsidies for those whose incomes and assets are very low. Persons who are “dual eligible” – that is, who are enrolled in both Medicare and Medicaid – are automatically enrolled in Part D and pay no monthly premium and no deductible, and will have minimal copayments for generics and a little more for brand-name drugs. If you qualify for Extra Help and join a Medicare drug plan you will get help paying your Medicare drug plan’s costs, have no coverage gap, have no late enrolment penalty, and have the chance to switch plans at any time. You automatically qualify if you have full Medicaid coverage, or get help from Medicaid to pay your Part B premiums or you get SSI benefits. Extra Help is a Medicare program to help people with limited income and resources pay prescription drug costs. If your annual income and resources in 2017 are below the following limits you may be eligible:
• Single Person: income less than $18,060 and resources less than $13,820.
• Married Person: Income less than $24,264 and resources less than $27,600.

If you think you are eligible for Part D’s Low-Income Subsidy, submit your application to Social Security. They will notify Medicare if their review of your income and assets indicates that you are qualified for “extra help” with your prescription drugs. By the way, the assets considered do not include your home or car or burial insurance. Only “liquid” assets such as bank accounts, stocks and bonds, and mutual funds, are counted. Call Social Security toll-free at 1-800-772-1213. Since eligibility is pegged to the Federal poverty level, the income requirements are subject to change every year.

**MEDICAID**

Medicaid is a combination state and federal program that helps pay for long-term care. Once an applicant successfully completes the application process, Medicaid will pay for nursing home costs, and certain home and community-based services. In most nursing home cases, the individual receiving Medicaid benefits must pay his or her income to the facility, less a $45 allowance for personal needs, and less an allowance for the community spouse. A short-term resident in a nursing home, certified for 6 months or less, may also be allowed a housing allowance.

**Eligibility**

Benefits are available only to individuals who meet these Medicaid eligibility standards. An applicant for Medicaid benefits must prove medical and financial eligibility. Montgomery County’s Office of Aging and Adult Services determines medical eligibility for nursing facility care. The nursing home requests a medical assessment automatically when an application for Medicaid benefits is made. To avoid delay, one should be certain this assessment is completed. Establishing medical eligibility is rarely a problem in qualifying for Medicaid to cover nursing home costs. The main challenge is verifying financial eligibility.

All income and resources must be disclosed to the Medicaid caseworker. The applicant’s non-excluded, available resources must not exceed the applicable limit. In 2017, single applicants with income over $2,205 must have total resources under $2,400. Single applicants with income less than $2,205 have a resource limit of $8,000.

The eligibility rules for married Medicaid applicants are much more complicated. An elder law attorney familiar with Medicaid planning should be consulted in order to make sure you do not spend-down more money on nursing home costs than is required under Medicaid rules. Medicaid rules provide that the person in the nursing home will have the $2,400 or $8,000 limit described above. The spouse of the nursing home resident (community spouse) must also meet certain resource limits. Absent exceptional circumstances, the maximum community spouse resource allowance is $120,990, effective January 1, 2017. The minimum allowance is $24,180, effective January 1, 2017. The community spouse is also allowed to have a certain level of income to avoid impoverishment, between $2,003 (effective July 1, 2016 - June 30, 2017) and $3,022.50 (effective January 1, 2017) depending on shelter costs.

Some assets are “excluded resources” and are not counted when determining initial eligibility. For example, the residence is usually an excluded resource where the applicant intends to return home or where in cases where there is a spouse. An automobile is also an example of an excluded resource.
Disqualification

Certain gifts or transfers for less than fair market value will make the applicant temporarily ineligible for Medicaid long-term care benefits even if all of the other eligibility requirements have been satisfied. Gifts and certain other asset transfers (such as loans to family members) are subject to a 5 year look-back, and the penalty period begins to run when the Medicaid applicant is otherwise eligible for Medicaid but for the gift. Such gifts within that 5 year look-back cause one day of Medicaid ineligibility for every $321.95 (2017 daily penalty divisor) given away. Aggregate gifting of $500 or less in a given month is not penalized, but other gifts can cause major problems with Medicaid eligibility.

Several exceptions to the gifting penalties exist. For example, special exceptions in the law permit certain asset transfers to disabled children, siblings, and family caregivers. Sometimes trusts can be used to protect assets, particularly for disabled individuals. You and your attorney need to know and carefully follow the rules before making any asset transfers, or the Medicaid application will be denied, possibly leaving you or a family member personally liable for thousands of dollars in unpaid nursing home costs. “Selling” the family residence for $1.00, for example, is considered a gift and causes Medicaid ineligibility unless an exception applies.

Transfers made exclusively for a purpose other than to qualify for Medicaid benefits should not cause a period of ineligibility, but you may need to prove certain facts “on appeal” to an administrative law judge before the exception will be allowed. Unless you have enough money or long-term care insurance to pay nursing home care privately for 5 years, see an attorney with specialized knowledge in Medicaid law before making any gifts or asset transfers. There are planning techniques that work, but Medicaid laws and regulations are strict and constantly changing. If gifts have been made, and a penalty period exists that creates undue hardship, there are often steps that can be taken to correct the problem of Medicaid ineligibility. A Medicaid planning attorney can provide guidance in this area. Medicaid planning without the advice of an elder law attorney is quite risky, and may not be in your best interests.

Estate Recovery

Pennsylvania is required by federal law to seek reimbursement from the estates of certain deceased Medicaid recipients, including those over age 55 who received nursing home care or home and community-based long-term care services through the PDA 60+ Waiver Program. At present, recovery is permitted only from the “probate estate” of that person, i.e., any assets titled in the individual’s name alone at the time of death. In some cases, advance Medicaid planning with an elder law attorney can reduce or avoid estate recovery.

MEDICAID PLANNING

Under certain circumstances, Pennsylvania law allows individuals or their spouses to keep their homes and much of their money without becoming ineligible for Medicaid benefits. However, relevant laws are extremely complicated. Medicaid planning should not be attempted without the assistance of an elder law attorney specializing in Medicaid law.
PACE AND PACENET
(PHARMACEUTICAL ASSISTANCE CONTRACT FOR THE ELDERLY)

Pennsylvania has established pharmaceutical assistance programs for low and middle income seniors age 65 and over. These programs are known as the PACE and PACENET Programs. The PACE and PACENET programs are based on the applicant’s income from the prior year, and not on assets.

Under the PACE program, citizens are eligible if their annual income is not higher than $14,500 for a single person or $17,700 for a married couple, in 2017. You must have lived in Pennsylvania for at least 90 days prior to the date of your application and you must not be eligible for pharmaceutical benefits under medical assistance. PACE has no deductible to be met for eligibility. Once enrolled in the PACE program, a senior pays no more than $6 per month for a generic prescription, and no more than $9 per month for a brand name drug.

PACENET has higher income limits. The 2017 limits are $23,500 for elderly singles and $31,500 if married. Copays are up to $8 for generic prescriptions and $15 for brand-name prescriptions. If you are enrolled in a Part D drug plan that has a signed agreement with PACENET, your copays will go toward meeting your monthly premium (which will be collected at the pharmacy when you purchase drugs). If your plan is not partnered with PACENET, you will pay the premium directly to the company.

If you qualify for both Part D Extra Help and PACE, you may want to consider enrolling in both. Whatever your Medicare Part D may not cover, PACE or PACENET will. If the Medicare plan’s copays are less than PACE’S, you will pay the lower amount. There are no asset qualifications for participating in PACE or PACENET. Another benefit of both programs is that you will not have a coverage gap. Applications are available from your local area agency for the aging, pharmacy, your local legislator’s office or on the Pennsylvania Department of Aging’s website. The application form can be used for both the PACE and PACENET enrollment. If you have other questions about PACE or PACENET, call the Bureau of Pharmaceutical Assistance at (800)225-7223.

PENNSYLVANIA LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

The Pennsylvania Department of Human Services (DHS) provides a low income home energy assistance program to help low income families pay a portion of their winter heating bills. Although administered by DHS, LIHEAP is not a welfare program or loan and no lien is placed on the home. Consumers do not have to pay the money back. For information on eligibility guidelines and how to apply, call the Montgomery County Assistance Office at (610) 272-1752, or the LIHEAP Hotline at (866)857-7095.

PUBLIC BENEFITS

The Pennsylvania Department of Human Services administers several other programs which may provide benefits such as food stamps and medical assistance. For information contact the Montgomery County Assistance Office at:

1931 New Hope Street, Norristown, PA, 19401; 610-270-3500.

Also, consider visiting www.benefitscheckup.org. By accessing the website, you can receive information, addresses and telephone numbers for programs such as Supplemental
Security Income, Medical Assistance (also known as Medicaid), state prescription drug benefits, Meals on Wheels, food stamps, health insurance counseling, veterans’ medical care and transportation for which you may qualify. This is determined by answering a confidential online questionnaire.

**Railroad Retirement Benefits**

A variety of benefits, such as retirement annuities, are offered for railroad workers and their families. An applicant may also be eligible for other benefits including benefits for survivors, sickness, unemployment and temporary or permanent disability. Information and applications for benefits may be obtained by accessing the website of the United States Railroad Retirement Board at www.rrb.gov or by contacting your local district office of the Railroad Retirement Benefits Board. Military service in a branch of the uniformed Armed Forces of the U.S. may increase or provide eligibility for a RRB benefit. Proof of birth is required for all applications. Retirement benefits are available if the worker is age 62 or older and was employed by the railroad industry no less than ten years. If a railroad employee was employed for 30 years or more, that employee may be eligible for retirement with benefits at age 60.

**Disability Benefits**

**Occupational Disability** - If a railroad employee has been employed for 20 years with the railroad, or is age 60 and has worked for ten years for the railroad, that worker may obtain disability benefits providing other conditions are met. Those conditions are that the worker be disabled from work in their regular railroad job and has been employed for the railroad job for 12 months of the previous 30 months before the month the railroad retirement annuity began. This is the "current condition" requirement that may entitle an applicant to benefits.

**Total Disability** - Total disability benefits may be available to a railroad employee permanently disabled from all regular railroad work providing they had at least ten years of employment and meet other requirements.

Benefits for a Spouse, Widow(er), Unmarried Parent, and Divorced Spouse - Benefits may be available for these additional classes of people. You should investigate whether you are eligible for benefits.

**VETERANS’ BENEFITS**

**Federal Benefits for Veterans and Dependents**

There are a variety of federal benefits available to veterans and their dependents. Eligibility depends upon individual circumstances. Contact the nearest Veterans Affairs Benefits Office at 1-800-827-1000 to apply. Counselors can answer questions about benefits, eligibility and application procedures. They may also make referrals to other VA Offices and facilities, such as medical centers and national cemeteries. You may find telephone numbers of VA Offices and facilities in the Federal Government section of your local telephone directory under “Department of Veterans Affairs”. The Montgomery County Department of Veterans Affairs can be reached at (610) 278-3285.

**Veterans’ Health Care Benefits**

For most veterans, entry into the VA healthcare system starts with enrollment at a VA healthcare facility. Veterans with Internet access may apply for enrollment on-line at www.VA.Gov/1010ez.htm by completing VA Form 10-10EZ, Application for Health Benefits, which
can also be obtained by calling the toll-free Veterans Affairs telephone number above. Once enrolled, a veteran is eligible to receive services at VA facilities anywhere in the country. VA healthcare facilities also provide information on medical care. Veterans who have enrolled at the VA are eligible for a benefits package of inpatient and outpatient services. These include: limited nursing home care, adult day health care and homeless programs, preventative medicine services, primary care, surgery, mental health and substance abuse treatment, home health care, respite and hospice care, emergency care in VA facilities and drugs and pharmaceuticals.

Eligibility for hearing aids, eyeglasses and dental care is determined by whether the veteran has been given a disability rating by the VA which is a percentage rating of "service connected" injuries. "Service connected" means that the veteran has been given a disability rating by the VA which is for an injury or illness related to their military service. In many cases, veterans are receiving compensation for that disability. A means test is also imposed as a measure of the veteran’s family’s annual income and assets and used to determine if non-service connected and zero percent connected veterans need to make co-payments for medical care.

VETERANS’ AID AND ATTENDANCE SPECIAL PENSION

The Veterans’ Administration offers a Special Pension or Aid and Attendance (A&A) benefit that is largely unknown. This Special Pension (part of the VA Improved Pension program) allows for Veterans and surviving spouses who require the regular attendance of another person to assist in eating, bathing, dressing, undressing or taking care of the needs of nature to receive additional monetary benefits. It also includes individuals who are blind or a patient in a nursing home because of mental or physical incapacity. Assisted care in an assisted living facility also qualifies.

This most important benefit is overlooked by many families with Veterans or surviving spouses who need additional monies to help care for ailing parents or loved ones. This is a "pension benefit" and is not dependent upon service-related injuries for compensation. Most Veterans who are in need of assistance qualify for this pension. Aid and Attendance can help pay for care in the home, nursing home or assisted living facility. A Veteran is eligible for up to $1,789 per month, while a surviving spouse is eligible for up to $1,149 per month. A couple is eligible for up to $2,120 per month.

The Aid and Attendance Benefit is considered to be the third tier of a VA program called Improved Pension. The other two tiers are Basic and Housebound. Each tier has its own level of benefits and qualifications.

NO-COST AND LOW COST LEGAL SERVICES

For individuals who qualify and meet program criteria, legal services can be obtained free through Legal Aid of Southeastern Pennsylvania (LASP). The Norristown office is located at 625 Swede Street, Norristown, PA 19401 and can be contacted at 610-275-5400. The Pottstown Office is located at 248 King Street, Pottstown, PA 19464 and can be contacted at 610-326-8280. An Advice and Referral Help Line is also available at 1-877-429-5994. The help line is in service on Mondays through Thursdays from 9:00 a.m. to 1:00 p.m. The Help Line may refer you to a clinic, speak with you about your case, explain the procedures, offer suggestions on how you may represent yourself, or provide representation.

The types of cases handled by LASP include: Public and Private Housing, Consumer Issues, Bankruptcy, Protection from Abuse, Custody, Child Dependency, Welfare, Social Security, Unemployment Compensation, Expungements and Elder Law. Except in the case
of Protection from Abuse and some Elder Law cases, all clients must be financially eligible for free legal services. Income, assets and family size determine financial eligibility.

Even if you do not qualify for legal aid, you should still seek legal advice. You may qualify for discounted legal advice and representation through the Modest Means Legal Access Program (MMLAP) of the Montgomery Bar Association by calling 610-279-9660, option 201, for referral to an attorney. The MMLAP is a joint project between the Montgomery Bar Association and Legal Aid through which the Bar Association attorneys offer reduced fees to qualified individuals.

**LONG TERM CARE FACILITIES**

Long-term care facilities can be thought of as housing with integrated supportive services. The level of service varies with the type of facility. This section outlines important aspects of the most common types: nursing homes assisted living facilities and coverage gaps. For lists of these facilities, contact the Montgomery County Office of Aging and Adult Services: telephone 610-278-3601; website www.montcopa.org/mcaas.

**NURSING HOMES**

A nursing home is a facility where residents receive around-the-clock nursing care designed to help an individual with the activities and needs of daily living and health care. These residents do not need the kind of acute health care provided in a hospital. A person usually enters a nursing home after all other long term care options, such as an assisted living facility or living at home with supportive services, are found to be inadequate.

Medicare does not provide substantial coverage for long term nursing home care. Medicare may pay for a portion of the cost for the first 100 days of a nursing home stay, under very limited circumstances. Those circumstances are:

- Skilled nursing or rehabilitation services are provided within 30 days of a Medicare covered hospital stay of more than 3 days;
- A doctor certifies the resident’s need for skilled care on a daily basis;
- Skilled care is actually received on a daily basis;
- The facility is Medicare-approved.

If these requirements are met, Medicare will fully cover the first 20 days of skilled care and a portion of the cost for the next 80 days of skilled care. Note that Medicare does not cover custodial care.

**Residents’ Rights**

Upon admission to a nursing home, a resident or his/her family will be required to sign an admission contract. Entering into a nursing home can thrust a family into emotional turmoil. A prospective resident or the family member or members responsible for the resident might feel pressure under emergency circumstances to sign a nursing home admission contract without a careful review of its terms. Do not be pressured. Read the contract and have it reviewed by an elder law attorney before signing. Federal and state laws have been enacted to protect individuals entering nursing homes and an experienced advisor can make sure that you get the benefit of these protections. For example:

- A nursing home cannot require a resident to waive his/her right to apply for Medicaid. Furthermore, a nursing home cannot discriminate against a resident who is receiving Medicaid. Nursing homes must establish and maintain identical policies and practices regarding transfer, discharge and covered services for all residents regardless of source of payment.
• A nursing home cannot require a third party guaranty of payment as a condition of admission or continued stay. A nursing home is allowed to require that an individual having legal access to a resident’s income and assets, such as an agent under a power of attorney, sign a contract, without the agent incurring any personal liability, promising to pay for a resident’s care from the resident’s funds.

• A nursing home cannot require a resident to agree to pay privately for a specified period of time before the nursing home will “allow” the resident to convert to Medicaid.

Once admitted to a nursing home, a resident enjoys certain rights mandated by both federal and Pennsylvania law. For example:

• A nursing home must conduct a comprehensive assessment of every resident’s functional capacity within 14 days of admission. This assessment must be used to develop, review and periodically revise, as necessary, an individualized plan of care for each resident. The resident, the resident’s family and, if desired, the resident’s legal representative must be given full opportunity to participate in the development of the plan of care.

• A resident has the right to choose a personal attending physician and to be kept fully informed about care and treatment.

• A resident has the right to remain free of physical and chemical restraints which are not required to treat the resident’s medical condition.

• A resident has the right to privacy with regard to communications in writing and by telephone and with regard to visits of family and meetings of resident groups.

• A resident must be provided with reasonable access to the use of a telephone where calls can be made without being overheard.

• A resident has the right to access to clinical records upon request by the resident or the resident’s legal representative.

• A resident has the right to voice grievances with respect to treatment or care without fear of reprisal.

• A resident can only be transferred or discharged from a nursing home under limited circumstances which are spelled out in the law, upon 30 days advance written notice.

A nursing home must inform every resident of their legal rights, orally and in writing, at the time of admission. Pennsylvania maintains an ombudsman program to investigate and resolve complaints made by or on behalf of residents of nursing homes and other long term care facilities. The Pennsylvania Department of Aging has designated the Area Agency on Aging for each county to be the local providers of these ombudsman services. The Montgomery County Long Term Care Ombudsperson can be reached by calling 610-278-3600.

Assisted Living Facilities and Personal Care Homes

Assisted living and personal care homes provide housing for older individuals who need some assistance with the activities and needs of daily living and perhaps some medical help, but who do not need the degree of care provided in a nursing home. The goal of these facilities is to help people live as independently as possible.

An important benefit of residency in an assisted living facility (ALR) or a personal care home is help with medication. A resident can be reminded when to take medication and a nurse can assist the resident in taking medications.

Personal care homes differ from Assisted Living facilities due to the recent enactment of legislation. In order for an ALR to be licensed as such, it must meet particular requirements
in their construction and units offered, staffing and personnel, and the level of care provided must be higher than that provided by a personal care home. Both facilities must have an initial assessment of the resident, develop a support plan, and have a written contract between the resident and the residence. Many facilities have decided not to become licensed as ALRS and instead provide services as a personal care home and meet those licensing requirements. Their residents are not supposed to require the services in or of a licensed long term care facility but do require supervision or assistance in activities of daily living.

Payment for residency in both an assisted living facility and a personal care home is almost exclusively through “private pay” arrangements with the resident. VA benefits may be available if certain requirements are met. In general, however, neither Medicare nor Medicaid covers residency in an assisted living facility. If a resident needs some sort of skilled medical or nursing care, Medicare may cover such care under the same rules that would apply to home health care in general. Long-term care insurance will pay benefits for residency in an assisted living facility if the policy’s “benefit triggers” requirements are met by a resident’s need for assistance with activities of daily living or by a resident’s cognitive impairment. Most long-term care insurance policies define “activities of daily living” as including dressing, eating, bathing, toileting and transferring from a bed to a chair, and usually require that an individual needs assistance with a certain number of these activities of daily living.

Questions

Upon entrance to an assisted living facility or personal care home, a prospective resident should carefully review the admission contract. Significant issues to consider in evaluating an admission contract include:

- What personal care services are to be provided? Who delivers these services? Is the service provider licensed or certified?
- What are the monthly or other charges for such services? Are housekeeping services included? How can fees be increased and what happens if fees are increased and a resident cannot afford the higher fee?
- In the case of a married couple, what happens upon the death of a spouse? Is a change of living unit required? How would fees be affected?
- What recreation or cultural activities are available and are they included with the monthly fee?
- Is transportation provided to such things as doctor appointments, shopping and community activities? Is a separate fee charged?
- Are nursing services available at the site? What happens if a resident’s health declines? Is the facility responsible for coordinating medical care?
- How does the facility determine the point at which a resident cannot be served by the facility? What recourse does a resident have to challenge the facility’s decision? Is there a grievance process?

Residents’ Rights

Under newly expanded Pennsylvania law, residents of an assisted living facility have the following rights among others:

- the right to a plan of care;
- the right to privacy, including the right to have access in reasonable privacy to a telephone and the right to have uncensored access to the mail;
• the right to receive visitors and access to a telephone;
• the right to leave and return to the home;
• the right to participate in, or refrain from, religious activities;
• the right to exercise the rights of a citizen and to voice grievances;
• the right to be provided with 30 days advance written notice of the facility’s intent to terminate a resident’s stay and the reason for termination according to specifically enumerated guidelines and procedures;
• the right to be free of chemical and physical restraints.

As with nursing homes, the Montgomery County Aging and Adult Services Ombudsperson program applies to residents of assisted living facilities.

New regulations have been enacted pertaining to dementia units, and the training of staff. New regulations have been enacted to begin the process of licensing personal care homes and assisted living facilities.

**Continuing Care Retirement Communities (CCRC)**

Continuing care retirement communities provide different levels of care based on the particular needs of the individual resident. New residents usually move into independent living units. As they age and become physically disabled and need assistance with the activities and needs of daily living, residents move to an assisted living facility located on the grounds of the continuing care retirement community. Some continuing care retirement communities provide assisted living services in the independent living units so that a resident does not have to move. If physical decline continues and more intensive care is needed, nursing home care is also available within the confines of the continuing care retirement community.

Upon entrance into a continuing care retirement community, a resident enters into a contract whereby the continuing care retirement community agrees to provide housing, certain levels of activities and health care support as needed in return for the resident’s payment of an entrance fee and monthly occupancy fees. In most cases, residents do not own their living unit. The services offered can vary; most provide house-cleaning, laundry facilities and at least some meals. The monthly fee for residents who move into the assisted living or nursing home facilities may be higher than if they had remained in an independent living unit.

A careful review of the contract, preferably by an elder law attorney, is advised to make sure the resident understands the terms. Some continuing care retirement communities offer unlimited health services in exchange for the entrance fee, while others require that residents pay additional fees for health care services as they are needed. Still others offer a combination of the two. The fee-for-services arrangement is becoming increasingly more common. Other important issues to be reviewed in a continuing care retirement community contract are:

• Who determines when a resident must change living arrangements due to a decline in health?
• What are a resident’s rights and responsibilities with regard to furnishing and altering their living unit?
• Under what circumstances would the entrance fee be refundable?
• Under what circumstances can the monthly service fee be increased?
• What services are not covered by the monthly service fee?
Pennsylvania law mandates that all continuing care retirement community contracts:

- Provide for continuing care;
- Specify all services to be provided and provide that a resident cannot be liable to a health care provider for services that the continuing care retirement community promises to furnish;
- Describe any exclusions or limitations on coverage for pre-existing conditions;
- Provide for termination by either party upon 30 days written notice and the terms for refund upon termination;
- Contain notice of rescission rights before moving in.

The advantages of living in a continuing care retirement community are:

- An individual whose health declines can move into an assisted living unit or, if necessary, to a nursing home within the same residential community.
- Payment of the entrance fee locks in a fixed price for continuing care at an amount that is usually less than the market rate for nursing home care. For this reason, some people consider a continuing care retirement community as a form of long term care insurance. However, if there will be a substantial increase in the monthly service fee upon moving into the assisted living or the nursing home portion of the continuing care retirement community, there could still be a need for long term care insurance.
- A couple that moves into a continuing care retirement community ensures that, if one spouse must enter the nursing home, the other spouse will be living on-site and can easily visit.

Because a continuing care retirement community comprises both assisted living and nursing home care, different activities within the continuing care retirement community can be governed by different laws and regulations. Residents would be protected by the laws that apply to assisted living facilities while they are receiving assisted living services and they would be protected by the laws that apply to nursing homes when residing in the nursing home component of the continuing care retirement community. See the previous sections covering assisted living facilities and nursing homes for a description of these protections.

**Nursing Home Licenses: Problems, Sanctions and Revocations**

Although nursing home placement is a difficult decision, there are ways to help verify that you are placing your loved one in a secure environment. One useful tool is the “Nursing Home Compare” feature on the Medicare website, www.medicare.gov. This web site enables you to locate nearby nursing facilities and compare quality. Some nursing homes earned “five stars” under the government’s ranking system, while others garner only one star, which indicates quality that is “much below average.”

Any employee or administrator of a licensed facility who has reasonable cause to believe that a resident of the facility is a victim of abuse is required under Pennsylvania law to report the abuse immediately. The Pennsylvania Department of Health does not require that the reporter be a direct eyewitness; having more than a suspicion obligates them to make an oral report at once, followed up by a written report to law enforcement officials. This reporting requirement protects a care-dependent person and applies to all caretakers. Civil and criminal fines and imprisonment for up to one year can be imposed upon the person or facility that commits the violation or abuse.
Pennsylvania law protects nursing home residents by requiring criminal history background checks by the Pennsylvania State Police of all employees of public or private nursing homes, personal care facilities, adult daycare and home health care providers. Employees with certain felony and misdemeanor convictions are supposed to be precluded from working in these facilities.

The final sanction under Pennsylvania state law is that a facility can have its license revoked or its licensing withheld in the first place for any one of the following reasons: gross incompetence, negligence, misconduct in operating the facility or mistreating or abusing an individual cared for in the facility. This sanction applies to both physical and mental abuse of a patient. This law serves as a deterrent to such abuse since the facility cannot do business without a license. Court cases in Pennsylvania have upheld the decision to revoke the license of homes for abuse of patients.

To complain about abusive incidents or substandard care being provided at a nursing home contact the Montgomery County Department of Health at 610-270-3475 and ask for the Surveyor. To report an incident after hours, call the Montgomery County Department of Health’s hotline at 800-254-5164. For immediate help, the elder abuse hotline is 800-734-2020 at the Aging and Adult Services Protective Services department. The Ombudsperson can also be contacted at Aging and Adult Services at 610-278-3600. with non-urgent complaints about nursing homes.

To complain about a licensed home health agency or hospice provider, contact the Home Health Complaint Hotline at 1-800-222-0989.

Constant vigilance and checking of the website is recommended, especially in the event of a change in administration at the facility, which is a frequent occurrence.

Resources


LONG TERM CARE INSURANCE

The term “long term care” has generally been understood to mean the kind of care needed by the old and frail who are, for example, suffering from a dementia such as Alzheimer’s disease or other disabilities of old age. Today, people realize that long-term care is any degree of care, support, or supervision received for a year or more, with roughly 40% of the people receiving care in the US being under the age of 65. Long-term care mostly consists of custodial care, i.e., care designed to assist an individual to perform the activities and meet the needs of daily living. Such activities and needs include eating, bathing, dressing, toileting, continence, and transferring from a bed to a chair. Supervision or assistance to assure the safety of those with cognitive impairments is also considered custodial care. Long-term care can be provided in the home or in a long-term care facility, such as a nursing home or an assisted living or a personal care facility or an adult day care facility. Facilities are either free-standing or, in a growing number of cases, part of retirement communities.

Neither Medicare nor supplemental Medigap insurance covers long-term custodial care; at best, these programs may only cover skilled, post-hospital, recuperative care, and together pay less than 3% of long term care expenses. Long-term care insurance sold by commercial insurance companies can be purchased to cover the vast majority of long term care expenses that other insurance does not cover.
Long-Term Care Costs

The statewide average cost of nursing home care in Pennsylvania is about $9,792.65 per month in 2017 according to the Pennsylvania Department of Human Services, but the actual cost of nursing facility care in Montgomery County slightly exceeds the statewide average. Assisted living costs are usually less than nursing home care, running approximately $5,000 - $8,000 per month on average. Hourly in-home care may be a less expensive alternative for long-term care, particularly if family caregivers can assist. However, around-the-clock care can cost as much as or more than nursing home care.

Services Covered

While most people receiving care are older than 65, it is critical that people look into their options, including long-term care insurance, when they are fairly young and healthy. Today, the majority of people looking into long-term care insurance are in their 40’s and 50’s, and often younger, especially when presented to employees and association members. Denial (“It’s not going to happen to me” or “I’m young and healthy – I’ll wait until I’m older”) and lack of information often preclude people from addressing the issue until health issues or age makes insurance unattainable or unaffordable. When you purchase a long-term care insurance policy, it is critical that you understand the types of services that will be covered. Most policies today are labeled “comprehensive,” and cover care provided in a home as well as facility setting, again including assisted living facilities, personal care homes, adult day care, as well as nursing homes. A policy should be carefully reviewed so you understand exactly the kinds of services that it will cover.

Most people would prefer to stay at home, and today’s policies generally include features such as care coordinators to help people, including those without spouses or children in the area, to remain at home. Policies differ widely in how home care coverage is provided, so a very careful review of this type of coverage is strongly advised. While some policies limit home care coverage to skilled services, i.e., those performed by registered nurses, licensed practical nurses and occupational, speech or physical therapists, most comprehensive policies today cover informal home care, which includes services of home health aides who can assist with custodial care, as well as homemaker or chore worker services such as aides who cook meals and do housework. Most policies will not pay benefits to family members who perform home care services.

Coverage Needed

Most policies express benefits in terms of a daily or monthly amount. In order to make an informed decision as to the amount of coverage that you will need, you must have an idea of the amount of long term care costs that you anticipate. If your ideal long-term care facility charges $340 a day today, you may want to buy a policy that covers that amount, or you may want to co-insure a portion of the costs out of income. For example, if you receive Social Security benefits of $1,500 a month ($50 a day, based on a 30-day month), you will need, at the bare minimum, a policy with a daily benefit amount of $290.

Factors Affecting Costs

Most policies include a waiting period, sometimes called an “elimination period,” before benefits can begin. This means that you can choose to have benefits begin 20, 30, 60, and 90 or 100 days after you enter a long term care facility. The longer the waiting period, the lower the cost of the policy. Of course, you will have to have resources to cover the cost of long-term care during the waiting period. Many policies offer the option, which most people take advantage of, to waive the elimination period for home health care, thereby offering “day one” coverage at home.
An important feature to consider in any long-term care insurance policy is inflation protection. Long-term care that costs $6,000 a month now will cost about $12,500 a month in 15 years and about $25,000 a month in 30 years, assuming an annual inflation rate of 5%. The younger you are when you purchase the policy, the more important it is to consider adding inflation protection. Obviously, this protection adds to the cost of the policy, although it is much less expensive to add inflation up front than electing the “guaranteed purchase option,” which allows the purchaser to add inflation benefits every few years, but at your then-current ages. The traditional “5% compound” inflation protection rate that existed in most policies ten years ago is less typical today, as inflation rates have been low, and policies with a fixed 5% compound inflation may be less rate-stable than policies with lower or new, innovative inflation options. Insurance carriers are, in this period of low investment returns, unable to get a yield of 5% or more on their investments, to fund this inflation option. Make sure your LTC specialist fully explains the costs, benefits, and effects on rate stability of the inflation options you choose.

Recent inflation options, which may be a good deal less expensive than traditional “5% compound inflation,” may be lower percentages (for example, 3% compound”). One or two carriers have an innovative option for inflation that is 30-40% less expensive, based on the CPI, so that the benefits per month and total “pool of money” go up each year depending on the CPI, WITHOUT LIMIT. As long as the costs of LTC, based mostly on housing and labor, continue to mirror the CPI, as they have over most of the last 30 years, this may be a better, more flexible, as well as less-expensive option.

Benefit Triggers

When the benefits are payable under a long-term care insurance policy is determined by what are commonly called “benefit triggers.” A benefit trigger is a medical condition or a degree of physical or mental disability that an individual must meet before qualifying for benefits.

For a person with a physical, as opposed to a mental disability, policies usually provide for benefits to begin when that person cannot perform a specified number of “activities of daily living (ADL’s),” i.e., eating, bathing, dressing, continence, toileting and transferring from a bed to a chair, without continual supervision. Today, most policies are called “tax qualified,” which not only may provide a tax deduction making the benefits when received likely not taxable, but also provides some level of assurance of standardized benefit triggers (needing assistance in 2 of 6 ADL’s or requiring supervision due to cognitive impairment). The more clearly a policy defines its benefit triggers, the easier it will be to make a claim when necessary.

Most policies today, and all federally tax-qualified policies, provide for a separate trigger for cognitive impairment. This is critical, as many people with dementia or other cognitive impairments can do all or most of the ADL’s, but still require care and supervision. Although Alzheimer’s and other organic brain diseases are now always covered in tax-qualified plans, you may want to check the “exclusions” section of the policy to ensure that other non-organic mental conditions, including depression, are not excluded from coverage.

Newest Developments

Before 2006, only four states (New York, California, Connecticut, and Indiana) offered two types of long term care insurance plans, including a type called a “partnership plan.” This plan allowed purchasers buying certain minimum benefit levels to legally shelter some of their assets (and in some cases, income) and receive the benefit of quality care while still going on Medicaid, the state-administered health program designed for the impoverished.
While partnership plans are right for some purchasers and not for others, this clearly created a “win-win” in which people who purchased private long-term care insurance could get access to quality care, generally including care in the home, and the states would lessen their exposure to already-strained Medicaid funding of long term care expenses.

As of February 2006, Congress passed legislation to allow other states to develop partnership plans that shield some assets, and Pennsylvania has recently received its approval to develop and offer such plans. Virtually all of these partnership plans are underwritten for health. Note that one does NOT have to wait for the availability of such plans in their state, and risk their eligibility; anyone purchasing a plan from this point forward will have the option of a penalty-free conversion to partnership-qualified plans for a period after they are first offered in each state. Also note that Partnership plans typically do not cost more than non-partnership-qualified plans. In Pennsylvania and most other states, the requirements for Partnership qualification are met by almost all well-developed plans, most buyers should only consider Partnership plans.

**Consumer Tips**

- Utilize a long-term care specialist (someone who is focused exclusively on long-term care) to help you determine if you need LTC insurance, and if so, through which company and what levels of benefits. The best specialists represent multiple insurance companies, and will recommend the best companies that your health allows, instead of having a bias towards certain carriers.
- Ask questions.
- While you want to understand the benefits fully before you decide to buy and keep a policy, it makes sense to apply and bind your health with the best carrier that your health will allow, and then in the 6-8 weeks that that company is deciding if they’ll accept you, complete your research to make sure the policy meets your needs. Over the last several years, the better, more rate-stable companies have tightened underwriting standards, indicating that while you may not need LTC insurance, it is preferable to explore your options while you are at your youngest and healthiest point in your life, and then deciding if it is appropriate and necessary for you, either to protect assets, or to avoid burdening family members with your care, or for other reasons.
- Get the actual policy and read it before you decide to keep it. In PA and most states, you have 30 days after you receive the policy to decide if you want to keep it, and if not, get all of your money back.
- Ask the insurance agent for a thorough explanation of what degree of disability triggers benefits.
- Do not let the attractiveness of a lower premium push you into a policy that provides less coverage than you really need. A cheap policy that leaves you underinsured is no bargain and a waste of money.
- Consider policies from at least two or more companies. No two long-term care insurance policies are alike.
- Check the financial stability of the insurance company you are considering – for people with good health, companies should be rated “A” or better by A. M. Best, an insurance company rating service.
Independent Advice

While a long-term care insurance expert can help you determine when to apply for long-term care insurance, and what levels of monthly benefits, benefit terms, deductibles, and other initial selections are best, an independent advisor, such as an elder law attorney, can be helpful in providing the following services:

- Reviewing the financial suitability of an individual for long-term care insurance.
- Confirming the financial soundness of prospective insurance companies.
- Understanding, explaining, and comparing policy features.
- Pinpointing uncertain terms in the policy and obtaining written clarification from insurance companies.
- Recommending a policy that serves the individual’s needs over the long term.

Resources

- US Department of Health and Human Services
- National Care Planning Council; www.longtermcarelink.net.
- Health Insurance Association of America; www.ahip.org; “Guide to Long Term Care Insurance.”
- Long-Term Care Partnership Policies-Questions and answers about Pennsylvania’s newest option for long-term care insurance. www.portal.state.pa.us/portal/server.pt/document/707193/ltc_partner_faq_pdf

HOUSING OPTIONS

The Pennsylvania Department of Aging outlines several types of housing options for all levels of independence.

- Services for individuals who remain in their homes
- Homemaker assistance for daily household activities.
- Personal care for those who cannot manage alone.
- Home delivered meals.
- Family caregiver support, which includes one-time grants for home modifications to help with mobility problems.
- Transportation services.
- Senior community centers where older people can get together for social activities, recreation, education, creative arts, physical health programs, and nutritious meals.
- Adult day centers, which provide personal care and medication management for individuals who cannot be left alone during the day.

You can contact the Montgomery County Office of Aging and Adult Services at 1430 DeKalb Street, Norristown, PA 19404-0311; telephone 610-278-3601, for more information regarding these services.
Independent Housing Options

- Continuing Care Retirement Community (CCRC) offers independent living, usually in an apartment or cottage, and access to a higher level of care such as personal care or a nursing facility. Residents move between levels of care as their needs change. Services, such as meals, medical care, social and recreational activities, are provided through a contractual arrangement for the lifetime of the resident. Residents usually pay an entrance fee and a monthly charge.

- Retirement Communities offer independent living in an apartment or cottage. They are intended for healthy, mobile older people and generally offer no special services. Units may be rented or purchased. Many retirement communities offer recreational amenities such as golf, swimming or tennis.

- Subsidized Housing is made available by the federal government providing rental assistance to low income elderly people. Income eligibility is 50% of the median income for the county of residence; individuals must be age 62 or older. Assistance is determined by an individual’s income with tenants paying 30% of their income toward the rent. For information on subsidized housing facilities contact the Montgomery County Office of Aging and Adult Services at 1430 DeKalb Street, Norristown, PA 19404-0311; telephone 610-278-3601.

Housing Options for Individuals Who May Require Assistance or Supervision

- Domiciliary Care Services for Adults is a supervised living arrangement in a home-like environment for adults who are unable to live alone because of demonstrated difficulties in accomplishing daily activities, social or personal adjustment, or resulting from disabilities. The Montgomery County Office of Aging and Adult Services is responsible for assessment and placement of residents in domiciliary care homes. Residents are eligible for a domiciliary care supplement payment if they are eligible for SSI or have an income less than the combined federal/state payment for domiciliary care and are not related to the provider.

- Nursing Facilities provide medical care, rehabilitation, or other health services to individuals who do not require the care and treatment of an acute-care hospital. Most nursing facility residents are unable to take care of themselves on their own and may have chronic illnesses or were transferred from a hospital following a serious illness, accident or operation.

- Personal Care Homes offer room and board and assistance with the activities of daily living (such as bathing, grooming and meal preparation, taking prescription medication) but do not require the level of care offered by a hospital or nursing home.
ELDER ABUSE AND NEGLECT

Be aware that elder abuse or neglect can occur at any time, in any community, at any economic level, among all races and nationalities. Federal and state laws now affirm everyone’s right to be safe; no one has to tolerate abusive situations. Federal and state laws also protect older adults who lack the capacity to protect themselves and are at immediate risk of abuse, neglect, exploitation or abandonment. The Montgomery County District Attorney’s Office has established an Elder Abuse Unit in order to address these cases. Call 1-800-734-2020 or use their on line Crime Reporting Form at www.montcopa.org to Report Elder Abuse. They also have an Economic Crimes Unit to investigate and prosecute financial crimes.

Signs of Abuse or Neglect

Abuse can be any one or more of the following:

- infliction of injury;
- unreasonable confinement;
- intimidation;
- any punishment that results in physical harm;
- causing mental anguish;
- depriving food, necessary medication or medical services;
- sexual harassment;
- rape;
- any physically or emotionally controlling behavior that restricts independence or activity.

Elder abuse and neglect is not always easy to identify; signs to consider include:

- bruises and broken bones blamed on falls; the real cause may be pinching or beating;
- weight loss might be result of starvation or neglect, not just illness or lack of appetite;
- dementia is not always a part of aging; malnutrition or the misuse of medications can also be causes.

If you observe abuse or neglect call MCAAS Protective Services: 1-800-734-2020. They may answer the telephone by saying “Public Safety”.

In an emergency: call 911.

If You Are Abused

You should not confront your abuser. You need to wait until the abuser is gone or has calmed down so you can secretly and safely call one of these numbers for help:

- Elder Abuse Hotline - Protective Services 1-800-734-2020
- Domestic Violence Hotline 1-800-773-2424
- Montgomery County Aging and Adult Services 610-278-3601
- Pennsylvania Department of Aging 717-783-1550

Be sure to call. You may be able to prevent the next abusive situation by getting help from people who have worked with these problems and will work with you to develop your own personal safety plan. This could mean the difference between life and death.
Protection From Abuse Orders (PFAs)

You can go to court to obtain an order to keep your abuser away from you. To qualify for a PFA there must be either a family relationship or an intimate relationship with the person you want to file for protection from. You first file for a Protection From Abuse Order by going to the Protection from Abuse office located on the First Floor of the Montgomery Courthouse in Norristown between 8:30 but no later than 1:30 P.M. You can call that office at 610-278-1191. In addition, the Women’s Center of Montgomery County can help you file the necessary papers and will go with you to court. Call them at 610-279-1548. The 24-hour hotline number for the Women’s Center is 800-773-2424. The Montgomery County Emergency Operation Center number is 610-275-1222. The abuser may be arrested and if a court deems it appropriate imprisoned and/or fined.

Zero Tolerance for Abuse

You should know that many organizations are working in Montgomery County on zero tolerance of abuse. Any time you hear or see abusive behavior, you should call 911. If you ignore abuse or think, it will improve without intervention you may be risking your life or the life of someone you know. Without help, abuse may get worse; everyone should know that help is available.

AMERICANS WITH DISABILITIES ACT (ADA)

The Americans with Disabilities Act was designed to protect people who suffer from a disability and to prevent discrimination against any person because of a disability. Significantly, this protection extends to a person’s right to be employed. The ADA mandates that, under certain circumstances and presuming certain conditions are met, a person cannot be denied employment solely because of a disability.

Disability Defined

The first question to consider is what, exactly, is a “disability”? The language of the ADA defines a disability as “a physical or mental impairment that substantially limits one or more major life activities of an individual.” That means if a person has a long-term physical illness or injury or has a mental condition which prevents or limits them from doing something that other people normally do, they probably would be labeled as having a disability under the ADA. What are the things that people normally do? They are the simple things that the average person does with little or no difficulty, such as caring for oneself, walking, seeing, hearing, speaking, breathing, learning, sitting, standing, lifting, reaching, reading, etc. Many written cases in the law define what a major life activity is and what is not. To be considered a disability under the ADA, the disabling condition must be permanent or long-term. So even if a temporary condition, such as a broken bone, the flu, or pneumonia, limits a person’s activities as described, it is not considered a disability under the ADA. The 2009 amendments to the ADA expanded the definition of disabled to include any individual with an impairment of any bodily system (i.e. circulatory system for individuals with high blood pressure) and prohibiting the consideration of “mitigating measures” such as medication in determining whether an individual is substantially limited in their major life activities and thereby entitled to protection under the ADA.
Accommodations

Under the terms of the ADA an employer must make what is called “reasonable accommodations” to an employee, or potential employee, who has a disability. If an employee can perform the essential functions of a job, i.e. the primary duties of a job position, with a reasonable accommodation being made by an employer, then the employer cannot fire or refuse to hire the employee because of a disability. If an employer refuses to hire a person, or fires a current employee solely because of a disability or to avoid having to accommodate that disability, then that employer has discriminated against that person, according to the ADA.

Reasonable accommodation is necessarily determined on a case-by-case basis. Generally, an accommodation is any change in the work environment or in the way things are normally done on the job so that a person with a disability can perform the essential functions of the job safely and adequately. This change or accommodation will vary according to the circumstances, i.e. what type of job and what type of disability. The accommodations an employer makes can be as simple as bending the work rules (perhaps allowing more breaks to a person with a chronic bladder problem), or as difficult as removing a physical barrier (such as installing a ramp so that a person in a wheelchair can get up a flight of steps). The most common forms of accommodation are physical changes to the work area (as with the handicap ramp); part-time or modified work schedules (for example to accommodate therapy appointments); modified equipment (i.e. an amplifier for a phone for someone who is hard of hearing); or special equipment, such as a Braille typewriter for someone who is blind. However, there are limits to how much an employer is obligated to do to accommodate a person with a disability.

First, no employer is required to lower production standards or eliminate an essential job function or duty as a reasonable accommodation. This applies across the board. While an employer may be obligated to make accommodations so that an employee can meet production standards, or perform their job duties, the production standards and job duties themselves do not have to be changed as part of that accommodation. Furthermore, an employer may argue that making a certain necessary accommodation will cause an “undue hardship” to their business, and thus they should be relieved of that obligation. This is a very “sticky” point and is decided on a case-by-case basis. However, generally, an undue hardship is any accommodation that would cause significant difficulty or expense to the company, or that would be so disruptive as to seriously affect the operation of the business and the ability of the business to continue operating.

An important factor to consider regarding undue hardship is the size of the company. What may be considered a financial hardship to a small restaurant or shop may be no big effort for a large corporation. In addition, the nature of the business itself is a big factor. For instance, if a server in a restaurant needs to take a five-minute break every half hour, this might be considered an undue hardship since it would be disruptive to the normal demands of the business. However, if the employee requesting the five-minute break every half hour is a computer programmer, this may not be quite so disruptive to the job or the business in general. Similarly, if the very nature of the job makes an accommodation impossible or impracticable an employer will be relieved of the obligation. For instance, a blind person cannot be a proofreader of news articles and a person with a serious speech impediment cannot reasonably perform the job of a telephone receptionist. In 2011, The Equal Employment Opportunity Commission (EEOC), updated the regulations that the EEOC uses to interpret the ADA. They have stated that because of its new ADA regulations, it will be “much easier for individuals to meet the definition of “disability”. 
Reassignment

In order to qualify for protection under the ADA, an employee should be able to perform the essential functions of their job, with reasonable accommodation. However, the courts have found that if a person is unable to perform the essential job functions of their current position, the employer may still be obligated to reassign them to another position that they can perform, with or without accommodation. This obligation to reassign an employee kicks in under three different circumstances:

- if the employee cannot perform the essential functions of their present position, despite reasonable accommodations;
- if the employer claims the accommodation needed to keep the employee in their current position would cause undue hardship; or
- if no accommodation is practicable or possible for the person to perform the job duties of their current position.

Furthermore, if reassignment is appropriate, there has to be a position available; the employer need not create one. The position must be vacant and the employee must qualify for the new position. In the example where the employee has a speech impediment and cannot act as a telephone receptionist: if the employer has a vacant word processing position available and the employee can effectively use a word processor and perform the duties of that position, then reassignment is appropriate. Although reassignment seems like a great idea, it can be to a lower paying position, or outside the geographical area, in which case the employee pays the moving expenses. If the employee refuses the position because of lower pay or a move being required, they cannot later come back and make a claim against the employer under the ADA, since the employer satisfied the obligation.

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

The Age Discrimination in Employment Act is designed to protect people who are age 40 and over from discrimination in the workplace. Discrimination in this instance is any act by an employer, which treats a person unfairly because of their age. This not only includes firing someone because of their age, but also includes actions, which result in those over the age of 40 being treated differently and less favorably. For instance, if someone over the age of 40 is receiving less pay for doing the same job as someone who is younger, when both employees are otherwise on the same level, there may be a claim for age discrimination. The protection also extends to hiring practices. If a person feels that, they are being passed over for a job solely because they are age 40 or over, the ADEA may offer protection. The person claiming discrimination in this instance should be able to show that they were qualified for the job, that someone younger and less qualified was hired in their place, and that there was no other valid reason for the failure to hire.

Sometimes employers try to disguise age discrimination by claiming that the layoff or discharge of an employee is caused by a reduction in workforce or downsizing. Even in such an instance, if the discharged employee is over the age of 40 and can show that they are as qualified for the position as other younger employees who were retained and not fired, that employee may have the basis for a claim for protection under the ADEA.

Protection From Discrimination Against Caregivers

Recently, the ADA and the EEOC (Equal Employment Opportunity Commission) regulations have been the subject of federal court cases. The regulations found in both these laws are
very clear that people who may not have disabilities, whether age-related or otherwise, but who are discriminated against anyway based on their known relationship or association with a person with a disability may find protection in these provisions of these laws.

It is generally known that the ADA protects individuals with disabilities from employment discrimination. However, it also offers protection against discrimination that a current or future employer may impose based upon their knowledge and the employer’s actions taken based on that knowledge. If the employer knows about a family member or friend’s disability and then limits or terminates your job opportunities, you may be protected by this federal law. For example, if a family member who is a caregiver to either a chronically ill or a disabled person or to a person with an age-related disability is offered a job, but then has the offer withdrawn when the employer finds out that you have a family member in this situation. Watch out for employers who may deny you opportunities or promotions at work under the pretext of “reducing your stress.” In addition, an employer may terminate or limit hiring or job opportunities due to their concern about increasing health insurance costs for a person’s relative or caregiver. The courts may extend protection in the event that it is proven that the employer discriminated based upon their knowledge of the caregiver being related or associated with a disabled or chronically ill person. However, the courts have not been overwhelmingly favorable to the assertion of these types of associational claims.

**Special Agencies**

The Pennsylvania Human Relations Commission (PHRC) is the agency set up by Pennsylvania to assist in discrimination cases; the Equal Employment Opportunity Commission (EEOC) is the parallel agency of the federal government. These agencies are fairly “user friendly,” designed to assist you with any claim for discrimination you feel you may have. However, you have deadlines by which you must notify either the EEOC or the PHRC of any act of discrimination. The PHRC gives you 180 days after the discriminatory act to give them notice and file the necessary paperwork. The EEOC gives you 300 days to do so. If you feel your employer has treated you unfairly because of your age, you should not wait to take action. You should contact the EEOC or the PHRC without waiting for the matter to be resolved by your employer, because if it does not get resolved within their periods, you may have lost your right to make a claim. The Pennsylvania Human Relations Commission regional office serving Montgomery County is the PHRC Philadelphia Regional Office located at 110 North 8th Street, Suite 501, Philadelphia, PA 19107. They can be contacted at (215)560-2496. You can find more information, and an online complaint form, at their website, www.phrc.pa.gov.

**CONSUMER PROTECTION**

The Pennsylvania Attorney General’s Bureau of Consumer Protection can help you with your consumer complaints, such as if you believe you have been defrauded by a business or door-to-door salesperson, illegally harassed by an unscrupulous debt collector, or victimized in deceptive sales practices by a home improvement contractor or mail order business. This office investigates and mediates consumer complaints. The Pennsylvania Attorney General’s Bureau of Consumer Protection is 215-560-2414.

**Suggestions For Resolving Complaints**

The Office of the Attorney General publishes consumer protection booklets, which include these suggestions if you plan to resolve a complaint yourself:

- Decide on the specific complaint you wish to make;
• Have a clear statement of the specific action you want the person or business to take to remedy your complaint;
• Proceed immediately;
• If you are making the complaint in person, take along the purchase receipt, any guaranty or warranty, and if possible, the product;
• Be assertive! If a salesperson or company representative tells you that they cannot deal with your complaint, ask for higher authority;
• If you complain by mail, give the brand name, model number, size, color and other details needed for identifying the product. Include in your letter a specific explanation of the circumstances surrounding your complaint;
• Keep copies of your letter and all correspondence you receive. If you return the product, be sure to insure it.

If you are unable to resolve your consumer complaint, you can file a written complaint on a pre-printed form with the PA Bureau of Consumer Protection, Strawberry Square, 14th Floor, Harrisburg, PA 17120 or at www.attorneygeneral.gov. Their hotline number is 1-800-441-2555. Their Elder Abuse Unit can be contacted at 866-623-2137. You can also contact the local Philadelphia office at 21 S. 12th St., 2nd Floor, Philadelphia, PA 19107; telephone 215-560-2414.

Avoiding Scams

The PA Office of the Attorney General periodically publishes the “Consumer Reference Guide for Seniors,” a pamphlet that can help you to avoid scams and frauds. The pamphlet reiterates the phrase “If it sounds too good to be true, it probably is,” and points out that scam artists typically use the “nice guy” approach. It also states that con artists often use words or expressions including:
• Living Trusts/Annuities
• “Cash only” - Why is cash necessary for a proposed transaction? Why not a check or credit card?
• “Secret plans” - Why are you being asked not to tell anyone?
• “Get rich quick” - Any scheme should be carefully investigated.
• “Something for nothing” - A retired swindler once said that any time you are promised something for nothing, you usually get nothing.
• “Contests” - Make sure they are not a hoax to draw you into a money-losing scheme.
• “Haste” - Be wary of any pressure to act immediately or lose out.
• “Today only” - If something is worthwhile today, it is likely to be available tomorrow.
• “Too good to be true” - Such a scheme is probably neither good nor true.
• “Last chance” - If it is a chance worth taking, why is it offered on such short notice?
• “Left-over material” - Left-over materials might also be stolen or defective.

If you are unable to obtain the relief that you expected from the Bureau of Consumer Protection, you should promptly seek legal advice from a qualified, reputable local attorney, because there are strict time limits in which you must pursue any legal actions for fraud. Typically, a written civil complaint must be filed with the appropriate court within two years of the commission of the fraud.
Charitable Organizations

Senior citizens who are solicited by charitable organizations can call the Pennsylvania Department of State’s Bureau of Charitable Organization’s toll-free number at 1-800-732-0999 to find out if the organizations are registered to solicit contributions; how much income the organizations received; how much the organizations spend on programs, services, administration and fundraising. Seniors can also call the toll-free number with any complaints they have about organizations, which have solicited funds from them. Many solicitations for charitable donations are fraudulent, so do your homework before writing a check. Do not give out your credit card number to strangers.

Some precautions when you are called for donations:

- You may be on “the list” of charitable donors that is sold and to telephone marketers and junk mailers. Some of these solicitations are bogus.
- Ask for written information, including the charity’s name, address and telephone number;
- Before making a donation, call the charity to check whether they are aware of the solicitation. If they are not responsible, you should report the call to your local police department so they can investigate the potential for fraud;
- Watch out for organizational names which sound like established charities; some phony groups use titles that closely resemble respected legitimate organizations;
- Know that “tax-exempt” is not the same as “tax-deductible.” The exemption refers to the organization but your contribution may or may not be deductible. If that is important to you, ask for a receipt for the amount of your contribution;
- Be skeptical if someone thanks you for a pledge you do not remember making. Phone solicitations can be fraudulent.
- Always refuse high pressure or dire appeals. No legitimate organization should pressure you for your gift

Mail Fraud or Identity Theft

Mail fraud is illegal but it remains a perfect means for a con artist to try to trick you. Do not respond to sweepstakes or contests that ask for money or your credit card. If you think, you are a victim of mail fraud you can write or visit the postal service website at www.usps.com and submit a Mail Fraud Report, or call the US Postal Inspection Service at 877-876-2455, or call your local police department. If you think you are a victim of theft of your personal information or identity, you should call your local police department.

Telemarketing

Telemarketing is another method commonly used to get your personal information such as credit card numbers, checking account numbers, Social Security number, driver’s license number, etc. Do not give out this information unless you placed the call yourself to a well-known, reputable company. These are different times, and unfortunately, there are many scammers contacting senior citizens. Other tips include:

- Never agree to any offer until you have seen it in writing;
- Never pay for a prize over the phone. It is a definitely a scam;
- Never allow a caller to pressure you into acting immediately;
- The law prohibits telemarketers from calling consumers who have stated that they do not want to be called. Scammers call anyway.
Do Not Call Lists

Under this new law, those who tele market in Pennsylvania, with some major exceptions, such as charities and political groups, are required to check their own lists on a quarterly basis, to monitor who they may not call. In order to be placed on the do-not-call list you can sign up on the Internet (www.nocallsplease.com) or by telephone: (1-888-777-3406 Option 2). Over 2.2 million Pennsylvanians have signed up for the do-not-call list.

Enforcement: If you believe a telemarketer is violating the law, you can file a complaint on-line or by telephone at the above number or Internet address. There are no first tries, every violation should be reported.

Complaints about prerecorded calls can be filed with the FCC by calling 1-888-225-5322; online at www.fcc.gov/cbg/complaints.html, or by letter to the FCC Consumer and Governmental Affairs Bureau, Consumer Inquiries and Complaints Division, 445 12th Street, S.W. Washington, D.C. 20554. Pre-recorded calls are illegal if made to residential phone lines. Exceptions include calls from tax-exempt nonprofits or from companies with which you already have an established business relationship.

On-line Scams

Online scams also are abundant in today’s age of the information superhighway. For the most part, the same rules apply so beware of being misled. For additional information about online scams, contact the National Fraud Information Center, Consumer Assistance Service at 1-202-835-3323 or visit their website at www.fraud.org.

Resources

The U.S. General Services Administration Consumer Information Center publishes annually a comprehensive “Consumers Resource Handbook” which is available by writing the Consumer Information Center, Pueblo, CO 81009 or accessing the CIC website at www.pueblo.gsa.gov.

This publication has two parts: “Buying Smart” contains general advice on shopping; information on how to shop for major items such as cars, credit or home improvement; suggestions on how to complain effectively including a sample letter of complaint. The second part is a “Consumer Association Directory” with lists of offices of consumer organizations, corporations, trade associations and government agencies at all levels. Additionally, the Consumer Financial Protection Bureau (CFPB) enacted by legislation in 2008, answers questions about consumer financial products or services, investigates, and addresses complaints. The telephone number is 1-855-411-2372 or contact www.consumerfinance.gov.

Grandparents’ Custody and Visitation Rights

In the past, Pennsylvania custody laws permitted a court to grant partial custody or visitation when parents are divorced or separated for six months or more, if this would be in the best interest of the child and would not interfere with the parent-child relationship. The court considered the amount of personal contact between the parents or grandparents and the child prior to the grandparents filing in court for these rights. This section of the law also permitted visitation by grandparents where the parents of the child are unmarried. However, recently, the Pennsylvania Supreme Court declared this is no longer the law as that piece was declared to be unconstitutional. There is a movement to correct the law.
In all cases involving custody of children, the paramount concern of the court deciding custody or visitation matters is the best interest of the child. This standard is broadened in the cases of a grandparent to include that the granting of rights should not interfere with the parent-child relationship.

Grandparents may also petition for either partial custody or visitation if an unmarried grandchild has lived with the grandparents or great-grandparents for one year or more and is subsequently removed from the home by his parents.

A grandparent may want to gain full custody of a grandchild and can bring a case to court to do so since they are deemed to have legal standing to do so. The standard the court will look at in this situation is whether it is in the best interest of the child NOT to be in the custody of either parent and if it is in the best interest of the child to be in the custody of the grandparent instead. In order to be awarded custody by the court the grandparent must meet three conditions.

1. They must have genuine care and concern for the child;
2. They must have begun their relationship with the grandchild due to a court order or the consent of a parent;
3. They must also have assumed the role and responsibilities of a parent to the grandchild for the last year, or due to the child being declared a dependent child by the court, or due to a juvenile proceeding, or due to the child being at risk from the parent’s abuse, neglect, drug or alcohol abuse or mental illness. An emergency temporary order may be obtained in this situation.

The purpose of this section is to protect grandparents against the separation from their grandchildren that might occur after one parent dies, or after parents separate or divorce and custody of the child is with one parent, or after the child has lived with the grandparents for a significant period of time and is then removed by the parents.

In all cases in which the grandparent is seeking visitation or custody, the grandparent has the burden of proving to the court that the visitation or custody is in the best interest of the child.

A grandparent is not entitled to be granted visitation rights to grandchildren under this law where the parents are not deceased, separated or divorced and the children never resided with the grandparent. Another exception to the rights of grandparents is that grandparents’ rights do not apply if a person other than a stepparent or grandparent has adopted the child, even if the grandchild resided with the parent, a parent is deceased, or the parents are divorced or the parents are separated.

Recent cases in Pennsylvania have stated that grandparents have a favorable position among other third parties, (such as state agencies, or others), in custody disputes, and have standing to petition for physical and legal custody from a natural parent, providing the above conditions have been met.

At any stage, an agreement can be reached between the parents and grandparents, instead of proceeding further in the legal system.

Drivers’ Licenses

Having a driver’s license is considered a privilege. Therefore, this license may be recalled or suspended and the privilege to drive an automobile may be revoked upon a court’s determination of incapacity or a finding by a physician of a condition that prevents one from safely operating a motor vehicle. Upon the report of a physician or psychologist, the Commonwealth of Pennsylvania Department of Transportation Bureau of Driver Licensing will send a letter to inform you that your license has been revoked or suspended and must be returned in approximately one month from the date of the letter.
If this occurs, the recall or suspension of a license can be appealed. A petition for appeal must be filed in the Montgomery County Court of Common Pleas. However, the filing of the appeal will not act as a stay or postponement of the recall of the driver’s license. A hearing will be held in court sixty days from the filing of the appeal. The attorney for the Pennsylvania Department of Transportation will argue that the license should remain revoked based upon the medical evidence of the examining doctor or the statements of the psychologist.

This evidence can be countered by presenting medical evidence and reports of other doctors or by successfully passing an actual road test that is given locally by driving rehabilitation programs. They make a determination whether the individual can or cannot drive. If the driver is successful, they will send a letter to the Pennsylvania Department of Transportation (PennDOT) and the license will be returned. If unsuccessful, there is always further review by a higher court, although again, filing an appeal will not reinstate the license until the next court decision. The Pennsylvania Department of Transportation Medical Reporting Unit can be reached at 717-787-9662 with questions.

Identification Cards

Most establishments require a driver’s license for identification. An ID card, similar in appearance to a driver’s license, can be obtained by non-drivers at the Pennsylvania Department of Transportation Driver License Centers. Any Pennsylvania driver who voluntarily surrenders his/her license for medical reasons can obtain this ID free of charge. All others, including those who have never had a driver’s license, must pay a small fee. You must bring proof of identification such as a birth certificate, your old driver’s license and your Social Security card.

Handicap Parking

If you are disabled and need a special parking placard, you should contact the Pennsylvania Department of Transportation, Bureau of Motor Vehicles, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104; telephone 1-800-932-4600; www.dmv.state.pa.us. In order to obtain a parking placard you must have a disability as defined by the Pennsylvania Department of Transportation (PennDOT) and be certified as having a disability by a physician.

Personal Records

It is important to keep complete written records so that your personal information is readily available when needed. In only one place record where the original of your will, power of attorney, and living will are kept. Also include information such as your Social Security number, bank accounts and other investments (including account numbers), real estate holdings, insurance policies, and other important legal and financial information. All of this is required by your agent or guardian in case of your disability or incapacity and is required by your executor or personal representative upon your death.

Personal Record Checklist:

- Income tax returns (federal, state and local).
- Birth, marriage, divorce, custody, adoption and death certificates.
- Naturalization papers.
- Military records.
- Papers documenting real estate and home leases and purchases, mortgages and home improvements.
• Medical records and health insurance cards.
• Social Security records and communications.
• Bank account, brokerage and mutual fund statements (5 years).
• Business and partnership agreements.
• Stock option and pension fund agreements.
• Five years of complete financial records should be saved at all times.
• Save written verification of any closed accounts, liquidated certificates of deposit, and stock or bond sales, for past 60 months, 5 years.
• Save written verification of any gifts made in the past 5 years.
• Password and login credentials for online accounts and digital assets.
APPENDIX A: PUBLIC LIBRARIES IN MONTGOMERY COUNTY

Abington Free Library
1030 Old York Road
Abington, Pa  19001
215-885-5180

Roslyn Branch of the Abington Free Library
2412 Avondale Avenue
Roslyn, PA  19001
215-886-9818

Cheltenham Township Library System
Glenside Free Library
215 South Keswick Avenue
Glenside, PA  19038
215-885-0455
Elkins Park Free Library
563 East Church Road
Elkins Park, PA  19027
215-635-5000

East Cheltenham Free Library
400 Myrtle Avenue
Cheltenham, PA  19012
215-379-2077

La Mott Free Library
7420 Sycamore Avenue
La Mott, PA  19027
215-635-4419

Free Library of Springfield Township
1600 Paper Mill Road
Wyndmoor, PA  19038
215-836-5300

Horsham Township Library
435 Babylon Road
Horsham, PA 19044
215-443-2609

Huntingdon Valley Library
625 Red Lion Road
Huntingdon Valley, PA  19006
215-947-5138

Indian Valley Public Library
100 E. Church Avenue
Telford, PA  18969
215-723-9109

Jenkintown Library
460 Old York Road
Jenkintown, PA  19046
215-884-0593

Lansdale Public Library
Susquehanna Avenue & Vine Street
Lansdale, PA  19446
215-855-3228
Lower Merion Library System
Ardmore Free Library  Bala Cynwyd Library
108 Ardmore Avenue  North Highland Ave. and Old Lancaster Rd.
Ardmore, PA 19003  Bala Cynwyd, PA 19004
610-642-5187  610-664-1196
Belmont Hills Public Library  Gladwyne Free Library
120 Mary Watersford Road  362 Righters Mill Road
Bala Cynwyd, PA 19004  Gladwyne, PA 19035
610-664-8427  610-642-3957
Ludington Public Library  Penn Wynne Library
5 S. Bryn Mawr Avenue  130 Overbrook Parkway
Bryn Mawr, PA 19010  Wynnewood, PA 19096
610-525-1776  610-642-7844

Lower Providence Community Library
50 Park Lane Drive
Eagleville, PA 19403
610-666-6640

Narberth Community Library
Windsor Avenue
Narberth, PA 19072
610-664-2878

North Wales Memorial Library
233 Swartley Street
North Wales, PA 19454
215-699-5410

Pottstown Public Library
500 High Street
Pottstown, PA 19464
610-970-6551

Union Library Company of Hatboro
243 S. York Road
Hatboro, PA 19040
215-672-1420

Upper Dublin Public Library
805 Loch Alsh Avenue
Fort Washington, PA 19034
215-628-8744

North Hills Community Library
212 Girard Avenue
North Hills, PA 19038
215-884-4760
Upper Merion Township Library
175 W. Valley Forge Road
King of Prussia, PA  19406
610-265-4805

Upper Moreland Free Public Library
109 Park Avenue
Willow Grove, PA  19090
215-659-0741

William Jeanes Memorial Library of Whitemarsh Township
2391 Harts Lane
Lafayette Hill, PA  19444
610-828-0573

Wissahickon Valley Public Library - Blue Bell
Main Library, 650 Skippack Pike
Blue Bell, PA  19422
215-643-1320

Wissahickon Valley Public Library - Ambler
209 Race Street
Ambler, PA  19002
215-646-1072

Montgomery County Norristown Public Library
District Center
1001 Powell Street
Norristown, PA  19401
Main telephone:  610-278-5100 x0
Reference telephone:  610-278-5100 x2

Conshohocken Free Library
301 Fayette Street
Conshohocken, PA  19428
610-825-1656

Perkiomen Valley Library at Schwenksville
290 Second Street
Schwenksville, PA  19473
610-287-8360

Royersford Free Public Library
200 S. Fourth Avenue
Royersford, PA  19468
610-948-7277

Upper Perkiomen Valley Public Library
350 Main Street
Red Hill, PA  18076
215-679-2020

Montgomery County Bookmobile Schedules: 610-278-5100 x5
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- Arbitration and Mediation Brochure
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- Bringing Suit before a District Judge Brochure
- Reporting Child Abuse Brochure
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- Child Custody Brochure (Spanish)
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- Estate Planning Brochure
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Contact Information:

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Phone: 800.932.0311
Email: info@pabar.org
Website: http://www.pabar.org/site/News-and-Publications/Consumer-Resources
More and more frequently, parties and their lawyers are exploring alternatives to litigation to resolve a dispute without the need for a judge or jury. This trend toward solving problems outside the litigation process is called Alternative Dispute Resolution or “ADR.”

Two important ADR processes are arbitration and mediation.

**Arbitration** is similar to a court trial except there is no jury. The arbitrator (or panel of three arbitrators) is a neutral body that listens to all sides and decides the case based on the evidence presented by the parties. Arbitration agreements typically specify that the award of the arbitrator is final and binding upon the parties. It is generally, but not always, faster than litigation in a full-blown court setting. It is usually less expensive than litigation and can be more confidential.

**Mediation** is a confidential process where a neutral person, the mediator, is chosen by the parties to assist them in reaching a mutually acceptable settlement of their dispute. The mediator has no power to make decisions for the parties, but must help them work together to reach an agreement. Mediation is generally less expensive and faster than litigation and can be more confidential.

**Why Would I Choose ADR Over Litigation?**

Litigation is an entirely adversarial process. Typically, once a lawyer is hired, the parties themselves stop talking to each other and the lawyers employ litigation tactics to “punish” the other side. This can be emotionally stressful and have detrimental effects on any continuing relationship between the parties. ADR, on the other hand, is designed to encourage and facilitate cooperation between the parties.

**Why Would I Choose Mediation Over Litigation?**

Sometimes, for reasons of expense, maintaining a productive environment, or the need to preserve a business or personal relationship, it may be important to resolve the matter quickly through mediation. Mediation is a problem-solving technique that allows the parties to work together to form their own resolution of the case. Often the result of mediation is a settlement of the dispute in a mutually acceptable fashion by focusing on the needs and interests of the parties rather than their positions.

**If I Choose Mediation, Will My Lawyer Still Be There to Protect Me?**

You clearly have the right to have your lawyer present. Your lawyer can play an important role in mediation. Although the parties are present at the mediation and have the power to settle the dispute, your lawyer can outline your case to the mediator and, more importantly, will be appropriate. Parties can resolve their disputes and lawyers can explore alternatives to litigation.

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**Arbitration and Mediation**

ADR, Two Important ADR Processes: Arbitration and Mediation.

More and more frequently, parties and their lawyers are exploring alternatives to litigation to resolve their disputes. Arbitration and mediation are two important ADR processes that can be used to resolve disputes.

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**Special Note:** This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.

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**How Can I Locate an Attorney?**

Contact the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Many counties have this same service at the local level. Look in your Yellow Pages under “attorneys” for more details.

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**How Can I Learn More About ADR?**

For additional information, contact the Pennsylvania Bar Association's Consumer Protection Program at 800-721-7377. Their website, www.pabar.org, provides a wealth of information about ADR.

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**Where I Can I Find More About Consumer Legal Information?**

Visit the Pennsylvania Bar Association Consumer Protection Program's website, www.pabar.org, for more information about consumer rights and responsibilities.

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What Type of Disputes Are Appropriate for Alternative Resolution?

When I chose alternative resolution after years of working on my property rights case, lawyer, mediator, and arbitrators have helped me to save over $400,000 in legal fees and attorney’s fees. The process was very easy and straightforward, and I was able to reach a settlement agreement that was acceptable to both parties. If you are considering alternative resolution, I would highly recommend it as a viable option for resolving disputes.
If you are involved in an accident in which a person is injured or there is damage to the vehicles or other property, you must stop, call the police and give information and assistance. There are criminal penalties, including fines and imprisonment, if you do not stop at the scene of an accident in which an injury is involved or there is damage.

Who is Covered by Insurance?
Vehicle owners must meet these requirements:
- If you drive a vehicle, you must prove you have "financial responsibility" to be able to register your vehicle. Financial responsibility means that you, the owner, are able to pay for damages caused by you or another driver of your car. You can show financial responsibility by buying insurance or by certifying to the Pennsylvania Department of Transportation that you can pay for up to $5,000 of your own fault of the accident and/or up to $20,000 for the injury to all of your passengers or other people injured due to your fault. You can also show financial responsibility by having another person certify that you have the ability to pay for the damages caused by you or another driver of your car.

Who Pays the Attorney Fees?
No attorney fees for representing a claimant in connection with a claim for first-party benefits can be charged on a contingent fee basis. Attorney fees cannot be deducted from the benefits due to a claimant. An attorney may charge a claimant a reasonable fee based on the actual time expended. If an insurer is found to have acted with no reasonable foundation for refusing to pay the benefits when due, the insurer must pay, in addition to the benefits owed with interest, reasonable attorney fees based on actual time expended. If an attorney represents you on a third-party claim, he or she may charge the claimant costs in addition to the contingent fees.

How Can I Locate A Lawyer?
Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375 (in PA) or 717-238-6807 (out of state). Many counties have this same service at the local level. Look in your Yellow Pages under "attorneys" for more details.

The Motor Vehicle Financial Responsibility Insurance Law

The Motor Vehicle Financial Responsibility Insurance Law, effective July 1, 1990, provides basic minimum protection for accident victims. Two types of insurance coverage can be purchased, which are known as full tort and limited tort. If you purchase limited tort insurance coverage, you are bound by someone else's selection of limited tort, may not bring an action for non-economic damages, or "pain and suffering," unless you have suffered a "serious injury." A serious injury is defined by law as a personal injury resulting in:
- death, permanent and serious disfigurement, or serious impairment of bodily function. There are a few other exceptions to the limited tort option. Those who select the full tort option may bring an action for pain and suffering for all types of injuries. All motor vehicle owners must prove they have "financial responsibility" to be able to register their vehicles. Financial responsibility means that you, the owner, are able to pay for damages caused by you or another driver of your car. You can show financial responsibility by buying insurance or by certifying to the Pennsylvania Department of Transportation that you can pay for up to $5,000 of your own fault of the accident and/or up to $20,000 for the injury to all of your passengers or other people injured due to your fault. You can also show financial responsibility by having another person certify that you have the ability to pay for the damages caused by you or another driver of your car.

What Is the Motor Vehicle Financial Responsibility Insurance Law?
If you do not own a car or are not covered by a policy of insurance, but are involved in a motor vehicle accident, you will be covered by one of the vehicles involved or by the Assigned Claims Plan. The Plan is maintained and funded by the insurance industry. It will pay medical benefits of up to $5,000, less any payments from workers' compensation or an accident and health insurance policy, but will not pay for income loss or accidental death benefits.

What Coverage Is Required?

A. REQUIRED FIRST PARTY BENEFITS

Generally, you must purchase a minimum of $5,000 medical coverage. Higher levels of medical coverage are available as an option, as are coverages for income loss, accidental death, and funeral expenses. These are called "first party" coverages because any benefits due you and/or anyone covered by your policy will be paid by your own insurance company, no matter who caused the accident.

Medical Benefit — You must purchase at least $5,000 coverage to pay for any medical and rehabilitation expenses resulting from an auto accident. If you want to buy more than the minimum $5,000 coverage, you may buy up to $1 million coverage.

Income-Loss Benefit — This is an optional coverage. Most plans will provide 80 percent of gross income lost after the first five days of work missed.

Funeral Benefit and Accidental Death Benefit — While not required, the law provides that you may purchase up to $25,000 in accidental death benefit coverage and up to $2,500 in funeral benefits. If you already have adequate life insurance, you probably won’t need this coverage.

B. REQUIRED LIABILITY COVERAGE

(1) Bodily Injury Liability Coverage — This coverage will pay for the damages to a person you kill or injure in an auto accident, up to the limits of your policy. Such damages could amount to large sums of money and could include medical expenses, lost wages, and pain and suffering. You must purchase at least $5,000 coverage. It is suggested that you purchase more coverage, perhaps up to $1 million or $2 million, to protect yourself from financial disaster if you are at fault in an accident.

(2) Property Damage Liability Coverage — This is an optional coverage. While the minimum $5,000 coverage is required by law, you may want to have much higher limits. For example, if your car is worth $10,000, physical damage insurance pays for losses to property caused by your vehicle, including other vehicles, telephone poles, trees or buildings. You may purchase more coverage.

Collision and Comprehensive Coverage — These optional coverages will pay for damage to your vehicle caused by collision with another vehicle or object, or by such things as fire, flood, falling objects, earthquake, explosion, hail, wind-storms, water or vandalism. Collision and comprehensive coverage also provide protection against uninsured or underinsured motorist coverage, which can pay you money if the at-fault driver has inadequate insurance coverage.

How Can I Save Money on Insurance?

Many insurance companies offer discounts for drivers who have passed approved driver education courses, students who do well in school, people who insure for more than one car on the same policy, and for a variety of other reasons. Check with your insurance agent or lawyer to see if you qualify for any of these discounts.

Who Pays for Damage to My Car?

If your car is damaged in an accident, you are entitled to receive money from the person who was responsible for the accident. You may file suit through a magisterial district judge. This procedure is explained in another pamphlet in this series entitled “Bringing Suit Before a Magisterial District Judge.” If the damage to your car is more than $8,000, you must file suit in Common Pleas Court. You will probably need an attorney to represent you. If you were responsible for the accident, contact your own insurance agent.

When Should I Contact an Attorney?

• if you are injured in an accident;
• if you wish to file a tort action against the at-fault party;
• if you selected limited tort and have questions about exceptions;
• if there is a problem in getting money from your insurance company;
• if you were at fault in the accident and there is a possibility that the other party will file suit against you; and/or
• to recover money for property damage.
You may file a suit with a magisterial district judge (MDJ), formerly called a district justice, if you have a complaint against a person or business and wish to recover an amount of money totaling $12,000 or less. This is called a small claims court.

How Should I Start a Lawsuit?

Before a Magisterial District Judge

**Bringmg Suit**

Contact your local MDJ office for more information on how to proceed. MDJs may differ in their time frames for handling cases. If you are successful, you may receive a monetary award. If you lose, the person you sue may be required to pay your costs.

Should I Go to Magisterial District Court or Common Pleas Court?

Claims for $12,000 or less may be filed in common pleas court; however, magisterial district courts are less formal, less expensive and faster than common pleas court.

Which Magisterial District Judge Should I Go to?

If you decide to sue in a magisterial district court, you must decide which MDJ has authority to handle the suit. There are rules that govern where a suit may be filed. Generally, the suit must be filed where the person you are suing lives or is located, or where your claim arose. For example, if your neighbor borrowed money from you, you would need to file a suit in the magisterial district court where your neighbor lives.

How Should I Start a Lawsuit?

Most, if not all, claims are governed by an applicable statute of limitations. In some cases, that limit could be as short as 30, 60 or 90 days. In other cases, like personal injury, the limit is two years.

System of Pennsylvania's court system is based on the model of the English Court System. The court system in Pennsylvania is divided into two levels: magisterial district courts and common pleas courts. Magisterial district courts are the trial level courts and are less formal. Common pleas court is the appellate level court.

**Consumer Legal Information Pamphlets by the Pennsylvania Bar Association**

This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.
Once you have found the correct office, the next step is to file a complaint on a standard form you can obtain from the MDJ. The form is easy to complete. The important items on the form are:

- your name and address;
- the name and address of the person or business you want to sue;
- the amount of money you are suing for, including all expenses;
- a short statement of why you believe you are entitled to the money. Be sure to provide enough information so the person you are suing knows why he or she is being sued. Include the dates when things important to your case may have happened.

Although the complaint may be filed by mail, it is advisable to submit it personally to the MDJ. It will be easier for it to be an additional fee for personal delivery service of the complaint to the defendant, which will vary according to how it is served.

How Is the Other Party Notified?

Once you have filed a complaint, the clerk will schedule a hearing between 12 and 60 days from the time you file. The law requires that before the hearing you file the lawsuit and serve the defendant with a copy of the complaint. The sheriff or constable will deliver the complaint to the defendant. You may ask that the complaint be served by certified mail. The letter will be returned to the MDJ as proof that it was served.

What Should I Do Before the Hearing?

You should gather all documents and papers relating to the suit. It is also a good idea to line up and confirm supportive witnesses to be present at the hearing. You may request that the complaint be sent by certified mail. The letter will be returned to the MDJ as proof that it was served.

Who May Be Present?

At the hearing, those present will be the MDJ (the hearing officer), your witnesses, your defense attorney if you have one, the defendant, and possibly the defendant's attorney. The courtroom will be open to the public. If you win, the other party may appeal the decision. You may need the help of an attorney if you appeal.

What Happens at the Hearing?

The MDJ will explain the procedure to you. You will be sworn in as a witness. You will have the right to examine the defendant, defense witnesses, and possibly the defendant's attorney. You will be permitted to ask questions of the defendant, also known as cross-examination.

When Will the Judge Make a Decision?

The magistrate district judge's decision may be made at the hearing. If you win, the other party may appeal the decision. You may need the help of an attorney if you appeal. You will also be permitted to ask questions of the defendant, also known as cross-examination.

What Happens After the Decision Is Made?

If you succeed, the other party may arrange to pay you in installment payments, lasting up to 12 months, as set by the MDJ. The defendant(s) has 30 days to appeal the decision. If appealed, the case will then be heard in Common Pleas Court. Procedures in the Court of Common Pleas are governed by more formal rules of procedure, and the presence of an attorney is strongly recommended.
Child Abuse

What is Child Abuse?

Child abuse is sexual abuse, physical abuse, neglect, or emotional abuse. Sexual abuse includes any sexual act performed by a person with the intent to cause physical harm or mental harm to a child. Physical abuse includes any act that physically harms a child. Neglect includes any act that results in the failure to provide for the basic needs of a child. Emotional abuse includes any act that results in the intentional infliction of emotional harm to a child.

When Should I Report Child Abuse?

If you suspect that a child is being abused, you should report it to the appropriate authorities. This includes law enforcement, social services, or child protective services. If you are unsure whether a child is being abused, you can contact the Childline at 800-932-0313 for assistance.

Who Should Report Child Abuse?

Anyone who has reason to believe that a child is being abused should report it. This includes parents, guardians, teachers, doctors, and other professionals who work with children.

Special Note: This pamphlet has been issued to inform, not to advise. It is based on Pennsylvania law and is not a substitute for legal advice. Always consult your local legal services office to get legal advice.
Again, any person, with reasonable cause to suspect that a child has been abused, may make a report.

How Is a Report Filed?
To file a report, call the Childline at 800-932-0313. This toll-free hotline is staffed around the clock by the Pennsylvania Department of Public Welfare (DPW). If there is no answer, call 911 or another emergency number.

What Happens After a Report is Filed?
If the report concerns a perpetrator as defined by law (a child's parent, the person responsible for the welfare of the child, a person living together with the child, or the person with care and control of the child), the Department of Public Welfare may investigate the report to determine whether or not the child is in danger. If the investigation is completed, the report is reviewed by the local public welfare office. If the report indicates that the child is in danger, the child’s health and welfare are protected by law.

Can a Mandated Reporter be Penalized by an Employer for Making an Abuse Report?
Provided that reports of suspected child abuse are made in good faith and based on reasonable suspicion that abuse has occurred, a mandated reporter may bring legal action against his or her employer for wrongful discharge resulting from reporting suspected child abuse. The court has the power to order that the report be refiled, including a legal action in court, a mandated reporter may make a report

What Are the Penalties for Failure to Report Child Abuse?
Mandated reporters who fail to report required information may be punished for a violation of the law. If the report involves a minor, the penalty is a fine of up to $2,500 and/or one year in prison. If the report involves a minor who is not a resident of Pennsylvania, the penalty is a fine of up to $5,000 and/or two years in prison. If the report involves a minor who is a resident of Pennsylvania, the penalty is a fine of up to $2,500 and/or one year in prison.

Is the Identity of the Person Reporting Suspected Child Abuse Kept Confidential?
The identity of the person who made the report is kept confidential until the person makes the report. Information that would identify the person who made the report is kept confidential. This information is not included in any report to law enforcement officials. However, if the report concerns a perpetrator as defined by law (a child's parent, the person responsible for the welfare of the child, a person living together with the child, or the person with care and control of the child), the Department of Public Welfare may disclose the report to the regional public welfare office.

Can a Mandated Reporter be Penalized by an Employer for Making an Abuse Report?
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What Types of Custody Are There?

There are two types of custody:

- Legal custody
- Physical custody

Legal custody refers to the right to make major decisions on behalf of the child, including educational, medical and religious decisions. It also includes the right to make decisions regarding the child's welfare and future. Legal custody does not necessarily mean that the child will live with the parent who has legal custody.

Physical custody refers to the physical possession and control of the child. It includes the right to make decisions regarding the child's daily life, such as where the child will live and who will take care of the child.

There are four types of physical custody:

- Primary
- Partial
- Visitation
- Shared

Primary physical custody refers to the parent with whom the child primarily resides. Partial custody refers to the parent with whom the child resides for less than 50% of the time. Visitation is the right of a parent to see the child at the other parent's residence or at another location, but does not include the right to make major decisions on behalf of the child. Shared custody is the arrangement where both parents have equal rights and responsibilities for the child's welfare and future.

How Much Weight or Effect Is Given to the Child's Preference?

The child's preference is one of many factors that the court considers when determining custody. The weight given to the child's preference will depend on the child's age, competency and the reasons, communicated by the child, for the child's preference. The court may also consider the child's past and present behavior and information concerning the child and the parties that legitimately impact the child. The weight given to each factor in any case will depend upon the unique facts and circumstances of that case.

How Can I Locate an Attorney?

Call the Pennsylvania Bar Association Lawyer Referral Service toll-free at 800-692-7375. Many counties have this same service at the local level. Look in your Yellow Pages under "attorneys" for more details.
Do I Have To Consult the Non-Custodial Parent Before I Make Decisions?

When making major decisions on behalf of the child, the non-custodial parent must be consulted if there is an order giving the parents shared legal custody of the child. The non-custodial parent is entitled to have their consent obtained before the child is removed from their possession for any length of time.

Does the Non-Custodial Parent Have Access to the Child's Medical and School Records?

Each parent is entitled to be provided access to the child's medical, dental, school and religious records. There is an exception in certain abuse cases when the child's address needs to remain private.

Is There a Relationship Between Seeing the Children and Paying Child Support?

Even if a parent is not complying with a support order, if there is a custody order allowing him/her to see the child, the parent must be permitted to exercise custody of the child. If there is a problem with the support, the parent should file a support complaint, a petition to modify, or a contempt petition. If a person who is obligated to pay support is not seeing the child, the person must still pay support. If there is a problem with the custody, the parent should file a custody complaint, a petition to modify or a petition for contempt.

When Is a Custody Order Modifiable?

A custody order is modifiable when a change in the custody arrangement is in the best interest of the child. There need not be a specific change of circumstances. The parent seeking to modify the order must show why the present order is no longer in the child's best interest.

What If the Custodial Parent Wants to Move From the Area With the Child?

Whether or not there is a custody order in place, if a custodial parent wants to relocate with the child, the custodial parent must either get the consent of the non-custodial parent or petition for custody or modificiation of a prior order. The custodial parent must provide the non-custodial parent with written notice of the proposed relocation, which includes the date of the proposed relocation, and the names of individuals who would be living at the new location. This notice must give at least 60 days notice of the proposed relocation, and must also include a form by which the non-custodial parent may object. There are limited exceptions to the 60-day notice requirement. If the other parent does not object, the court may enter the agreement and modify the prior order. If the relocation is approved and there was a prior custody order, the court will modify the prior order.

Where Should the Action Be Brought If the Non-Custodial Parent and I Live in Different States (or Counties)?

The action should be brought in the home state of the child. This is the state (or county) in which the child has lived for the preceding six months. There are exceptions:

- If it is in the child's best interest to be in another state or county and the child has significant contacts within that state;
- If the child has been abandoned;
- If it is necessary to protect the child from mistreatment, abuse or neglect.

If the child was absent from the custodial parent's home state because someone wrongfully removed or kept the child, the custody action can still be brought in the custodial parent's home state.

What Constitutes an Emergency When Seeking Immediate Custody of a Child?

An emergency exists when the child's life, health or welfare is in immediate danger.

What Rights Do Grandparents Have in a Custody Case?

A grandparent may file a petition for physical and legal custody of a grandchild if the grandparent's relationship with the child began with the consent of the parents or by an order of court. The petition must show that the child's best interest and must not interfere with the relationship between the child and the custodial parent.

What Are the Factors in a Custody Determination?

The standard in a custody action is the child's best interest. Therefore, all factors are considered, and the court will make a determination that is in the child's best interest. The court will consider such factors as the child's current relationship with each parent, the parents' present and past abilities to provide a stable and healthy environment for the child, the parents' compliance with court orders, the child's educational and psychological needs, and any other relevant factors.

When Is a Custody Order Modified or Reversed?

A custody order is modifiable when a change in the custody arrangement is in the best interest of the child. There need not be a specific change of circumstances. The parent seeking to modify the order must show why the present order is no longer in the child's best interest.

When is a Custody Order Allowed to be Modified or Reversed?

A custody order is modified or reversed when a change in the custody arrangement is in the best interest of the child. There need not be a specific change of circumstances. The parent seeking to modify the order must show why the present order is no longer in the child's best interest.

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What ConstitutesImmediate Custody of a Child?

Immediate custody of a child is when the child is placed in the care of another person before the court has had an opportunity to make a custody order. The court may grant immediate custody to a parent or another person who is deemed to be in the child's best interest.

When Seeking Immediate Custody of a Child

When seeking immediate custody of a child, it is important to seek legal advice from a qualified attorney who can guide you through the process. The attorney will help you understand your rights and obligations under the law, and will represent your interests in court.

Non-Custodial Parent Before I Make Decisions?

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¿Qué Tipos De Custodia Existe?

Hay dos tipos de custodia:

- Custodia física
- Custodia legal

Custodia física se refiere a la posesión física y control del menor. Custodia legal se refiere al derecho de hacer decisiones (tales como educación, asuntos médicos y religiosos, etc.) respecto al menor.

Hay cuatro tipos de custodia física:

- Primaria
- Parcial
- Visitación
- Compartida

Custodia primaria se refiere a una de las partes con la cual el menor residirá primordialmente. Custodia parcial se refiere al derecho que tiene la otra parte para remover el menor del custodio primario (usualmente de una noche para otra, fines de semana, vacaciones, etc.).

Visitación se refiere al derecho que tienen los padres de visitar (usualmente con supervisión) al menor en la residencia primaria del menor o en otra localización, pero no incluye el derecho de remover el menor del control del custodio primario.

Custodia compartida se da cuando los padres alternan la custodia física del menor para asegurar que haya contacto frecuente y regular entre ambos padres.

La custodia legal es casi siempre compartida entre los padres, dado que ambos padres deben consultarse antes de hacer decisiones mayores respecto al menor. Es raro que uno de los padres tenga la custodia legal del menor exclusivamente.

Nota Especial: Este folleto se ha preparado para informar y no para proveer asesoría legal. Está basado en la ley del estado de Pennsylvania. Las declaraciones son en términos generales, dado que los datos individuales de cada caso puede alterar su aplicación o envolver otras leyes no indicadas en este folleto.

¿Cuánto Peso O Efecto Tiene La Preferencia Del Menor?

La preferencia del menor es uno de muchos factores. El peso que se le de a la preferencia del menor dependerá de la edad del menor, madurez y las razones que indique el menor para justificar su preferencia.

¿Cómo Encuentro Un Abogado?

Llame al servicio de referidos de la Asociación de Abogados en Pennsylvania al 717-238-6807 o gratis al 800-692-7375. Muchos condados en el estado también ofrecen este mismo servicio en un nivel local. Para más información sobre este servicio, busque en las Páginas Amarillas bajo "Attorneys."
Una emergencia existe cuando la vida, salud o bienestar del menor se encuentran en peligro. En estos casos, se puede obtener custodia inmediata.

¿Qué se considera una emergencia cuando se trata de obtener custodia inmediata de un menor?

Existen varios factores que se consideran en una emergencia. Por ejemplo, si el menor ha sido abandonado; si es necesario para proteger al menor de maltrato, abuso o negligencia; si el menor se ausenta de la casa del padre que tiene la custodia primaria; si los padres no se ven a menudo; si el menor reside con otra persona que no es un padre; si el menor ha sido sometido a tratamientos médicos sin el consentimiento de sus padres; si hay una orden de custodia que indica que la custodia legal es compartida.

¿Cuáles son los factores que determinan la custodia?

La mejoría del menor es el principio en un pleito de custodia. Además, se considera si los intereses del menor están mejor satisfechos con la custodia de uno de los padres o con una custodia compartida.

¿Cuándo se puede modificar la custodia?

Una orden de custodia se puede modificar cuando un padre no está cumpliendo con una orden de custodia, o si hay un pleito de divorcio pendiente, o si el menor ha vivido por los seis meses anteriores con otra persona que no es un padre.

¿Dónde se radica la petición si los padres viven en diferentes estados (o condados)?

La petición se debe radicar en el estado de residencia del menor. Si hay una orden de custodia en efecto, el padre que se quiere mudar con el menor tiene que radicar una petición. Si la persona que tiene la obligación de pagar manutención no está viendo al menor, esa persona todavía tiene que pagar la manutención. Si hay algún problema con la custodia, cualquiera de los padres puede radicar una petición de custodia, para modificación, o por desacato.

¿Qué derechos de custodia tienen los abuelos?

Un abuelo/a puede radicar una petición para obtener la custodia de un nieto si la relación del abuelo/a con el nieto está expuesta a riesgo inmediato. La corte le puede otorgar la custodia a un abuelo/a cuando el padre objeta, y la disponibilidad de medios alternos y adecuados para una orden de custodia si el mudarse no está permitido.

¿Cuándo se puede hacer decisiones mayores respecto al menor?

La corte le puede otorgar la custodia a un abuelo/a cuando el menor comienza con el consentimiento de los padres o por orden de corte. El abuelo/a también tiene que haber asumido la responsabilidad de padre por 12 meses o más, o el menor tiene que estar en riesgo de sufrir abuso o negligencia.

¿Cuándo es posible la custodia primaria?

La custodia primaria se puede obtener cuando alguien lo remueve de manera inapropiada o se rehúsa a devolverlo, la petición todavía se puede radicar en el estado de residencia del padre que tiene la custodia primaria. Si el menor ha sido abandonado; si es necesario para proteger al menor de maltrato, abuso o negligencia; si el menor se ausenta de la casa del padre que tiene la custodia primaria; si los padres no se ven a menudo; si el menor reside con otra persona que no es un padre; si el menor ha sido sometido a tratamientos médicos sin el consentimiento de sus padres; si hay una orden de custodia que indica que la custodia legal es compartida. Aún si no hay una orden de custodia, el padre con el menor puede radicar una petición de custodia.

¿Tienes que consultar al abogado de los padres?

Al hacer decisiones, el padre que tiene la custodia primaria tiene la obligación de informar a los padres acerca de los derechos de los padres. El abogado de los padres tiene la obligación de responder al mejor interés del menor y no puede interferir con la relación entre el menor y el padre que tiene la custodia primaria.
Grounds for divorce in Pennsylvania can be either NO-FAULT or FAULT. Before you can file for divorce in Pennsylvania, you and/or your spouse must have resided in the state for at least six months. Then you must prove that, for at least one year, you and your spouse have lived apart and have been separated, or that your spouse has committed an act that is grounds for divorce.

**What Is a Legal Separation?**

Technically, there is no such thing in Pennsylvania as a "legal separation." Separation simply means that you and your spouse are living apart. If you are living together under the same roof, but you are not legally married, it is considered a legal separation. However, if the separation is a result of an agreement between you and your spouse, it is called a "separating agreement." If you are separated by a legal decree (a court order), it is called a "divorce." If your spouse has abused you, there are special rules that apply.

**What Should I Do If Served With a Divorce Complaint?**

A divorce action is like any other lawsuit. It begins with a complaint filed in court and served on the person against whom it is filed. If you do not respond, the court will enter a default judgment against you. If you feel that you cannot afford an attorney, you should contact the community legal services in your county.

**How Can I Locate an Attorney?**

Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375, or 717-238-6807. Most counties have this same service at the local level. Check your phone directory under "attorneys" for more details.

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Conclusion: Your rights and your spouse's rights are affected by the divorce. Here are some guidelines to help you:

- **Property Division:** The law requires that property be divided fairly between the parties. Before your divorce, you and your spouse should try to agree on a fair division of your property. If you cannot agree, the court may make a decision for you. If you are married for less than five years, the court may order a 50-50 division of property.
- **Support:** If you have children, the court will order your spouse to pay support to provide for the children. The amount of support is based on the income of both parties and the needs of the children.
- **Visitation Rights:** The court will determine who will have custody of the children and who will have the right to visit with them. The court may order one parent to have primary custody of the children and the other to have visitation rights.
- **Prenuptial Agreements:** A prenuptial agreement is a contract between you and your spouse that outlines what will happen if the marriage ends in divorce. The agreement can be written or oral and can cover issues such as property division, support, and visitation.

In summary, divorce can be a complex and emotional process. It is important to have the help of an experienced attorney to navigate the legal aspects and protect your rights.
What Happens to Real Estate We Own?

Most married couples own their real property as "tenants by the entireties." This form of joint ownership means that neither spouse can sell the property during the marriage. If one spouse alone sells the property, then the nature of your ownership automatically changes after divorce and you both become "tenants in common." Any property purchased during the marriage is considered marital property, regardless of whose names were on the deeds.

What Is Marital Property?
The Divorce Code provides that all property acquired by either spouse during the marriage, with certain exceptions like inheritance, is considered marital property. Marital property, if not divided in the separation agreement, may be divided equitably by the court.

Who Owns the Household Goods?
Household items, such as drapes, carpets, furniture and appliances and other personal effects are generally not titled for it. As part of the divorce, the court may consider these things as marital property and distribute them accordingly.

What About Bank Accounts?
If acquired during the marriage, no matter whose name is on the account, you are both owners of the funds. If one spouse alone sets up a bank account, the other spouse may access the funds and the court may consider those funds as marital property and equitably divide the funds, regardless of whose names were on the accounts.

What If I Don't Want a Divorce?
If the divorce is on no-fault grounds, the only defenses are showing that you have not lived separate and apart for two years or showing a lack of opinion that may apply in specific situations. You should discuss with your attorney what courses of action might be available.

What Will Be in the Final Court Order?
When the court issues a Decree of Divorce, the order may include other matters if they were raised in the proceeding by either spouse. These include disposition of personal property; custody and visitation; child support, alimony, counsel fees; and enforcement of agreements voluntarily entered into by the parties.

Can the Court Require Counseling?
Yes. The court may require up to three counseling sessions with a qualified counselor within a 90-day period in the following cases:
- if indignities are used as a ground for the divorce and counseling is requested by either person;
- if either no-fault ground is used and counseling is requested by either person;
- in certain cases where there are children of the marriage under 16 years old.

Who Pays the Attorney's Fees?
The court has the power to award preliminary counsel fees to the dependent spouse. In addition, in the final order, after the court determines if there is a substantial reason to tax costs and recovery of costs and attorneys’ fees are matters to be discussed with your lawyer during the initial meeting.

What Is an Annulment?
An annulment may be sought for marriages that are by law invalid or that may be declared invalid by a court. Marriage is considered a "marriage of the mind" if it was never a legal marriage. If you think an annulment may be appropriate in your situation, discuss the matter with a lawyer.

How Can I Help My Children?
Keep children out of the conflict! The problems should be worked out between you, your spouse and your attorneys, not between you and your children. Your children may benefit from the presence of a family counselor or therapist. You should also try to get help from family and friends or by asking your attorney for names of professional counselors or therapists.
Why Shouldn’t I Do My Own Estate Planning?

Estate planning involves judgment and skills acquired only through professional training and experience. Standardized Wills and trusts, such as those produced using kits, often do not meet your particular needs and may not reflect your wishes. Your family also may incur unnecessary legal costs should the Will or trust be challenged.

Remember...

The only way to be certain that your specific needs and desires in estate planning are being met is by consulting a skilled estate planning attorney. You can contact your local bar association or the Pennsylvania Bar Association’s Lawyer Referral Service at 800-692-7375 for more information.

How Can I Locate an Attorney?

Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Many counties have this same service at the local level. Look in your Yellow Pages under “attorneys” for more information.

What About a Living Will?

An advance directive is a legal document that allows you to control how you will be treated if you are unable to speak for yourself because of illness or injury. In Pennsylvania, a living will is not filed until after a person dies; as a result, you can change it while you are alive. A living will is not filed (or probated) in Pennsylvania, a Will is not filed (or probated) until after a person dies; as a result, you can change it while you are alive.

Do I Need a Will?

Yes, an advance directive is a legal document that allows you to control how you will be treated if you are unable to speak for yourself because of illness or injury. In Pennsylvania, a living will is not filed until after a person dies; as a result, you can change it while you are alive.

What If I Change My Mind About the Contents of My Will?

In Pennsylvania, a Will is not filed (or probated) until after a person dies; as a result, you can change it while you are alive. As a result, you can change your Will at any time throughout your life.

Isn’t It Expensive To Have a Will Prepared?

There is no set price attached to the preparation of a Will. The cost will depend upon the complexity of your needs and the specific services required. Some attorneys offer an initial consultation through which they are able to review your needs and then estimate the cost for your Will.

Estate Planning

WILLS

Why Do I Need a Will?

A Will is a legal document that helps you put your affairs in order when you die. Every adult should have a Will to help ensure that your property will be distributed according to your wishes. A Will also provides for the care of your minor children and other family members.

Contents of My Will?

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Special Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.

Consumer Legal Information Pamphlets

This pamphlet has been made available to you as a public service of the Pennsylvania Bar Association. Visit our website at www.pabar.org or call 800-932-0311 for a list of other pamphlets, or to order additional copies.
What Is Probate?

The probate or estate administration process is when someone dies owning assets in his or her name alone and an estate must be started by a personal representative to deal with matters of estate administration. It is the legal process where property transfers from a deceased person to the people (heirs, survivors, beneficiaries, etc.) who are entitled to it.

Why Is There a Probate Process?

Probate is a process required by state law. The probate process in Pennsylvania is an efficient way to protect the property of the deceased person or entity legally authorized to deal with the assets of the estate and handle matters of estate administration. While probate can help prevent disputes among the beneficiaries of the estate, it may also subject assets to all of the same death taxes as probate assets, even if assets are not subject to probate, they may still be subject to all of the same death taxes as probate assets.

What Are the Costs of Probate?

In Pennsylvania, the costs of probate include filing fees for opening the estate, advertising the estate, filing an inventory of assets, and preparing the estate for settlement. The costs will be based on an hourly fee, a flat rate, or a percentage of the estate assets and what would best suit your needs. It is important to hire a lawyer who is experienced in estate planning, as the probate process can be complex and costly. The probate process can also be time-consuming and may require court approval for each and every transaction, such as the liquidation of assets and the paying of debts and expenses.

TRUSTS

What Is a Trust?

A trust is a legal entity to which your assets (bank accounts, securities, house, etc.) can be transferred for asset management and may have tax benefits, but you should be sure that you really need one and that it fits your needs. Living Trusts are created to avoid probate and protect your assets from creditors and the government. Living Trusts are revocable, meaning you can alter them during your lifetime.

What Are the Common Myths About “Living Trusts”?

1. “If I have a ‘Living Trust’ I do not need a Will.” False
   – Even if a “Living Trust” is created, you still should have a Will. If some of your property is left out of the trust, or if any portion of the trust is invalid, a Will can ensure that your assets are transferred consistent with your wishes.

2. “My assets will not be considered mine if I need to go to a nursing home.” False
   – Because “Living Trusts” usually are revocable (meaning you can alter them during your lifetime), they will be considered your assets if you apply for nursing home benefits.

3. “My estate will not pay inheritance or estate taxes since my estate won’t need to “go through probate.” False
   – Generally speaking, any transfer of assets as a result of death will result in inheritance and possibly estate taxes being due. Certain trusts, referred to as irrevocable trusts, may have tax advantages that other trusts can’t provide.

4. “My assets are transferred consistently with your wishes.” False
   – If some of your property is left out of the trust, or if it is not properly administered, a Will can ensure that your assets are transferred consistent with your wishes.

5. “If I have a ‘Living Trust’ I am not going to probate.” False
   – Only property that you specifically list as part of the trust will be part of it and will not go through probate.

6. “My assets are transferred on a daily basis.” False
   – Living Trusts are transferred on a periodic basis, such as monthly or quarterly.

7. “My assets are transferred with no notice to beneficiaries.” False
   – Unless you specifically list them as part of the trust, beneficiaries will be notified of the transfer.

8. “My assets are transferred without any court involvement.” False
   – A Trust is a legal entity in which your assets are transferred consistent with your wishes, but it still requires involvement of the court.
A new state law goes into effect on Nov. 14, 2016, that amends the Crimes Code to create a new option to address criminal-history-record information.

The new law limits access to criminal records for eligible individuals convicted of second- or third-degree misdemeanors, including ungraded offenses, who have completed all punishment from previous convictions and have no arrests or prosecutions for at least 10 years.

The new law allows individuals to petition the courts for an order of limited access to information about certain second- and third-degree misdemeanors. Although the public will no longer have access, the criminal histories would still be available upon request to a limited number of entities, including law-enforcement and state licensing agencies.

Pennsylvania has joined a growing number of states that are creating limited access to individuals' criminal histories with the primary goal of removing barriers to employment, housing and education for individuals who have completed their sentences. In addition to the new limited-access law, Pennsylvania has existing expungement laws that delete and remove certain information from public view.

What does “expungement” mean?

In Pennsylvania, all cases filed with a court, including those that don't result in convictions, are posted online for public viewing. These cases may also be reported by consumer reporting agencies. An expungement is a legal order that destroys and removes a criminal record from public view and restricts access to law-enforcement agencies.

What information is eligible for expungement?

In Pennsylvania, information of all offenses that resulted in nonconviction is eligible for expungement. This includes being found not guilty of charges, as well as information about charges that are withdrawn or dismissed and not prosecuted. Charges that lead to involvement in a diversionary program such as ARD (Accelerated Rehabilitation Disposition) and Section 17 can be expunged. If the program is successfully completed, a conviction is removed from the record.

In Pennsylvania, information of all offenses that resulted in conviction is eligible for expungement if one of the following conditions is met:

- The conviction is a summary offense and the individual has not been arrested for five or more years. Common summary offenses include disorderly conduct, simple trespass, public consumption of alcoholic beverages and retail theft (if it is a first offense and the value of the merchandise is less than $150).
- A rule(s) is adopted and finalized by the Pennsylvania Supreme Court, information will be posted on the website of the Administrative Offices of the Pennsylvania Courts: www.pacourts.us.
Who can still review information about past cases?

The limited-access provision can be used to determine the eligibility of petitioners for access to limited-access information. The information will be available only if the court determines that the petitioner is entitled to access. The court will consider the following factors when determining eligibility:

- The petitioner's age
- The petitioner's criminal record
- The petitioner's employment history
- The petitioner's rehabilitation history
- The petitioner's personal character

If the court determines that the petitioner is entitled to access, the court will grant the petitioner access to the limited-access information. The court will also issue an order prohibiting the petitioner from disclosing the limited-access information to any other person.

How is the information removed from a criminal history record?

The information is removed from a criminal history record through an expungement hearing. The hearing is typically held in a court of law, and the petitioner is entitled to legal representation. The petitioner must prove that their record is eligible for expungement, and the court will consider various factors, including the petitioner's criminal history and rehabilitation.

If the court grants the petition, the information will be removed from the criminal history record and the petitioner will receive a certificate of nonconviction.

What is the process to obtain limited access to criminal records?

The process to obtain limited access to criminal records is as follows:

1. The petitioner files a petition with the court, providing documentation of their eligibility.
2. The court reviews the petition and any supporting documentation.
3. The court grants or denies the petition.
4. If the petition is granted, the information is removed from the criminal history record.
5. The petitioner receives a certificate of nonconviction.

What are the changes in the 2016 law that limit access to records?

The amended law, which goes into effect on Nov. 14, 2016, limits access to information about some minor offenses such as law enforcement and state licensing agencies. The limited-access provision can be requested for second- and third-degree misdemeanors, violent offenses, and other offenses that require Megan's Law registration. The person who qualifies for this relief may file a petition with the court, and the request will be reviewed by the court. The court will determine whether to grant or deny the petition.

Note that on July 9, 2016, the Pennsylvania Supreme Court's Criminal Enforcement and State Licensing Agencies published a bulletin proposing further procedural guidance on the filing of a petition for limited access.
Recently, Act 21 of 2018 was enacted in Pennsylvania, expanding the rights of grandparents and other third parties to seek custody (both physical and legal custody) of minor children upon meeting certain criteria. To do this, however, the person seeking custody must first have standing.

What Is Standing?

Standing is the legal term for the requirements that an individual must meet to be able to request certain relief in the court system. In a custody matter, if an individual does not have standing, the court is unable to grant you partial physical custody of the child. To determine whether you have standing, you should carefully review the requirements set forth in the law and determine whether you can meet them based on your situation and the child’s situation.

Parents and In Loco Parentis

Parents and those who are in loco parentis to the child have standing to seek any form of physical or legal custody. In loco parentis means a person has assumed the rights and responsibilities of a parent without the parent's consent. For example, a grandparent who has been caring for a child may have standing to seek custody.

How Do I Know if I Have Standing?

Under Pennsylvania law, there are certain requirements which must be met for an individual to have standing to seek custody. These requirements depend on what type of custody you are seeking. For example, there are different requirements depending on whether you are seeking physical custody or primary physical custody of the child. To determine whether you have standing, you should carefully review the requirements set forth in the law and determine whether you can meet them based on your situation and the child’s situation.

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The consent of the child’s parents. For example, if the child’s parents have permitted the child to move in with you for an extended period of time because they are unable to care for the child, you may be in loco parentis. Similarly, a stepparent who assumes the rights and responsibilities of a parent may be in loco parentis and may be able to seek custody of the child, even after the relationship with the parent has ended.

Grandparents and Great-grandparents

If a grandparent or great-grandparent is in loco parentis to the child (see above), he or she would have standing to seek any form of custody.

If the grandparent or great-grandparent is not in loco parentis to the child, he or she would have standing to seek any form of custody if they can meet certain requirements:

1. Their relationship with the child began with the consent of a parent or under a court order;
2. The grandparent or great-grandparent assumes or is willing to assume responsibility for the child;
3. One of the following conditions must be met:
   - The child has been determined to be a dependent child by the juvenile court;
   - The child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity;
   - The child has for a period of at least 12 months resided with the grandparent, and is removed from the home by the parents; in that situation a grandparent must file a custody case within six months after the removal of the child from the grandparent’s home.

If the grandparent or great-grandparent cannot meet the requirements to seek “any form of custody,” they may be able to seek partial physical or supervised physical custody if they can meet the following requirements:

1. If one of the parents of the child is deceased, the parent or grandparent of the deceased person may have standing to seek partial or supervised physical custody.
2. If the parents of the child have not agreed as to whether the grandparent or great-grandparent of the child should have custody, then the grandparent or great-grandparent may have standing to seek partial or supervised physical custody.
3. If the child has been determined to be a dependent child by the juvenile court, grandparents and other interested third parties are encouraged to contact the appropriate county office of Children’s Programs.

Other Third Parties

Under limited circumstances, where neither parent of the child has any form of care or control of the child, other third parties may have standing to seek custody.

Specifically, an individual may have standing if the following three requirements are met:

1. Neither parent has any form of care or control of the child;
2. A court order has been issued awarding physical custody to the third party;
3. The third party has a sustained, substantial and sincere interest in the welfare of the child.

If all three requirements are met, then a third party individual may have standing to seek custody of the child.

What if the Local Office of Children, Youth and Families Is Involved?

The above provisions regarding standing may not apply if the child has been found to be a dependent child by the juvenile court or if the juvenile court has entered an order of permanent legal custody. If the child has been found to be dependent by the juvenile court, grandparents and other interested third parties are encouraged to contact the appropriate county office of Children’s Programs.

How Can I Locate an Attorney?

Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Many counties have this same service available locally.

Special note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.
What Happens When a Lawyer’s Practice Closes?

If a lawyer leaves a law firm, other firm members generally are authorized to review client files, determine what needs to be done and, if the clients agree, may act on those matters. If the lawyer has left the law firm, the office should be closed and the files removed. If the lawyer has not left the law firm, the office should be kept open and the files handled as they are. If the lawyer has left the law firm, the office should be closed and the files removed. If the lawyer has not left the law firm, the office should be kept open and the files handled as they are.

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Who Needs a Lawyer?

Sooner or later, almost everyone needs a lawyer. Many people only think of seeing a lawyer after they develop a legal problem. However, a lawyer can help you take appropriate action. No matter what the problem is, it is often possible to get the necessary information and help you develop a legal strategy. A lawyer can help you develop a legal strategy.

Who Needs a Lawyer?

Almost everyone sooner or later needs a lawyer.
How Should You Choose a Lawyer?

Follow the same steps you would in choosing a doctor or dentist. If you do not know a lawyer, ask for a recommendation from someone in whom you have confidence. You may want to ask for brief references from the lawyer during your initial interview. Not everyone should discuss fees before meeting with a lawyer. When discussing fees, try to find out:

- What are the flat fees?
- What are the hourly rates?
- What are the legal services that will be reimbursed?
- What is the lawyer's fee for a particular matter?

Why Shouldn't You Try to Handle Your Own Legal Affairs?

Entrustment of a legal matter may well involve the confidences, reputation, property, finances, freedom or even the life of a client. Therefore, it is important for you to use the services of a lawyer to use these for your own affairs; however, you risk paying the consequences should a problem arise with these documents.

How Can You Work Best With Your Lawyer?

All lawyers take an oath upon admission to practice in this state to uphold the U.S. and Pennsylvania Constitutions and to be faithful to their clients. Just as you communicate with your lawyer, your lawyer communicates with you. In a lawyer-client relationship, the lawyer becomes the primary source of information about your matter. In working with your lawyer:

- Write down the names, addresses and telephone numbers of your lawyer and your client.
- Be sure to explain the issues in your matter.
- Be certain that your lawyer is aware of all the relevant facts.
- Remember: No lawyer can guarantee the outcome of any matter.

What Is the Basis for Legal Fees & How Are They Computed?

Abraham Lincoln once emphasized the value of a lawyer’s services when he said, “A lawyer’s time and advice are his stock and trade.” The key elements in any fee charged by a lawyer are the amount of time spent and the overall value of the legal services rendered on a particular matter.

Some lawyers charge a flat fee for a legal service. A lawyer may charge a flat fee for a particular legal service, such as writing a will. Other lawyers charge an hourly rate. An hourly rate is a charge for the lawyer’s time. The lawyer’s fees may be based on the amount of time spent on your legal matter or on the amount of work done on your legal matter. A lawyer’s professional services differ from those of a doctor or dentist. Your lawyer’s professional services differ from those of a doctor or dentist. Your lawyer’s professional services differ from those of a doctor or dentist.

Why Should You Try to Handle Your Own Legal Affairs?

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Many issues face our aging population. It is important for everyone to face these issues informed about their options and their responsibilities.

This pamphlet is designed to help educate and encourage people to actively participate in planning for the future. It will help to answer some of the questions that most often plague us as we get older and also to provide direction to other sources for additional information.

List of Agencies and Organizations Concerned for the Elderly

Office of State Long-Term Care Ombudsman
Pennsylvania Office of Consumer Advocate
Veterans Crisis Line
APRILS HelpLine
Pennsylvania Long-Term Care HelpLine
Social Security Administration
PACE PACENT PACE plus Medicare
Pennsylvania Insurance Department
Pennsylvania Department of Aging
Pennsylvania Association of Area Agencies on Aging
National Council on the Aging
Office of Aging
Office of the Attorney General
Center for Medicare and Medicaid Services
Office of the Ombudsman
Office of the Attorney General

How Can I Locate an Attorney?
Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Most counties have this same service at the local level. Check your Yellow Pages under “attorneys” for more details.

Consumer Legal Information
Pamphlets
by the
Pennsylvania Bar Association

Issues on Aging
Their Families: Seniors and
A Guide for

If the situation is less urgent, there are many protective agencies available to serve and assist the elderly and their families. A list has been provided in this pamphlet. If the situation has become dangerous, you can take stronger action by petitioning to involuntarily commit that person to a hospital.

For more details, check our Consumer Legal Information Pamphlets by the Pennsylvania Bar Association.
As I Get Older and Need More Help With Everyday Activities, How Can I Continue to Maintain My Independence?

There are many agencies in Pennsylvania that assist the elderly with living at home. They provide cleaning services, prepare meals and, most importantly, provide personal care. You can contact the Area Agency on Aging at (717) 541-4214 to find out what services are available in your community.

Is There Anything I Can Do to Protect My Assets If I or My Spouse Needs Long-Term Care?

You do not have to "lose" everything if you or your spouse needs long-term care. However, protecting your assets requires careful planning in advance. Planning for long-term care is based on several considerations, including the type of long-term care facility you choose, the length of time you anticipate using it, and the cost of care.

What Can I Do If I Suspect a Resident of a Nursing Home Is Being Abused?

You should contact the Area Agency on Aging at (717) 541-4214. The agency will provide you with the phone number for a local nursing home ombudsman, who will investigate your concerns. Ombudsmen are appointed by the state and are trained to address complaints from residents and their families.

What Are Some of the Social Security Benefits Available?

You likely are aware of the monthly cash amount available once you reach the qualifying age, as well as the availability of Medicare health benefits. In addition, Social Security offers the Supplemental Security Income (SSI) program, which provides cash assistance for people with limited income and resources. A list of County Directors of Veterans Affairs can be found at www.dmva.state.pa.us.

How Can I Protect Myself or My Family From the Scams Aimed at the Elderly?

What Can I Do If I Think I Have Been the Victim of Fraud?

Always remember that offers that seem too good to be true probably are. Be overly cautious when considering offers made over the telephone, by mail or at your door. Always check out the business you are considering by asking for references. If you are in doubt about the offer, call your local Better Business Bureau or the Pennsylvania Attorney General’s office.

What Happens If I Am Unable to Speak for Myself in the Event of a Physical or Mental Illness? — How Can I Assure That My Wishes Are Carried Out?

Everyone, at any age, should consider having a Power of Attorney, which appoints someone they trust to make health care and financial decisions for them if they become incapacitated. If you do not have a Power of Attorney, or if you do not have a valid one, you may have to obtain a court-ordered guardianship, which can be costly and lengthy, in order to act on your behalf.

What Can I Do If a Family Member Is Unable to Care for Himself Due to a Mental Disability?

If you believe someone’s physical, mental or financial well-being is in danger, you can contact the Elder Abuse Hotline listed in this brochure to report suspected abuse, neglect or exploitation.

I Think I Have Been the Victim of the Electric — What Can I Do If My Family is Present?

How Can I Protect Myself if There is a Physical or Mental Illness or if I Am Unable to Speak for Myself?

I Could Use Long-Term Care and I May Lose My Assets.

I Am Passed Out or My Family Has Left or Is Unable to Care for Me.
If you applied for a mortgage or a home equity loan, obtained a credit card or used a loan to purchase a car, then you are subject to new standards under the Truth in Lending Act. Under this law, you are entitled to know the terms of your credit transactions. Companies offering credit must disclose the annual percentage rate (APR) in writing before you sign a contract. If you apply by mail, your consent must be obtained in writing before the contract is signed. In addition, if your credit card account has an over-limit fee, the card issuer must tell you of the amount of the fee, the amount you exceeded the limit, and the fee charged.

In August 2010, the Federal Reserve implemented new rules to protect credit card users from unreasonable late payment and over-limit fees. The new rules require that companies disclose the amount of the late fee to the consumer before the contract is signed or if the transaction takes place entirely online. Companies falsely claiming non-profit status are subject to the new standards; legitimate non-profit organizations helping consumers renegotiate their debts are not. Contact your local Better Business Bureau, your local consumer protection office, or call the Pennsylvania Attorney General’s Bureau of Consumer Protection before doing business with such companies, or seek the advice of legal counsel.

If your card's APR is increased, the rate must be reviewed every six months. If appropriate, the credit card company must reduce your rate within 45 days after completing the evaluation. Over-the-limit fees are prohibited unless the consumer expressly opted to permit the card issuer to process over-the-limit transactions. Only one over-the-limit fee may be charged in each billing period. Consumers should pay each month to pay the bill off in three years and the savings compared to only paying the minimum payment.

In general, your credit card company cannot increase your APR for the first 12 months after you open an account. There are exceptions. If your card has a variable rate tied to an index, your rate can go up whenever the index increases. Generally, your credit card company cannot increase your rate for the first year, but the new rate applies to new charges only. Your interest rate can be raised if you missed two consecutive payments, usually 60 days. You have the option to cancel your credit card if changes are made to the terms of the card and before certain fee increases go into effect. Credit card bills must be due on the same date each month, and payments received by 5:00 p.m. on the due date must be treated as timely.

When Should I Know About Credit Billing and Changes in Terms for Payment?

What Should I Do if I Have Problems Paying my Monthly Expenses?

When Should I Do It? Here's How to Pay the Penalties

Consumer Legal Information

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Pamphlets

PENNSYLVANIA BAR ASSOCIATION
Can My Wages Be Taken to Repay a Debt? In Pennsylvania, creditors may not take any part of your wages to pay a debt. However, part of your wages can be taken to pay child and spousal support, student loans and judgments against you for unpaid rent.

Sacris to pay your bills. If you need to liquidate assets to pay your bills, first consider consulting with a bankruptcy lawyer. Otherwise you may be selling assets that you might be able to keep through the bankruptcy process.

What Should I Know About Debt Settlement Companies and Credit Counselors? Debt settlement companies and credit counselors can help you negotiate with creditors to settle your debts for less than the total amount owed. If you decide to use a debt settlement company or credit counselor, make sure to choose a reputable one.

Loans? Consolidation loans can be classified as unsecured or secured. When you apply for an unsecured loan, you do not have to put up your property as collateral — you simply repay what you owe. When you apply for a secured loan, you do put up your property as collateral — you agree to transfer ownership to the creditor if you do not make your payments.

Unfairly Denied Credit? Consumers are given an equal chance to obtain credit. However, the act does not require all creditors to have the same credit standards. Creditors must have good reasons for denying credit if they take action on your credit.

What If I Notice an Error on My Bill? You must notify the creditor of an error on your bill within 60 days of receiving the bill. The creditor is then required to acknowledge receipt of the complaint within 30 days. The creditor may not downgrade your credit rating or declare payments as delinquent while a billing item is in dispute.

Credit reports help creditors decide if you are a good risk for receiving loans and credit extensions. Credit reports may impact where you live, what you buy and where you work, because your credit record may be considered by a prospective employer. Consumers are given an equal chance to obtain credit. However, the act does not require all creditors to have the same credit standards. Creditors must have good reasons for denying credit if they take action on your credit.

How Are Credit Reports Prepared and What Information Is in My Credit Report? Credit reports are prepared by credit agencies, which are private companies that collect and provide credit information reported to them by creditors, including banks, loan and credit card issuers. The following information may be included in your credit report:

- Personal information: name, address, Social Security number, date of birth, previous address
- Employment history
- Credit account information: credit balances, limits, payment histories
- Collections
- Bankruptcy
- Judgments
- Open accounts

How Can I Obtain a Free Credit Report? You can receive a free copy of your credit report if you are denied credit, employment or insurance within the last 60 days. You can also obtain a report if you feel that you have been discriminated against because of your race, color, national origin, religion, gender, sexual orientation, age or because you received a covered notice as part of an administrative or judicial proceeding. You also have the right to have the credit reporting agency reissue corrected reports to lenders that received the flawed report within the last six months and to employers if you request the report within the last six months.
Living Wills/Health Care Powers of Attorney

Most people believe, if they stop to think about it, that we should have the right to control our own medical treatment, especially when we are seriously ill. However, most people do not want to think about medical treatment especially when we are seriously ill. However, most people do not want to think about it. Therefore, it is wise to have the legal power to control one's own medical treatment in the event one is seriously ill. This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application.

What is a Living Will (Also Known as an Advance Directive)?

A living will is a set of written instructions expressing your wishes related to medical treatment in the event of an end-stage medical condition or a condition or becoming incapacitated. It expresses your wishes in a meaningful way to others. It expresses your wishes in a meaningful way to others. It expresses your wishes in a meaningful way to others.

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Who May Make a Living Will?

Any individual who is able to understand the purpose of the document and is at least 18 years of age (or who has graduated from high school or is married) may and should sign a living will. Two adults must witness the signing; notarization is not necessary but may be desirable.

When Is a Living Will Used?

Your living will becomes effective and can be used only after your attending physician makes a diagnosis that you are either in a terminal condition or in a permanent state of unconsciousness. The diagnosis should be confirmed by a second physician.

Must a Physician Comply?

If a physician cannot comply with the terms of the living will, he or she must make every effort to assist in finding a care provider who will comply. Be sure to provide copies of your living will to all of your physicians and named agents.

Will My Insurance Be Affected?

Under the law, a living will cannot affect any life insurance policy or health care insurance coverage. You cannot be required to write a living will to buy or keep insurance, and it cannot affect your insurance rates.

What If I Am Pregnant?

Life-sustaining treatment, including nutrition and hydration, must be given to a pregnant woman despite the presence of a living will unless the attending physician, after a meaningful discussion with the woman and her family, determines that providing such treatment is contrary to the woman’s wishes or medical condition. A living will is not a substitute for making decisions related to your medical care when you cannot meaningfully communicate, and a delay could have adverse results.

How Can Someone Else Make Decisions for Me?

Although the actual document is extremely important, these types of decisions should be made after self-reflection and discussions with your agent or agents. Thoughtful and ongoing conversations related to medical decisions cannot be overestimated. This guidance is best communicated in a written document.

What is a Health Care Power of Attorney?

In addition to a living will (or it might be included in the same document), Pennsylvanians can execute a health care power of attorney. A living will only addresses specific medical care decisions related to your medical care when you cannot meaningfully communicate, and it cannot affect your insurance rates.

Can I Change or Revoke My Documents?

Most people would still want the ability to make their own medical decisions, but sometimes that proves impossible. It is far better to have someone who has been part of your process of making these decisions as your agent or agents under your health care power of attorney in writing of a change of agent and to destroy all original documents.

How Can I Start the Process?

Sample forms are available for living wills but it is far better to consult an attorney who will help you through the process of drafting these documents.

What Should I do With My Signed Documents?

Copies of the signed and witnessed living will and health care power of attorney should be given to your physicians, agents, family and health care institutions upon admission.

How can I locate an Attorney?

Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Most counties have this same service at the local level. Check your Yellow Pages under “Attorneys” for more details.
Abuse — How To Get Protection

If you have been threatened or assaulted, contact your local police department. If you need to file for a protection order and the courthouse is closed or a judge is not available, papers may be filed before a Magisterial District Judge or Municipal Court Judge.

What Is Abuse?
Under the Protection From Abuse Act, abuse is defined as any of the following:

1. Attempting to, or intentionally or recklessly causing bodily injury, serious bodily injury, rape, spousal sexual assault or involuntary deviate sexual intercourse with or without a deadly weapon;
2. Placing another in reasonable fear of imminent serious bodily injury;
3. False imprisonment, as defined under the crimes code;
4. Physically or sexually abusing minor children; and/or
5. Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, under circumstances which place the person in reasonable fear of bodily injury.

The act does not cover emotional abuse.

Who Can File for Protection Under the Act?
You can file for protection if the person who has threatened or is trying to harm you is:

1. or was your spouse;
2. or was living with you in a common-law marriage or as your boyfriend/girlfriend;
3. the parent of your child;
4. your child;
5. or was a sexual or intimate partner;
6. your parent; or
7. related to you by blood, marriage, adoption or notified that the abused person is a minor, then a parent, adult household member or guardian ad litem can file on behalf of the child.

How and Where Can I File for a Protection Order?
Filing procedures are different in every county. Please contact your county courthouse, domestic violence program or legal services office for more information on the filing procedures.

How Do I Receive a Temporary Protection Order After Filing a Petition for Protection From Abuse?
After filing a petition for protection from abuse, a judge will review the case to determine if a temporary protection order should be granted. The judge’s decision at the hearing will determine if a temporary protection order will be issued. If the judge grants a temporary protection order, he/she will issue a temporary protection order and schedule a final order hearing that should be held within 10 days.

How Is the Abuser Notified of the Temporary Protection From Abuse Order?
The abuser must be served with notice of the temporary protection order and the final order hearing date. Generally, the sheriff’s department or a local law enforcement agency is responsible for notifying the abuser of the temporary protection order. In some situations, the court may require other methods of notification, such as registered mail or service by a process server. Once the abuser is served, he/she can be arrested for violating the terms of the court order.

Can the Final Protection Order Be Extended?
There are two reasons for the judge to choose to extend a final order. If you can show that, after the final order, the abuser continued the abuse, or, if the abuser commits another violation of the protection order, the judge may grant an extension of the order. The judge may also extend the final protection order as part of a contempt proceeding.

Domestic Violence Programs
Domestic violence services are offered in every county in Pennsylvania. These services include crisis hotlines, safety planning, legal advocacy and support groups. For more information, contact your local domestic violence program or call 800-799-SAFE (7233) to find out how to get help.

How Can I Locate an Attorney?
Many people choose to be represented by a lawyer in PFA cases. Call the PBA Lawyer Referral Service toll free at 800-799-6777 to get the name of a lawyer recommended in your area.
What Is the Difference Between a Temporary and a Final Protection Order?

Temporary order:
• Sets forth temporary restrictions against the abuser meant to immediately protect the person(s) filing for protection.
• Only the person (“party”) seeking protection and witnesses (if any) give statements.
• Sets the hearing date for the final order hearing.
• Expires after 10 days, unless extended.

Final order:
• Sets forth restrictions against the abuser meant to protect the person(s) filing for protection for as long as the order lasts.
• At the hearing, both people (“parties”) provide evidence, and witnesses for both can testify.
• Can be for a period of up to three years, unless extended.

How Do I Get a Final Protection Order?

A final protection order can be granted in two ways, either after a hearing or by an agreement between both parties. If there is no agreement, both the person filing for protection and the alleged abuser shall have the opportunity to be heard. If there is an agreement, the judge must approve any changes to the agreement. To be considered a final order, the judge must determine that the terms of the agreement are consistent with the law and the best interests of the person filing for protection.

What Protection Can the Court Order?

The court may grant any protection order or approve any agreement meant to bring an end to the abuse. A protection from abuse order may include some or all of the following:

1. Direct the abuser not to abuse, threaten, harass or stalk you or your minor children (temporary or final order);
2. Direct the abuser to stay away from your home, even if that is also the abuser’s home (temporary or final order);
3. Direct the abuser to stay away from your school or your place of employment (temporary or final order);
4. Direct the abuser to refrain from harassing you, your friends or your relatives (temporary or final order);
5. Prohibit the abuser from having any guns or gun permits (temporary or final order);
6. Award you temporary custody of your children, and depending on the degree of abuse, award visitation or supervised visitation or deny visitation to the abuser (temporary or final order);
7. Grant you temporary support for yourself and for the abuser’s children (final order only);
8. Direct the abuser to pay you for losses resulting from the abuse. These could include, for example, medical bills, lost wages, education expenses, and attorney’s fees (temporary or final order);
9. Grant any other relief or terms necessary to bring an end to the abuse. Sometimes this relief will include requiring the abuser to attend a domestic violence program (temporary or final order).

What Help Is Available at Night, on Weekends or When the Courthouse Is Closed?

In case of an emergency or if you’ve been threatened or assaulted, contact your local police department. If you are in immediate and present danger of abuse, an emergency protection order may be filed with a Magisterial District Judge or in Philadelphia before a Municipal Court Judge. The judge may issue the emergency protection order for up to three days.

What If the Abuser Violates the Order?

If the abuser violates the order or attempts to remove the child(ren) from your home, call 911. If you believe your home is in immediate danger, leave your home with your children and contact local law enforcement.

What If I Want to Change the Order?

Because the order is a legal document, only a judge can change restrictions or terms in the order. If you want to change the order, you must file a petition with the court asking that the order be changed or “modified.”
A written lease should include:

- names and addresses of both the tenant and the landlord (the person who owns the property);

- term (length of time) of the lease;

- rent amount and payment terms;

- amount of security deposit;

- renewal terms;

- provisions for repair and maintenance of the property;

- duties of both the tenant and the landlord in relation to the property, such as who is responsible for repairs, payment of utility bills, and other expenses, and tenancy terms; and

- a grace period and penalty for late payments.

It is very important that you read and understand a lease completely BEFORE you sign it. Do not sign unless you agree with all the provisions. Once signed, the lease is a binding written contract, and it is not a violation of the law for a landlord to require a tenant to sign a lease that does not conform to the plain language law. If a lease is not a written, signed document, it is not enforceable.

Is an Oral Agreement Effective?
Yes. An oral agreement is valid in Pennsylvania if it is a typical residential lease and is for less than a three-year term. However, it is usually better to have a lease in writing. Without a written lease, the parties to it may disagree about the terms and conditions. If a lease is for a period of more than three years, it must be in writing to be enforceable. A lease is an agreement between a landlord and a tenant that grants the tenant the use and possession of the property for the term of the lease. Please note that different laws may apply to manufactured home residents in manufactured home communities.

Does a Written Lease Have to Be in a Special Form?
No, but it does have to be written in “plain language.” Pennsylvania law requires that all written residential leases be easy to read and understand. For example, there can be no “small print” and simple, everyday words must be used throughout the document. However, the relationship between the landlord and tenant is a special agreement, and it is important to have a written lease. You may also consider enrolling in a tenant advocacy program to ensure that your rights are protected.

What Is a Residential Lease?
A lease is an agreement between a landlord and a tenant concerning the rights and duties of each. In the agreement, the landlord transfers possession and control of the property to the tenant. The tenant then has both the use and possession of the property for the term of the lease. Please note that different laws may apply to manufactured home residents in manufactured home communities.

What If Back Rent Is Still Owed?
Even if the term of the lease has expired and the tenant’s security deposit has been taken, the tenant remains obligated to pay all rent due. If legal action is taken by the landlord, the tenant could lose property, including money in banks and motor vehicles.

Where Can I Find a Lawyer?
Contact the Pennsylvania Lawyer Referral Service toll free at 800-692-7375. Most counties have this service at the local level. Check your Yellow Pages under “attorneys” for more information.

For more information:
Contact the Pennsylvania Bar Association Consumer Legal Information Pamphlets.
If a tenant does not sign a residential lease that is not in plain language, the lease is still effective and the tenant must still abide by all the agreements in the lease. If this happens, the tenant may have the right to file suit against the landlord for special damages or to prevent enforcement of any provision not written in plain language.

What Is a Security Deposit?

A security deposit is a sum of money given to the landlord, usually before a tenant moves in, to provide a fund for the landlord to pay for damages that may occur during the time of the lease or for unpaid rent and late fees.

Can a Security Deposit Be Required?

Yes. A landlord has the option of requiring a security deposit.

Are There Rules for the Collection, Administration and Return of the Tenant’s Security Deposit?

During the first year of a lease, the deposit cannot exceed the amount of two month’s rent. During the second and subsequent years, it cannot exceed one month’s rent. During the third and subsequent years, it cannot exceed the amount of three months of rent.

The tenant should provide a forwarding address in writing. Within 30 days after the end of the lease or within 30 days from the time the property is returned to the landlord, whichever comes first, the landlord must either return the entire deposit or send the tenant an itemized list of damages and deductions from the deposit. If the landlord does not provide such a list or does not return the appropriate deposit, the tenant has certain rights, including the right to file suit against the landlord for up to double the amount of the deposit. If the tenant receives a list of damages and believes the list is wrong, the tenant may also be able to sue the landlord.

For more information on filing suit before a magisterial district judge, contact the Pennsylvania Bar Association for the pamphlet “Bringing Suit Before a Magisterial District Judge.”

Are There Restrictions on Rent Increases?

Unless the rental unit is under a special government program or subject to governmental rent control, the amount of rent is not limited. A landlord may increase the amount of rent at the expiration of the term of the lease. While the amount of notice required is not specified by law, the landlord should give at least 30 days notice of any increase in rent, or as the lease provides.

What If the Landlord Doesn’t Make Repairs?

Most written leases specify who is obligated to make ordinary repairs. If you sign a written lease, read it carefully. Quite often it will state that the tenant is responsible for minor repairs up to a given dollar amount. However, under Pennsylvania law, every residential lease includes the landlord’s implied warranty of habitability (livability), which is part of the agreement even if it is not included in writing. This means that the property is habitable. If the landlord does not make the repairs within a reasonable amount of time, there are specific rules about what the tenant may do.

The tenant may be able to pursue several actions, including moving, repairing the defect and deducting the cost from the rent. The tenant should also keep records of contacts with the landlord about these problems.

Can a Tenant Break a Lease?

If there is a month-to-month lease, either the landlord or the tenant can terminate the lease at the end of a monthly lease term. If the landlord wishes to terminate the lease, the landlord must provide proper written notice of termination. If the tenant wishes to terminate the lease, the tenant must provide proper written notice of termination. If the notice is proper, the landlord must give the tenant enough time to move out of the property. The landlord must give the tenant the amount of notice required by law to move out of the property. If the landlord does not comply with these requirements, the tenant may be able to file a lawsuit for breach of the lease.

How Can a Tenant Be Evicted?

If the lease term ends or a tenant breaks the lease agreement, the landlord can evict if the tenant does not move voluntarily. However, while the tenant is in possession of the property, the landlord does not have the right to change the locks, move the tenant’s belongings from the leased property, or turn off the utilities to force the tenant out of the leased property. The landlord must go to court and use legal process. In the event of an eviction by paying the rent owed, court costs and late fees at any time before the eviction actually takes place.

Does a Tenant Have To Pay Rent If an Eviction Notice Is Received?

In general, as long as a tenant remains in the apartment or house, rent must be paid to the landlord, even if an eviction notice has been received.

What If an Eviction Order Is Entered?

The tenant has the right to file an appeal, but must do so within 10 days of the magisterial district judge judgment. If the tenant wants to remain in the home during the time of the appeal, the tenant must also pay either three month’s rent or the amount of rent the magisterial district judge finds due, whichever is less, plus ongoing rent during the appeal. A tenant who is a victim of domestic violence may only have to pay ongoing rent. A tenant who wants to file an appeal should consult an attorney.
Unemployment compensation is insurance that protects you from total income loss if you lose your job through no fault of your own. If you qualify for benefits, you will receive weekly checks and help in finding new employment.

Am I Eligible for Compensation?

To be considered eligible for compensation, you must:

- Have worked for an employer who contributed to the Pennsylvania Unemployment Compensation Fund.
- Have earned at least $100 in each of 18 calendar weeks in your base year. "Base year" means the first four of the last five completed calendar quarters prior to the date on which you apply for benefits.
- Have earned a total quarterly wage of $1,688 or more.
- Have lost your job through no fault of your own.
- Be able to and available for work.
- Serve an unpaid period of one week.
- File a claim for benefits at the Unemployment Compensation section of your local Job Service Office. Students enrolled in full-time course work may be considered eligible for compensation if they meet the above requirements and have completed certain training courses approved by the Department of Labor and Industry that may permit a trainee to collect benefits.

Can I Get Partial Benefits?

If your regular work hours are reduced because of lack of work, you may be able to receive partial benefits. You can apply to the Pennsylvania Unemployment Compensation Board of Review for a partial benefit credit. If you do not apply for a partial benefit credit, you may be disqualified from receiving partial benefits. If you file a claim for partial benefit credit, you may be disqualified from receiving unemployment benefits.

How Long Can I Collect Benefits?

Most claimants who remain eligible may receive benefit checks for up to 26 weeks of total unemployment. Benefits may be reduced if you did not work enough credit weeks, or weeks in which you earned at least $100, in your base year.

Consumer Legal Information

Pamphlets by the Pennsylvania Bar Association

Special Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.
Claimants who have less than 18 credit weeks do not qualify for any benefits. If you have 18 credit weeks, you can receive 18 weeks of benefits. If you have 19 weeks, you can receive 18 weeks of benefits. If you have 20 weeks, you can receive 16 weeks of benefits and so on. Special federal programs in place that permit a qualified individual to receive additional training or benefits.

How Is the Amount Determined?

The general goal is to pay the unemployed person about 50 percent of what he or she earned when employed, up to the first $500 a week in lost earnings. If your family is low income, your weekly benefits may be higher. Unemployment compensation is not paid for the first seven days of your unemployment except in cases of hospitalization or other compelling reasons. If it is determined that an individual has sufficient earnings for benefits, the weekly benefit amount is determined by a formula that takes into account the amount of the earnings base and the amount on which benefits are payable.

What Will Disqualify Me?

You may be denied benefits for a number of reasons. Some of the more common ones are:

- Quitting your job without a valid reason.
- Losing your job due to willful misconduct, such as frequent and unexcused absence or tardiness.
- Failure to rehire for employment.
- Unemployment due to participation in a strike.
- Inability or unavailability to work.
- Refusal to accept an offer of suitable full-time work.
- Receipt of unemployment compensation from another state or from the federal government.

Other conditions may affect the payment and amount of your benefits. You must tell the claims interviewer if you are receiving vacation or holiday pay, receiving a back-wage award, or are a student or are attending any school or training course.

Can I Get Benefits If I Quit My Job?

If you leave for a necessary and compelling reason, you may be able to collect benefits. Leaving a job for health or family reasons, job dissatisfaction, inability to get along with supervisors or fellow employees, or desire to seek a better paying or different job.

Can I Collect If I Am Pregnant?

Benefits are payable if the pregnant woman does not voluntarily leave her job when she is able to work and suitable work is available. Benefits may continue after the birth if the worker is able and available to work and otherwise eligible for benefits.

Are Benefits Taxable?

All unemployment compensation benefits received have to be reported on your federal income tax return. These may be taxable if you leave without good reason, or if your adjusted gross income reaches a certain level. Instructions and income levels are explained in the tax return booklet.

Are There Penalties for Fraud?

Anyone who makes false statements or who knowingly withholds information to illegally obtain benefits can be prosecuted. The individual is then ineligible to receive unemployment compensation for one year following the date of the conviction.

What Are My Rights?

- If you and your employer disagree on the reason you left your job or on other matters affecting your benefits, an appeal can be made.
- You must file an appeal within 15 days.
- You have the right to an appeal hearing before an administrative law judge.
- You have the right to have the decision of the administrative law judge reviewed by an appeals board.
- You have the right to a court hearing on the questions of law involved in the decision.
- You must file a request for review of your appeal if you disagree with the decision of the administrative law judge.
- If you win your appeal, you will receive the benefits that were denied to you.
- If you lose your appeal, you have the right to file a new appeal.

How Do I File an Appeal?

Complete an appeal form and file it with the Office of Unemployment Compensation within 15 days. You will then be notified of the day, time, and place of the hearing. If you win your appeal, you will receive the benefits that were denied to you. If you lose your appeal, you have the right to file a new appeal.

When Should I Seek Legal Advice?

If you are denied benefits and file an appeal, you should discuss your case with an attorney before you have your first hearing. If you win your appeal, you will receive the benefits that were denied to you. If you lose your appeal, you have the right to file a new appeal. This is equally important for employers.

How Can I Locate an Attorney?

Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Most counties have this same service at the local level. Check your Yellow Pages under "attorneys" for more details.
What Shouldn’t I Do?

• Do not sign any incomplete papers.
• Do not sign any papers or statements unless you completely understand them.
• Do not sign any written statements about your injury or exposure to disease unless you have a witness, union representative or your attorney present and you fully agree with the written statements. Always get a copy of any statements you sign.
• Do not sign any Supplemental Agreements unless they correctly represent the current status of your disability. It may also help to have the Supplemental Agreement reviewed by a lawyer.
• Do not sign a Final Receipt of compensation unless you are fully recovered from your injury.

What If I Need Assistance?

If you have questions about workers’ compensation, your union representative or the Bureau of Workers’ Compensation may be able to help. The Bureau can be reached at (717) 783-5421, or toll free at 800-482-2383.

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Workers’ Compensation

The Workers’ Compensation Act provides for the payment of benefits to workers injured on the job. Injuries include:

1. Weekly compensation to the disabled worker.
2. Related hospital, surgical and medical expenses.
3. Death benefits to a deceased worker’s dependents.

Who Is Covered by Workers’ Compensation?

Workers’ compensation applies to all employees with the exception of casual workers performing services not related to an employer’s business or persons employed in ... the employer has purchased workers’ compensation insurance coverage. Corporate officers may elect to not be covered.

What Injuries Are Covered?

Injuries that arise in the course of employment include:

- Bodily injuries to the employees caused by exposure to occupational diseases.
- All injuries that arise out of employment.
- Illnesses that arise in the course of employment.

Benefits to the employee may occur in the following forms:

- Weekly compensation to the disabled worker.
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- Related hospital, surgical and medical expenses.
- Death benefits to a deceased worker’s dependents.
Silicosis and asbestosis, the Act requires an aggregate employment of at least two years in Pennsylvania during the 10 years prior to disability under certain conditions. In general, injuries caused by a third person are covered as long as they occur in the course of employment. A special provision applies to injuries caused by a person with whom the employee has no prior relationship or work experience.

Is an Employer Required to Pay Workers' Compensation?

Yes. It is required by law that all employers provide payment of workers' compensation except in cases where employees are not specifically covered. An employee cannot contract away his/her rights to compensation.

When Will I Receive Compensation?

Generally, compensation is paid beginning with the eighth day of the disability. Compensation will not be paid for the first 7 days of the injury. If the employer fails to pay within 12 days of the injury, the employee is entitled to medical benefits.

How Long Will the Benefits Continue?

Full disability payments will continue as long as the employee is totally disabled. Partial disability may be paid if an injury does not result in complete loss of earnings, but it is generally paid for a period not exceeding 500 weeks.

If I Receive Compensation, Can I Still Sue My Employer?

No. Because the law makes the employer responsible for a worker's injuries regardless of the employee's carelessness, the law also provides that employees do not have the right to sue their employer for workers' compensation.

How Should I Proceed If I Am Injured on the Job?

If you are injured on the job or suspect that you have an occupational disease, you should:

1. Report the injury to your employer or to a local union representative.
2. Review your union's benefits package.
3. Report the injury to your union representative or unionized employer.
4. Contact your employer's human resources department.
5. Contact your employer's legal department.
6. Review your union's benefits package.

If you are injured on the job, you should report the injury to your employer or a local union representative. The employer or the union will then file a claim with the Bureau of Workers' Compensation in Harrisburg or at the nearest district workers' compensation office.
Stepping Out

INTRODUCTION

If you are not already 18, you will be soon. When you reach age 18 and graduate from high school, you become an “emancipated adult.” Your whole world will not change, however, many of the protections our society puts in place for minors – from preventing youth being taken advantage of in contracts or financial matters to the way youth are treated for criminal behavior – these protections are lost once you are legally considered an adult. As an adult, you will be free to make and enter into contracts and to hold, invest and spend your money. You will be able to buy or rent items. You will have the right to vote in elections.

But with every right comes responsibilities. When we enter into contracts or leases, we become bound by their terms. When we invest or spend money, we risk losing it or spending it carelessly. With the right to vote comes a responsibility to be an informed citizen and to exercise the right we have been given. At 18, you have the right to marry without your parents’ consent. But in all cases, decisions come with consequences – and as adults, we suffer the consequences of our actions.

The Stepping Out program involves local attorneys and judges visiting your school to talk about what they do – and about issues you will face as an adult. We hope this booklet will help you and that you will use the Stepping Out program to ask questions and learn facts you will need to know as you step out into the “real world.” This pamphlet is not intended to teach everything there is about the law or those situations you may encounter. Instead, it gives you some examples of what you can expect. If you need legal advice or representation, you should consult an attorney.

Acknowledgements
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1. KNOWING THE LAW
In our legal system, it is presumed that we know the law. Ignorance of the law is not an excuse. So as you get involved in new activities, it is important that you learn about the law and other rules that affect those activities.

Understanding the Consequences
Almost every decision we make has consequences. Some are good and easy to understand in advance. If you pay for a car or other item, you will own it. If, however, you spend money on one item, you may not have money for another, and if you borrow money or contract to do something, the law requires you to perform your obligations.

CONTRACTS: Many things involve contracts, writings that define the terms of the bargain. You will deal with people who use pre-prepared contracts for their business – whether it is renting an apartment, purchasing a car or furniture, or most anything else. They know what their contract form says. You are presumed to have read the contract before signing it.

Quite often, you will talk with someone and agree to basic terms. Then another person will bring out a contract for you to sign. That is when you have to read the document. Once you sign a contract, you are obligated by all of its provisions. Forgetting the contract’s details or failing to read it first will not excuse you from complying with whatever it says.

For a while, a lot will be new – simply because you have not dealt with these matters before. With experience, you will become familiar with how certain things are done, but as you begin dealing with contracts, and other situations that are new or complicated, you will be faced with new terms and issues. If you are uncertain if a contract says what it should or what the implications of a legal decision might be, ask your parents or an attorney for help.

IF YOU BORROW MONEY and cannot afford to repay it or use borrowed money to buy items that you cannot afford, the creditor may be able to collect the remainder of what you owe by repossessing property or getting a judgment against you. If you use a charge card to buy items you cannot afford you may find that instead of paying off the debt, you get into a financial hole that can lead to bankruptcy and a damaged credit record.

IF YOU SIGN A CONTRACT but fail to meet your contractual duties, creditors can sue you. Failure to do what the law requires may constitute criminal conduct. If you write a check without having sufficient funds in your account, you can be sued for the money and charged with a crime.
CRIMES: Crimes are offenses against the public. Like every other state, Pennsylvania law defines those actions or omissions that constitute crimes. Federal law and local ordinances also define actions that constitute criminal offenses. Your friends may ask you to do something that is illegal. However, going along with them in committing a crime can hurt someone or damage property, and you will be held responsible. Engaging in criminal activity usually destroys lives.

IF YOU DO SOMETHING THAT WOULD CONSTITUTE A CRIMINAL OFFENSE, you can be arrested, brought to trial, and, if convicted, sentenced to pay a fine and restitution to any victim. You also can be imprisoned. Criminal convictions are tracked and can follow you for the rest of your life. A criminal conviction can limit the types of jobs you can get and what you will be able to make of your life.

You may be required to report any criminal convictions in applications for jobs or financial loans, include student financial aid. A conviction may also hurt your ability to adopt a child later in life, or may be brought up in child custody dispute. Criminal convictions tend to creep up when they are least expected and often when you most want it to be kept a secret.

The purpose of this section is not to scare you. It is important, though, to understand that every decision you make has consequences – and it is important that you understand those consequences before you act. If you do, you probably will make better decisions.

Pennsylvania Court System

Pennsylvania’s Unified Judicial System forms a hierarchal structure that is best illustrated in the form of a pyramid, as shown below.

The base of the pyramid holds the Special Courts. For most areas in Pennsylvania, these courts are the local magisterial district courts. In Philadelphia they are the Philadelphia Municipal and Philadelphia Traffic Courts and in Pittsburgh they are the Municipal Courts. Generally, these courts hear non-jury criminal cases, civil cases seeking a monetary judgment under $12,000, all traffic cases, landlord tenant cases and matters pertaining to bail. The Special Courts also decide whether serious criminal cases, such as assaults, thefts and murder, should go to the Court of Common Pleas.
Pennsylvania’s Unified Judicial System

At mid-level are the Courts of Common Pleas. Each county has a court which hears all major criminal and civil cases; appeals from the Special Courts in civil, criminal, and traffic matters; and most matters involving children and families, including divorces, custody, marriage licenses and wills.

The next level includes two appellate courts, the Superior Court and the Commonwealth Court. The Superior Court hears appeals from the Courts of Common Pleas regarding criminal matters, certain civil matters, and matters involving children and families. The Commonwealth Court hears original civil cases brought by and against the Commonwealth, appeals from decisions rendered by state agencies, and appeals from Courts of Common Pleas involving the Commonwealth and local agencies.

At the top of the pyramid is the highest judicial authority in the state, the Supreme Court. The seven-member court hears discretionary appeals from the Superior and Commonwealth Courts by allowance; direct appeals from the Courts of Common Pleas in cases specified by statute, including all death-penalty cases and direct appeals from the Commonwealth Court in its original jurisdiction; and may hear a case from any level in certain circumstances. The Supreme Court is the administrative leader of all courts in the state.

How the Courts Operate

A case – whether civil or criminal – is tried before a judge, and in certain instances a jury is present, too. Juries are primarily available in Common Pleas (trial) courts. Juries are not permitted in the Supreme Court or in Superior Courts; only rarely are juries used in Commonwealth Courts. If a jury is permitted, both sides in a case can agree to have the case tried before a judge only.
**JURY DUTY:** The success of the jury system depends upon your service. Your contribution is important to your community, and you should take pride in helping to preserve and strengthen our justice system.

A computer randomly selects jurors from a master list of names, which are compiled from lists of registered voters and licensed drivers in each county. If you receive a juror qualification form, you have five days to complete and return the form to the jury coordinator. If you need to be excused from jury duty, you must present your request in writing. Jurors are compensated at the current rate of jury service.

**How a Case Moves**

![Diagram of criminal and civil case flow charts.](image)
Protecting Yourself by Knowing Your Rights:
One of the best ways to protect yourself is to know what your rights are as a citizen. Your rights may be different depending on where you are. For example, while you are a student, your school may not allow you to wear certain clothing that you are allowed to wear when you are not at school.

To learn more about your rights as a public school student, visit: http://www.aclupa.org/education/studentsrightshandbook.

The American Civil Liberties Union (ACLU) offers a lot of information on your rights and can help you protect your rights if you feel they have been violated. To learn more about your rights as a citizen, visit www.aclupa.org for Pennsylvania-specific information or www.aclu.org for national information.

You can also find legal information at www.palawhelp.org or www.lawhelp.org. These web sites can help you find legal information on specific topics, as well as resource information for legal aid providers should you need to talk with an attorney.

2. MONEY, FINANCES & BUDGET

Whether you attend college, enter the military, or get a job, you will find yourself dealing with money and financial issues. To a large extent, your parents or others have taken care of these things for you. They may well continue to play a big role in helping you, but you will find yourself faced with a number of new situations.

Much of what we learn comes from experience. The only way to get that experience, however, is by dealing with new issues. Talking everything over with your parents and others is a good way to learn. Many books, magazines and Internet resources can provide helpful information, as well. Be sure to carefully consider the credibility and reliability of any source you consult.

From balancing a checkbook, to saving money, to ensuring that you have the proper insurance, financial issues will affect you every day.

Living on a Budget
The first step in responsibly managing finances is budgeting. Budgeting requires realistically considering the money or income available and the expenses that have to be paid. How often you get paid plays a significant role in determining your budget. If you work, perhaps you will decide to use your salary from the first half of the month to pay bills, depending on whether you are paid weekly or biweekly.

If you attend college, your income probably will include earnings from any job, as well as financial aid in the form of student grants or loans. It is worth noting, however, that lending institutions pay such aid directly to the college. You receive the amount left over
after the college applies the financial aid to your tuition, room, board, and fees. You also may have assistance coming from your parents or others.

**CASH FLOW:** A budget then has to factor in all of the fixed and variable expenses, with an eye toward when each comes due. Beyond the overall picture is “cash flow” — or having the money available when it is needed to pay bills as they come due.

A sample budget plan, assuming that many expenses are due monthly, might look something like the example shown on page 9.

**MAKE A BUDGET:** Everyone lives on a budget, even if they do not think about it. If governmental expenses exceed revenues, the government can raise the difference through taxes. However, we cannot do that. If our expenses exceed the money we have, we go into debt. Ignoring or forgetting about recurring expenses does not make them go away.

Serious consequences often result if you do not allocate enough money to your recurring expenses. For example, a university can prevent you from enrolling in classes or force you to withdraw from school if you do not pay your tuition, thereby delaying your college plans. Your landlord can evict you if you fail to pay your rent when it is due. Your utilities can be disconnected when you do not make timely payments. You will probably be charged additional court costs, late fees and re-connect fees on top of the original amount owed and your late payments may be reported to credit bureaus. A poor credit rating impacts your future ability to get a loan, but a car or house and even get a job.

**EXPENSES:** The number of your recurring expenses will depend upon your circumstances but will become due at a particular time, usually either monthly or quarterly. These expenses include college expenses, a car loan, rent, utility bills, and insurance premiums. Variable expenses, like car repairs and medical care, are incurred over and above fixed expenses. You should consider allocating money to cover these expenses - they surely will occur, often as surprises and in unknown amounts.

The number of your variable expenses also will depend on your unique circumstances and often are due as a need arises. For example, living costs at college are a big variable expense and should be included when estimating the total cost of attending college. As mentioned earlier, rent typically is due on the first of each month, but how much you spend on groceries, for instance, and how often you buy groceries will vary. Inevitably, you will incur entertainment and clothing expenses because you probably will not spend all of your time studying. Once you determine how much you are going to spend on entertainment (going to the movies, going out to eat, etc.) try to stick to the budget. If you spend over your budget on entertainment and clothing, you may not have enough money to pay for any unexpected medical or dental bills that arise. The extent of
medical or dental insurance ultimately will determine your out-of-pocket expense, which is why you should set aside money to cover unexpected expenses.

<table>
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<th>Percent of Total</th>
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</thead>
<tbody>
<tr>
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<tr>
<td>Utilities</td>
<td></td>
<td></td>
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<tr>
<td>Food</td>
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<td>Education</td>
<td></td>
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<tr>
<td>Car Payment</td>
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<tr>
<td>Car Insurance</td>
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<td></td>
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<tr>
<td>Car Expenses (gas/maintenance)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Credit or loan payments</td>
<td></td>
<td></td>
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<tr>
<td>Health, Life Insurance etc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investment / Savings</td>
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<td></td>
</tr>
<tr>
<td>Clothing</td>
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<td>Fun, Recreation</td>
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</tr>
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<tr>
<td>Total</td>
<td></td>
<td>100%</td>
</tr>
</tbody>
</table>

**A BUDGET IS A PLAN.** If your income is not enough to pay all of your expenses, you really have only two choices: reduce or eliminate unnecessary expenses or increase your income. Remember to differentiate between your actual needs and your “wants.” Often, our income does not allow us to pay for all of our “wants.” If this is true for you, then you may have to forego some of your “wants” in order to meet your real needs.

Often, we have no clear idea of where we spend our money until we sit down and map out a budget. This exercise often helps us identify where we may be spending unwisely. If you have a budget, it will be easier to evaluate realistically your ability to meet any new spending or payment obligations that you may want to incur, like the purchase of an automobile or renting an apartment. Few will ever have enough money to afford everything that we might want; therefore, use a budget as a plan to make the most of your income. A budget is a useful tool to combat overspending and the nasty consequences that result from overspending.
Checks, Debit Cards and Credit Cards

“Money” – in its various forms – is financial currency. This means that money is what we, and others, accept as payment for services performed or goods sold. Cash is money, but most exchanges of money do not involve the use of cash.

CHECKS: In legal terms, a check is a “negotiable instrument.” This means a check is a document that represents money payment so long as the check is backed up by money held in a bank (or credit union) account. In many cases, two financial institutions process checks: the bank in which the check writer (or “payor”) has his or her checking account and the bank where the person entitled to payment (or “payee”) has an account. The payee can cash the check, deposit the check into his or her bank account, or sign the check over to another person.

BAD CHECKS (NSF or Non-Sufficient Funds): If you give someone a check from an account that is no longer open, or does not have enough money to cover the amount of the check, you are issuing a “bad check.” Your bank will not be able to make payment on the check; you will still owe the debt.

In addition, your bank may charge you with a bad check fee; the payee can also charge you a bad check fee or sue you for the money and file criminal charges against you for issuing a bad check. Unless your account is open and holds enough money to cover a check, you must not write a check.

If a check that someone else has given you is returned without payment because of insufficient funds (NSF) or any other reason, the law requires that you give that person written notice and the opportunity to make payment on the check as drawn. If the check still remains unpaid, you can sue for the money owed and file a claim for a bad check at the magisterial district court.

Sometimes we are directed to make a necessary payment in some way that leaves no question whether funds are available. Cash, of course, is one such way to ensure payment.

Other ways include using: a Certified Check, which is your personal check certified by the bank that it is backed by sufficient funds; a Cashier’s or Treasurer’s Check, which is a check that is issued by your bank or credit union, drawn to be payable to someone, and purchased with your money; or a Money Order, which is issued by an institution, like the post office, and purchased with your own money.

DEBIT CARDS work in a manner that is very much like a check. Instead of writing a paper check, the debit card is offered, electronically read, and processed. Funds in the amount needed to pay for the purchase are taken from the cardholder’s account and
transferred to the seller’s account. Check with your bank to understand any fees for using your debit card.

**CHARGE CARDS** like Visa, MasterCard, Discover, and those issued by department or other stores are processed electronically, much like a debit card. There is an important difference between a debit card transaction and a credit card transaction, however. With a debit card, the funds transferred to the seller come from the cardholder’s bank account. With a credit card, the funds transferred to the seller are loaned to the cardholder and must be repaid (with interest) by the cardholder.

It is important to remember that each time you pay with a credit card, you are taking a loan, and that the interest on the account balance (loan) can be quite high, often 18% or more. You must pay a minimum payment each month, but credit card companies charge interest on any remaining unpaid balance. Remember that each time you use a credit card you are incurring a debt in the form of a loan.

**ELECTRONIC BANKING:** Increasingly, purchases, payments, and other transactions are completed through the electronic transfer of funds from one account to another account. Social Security checks and payroll checks often are deposited directly into the recipient’s bank account. Purchases that were once paid by check are now paid through the electronic transfer of funds (i.e. as through the use of a debit card) or through an electronic banking account or payroll deduction. These transactions can include the payment of recurring bills, such as mortgage payments or car payments.

Today, most investments involve the transfer of funds or other assets held in an account, most typically, the checking or savings account at a bank or credit union. Other investment accounts involve stocks, bonds, or other financial instruments or documents of value that are held by an institution in which we hold an account. Although we might own the stock or bonds, we usually never see the actual stock certificate or bond.

All of this works but requires that we pay attention to what happens and regularly read our account statements to confirm that any transfers and deposits are recorded and correctly accounted for. The convenience of electronic banking can cost you money or cause you other trouble if you do not understand what is involved and do not review your account statements.

**Savings and Investments**
The sample budget illustrated above includes an item for investment in savings. When money comes into our hands, it is easy to think of ways to spend it. Spending all of your money as soon as you get it will leave you unable to afford the unexpected car repair, the insurance premium, or the college tuition bill that comes due months down the road. It takes self-discipline to save money, but by setting aside money for the future,
you will be able to pay that unexpected bill – or to build a nest egg for something that is really important to you.

**THE SIMPLEST WAY TO SAVE** is through a savings account at a bank or credit union. You either can make deposits into the account directly or arrange for an automatic transfer from a paycheck or other source of income.

Automatic deposits can be a painless way to ensure that you save money. Interest is paid on the balance in your account, and you should compare interest rates before deciding where to open an account. Deposits up to $250,000 at banks, credit unions, and savings and loan associations are insured by federal agencies against loss if the institution goes bankrupt. In 2014, the amount insured is scheduled to return to the previous $100,000 limit.

You will hear about other ways to save or invest. When you have a substantial amount to invest, or are able to put an investment away for awhile without needing to spend it or worrying about how much tax is paid on the income, you should learn about and consider the following:

**CERTIFICATE OF DEPOSIT** – A certificate of deposit (or “CD”) is a savings investment for a period of time (such as 90 days or 3 years) at a bank, credit union, or savings association with a fixed interest rate paid over its term. Funds cannot be withdrawn before maturity without incurring a significant penalty, which can be as much as 10%.

**STOCK** – Buying stock is buying an ownership interest in a business corporation. The market value of the stock, or what you will pay for it, fluctuates day to day – and can go up or down. Most companies pay dividends to stock owners, but when stock prices are high, the rate of income on dividends is often 2% or less. Over the long haul, investing in stock can give us a higher return than other investments, but owning stock also involves the risk of losing value.

**BONDS** – Bonds, whether issued by the United States (savings bond), a governmental unit or authority (municipal bond), or a corporation (corporate bond), are a sort of loan by you to the entity that is borrowing the money (i.e. you loaning the money to the government).

Interest is paid on bonds at a stated rate – either by our buying them at a fraction of their face value and receiving full value at maturity (savings bonds; zero-coupon bonds) or through interest paid, usually every 3 or 6 months, on a bond bought at face value.

The U.S. government backs savings bonds. Most high-grade municipal bonds are backed by the unit or authority and insurance. If an interest rate is a lot higher than usual, it is probably a riskier investment. Interest on savings bonds is subject to federal, but not
state, income tax when received; municipal bonds are often exempt from all income taxes; corporate bonds are fully taxable.

**MUTUAL FUND** – A mutual fund is a fund managed by people having more investment experience than most of us, which includes investments by thousands or millions of people. The fund uses investments to buy stocks, bonds, and savings investments in a “mix” that depends on the fund’s objective. Objectives involve “growth,” “growth and income,” bonds, international corporations, or some mix of them. Like stock, you should decide what your objectives are and look into the alternatives.

**Taxes on Income**
Taxes are the means by which the government raises money to provide public services. Grumble as we may, we all have to pay taxes to the Federal government, the state government, and to the local government.

**INCOME TAXES** will affect most of us. The money the federal government collects from income tax is used for everything from funding the military, to repairing highways, to providing Social Security and Medicare benefits. States and municipalities also collect income taxes. As a general rule, income tax is withheld from everyone’s wages, except those who make very little money. Employers generally withhold income tax, but if you are self-employed, you must arrange to pay your taxes on your own.

As an individual’s wages increase, so too does the rate at which their income is taxed. How do you calculate your taxable income? Well, Pennsylvania and your municipality charge their own income taxes. These taxes are deductible. Deductible means you can subtract the amount of taxes you owe to the state and local government from your salary. This means that the Federal government will not make you pay taxes on money that you are using to pay other taxes! So, your taxable income will be less than your salary.

\[
\text{Taxable Income} = \text{Salary} - \text{State and Local Taxes}
\]

**W-2 FORM:** By January 31 of each year, each employer must give you a form called a W-2 form that shows your total wages and your deductions for each tax you are required to pay. You also have to pay taxes on money you get from other people besides your employer, like those who are paying you interest (such as a bank), dividends (such as stock), or non-employee compensation (such as prize money). Whoever gives you this money must give you a 1099 form. These forms will give you information you need to prepare your federal, state, and local income tax returns, but you should make sure the information is correct.
Borrowing Money
When we really need something now but we do not have enough money to pay for it, we might need to borrow money. For example, if it costs more money than you have to go to college, you may look for grants (when the government or an organization gives you money to use for something and you do not need to pay them back). If you cannot get a grant, you might try to get a loan.

ANTI-DISCRIMINATION LAWS: There are legal protections for borrowers. If you are age 18 or older, no one can discriminate against you because of your race, religion, nationality, gender, age, or marital status. The law prohibits a lender from asking whether you plan to get married or have children. However, if you do not have the money to pay the loan back or if you have a bad credit record, no lender is obligated to approve a loan to you.

LOANS: A loan is when you get money now from a lender (such as a bank) and have to pay the amount you borrowed plus interest over time. The lender makes the loan to you because they profit from the interest you pay. Because different loans charge different amounts of interest, you must be careful that the interest is not too high and not too difficult to repay.

There are different consequences, depending on the type of loan, if you cannot pay it back. Many loans are secured by collateral. For example, a mortgage is a loan secured by the house as collateral, and a car loan is secured by the car as collateral. If you do not pay the loan payments, the lender can take the collateral. Student loans are not secured by collateral and cannot be discharged by bankruptcy. Student loans must be repaid.

Lenders are required under federal law to tell you in advance how much the loan will cost. The interest rate must be stated. When comparing the interest rates of different lenders, be careful! There are different names for different ways of calculating interest, and you want to be sure that you are comparing the same kind. One kind is “annual percentage rate” interest, which is calculated by taking into account the required loan costs (fees that the lender might charge you) and the actual interest rate.

Increasingly, banks, car dealers, home sellers, electronic stores, furniture stores, and others will try to convince you to buy things that you cannot afford and borrow money to pay for them. If it has not happened already, you soon will begin getting letters from banks inviting you to accept a credit card from them. It might seem flattering at first, but this is not a compliment, as they are trying to make money by charging you interest.

INTEREST RATES: Sometimes interest rates are low. Because we consider a college education so important, the federal and state governments award grants and loans at lower rates of interest than charged for other loans. The theory is that the investment is
a good one and not very risky – as we become more educated, we can probably make more money. In other words, the interest rate is low because an education is valuable. Sometimes, however, interest rates are high because the lender has less security in the loan. Often, though, to convince us to buy things we really cannot afford, places will offer 5-year and 6-year loans or charge really high interest rates on cars or furniture or other expensive things that are not worth all those interest payments.

Additionally, credit card companies offer us a “credit line,” or an amount up to which we can make purchases. However, they usually charge 18% annual interest or more, and the low minimum payments can mean that you will just pay interest forever. For instance, if you run up charges of $2,500 on a credit card, figuring you can afford the minimum payment each month, but the card company imposes interest of 19.8% per year, how long does it take you to pay the balance? You will be surprised. See page 15 for the answer.

Borrowing is not necessarily bad. Sometimes we have to borrow money. Even though it can be confusing, it is really important to do the math and make sure you can afford it. Otherwise, borrowing money you cannot repay will lead to problems you may not be able to fix or escape – and can hurt you in the future.

**Credit Card Reality Check**

*A CREDIT CARD* should be handled carefully. At a store, you make the decision to use it. If you want to purchase something through the Internet, you can elect to use a credit card. If you lose a credit card or it is stolen from you, you may be responsible for up to $50 in purchases run up on each card, as long as you immediately inform the bank or store that issued the card that your credit card was stolen. If the credit card company imposes a notification requirement and you do not notify it, the $50 limit probably will not apply, subjecting you to liability for more than $50.

Things can go wrong. People have gained access to other’s credit card numbers and have run up large charges. Since you could end up being liable for a lot of money you never borrowed, you should do all you can to keep your account information private.

Keep account information handy so you can give notice if you lose your card. Hold onto your card. Do not tell others your account information unless you want to buy something. Even then, try to make sure that you are dealing with a legitimate operation. If someone contacts you and asks for account information, it may be a scam.

Remember, there is no law that stops us from borrowing money we cannot afford to repay. Credit cards are not a “free pass” to a life-style we cannot afford. Only you can control your use of credit. Credit card debt is the single biggest reason for bankruptcy.
**WHAT CREDIT CAN COST:** Eighteen year-old Carol felt rich when she got her first credit card during her senior year of high school. She charged up to her $2,500 credit limit the first month. After that, she was very careful to pay on time but she only sent in the minimum payment. With an interest rate of 19.8% - even though she never charged another item – it will take her 47 years to pay off her account.

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<td>$5.77</td>
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<td>$1169.99</td>
<td>$1422.31</td>
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**BANKRUPTCY:** When a person or business is unable to pay bills as they become due, the federal bankruptcy laws allow for relief. Sometimes, credit counseling can help organize debt and deal with bad situations without filing for bankruptcy. Depending on the circumstances, bankruptcy can allow discharge of certain debts and give the debtor a fresh start in life. HOWEVER, bankruptcy does not excuse student loans in the typical case. A debtor cannot keep the house or car encumbered by a lien without paying the lien creditor. Moreover, the fact that a person has gone through bankruptcy will appear on that person’s credit report and seriously limit his or her ability to borrow money for a number of years.
Insurance
Generally, insurance is something that protects us by assuring that benefits are paid should something happen that leads to losses we cannot afford to pay ourselves.

WHAT INSURANCE IS – AND WHAT IT IS NOT. Insurance provides a means of insuring that certain bills will be paid if something happens that you cannot afford or do not want to have to pay yourself. You should buy only the amount of coverage that you need and can afford. You can adjust the amount of coverage as your circumstances change.

DEDUCTIBLES OR CO-PAY amounts are involved in many types of insurance, like vehicle, medical, renter’s, and homeowner’s insurance. A deductible is the amount you must pay out of your own pocket before insurance benefits kick in. The higher the deductible or co-pay is, the lower the insurance premium will be. The deductible or co-pay you pick should be based on what you could afford if something happens – and it is not safe to assume that nothing will ever happen. If you do not have much money, lower deductibles and co-pays make sense. As you have more money, you can raise those amounts.

MEDICAL PAYMENTS can easily exceed $25,000, and potential liability in an auto collision easily can exceed $50,000. So as you consider coverage amounts, keep that in mind because if you do not have enough insurance, you can be held personally responsible for the difference.

FULL TORT OR LIMITED TORT is an option you can elect to include in your car insurance policy to apply should you be injured in an accident. Under the limited tort option, you give up the right to sue the other party for damages unless your injuries are “serious” – which you would have to prove in each case. Saving a few dollars under limited tort involves very real risks to you, which you should consider before making the election.

VEHICLE INSURANCE – Pennsylvania law requires that all registered vehicles have a prescribed minimum amount of “liability” and “first party” benefits coverage. Liability coverage pays benefits to others if you do something that damages their property or causes personal injury to someone. It is a criminal offense if you do not maintain insurance on your registered vehicle – even if it is in storage for the winter. If found guilty of failing to maintain insurance coverage, you also can lose your driver’s license.

FIRST-PARTY COVERAGE: In Pennsylvania, first-party coverage pays your medical expenses if you are injured in an automobile accident. You also decide the amount of wage loss and funeral benefits you may want for your protection. Beyond required coverage, there are other benefits that should be included in the policy for your protection.
**Collision Coverage** pays benefits if your vehicle is damaged in any event involving another vehicle, whether or not the accident is your fault. Collision coverage pays benefits if another driver smacks your car door in a parking lot.

**Comprehensive Coverage** pays benefits if your vehicle is damaged in an event that does not include another vehicle – like acts of vandalism, a baseball through the windshield, or hail damage. **Uninsured** benefits will pay your own losses if you are injured in an accident caused by a driver who has not maintained the required insurance. **Under-Insured** benefits protect you if you are injured in an accident caused by a driver who had insurance, but not enough to cover your loss.

**Homeowner’s Insurance** – When you own a home, insurance is a must. It protects against a wide variety of harm including claims of others, fire or casualty damage to the home, and theft or vandalism. Some policies include coverage for personal property stolen from other places or defined things that might happen outside the home.

**Renter’s Insurance**: If you live in an apartment that is owned by someone else, the owner probably maintains insurance that will protect the owner against loss if the building is damaged by fire or if someone is hurt falling on the entrance steps. It is unlikely, however, that the owner’s insurance will cover damage to the renter’s property. Renter’s insurance protects you if your belongings are damaged by fire or stolen or if someone gets hurt inside of your apartment and seeks damages.

**Life Insurance**: Death, especially your own, is not a subject you think about. Life insurance pays benefits to people you name or designate as beneficiaries upon your death. Term insurance really is coverage for one year, renewed year after year until you or the company opts out. The cost can be lowest, especially when you are young. As you get older, that cost keeps going up. Whole life, universal, and variable life insurance is something you own. The premium for each year usually is fixed when you buy the policy – the younger you are, the lower the premium. If you get married and have children, life insurance is one way to protect your family should something happen to you.

**Medical Insurance**: You may be covered under your parents’ coverage – or you may not be. Medical insurance provides coverage for treatment by doctors and hospitals and, depending on the policy or plan, for dentists, eye doctors, and prescriptions. It is often a benefit of employment. If health insurance is not a benefit of your employment, you will have to purchase it on your own, and it can be expensive. Without health insurance, you run the risk of having to pay the full amount of any medical or dental expenses that you incur.
Employment Benefits
In Pennsylvania, if you are employed, the employer provides basic benefits in addition to your wages or salary. Employers must pay the same share of Social Security and Medicare taxes that you pay. The employer contributes to the Unemployment Compensation Fund, which provides benefits to employees who lose their jobs through no fault of their own. Employers must also maintain workers’ compensation coverage on employees, which pays for medical treatment and for compensation to employees injured while at work.

Beyond that, employers offer benefits to employees ranging from nothing to a variety of insurance, retirement, and savings plans. When you consider a job, it is reasonable to ask the employer what benefits it provides – and for you to compare different offers. The more benefits an employer provides, the less you will have to buy.

**INSURANCE** provided by employers can include life, medical, hospital, dental, optical, prescription, and disability. The more types offered, the better, but an employer is not required by law to provide anything. Disability insurance pays benefits when you cannot work due to illness or injury, regardless of whether the illness or injury is job-related. If not provided by an employer, disability insurance might be an important coverage to obtain yourself.

**PENSIONS**: Long-term saving for retirement is very important. Some employers maintain pension plans. Others maintain what are called Section 401(k) plans. Some pension plans are fully funded by the employer; some involve contributions by both the employer and the employee. The employer controls the pension plan and benefits are paid upon retirement. A Section 401(k) plan is held by an employee and administered by someone else. Some plans involve contributions by employers; all involve contributions by employees. Money usually cannot be withdrawn from a Section 401(k) until age 59 ½. In addition, you are not taxed on the money you put into a Section 401(k) plan or on its growth until you take the money out.
3. PROMISES, PROMISES

Whether you think about it and whatever you call it, you often are entering into contracts. When you reach 18, you have legal capacity to contract, unless and until you become incapacitated, or incapable of knowingly making decisions for yourself.

In the law, a contract is an agreement between two or more people having legal capacity; the contract involves a lawful subject matter and is supported by “consideration” (something of value) and performance. When you promise to do or pay something in return for something, it is a form of a contract – whether you call it a contract, an agreement, a deal, or a promise. However, you cannot contract to break the law. Like everyone, you must comply with the terms of the contracts you enter into, and it is important to read and understand all terms in a written contract before signing.

Contracts
When two or more people agree to do, pay for, or refrain from doing something in return for what others do, a contract is formed. Many contracts are unwritten. Many things, especially things that are unimportant or that can be accomplished quickly, do not require a written contract.

For example, when you go to a store and buy a television or car, a contract is being made. You pay the price and the store gives you the item. This sounds easy, but what if the TV or car does not work? You agree with a landlord to rent an apartment, but nothing is written. Even if you pay the rent, the landlord can end any lease on 30 days’ notice. You and your partner want to be partners and run a business. You might save money by avoiding lawyers and by not having a written agreement. If, however, your partner leaves or the other party to the bargain wants to change the deal, what happens?

**CONSIDER EVERYTHING.** When we do business, we typically assume that everything will work out perfectly, but things do not always work out so well. There is often a lot more involved in these transactions, and considering everything at the start can save money later on.

Lawyers sometimes drive their clients crazy by seemingly making situations more complicated than the client would like them to be, but by asking questions on issues the client probably would never have considered, they are protecting their client’s interests. The more you think about and deal with situations ahead of time, the likelihood of encountering unpleasant situations will decrease. The more you know and think about before you enter into a contract, the better the likelihood that everything will work out. You always want to be prepared for the worst scenario and hope it never occurs.
Warranties
If you buy a new car, the manufacturer includes a warranty for a defined number of years or miles driven, which is important, and is on the contract of sale. You will not know what the warranty covers unless you read it before signing the contract.

THE PA “LEMON LAW” requires the manufacturer of a new car to repair, at its own cost, a substantial defect that occurs during the first year or 12,000 miles, whichever comes first. The buyer is entitled to a refund or replacement car if three attempts to fix the defect fail or if the buyer cannot use the car for 30 days during that warranty period.

Under Pennsylvania law, there are implied warranties. One presumes that an item purchased will be “merchantable,” or fit for resale. Another type of warranty is a warranty of fitness for a particular purpose, which applies where something is purchased for a particular purpose and presumes that the item will be fit for that purpose.

USED CARS: If you buy a used car in Pennsylvania, the dealer either must make clear that it is selling the car to you “as is” or that it will honor the implied warranty of merchantability. With cars or anything else, if you buy something “as is,” you assume all risk of defects – so a thorough inspection before buying is important.

The Lemon Law applies to used cars, but in a limited fashion. The re-selling agent must disclose that the car was returned under the Lemon Law and must provide warranty for 12,000 miles.

Increasingly, businesses involved in selling products are including in their standard contracts language that tries to disclaim or disavow “all warranties, express or implied.” If you sign an agreement with that language, you will have trouble if you find defects in the product. You may find that there are no warranties at all, no matter what you assumed. While this language has to be in bold face or larger size print, you will have to look to find it. If you do not read the contract before you sign it, you will not know what you have done to yourself until it is too late.

FINANCING: When you borrow money, you will have to sign a note. A note constitutes your promise to pay and details the terms of the debt. If you are giving the lender collateral as security for your repayment, the note and other documents will identify the collateral and explain what can happen if you do not pay.

Usually, you will lose the collateral, be responsible for paying the lender’s cost of getting and reselling the item and be at risk for paying any balance on the debt after resale of the collateral. It is important that you read and understand these documents.
**Consumer Transactions**

“Consumer Transactions” refers to purchases made and contracts entered into where the purpose is to obtain goods or services for personal or household use. Consumer transactions can occur in stores, through the mail, on-line, or in our homes through in-person sales visits.

When the consumer transaction occurs in your home, the law provides you with an opportunity to rescind, or “undo,” the transaction. The law affords this opportunity because you may feel that you have been rushed into a transaction; you may feel trapped and that you cannot “escape” the seller when the seller is in your home or that you want to make the seller “happy.”

To protect against sellers taking advantage of this aspect of your human nature, the state law provides that you, as the buyer, may rescind or undo the contract or transaction within three (3) business days after you have signed a contract in your home. Federal law provides a similar three (3) days “cooling off” period when you borrow money that will be secured by your home (mortgage or equity loan).

The three (3) day “cooling off” period only applies whenever there is a sale in the home and the price is $25 or more. It does not apply to a purchase made outside of the home, even if the purchase is for a very high-priced item (such as a car).

This law allows you to use the time to think again and consider whether or not the purchase or contract is a good idea for you and if you really want to go through with the purchase or contract. If you decide that you want to cancel, the notice must be in writing and must be delivered to the other party within three (3) business days after signing the contract or making the purchase.

When purchasing items on-line, you should always be certain to read carefully the seller’s return policy and be mindful of any fees or costs associated with returning the item you purchased on-line.

**PLAIN ENGLISH CONTRACTS:** Pennsylvania requires that consumer and residential lease contracts be in an “easy to read” style and format. If you are presented with a contract that is not easy to read, you can point this out to the other party. A landlord or seller’s failure to comply with the “Plain English” requirement can result in civil liability to the seller or landlord or, in some cases, invalidation or cancellation of the contract and payment of your lawyer’s fees.
**CONSUMER COMPLAINTS:** The Pennsylvania Attorney General Office of the Bureau of Consumer Protection is located in Harrisburg, PA. You may obtain a consumer complaint form by visiting the office, by calling (800) 441-2555 and asking for a form to be mailed to you, or by downloading a consumer complaint form at [www.attorneygeneral.gov](http://www.attorneygeneral.gov). A complaint may be filed directly at the website. The service is free, and the Bureau can often help when you have a consumer complaint against a business.

**Renting an Apartment**

If you lease an apartment or house, Pennsylvania law presumes the lease is for a month-to-month basis unless it is in writing. Under a month-to-month lease, you or the landlord can end the lease by giving 30 days’ prior notice. Notice should be in writing, sent in the way required in the contract (when there is a rental agreement) and a copy kept.

**READ YOUR LEASE CAREFULLY:** Your lease will identify who the tenants are, and every named tenant is obligated for the rent. This is especially important when you and someone else are the tenants because if your roommate leaves but only your name is on the lease, you can be stuck with paying the entire month’s rent. The lease also will specify the term of the lease, the amount of rent, and when and how rent is to be paid. It may provide for a late charge if rent is not paid by a certain date, and it will include many other provisions that explain how things will work. A lease will define who is responsible for repairs, utilities, real estate taxes, and municipal assessments like water, sewer, and refuse removal. The tenant usually pays for telephone and cable TV.

**SECURITY DEPOSIT:** A lease usually will provide for a security deposit to be paid when the lease begins. For the first two years, the landlord can earn any interest on this deposit, but after that the landlord can only keep 1% interest. The rest is yours. When the lease ends, you should give the landlord written notice of your forwarding address and request a refund of the security deposit. Unless the lease provides otherwise, you cannot use the security deposit for payment of your last month’s rent. The landlord can deduct from the deposit costs of cleaning or repairing the apartment but must give you written notice of any deductions and remit the balance to you within 30 days after your notice. You can be evicted on as little as 10 days’ notice for failure to pay rent due under the lease.

**Family Matters**

As we have already illustrated, many of the decisions you make have legal consequences. This is especially true in your personal relationships. These decisions are particularly important because they affect not only you but also people you care for.
**Getting Married**
If you are 18 or older, you can be married in Pennsylvania without your parents’ consent. The first step is to get a marriage license.

You and your intended spouse must first go to the Marriage License Bureau at your local county courthouse, at least three days before the wedding ceremony. That office will issue a marriage license, which you must present to the individual performing your wedding ceremony. A member of the clergy, a judge, or a magisterial district judge can perform a wedding. It is no longer possible to enter into a common law marriage in Pennsylvania.

**Children**

**Child Support:** All parents have a legal duty to support their children, even if the parents were never married to each other. The obligation to support begins when the child is born, and continues until the child reaches age 18, or graduates from high school, whichever comes first. In some cases, the support obligation may be terminated before these events, or may continue past graduation or age 18.

Child support becomes a legal matter when parents do not reside together. The parent who provides primary residential custody of the child is entitled to receive a periodic support payment from the non-custodial parent. The parents can agree to an amount of support that the custodial parent is to receive, or the custodial parent can request that the court establish an order for the correct amount of support.

Pennsylvania has uniform support guidelines that are based on each parent’s income. Court ordered child support will always be deducted from a parent’s regular paycheck and paid to the custodial parent through the state child support office. The support obligation also may include a responsibility for health insurance, medical expenses, and day care costs.

**Custody:** When married parents separate or the parents do not live together, custody of the child becomes an issue. Each parent has a right to participate in the upbringing of his or her child. Custody involves not just where the child lives and how often the child sees the other parent, but also how the parents share decisions and information about their child.

Most parents have shared custody of their children. This means that both have input into important decisions on how the child will be raised. Often, one parent has primary residential custody, and the other has partial custody. Partial custody means that the noncustodial parent may have custody of the child for specific periods of time, and may enjoy that time with the child as he or she sees fit.
Parents always have the right and opportunity to agree to a schedule of custody and partial custody. That agreement can be made into a court order to give both parents the security of legal enforcement, but each parent always has the legal right to request that a court make the custody decisions. In some counties, the first step is an informal custody conciliation conference. Forms to request a custody conference can be obtained at the Custody Office in your local county courthouse.

**Divorce**

Unfortunately, marriages do not always work out. Divorce is the legal dissolution of the marriage. As part of a divorce, the couple’s property and bills must be divided fairly.

In Pennsylvania, a divorce can be filed if one spouse believes the marriage is irretrievably broken. That means that there is no chance for reconciliation. The divorce can then be finalized after a three-month waiting period if both spouses consent, or after a two-year separation. It also is not unusual for custody and support matters to arise during a divorce. There are very important long-term consequences to the decisions you may make in a divorce, and it is very important that you have the advice of a skilled lawyer. It is also important to note that the divorce process is more likely to proceed better when people try to resolve their differences without animosity.

**Protection From Abuse**

Pennsylvania has a special law, called the Protection From Abuse Act, to protect individuals who share a household, or are in a personal relationship, from physical abuse or threats of abuse. If you are involved in a domestic abuse situation, immediately call the police. You also can contact the Protection From Abuse Office at your local county courthouse to begin legal proceedings without cost.
4. GETTING STUCK AND UNSTUCK

The best way to avoid getting “stuck” with a problem is often thinking about the consequences before you decide to do something. Despite your best efforts though, you cannot control everything. There are going to be problems that you cannot control or anticipate.

Small Claims Court

Small claims court can be a way to resolve smaller claims without long delays and expensive lawyer fees. If you are involved in a dispute over money that involves $12,000 or less, a complaint can be filed in the office of the magisterial district judge having jurisdiction where the defendant (the person being sued) resides or where the cause of action (the contract, note, or accident) occurred. In Philadelphia, complaints involving cases of $12,000 or less are brought in the Municipal Court of Philadelphia.

Suit is filed by completing a rather simple complaint that identifies the parties, summarizes the amount sued for, and the basis of the claim. The judge can try to resolve the dispute or enter judgment for one party or the other. Either party can appeal the judgment of the magisterial district court within 30 days to the Court of Common Pleas.

Claims for Injury or Damages

CALL THE POLICE if you are involved in an automobile collision. If anyone is injured, emergency services should be contacted. If damage is minor and no one is injured, the police will get information from each driver and prepare a short form report, a copy of which should be given to you. It will identify the drivers and their addresses, the vehicles, insurance companies, and policy numbers. If there is major damage or someone is injured, the police will conduct a full investigation.

Determine whether anyone was injured. If anyone appears to be injured, be careful not to move them, but action should be taken if there is an immediate need to do something to protect someone from further injury. Exchange information with the other driver and answer questions police ask, but do not say anything you might regret. (i.e. “I’m sorry it is my fault.”)

CONTACT YOUR INSURANCE COMPANY: You should contact your insurance company promptly and give the agent information about the accident. Insurance companies usually investigate once notified of a loss. If your car needs repair and your policy provides for a rental car, you can make arrangements for one.
It may be easier for you to have your car repaired under your collision coverage even if the other driver was at fault – unless the other insurance company offers to take care of it. Your insurance company would pay for repair of the damages less your deductible, but your insurance company, not you, would then seek to recover those costs.

Insurance companies increasingly are giving you their own estimate of what they think repairs should cost. You have a right to get your own estimates from repair shops you trust and the right to expect that repairs will be done properly. An insurance company’s own estimate may not match what a reputable repair shop will charge for that same work.

**CLAIMS:** In Pennsylvania, a suit seeking recovery of money damages for personal injury or property damage arising out of an accident or other wrongful act must be filed within 2 years after the loss, unless claims are settled prior to that time. If you may have a claim against a governmental unit, you must either file suit against or give written notice of a potential claim to the governmental unit within 6 months after the loss. If you suffered serious injuries that were not resolved, you cannot intelligently settle a potential claim until you know how your condition will end up.

**YOU MAY NEED ADVICE:** Most lawyers will represent clients in claims for personal injury on what is called a “contingent fee” basis. In this arrangement, the lawyer represents you and receives as a fee a defined percentage of the money recovered in settlement of the case or after trial. If there is no recovery, there is no fee. In any case, clients are responsible for costs such as filing fees, fees paid to investigators or other professionals, and the like. You have a right to ask about those costs before they are incurred.

**IF YOU ARE INJURED** or sustain damage to property in circumstances other than an auto accident, many of the concepts discussed above still apply. If injured on someone else’s property, you should contact the property owner or manager as well as the agent for your medical insurance. If injured while on the job, you should promptly notify your employer.

**IF ASKED TO SIGN FORMS** for submission of claims, fill them out carefully – and ask a lawyer for help if you think you need it. After any claim, you may be contacted and asked to give a statement. Be careful here because what you say can be used against you. If you have been injured, you may be asked to authorize the other party or its representatives to obtain information about your treatment or earnings. This is a legal request, but, like statements, it can affect your claim – so discussing it with your lawyer in advance will help.
Criminal Law
Criminal law involves issues that are interesting to discuss, but in the “real world,” no one wants to deal with them. If you have to deal with them, it will be because you have been charged with a criminal offense, been a victim of one, or witnessed one. None is fun.

A crime is an offense against the public. There usually is a victim, who was hurt or who suffered damage or loss. A crime gives rise to two potential actions – a criminal charge for violating public standards and a private action by the victim for the harm sustained. In a criminal case, a conviction can result in a jail sentence, a fine, and “restitution,” or paying the victim for losses he or she suffered.

YOUR SAFETY COMES FIRST: If you can safely run away from a situation, run away. If you cannot run away, it usually is safest not to resist because you could be more seriously injured or killed. If you are accosted in a public place, screaming or making loud noise can discourage the perpetrator or attract the help of others. Home burglaries often take place when no one is home, but if you come home and suspect a burglar is inside, immediately go to a safe location, like a neighbor’s house, and call the police. Do not try to apprehend the burglar yourself.

IF YOU WITNESS A CRIME OR ARE THE VICTIM OF A CRIME, call the police as soon as you can. When you do, identify yourself, tell them where you are and what happened to you or what you saw. If you or anyone else has been hurt, you should call 911 and ask for medical help. When police arrive, tell them as accurately as possible what happened or what you saw. Little details can be important, but avoid embellishing what you really saw.

You may also be asked to write down a statement of what you saw and sign it to verify that it is what you believe occurred. You may be asked to tell the story of what happened more than one time and may need to give some of your belongings to the police so they can conduct tests on them.

IF STOPPED WHILE DRIVING and the police officer suspects you may be under the influence, you can be required to participate in a field sobriety test involving physical dexterity, or instructed to take a blood alcohol or breathalyzer test. You do not have to submit to either, but if you refuse, you lose your driver’s license for 1 year.

If you are issued a traffic citation, you will likely have to pay a fine and may receive points on your license. When you receive a traffic citation you may choose to either plead guilty or not guilty. If you plead guilty you will need to pay the fine and any fees that are included. If you plead not guilty you will need to attend a hearing to present your case before a judge. It is important to either pay the ticket, or appear in court to
plead not guilty. If you do not respond to the citation or appear in court within your allotted time, the court may issue a bench warrant for your arrest.

It is important to know how many points you have on your license. If you receive six points on your license, you will be required to take a special written examination in order to keep your license. If you pass the test within thirty (30) days of receiving the notice, two points will be removed from your driving record.

If you reach six points a second time, you will be required to attend a departmental hearing. For the third and subsequent times that you reach six points, you may have to attend additional departmental hearings and may have your license suspended.

For every twelve months of driving without a traffic violation, three (3) points will be removed from your license. Once you have maintained zero (0) points on your license for a period of twelve months, any future addition of points will be treated as a first offense.

There are some traffic offenses which may cause you to lose your license even without any points on your license. These include things like: operating a vehicle under the influence of alcohol or drugs, fleeing from a police officer, racing on highways, driving when your license is already suspended or revoked, and failure to stop for a school bus or at a railroad crossing when the crossing gate or barrier is in place.

Additional information on traffic violations can be found at www.dot.state.pa.us

**IF YOU ARE ARRESTED**, tell the police your name, address, and telephone number. Do not resist arrest or struggle with the police, for that becomes a separate crime. After an arrest, you may be searched, photographed, and fingerprinted. You can answer other questions, but you may refuse to make further statements to police without your lawyer being present. You have the right to speak with your lawyer.
UNDERAGE DRINKING AND DRIVING UNDER THE INFLUENCE: It is illegal for you to consume beer, liquor, or any alcoholic beverage until you reach 21 or, at any age, to possess or consume a drug or substance that is illegal. If you are convicted of underage drinking, you will be fined for that offense, and your driver’s license will be automatically suspended, 90 days for the first offense and longer for subsequent offenses. If you are underage and get convicted of driving while under the influence, you not only face penalties for the offense but your driver’s license will be automatically suspended for up to 1 year. A first offense involves a minimum fine of $300 and 2 days in jail. Penalties sharply increase for later convictions.

DRUG CRIMES: If you are convicted of having knowingly possessed a controlled and prohibited drug or drug paraphernalia, you commit separate crimes. The range of fines and imprisonment depend upon the type and amount of drug involved. An even harsher sentence will occur if you are convicted of selling drugs.

A number of crimes, many unrelated to driving, can lead to the automatic suspension of your driver’s license. For example, most convictions involving drugs or alcohol will result in suspension of your driver’s license. The license is a “privilege,” not a right – a privilege the State can take away from you.

You can get in trouble even when others leave illegal items in your custody, car, or apartment. Real friends do not put each other in that position. Being a “pal” can get you into trouble. Your future is more important than that.

The consequences for convictions related to drugs can range from loss of your driver’s license to fines, probation and imprisonment.

You can also get in trouble for having, using or providing alcohol to others. If you are under the age of 21 and consume alcohol you can get in trouble for possessing the alcohol while underage as well as for consuming the alcohol. If you are over the age of 21, you can get in trouble if you have too much alcohol in your system while driving a vehicle or even if you appear to have consumed too much alcohol and are in a public place. You can also get in trouble if you provide alcohol to people who are under the age of 21. The consequences for convictions related to alcohol are similar to those related to drugs and can include loss of your driver’s license, fines, probation and imprisonment.

Both drug and alcohol crimes may also require you to participate in a treatment program if a judge is concerned your behavior is harmful to you or another and believes a treatment program may be helpful for you. Treatment programs can range from attending meetings with other drug and alcohol users, to spending time in a facility with professional medical help.
**The Court Process:**

The judicial process can seem very complicated due to the multiple stages and players involved. Each player likely views the entire process very differently.

If you are accused of committing a crime, you would enter the judicial process as the defendant in a criminal case. The police will collect evidence to show that you have committed the crime. The opposing party in a criminal case is the government who is represented by a prosecutor or district attorney. The prosecutor will present the evidence collected by the police and you will need to either show that the evidence does not show that you committed the crime, or that their evidence is faulty in some way. If you are accused of committing a crime, you have a right to have an attorney represent you in court in order to help you defend yourself against the evidence. It is important to stay calm during the court proceeding and to be honest with your attorney so they can represent you properly.

If you are not accused of a crime, but were present when the crime happened or observed the crime occurring, you are a witness to the crime and may be asked to tell what you saw. As a witness you may be interviewed by the police while they are gathering evidence to determine what occurred. You may later be asked to appear in court to tell your story again. If you are asked to appear in court, you will likely recieve what is called a subpoena. A subpoena is a document used to collect information during a court proceeding. Subpoenas can be used to request documents and items in addition to requesting that a person appear at a certain time to tell their witness story. If you receive a subpoena to appear in court, you should prepare yourself to tell your story. If you have any concerns about sharing your story, you can contact an attorney to help you understand the process and any potential consequences it might have for you.

As person against whom a crime is committed is called a victim. In the criminal court process, a victim often acts very much like a witness. They share the details of what happened with the police while evidence is being collected and then again share their story with the court. As a victim it is important to cooperate with the police and prosecutor as much as possible in order to ensure that the correct person can be held responsible for the crime.

In court, you may be treated differently if you are an adult or a juvenile/minor. A minor is a person who is under the age of 18. If you are a minor who is a witness or victim of a crime, there may be protections and changes to the way you testify and tell your story. If you are a minor who is accused of committing a crime, you may have less serious penalties for your behavior and may have opportunities to keep your criminal convictions sealed or "secret." This is because the court system wants to allow minors the opportunity to change the way they are living without as many or as harsh of consequences. However, it is important to know that even if you are under the age of 18, you can be treated as an adult in court depending on what crime you have committed or what activities you are involved in.
5. MAKING IT WORK

Being an adult means having more responsibilities to consider than you may have thought. The purpose of this book is not to scare you – but to help you understand that there are many issues in the real world that you will have to deal with eventually. The better you deal with them, the happier and more successful you will be. It is important that we have rights. Everyone else has those rights, too, which requires that we respect them and understand that we are all in the same boat. We need to understand our rights and the rights other people have – and then work to protect them all.

As this book has tried to point out, adults are responsible for what they do. Every decision involves consequences – some good and some bad. Just as we expect to receive something from a bargain, so do the other people involved in it.

If you consider all that might be involved in something, it will be easier to balance the good and the bad and address in advance issues that may come up. If you consider how a purchase will affect your budget and whether you really can afford it, you may decide to wait before making a purchase. This way you can avoid financial problems. We are bound by the contracts and notes we sign even if we do not read them first. So, by knowing what you expect the document to say and making sure it says that, you can avoid mistakes.

Something may seem like a great idea or something you should do, but if that something might lead to your being arrested and charged with a criminal offense, it is not something you should participate in.

Voting

We do not live in a democracy. We live in a democratic republic. Whether you choose to get involved or not, those who do vote elect a president and congress members to represent us on the federal level; a governor, state congress members, and other officeholders on the state level; and, in the municipality in which we live, county commissioners or executives, a mayor or supervisors, and members of councils. Those elected have the authority to act as our representatives. These elected officials represent you even if you forgot to vote or felt it was not worth your time.

REGISTER: Once you reach age 18, you are eligible to vote. Registering to vote is easy. You can register by mail on a form available at the Post Office, court house, and many other places. As long as you register at least 30 days in advance, you will be eligible to vote in the next election. If you move within Pennsylvania, use the same form to change your address and registration district (which affects where you vote).
When you register to vote, you decide which political party, if any, you want to be affiliated with. If you register as a Democrat, Republican, or other party having nominees elected, you are eligible to vote in the primary election for that party. If you register to vote as an independent, you may vote in the general election but not in the primary election.

**PRIMARY ELECTIONS** are held each spring. Primary elections give us a say as to whom our party nominates – a decision that can make a real difference in terms of the general election.

**THE GENERAL ELECTION:** Each year on the Tuesday following the first Monday in November, the general election is held to fill offices. General elections typically involve only nominees of registered political parties, though we have the right to write-in the name of someone else.

**TERMS OF OFFICE:** On the federal level, members of Congress are elected every even numbered year, with senators every 6 years. The president is elected every 4 years. On even numbered years other than leap years, Pennsylvania elects a governor. State representatives are elected every 2 years, and state senators are elected every 4 years. Different state positions are up for election every even-numbered year. Odd-numbered years are those in which local offices are filled, including county officials, judges, mayors, supervisors, council members, and members of school boards. Judges on Pennsylvania’s appellate courts are elected and stand for retention in odd-numbered years.

The people holding all of these offices make decisions that affect you. Members of the U. S. Congress vote on federal laws and budgets. State representatives and senators vote on Pennsylvania laws and its budget. School boards make decisions that affect the educational opportunities offered and their costs. Judges decide disputes and on the appellate level, review lower court decisions and the validity of laws. County and municipal officials are responsible for providing a range of services and overseeing the development of land in their community.

**GO TO THE POLLS:** In Pennsylvania, polls are open each election day from 7 a.m. until 8 p.m. Voting takes very little time. You have to go to the poll for the election district in which you live and where you are registered. There, you sign a voter’s certificate. As long as you are in the right district and your signature matches that on file, you will then be instructed on the voting procedure for your district. Depending on your location, this could include a touch screen system, a voting booth, or a paper ballot.
Only about one-half of the people eligible to vote actually register to do so. Of registered voters, one-half or more do not vote. That means that important decisions involving elections, retention of judges, and provisions of our state’s constitution are decided by 25% or less of those eligible to be involved.

We are all lucky to live in a country that offers us the right to vote. With that right comes a responsibility to become an informed citizen and participate in the process. The better informed we are and the more we vote, the more attention those running for and holding office will pay to us – and the more likely it will be that we will have the government we want.

**Selective Service Registration**
Federal law requires that all men, upon reaching age 18, register with the Selective Service Administration (SSA), which maintains records of those eligible for military duty should an actual “draft” become necessary. There is no draft today, and Congress would have to pass a law to create a draft.

**TO REGISTER**, go the U. S. Postal Service and ask for a Selective Service registration form, which asks for your name, address, date of birth, and Social Security number. Give the completed form to a postal employee. Until you reach age 26, you must notify the SSA of any change of name or permanent address within 10 days.

**IF YOU FAIL TO REGISTER**, you commit a federal crime and are subject to a fine of up to $10,000 and 5 years imprisonment. You could also be denied financial aid for college, and men have to indicate on federal financial assistance forms if they are registered.

**Social Responsibility:**
One of the most important lessons to learn is how our actions can affect others. Having a strong social responsibility means recognizing how your behavior affects others and making choices with that in mind. Often people will do something to damage the property of another. Damage to property means to change property or items that belong to someone else. You may be familiar with graffiti from seeing it in painted on buildings and although graffiti may often look very nice, it is damage to someone else’s property since it is often done without the owner’s consent. Changing property that belongs to another person can impact the value of the property. If the damage is done to a building or house, it may also impact the value of the houses or buildings nearby. This is also true if you own a house and do not take care of it. When houses and buildings decrease in value in an area they can often increase the instance of crime and decrease safety. It is important to be respectful of the property of others in order to help keep neighborhoods and communities safe for yourself and for future generations.
Getting Involved
When you get involved in politics or volunteer, you will meet different people and learn what they and others are doing. You will develop a better idea of what is important to you – the issues you really care about. Government affects all of us and elections make a difference. Many organizations survive only with the volunteer help of people who care. Those running for office need the help of people who believe in them. You can make a difference by getting involved in a cause you consider important. You will find that you gain as much as you give.

Please remember
Stepping Out has been written for general information purposes and should not be construed as legal advice. Legal advice should be given only upon consideration of facts particular to an individual case and the law applicable to it. For this reason, we recommend strongly that you consult with your attorney regarding any legal problem before taking any action. The contributors to Stepping Out have attempted to accurately summarize certain areas of the law as it currently exists. However, the booklet is not intended to supplant the specific advice of your attorney after consultation on the specific facts of your case. The Pennsylvania Bar Association, the Berks County Bar Association, the Erie County Bar Association and the local bar associations in the Commonwealth of Pennsylvania, its officers, employees and members specifically disclaim any and all liability for actions taken or omissions made in reliance on the statements made in Stepping Out.
Philadelphia Lawyers for Social Equity

Community Outreach Programs:

- Expungement Program
  - Pardons in PA Flyer
  - Intro to Expungement Outline
  - Client Expungement Intake
  - Access Release, Confidentiality Agreement, and Limited Rep Sample Letter
  - Out of the County Expungement Referral List

Contact Information:

Zane Johnson, Esq.
Philadelphia Lawyers for Social Equity
Phone: (267) 519-5323
Email: Johnson@plsephilly.org
PARDONS IN PENNSYLVANIA

WHAT IS A PARDON? A pardon represents total forgiveness of a criminal record. If granted, your entire criminal record would be destroyed. It would restore the rights and privileges that were lost as a result of a conviction including: serving on a jury, holding public office, owning a firearm, service in the military, international travel, and employment in various fields.

Is a pardon right for me?
A pardon is asking the state for forgiveness. They expect you to: 1) take full responsibility for the cases on your record, 2) demonstrate how you have changed, and 3) explain how your criminal record is affecting you and why you need a pardon.

Starting the process
Read more about the process at www.bop.pa.gov and download an application! The application costs $8 and can be mailed to you or downloaded.

TIPS: You do not need a lawyer for the pardon process, just a good story on your application. Have several people read your application, proofread, and give you feedback.

What to expect after submitting
1. Home interview & investigation by the Board of Probation and Parole
2. Merit Review
3. Public Hearing in Harrisburg
4. Governor’s Final Decision

Eligibility
- Only for charges in Pennsylvania
- Can be misdemeanors or felonies
- Federal charges are NOT eligible
- Preferably 7-10 years since last incident
- Preferably active in the community

What else can I do?
Volunteer! Get involved in your community. You have a better chance of getting a pardon if you can prove that you contribute to your community.

Get an expungement! Expungements can automatically remove non-convictions.

Record sealing! If you have no felonies and less than 5 misdemeanors, you might be eligible.

Are you nearing 70 years old? Your record may be eligible to be cleared through expungement.

PHILADELPHIA LAWYERS FOR SOCIAL EQUITY
1501 CHERRY STREET, PHILA PA 19102
215-995-1230
WWW.PLSEPHILLY.ORG
INFO@PLSEPHILLY.ORG
TWITTER: @PLSEPHILLY
INSTAGRAM: @PLSE_PHILLY
FACEBOOK: PLSEPHILLY
Different Types of Expungement Clinics/Events

**Informational Workshop**: The purpose of informational workshop is strictly to provide information about criminal records in Pennsylvania. The information provided should be tailored to match the audiences’ circumstances. Workshops can focus on any number of different issues related to criminal records such as expungement eligibility, pardons, rights when seeking employment, and the stigma that surrounds a criminal record.

**Full-Service Expungement Clinic**: The purpose of a full-service expungement clinic is to give provide people with information on criminal records, and gather the information you would need in order to file an expungement on their behalf. The clinic organizer is agreeing to provide free representation to those who qualify. A full-service clinic requires pro-bono volunteers to do intake, draft and file expungement petitions, and represent people in court.

**Do-It-Yourself (DIY) Expungement Clinic**: DIY expungement clinics are designed to teach people how to draft and file their own expungement petitions. DIY clinics are a nice way to provide people with the direct services they need without having to provide follow-up services, but require a lot of planning to pull off correctly.

**Step by Step - Planning an Expungement Clinic**

1. Determine what type of event you want to hold
   - Do you want to hold an informational workshop, full service clinic, or something in between? The nice thing about holding an expungement clinic/workshop is that there are so many ways to tailor the event to meet the needs and constraints of everyone involved.

2. Find a location
   - Think about what the location will need in order for the clinic to be successful. Will you need Internet? How large of a space do you need to accommodate all participants and volunteers? Is the location easily accessible?

3. Find & train volunteers
   - Volunteers are the fuel that makes the engine go. Make sure you have enough volunteers to handle intake and any follow up work that must be completed after the clinic including drafting and filing petitions on behalf of participants who are accepted as pro bono clients. You’ll also want to make sure your volunteers are properly trained.

4. Determine intake procedures
   - There are a number of different ways to conduct intake, and how you decide to handle it is a matter of preference. Whatever you method you choose, the most important part is making sure you get all of the information that you would need in order to file an expungement petition on someone’s behalf.

5. Determine who will be responsible for follow-up
   - If you are holding a full service clinic, you must decide who will be responsible for following-up with and representing those who are accepted as pro-bono clients. You can avoid a lot of frustration by knowing who is responsible for what ahead of time.
Philadelphia Lawyers for Social Equity (PLSE) is a non-profit legal aid organization that provides free expungement representation, among other services, to low-income individuals with criminal records in Philadelphia. By completing and signing this form, you are authorizing PLSE to use your personal information for the purpose of representing you for an expungement of your criminal record. This authorization is only a request that PLSE help you. After you complete and sign this form, PLSE will review it and contact you within 30 days to let you know if you have been accepted as a client.

Full name: ____________________________________________________________________
Alias: ________________________________________________________________________
Birthdate: ___________________________ Social Security No. _________________________
Email: _______________________________________________________________________
Gender (optional): _________________________ Race (optional): ______________________
Current address: ________________________________________________________________
Best telephone number to call me: _____________________________ (is this a cell? ________)
Emergency Contact Name: _________________________ Telephone No. _________________

1. Has your criminal record stopped you from getting housing?  Yes ___  No ___
2. Has your criminal record stopped you from getting employment?  Yes ___  No ___
3. Has your criminal record been used against you in some other way?  Yes ___  No ___
   If you answered yes to any of these 3 questions, please explain on the back of this form.

PLSE partners with other organizations to conduct research using information from our clients. This information is used to improve PLSE services, conduct research and publish articles, and advocate for criminal justice reform. No personal information you provide will be shared publicly in any way that identifies you.

May PLSE share your information for these purposes?  ☐ Yes  ☐ No

Date: ______________________ Signature: ____________________________________________
This form is to be completed in ink by the requester – (information will be mailed to the requester only). If this form is not legible or not properly completed, it will be returned unprocessed to the requester. *A response may three months or longer.*

<table>
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<th>REQUESTER NAME</th>
<th>ADDRESS</th>
<th>CITY/STATE/ZIP CODE</th>
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<th>CONTACT TELEPHONE NUMBER (INCLUDING AREA CODE)</th>
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<th>NAME/SUBJECT OF RECORD CHECK (FIRST)</th>
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<th>MAIDEN NAME AND/OR ALIASES</th>
<th>SOCIAL SECURITY NUMBER</th>
<th>DATE OF BIRTH (MM/DD/YYYY)</th>
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The Pennsylvania State Police response will be based on the comparison of the data provided by the requester against the information *contained in the files of the Pennsylvania State Police Central Repository only.* Questions concerning the expungement process must be directed to the court of jurisdiction.

Questions? Visit [https://epatch.state.pa.us](https://epatch.state.pa.us) or call 1-888-QUERYPA (1-888-783-7972), option 2

**ACCESS & REVIEW - NOT FOR EMPLOYMENT PURPOSES**

**AVAILABLE ONLY TO SUBJECT OF RECORD OR LEGAL REPRESENTATIVE**

**MUST BE MAILED INTO THE CENTRAL REPOSITORY WITH THE FOLLOWING:**

- COPY OF GOVERNMENT ISSUED PHOTO ID FOR SUBJECT
- LEGAL AFFIDAVIT OR LETTER OF REPRESENTATION (IF APPLICABLE)
- CERTIFIED CHECK OR MONEY ORDER FOR $20.00

**WARNING:** 18 Pa.C.S. 4904(b) UNDER PENALTY OF LAW - MISIDENTIFICATION OR FALSE STATEMENTS OF IDENTITY TO OBTAIN CRIMINAL HISTORY INFORMATION OF ANOTHER IS PUNISHABLE AS AUTHORIZED BY LAW.

*Homeland Security is Everyone’s Responsibility - Pennsylvania Terrorism Tip Line 1-888-292-1919*
I, _______________________________________, participated in the Philadelphia Lawyers for Social Equity’s (PLSE) expungement eligibility intake clinic.

As part of the intake, I provided PLSE with personal and identifying information, including but not limited to, my social security number, which is required to complete and file an expungement petition pursuant to Pennsylvania Rule of Criminal Procedure 790. I understand that PLSE will store and use such information to provide me with free legal services. I understand that PLSE will not share my personal and identifying information without my permission.

___ I give PLSE permission to store and use this information for these purposes.
___ I do NOT give PLSE permission to store and use this information

I understand that PLSE is currently partnering with Drexel University to conduct research that will assist PLSE in its advocacy and outreach efforts. I understand that PLSE will be sharing personal information gathered during today’s intake with Drexel University, and that Drexel University will store and utilize this information for the purpose of conducting said research. I understand that if my personal information is shared with Drexel University it will only be used for the purpose of conducting this research and that none of my personal or identifying information will ever be shared publicly.

___ I give PLSE (and its academic partners) permission to share and use my personal information for these purposes.
___ I do NOT give PLSE permission to share my personal information for these purposes.

PLSE often uses images (including photographs, video, likeness and other depictions) of clinic participants for the purposes of advocating for criminal justice reform, educating the public, fundraising and promoting the organization, in all mediums including print and electronic. PLSE does not use these images alongside any personal or identifying information.

___ I give PLSE permission to use my image for these purposes.
___ I do NOT give PLSE permission to use my image unless I specifically agree to the use.

Date: _______________ Signature: _______________________________________________
Date: ___________

Dear Applicant:

Thank you for attending the Philadelphia Lawyers for Social Equity’s (“PLSE”) Criminal Record Expungement Project expungement eligibility intake clinic. You have just participated in a one-on-one intake with a law student volunteer from Penn Law. After the clinic, a PLSE attorney will review your intake to determine whether we are able to handle your expungement.

PLSE is dedicated to working toward just outcomes for low-income individuals who have had contact with the criminal justice system. Within 30 days from today, we will contact you by telephone or letter to let you know whether we can provide free legal representation with regards to your criminal record.

If we are able to handle your case, we will be representing you for the limited purpose of seeking an expungement or redaction in the Court of Common Pleas of Philadelphia. We are unable to help with any other type of legal issues including other criminal law or criminal record issues, violation of probation hearings, pardons, child abuse records, driver’s license issues, or any other type of professional licensure.

Your participation in this process is of absolute importance. Accordingly, if your number and/or address changes, please call us at 215.995.1230 and leave a message with your updated information or send us an email to info@plsephilly.org.

Thank you for your cooperation.

Sincerely,

PLSE CLINIC VOLUNTEER
VOLUNTEER CONFIDENTIALITY AGREEMENT

I. **Purpose.** The purpose of this Confidentiality Agreement is to protect the identity and privacy of our applicants and clients. Philadelphia Lawyers for Social Equity's Criminal Record Expungement Project (hereinafter “C-REP”) volunteers obtain personal and sensitive information about our applicants and clients. Therefore, it is extremely important to refrain from disclosing any information to third parties about our applicants and clients to avoid causing them harm.

II. **Confidential Information.** Applicant and client information should never be discussed in the presence of third parties, except under the Terms below. Further any files and/or documents containing applicant and/or client information should never be shared or released to third parties, except under the Terms outlined below.

III. **Terms.** By signing this Confidentiality Agreement, you agree to the highest ethical standards and to abide by the following provisions:

1. All communications, including electronic communications between C-REP staff, volunteers, and law students are confidential.
2. The volunteer shall not disclose applicant and/or client information to a third party without the applicant’s and/or client’s express written consent to release the information.
3. The volunteer shall not disclose applicant and/or client information to a third party without C-REP’s knowledge and consent.
4. The volunteer understands that s/he has a duty to keep applicant and client information confidential throughout their term as a volunteer and after their volunteer status ends.
5. The volunteer understands the failure to abide by the terms of this Confidentiality Agreement may result in the termination of their participation with C-REP.

IV. **Volunteer Responsibilities.** By signing this Agreement, the volunteer agrees to follow through with all volunteer commitments. This includes attending all intake sessions signed up for- and notifying the Intake Coordinator in advance if unable to attend. Volunteers must complete their assignments by the specified time.

I, __________________ (print name), have read the above Volunteer Confidentiality Agreement and understand its terms and my responsibilities.

Volunteer Signature            PLSE Supervising Attorney            Date
CRIMINAL RECORD EXPUNGEMENT PROJECT REFERRAL LIST

a) Philadelphia
   i) PLSE’s Criminal Record Expungement Project
   ii) Community Legal Services (CLS)
       Center City Office
       1424 Chestnut Street
       Philadelphia, PA 19102
       (215) 981-3700
       Law Central North Central
       3638 North Broad Street
       Philadelphia, PA 19140
       (215) 227-2400
       http://www.clsphiladelphia.org/
   iii) Philadelphia Legal Assistance
       (PLA)
       42 South 15th Street, Suite 500
       Philadelphia, PA 19102
       (215) 981-3800
       http://www.philalegal.org/
   iv) Defender Association of Philadelphia
       1441 Sansom Street
       Philadelphia, PA 19102
       215-568-3190
       NOTE: for juvenile matters, call the Juvenile Expungement Hotline at 267-765-6770
       http://www.philodefender.org/

b) Surrounding Counties
   (Bucks, Chester, Delaware, and Montgomery)
   i) Legal Aid of Southeastern Pennsylvania (LASP)
      410 Welsh Street
      Chester, PA 19013
      (610) 874-8421
      Toll-Free Helpline: 1-877-429-5994
      (M-F 9 AM-1 PM)

   (Eligibility is determined by monthly income, current assets, family size, type of legal problem, and residency http://www.lasp.org/)

*NOTE: Even if you live in Philadelphia, you may qualify for services at Legal Aid of Southeastern Pennsylvania if you have a referral from a Pennsylvania Legal Aid Network (PLAN) agency or PLSE.

   c) Delaware County
      i) See Legal Aid of Southeastern Pennsylvania (LASP) above

      ii) Delaware County Public Defender
          Office
          Sweney Building
          313 West Front Street
          Media, PA 19063
          (610) 891-4100
          http://www.co.delaware.pa.us/depts/defender.html

      iii) Office of Judicial Support,
          Delaware County
          (Information about how to file your own expungement petitions)
          Government Center
          Rm. 126
          201 West Front Street
          Media, PA 19063
          (610) 891-4370
          http://www.co.delaware.pa.us/courts/app/expugprocedure.pdf (What to do if you are seeking an expungement after completing ARD)
          http://www.co.delaware.pa.us/courts/app/expugpacket.pdf (Delaware County Post-ARD Expungement Packet)

          NOTE: you must include a Pennsylvania State Police Criminal Background Check completed
within 60 days of filing your petition

http://www.portal.state.pa.us/portal/server.pt?open=512&objID=4451&
&PageID=458621&level=2&css=L
2&mode=2 (Instructions for requesting criminal background check)

When you file, be sure to include an original of the expungement petition and order and seven (7) copies. If the case went to the Court of Common Pleas it is $16.00 per petition and if it did not, it is $21.50 per petition.

iv) Delaware County Bar Association
(Referrals for private attorneys to file your expungement petitions)
335 West Front Street
P.O. Box 466
Media, PA 19063
(610) 566-6627
http://www.delcobar.org/
Free Expungement Petition Template:
http://www.pacourts.us/NR/rdonlyres/F0D78A40-D9DD-4749-A299-
23E59FEEC558/0/PetitionforExpungement490_030912.pdf5ghccjg

d) Montgomery County:

i) See Legal Aid of Southeastern Pennsylvania (LASP) above

ii) Montgomery County Public Defender
Swede and Airy Streets
Courthouse 2nd Floor
Norristown, PA 19404
(610) 278-3295
http://www2.montcopa.org/montco/Resources/serviceinfo.asp?Organiza

iii) Montgomery County Clerks of Court
(Information about how to file your own expungement petitions)
Stop by their office to pick up expungement packet (8:30 AM-4:15 PM M-F)
Or order by mail:
Include:
- $5 money order
- your name
- case number
- brief description of case
- self-addressed, stamped envelope so they can mail packet back to you.

Send to:
Montgomery County Court House
Attn. Clerk of Courts
P.O. Box 311
Norristown, PA 19404

Filing an Expungement Petition/Order costs $25.25 +$11.25 per number of certified copy
They will need to make at least 3 copies of each original expungement order and petition (1 for clerk, 1 for sheriff, 1 for you) (court keeps original)
http://coc.montcopa.org/coc/site/defa ult.asp

iv) Montgomery County Bar Association
(Referrals for private attorneys to file your expungement petitions)
100 West Airy Street
Norristown, PA 19404
(610) 279-9660, ext. 201 or
(610) 994-3656
http://www.montgomerybar.org/
York County Bar Association

**Community Outreach Programs:**

- Modest Means Pamphlet
- Legal Services Flowchart
- Criminal: Act 5 and CHRIA Flow Charts
- Understanding When Grandparents and Others Can Seek Custody*

**Contact Information:**

Victoria Connor, Executive Director
York County Bar Association
137 E Market St, York, PA 17401
Phone: (717) 854-8755
Email: victoria@yorkbar.com
NEED AN ATTORNEY BUT DON’T KNOW IF YOU CAN AFFORD ONE?

The York County Bar Association’s Modest Means program helps low-income York County families find affordable legal assistance in the areas of family law and criminal law.

Modest Means attorneys have agreed to charge reduced rates to clients referred through this program. Eligibility is based on the type of legal matter, household income and asset levels, and the availability of Modest Means attorneys.

Download the application here – yorkbar.com (select For the Public tab). You will be contacted after your application has been reviewed. If you qualify, there is a $25.00 application processing fee. Reduced attorney rates charged (Criminal and Family Law only): $100 per hour; 60% of typical retainer (upfront deposit against fees).

CONTACT US:
717-854-8755
EMAIL INFO@YORKBAR.COM
YORKBAR.COM

ATTORNEY CONNECTION

MAKE THE RIGHT CALL FOR THE RIGHT LAWYER.

Attorney Connection —
York’s premier resource for your legal needs.

Need an Attorney?
Call 717-854-8755 with confidence.

The YCBA’s Lawyer Referral & Information Service meets the American Bar Association’s stringent standards and has been making quality referrals to the York community for over a decade. Referrals are based on the type of legal matter. We have a comprehensive practice area list which allows us to make the most appropriate referral.

For a $50.00 fee, you will be connected with an insured and licensed attorney, a member in good standing of the YCBA, with the knowledge you need. The referral fee provides you with a 30-minute consultation with the attorney. At the consultation, on-going fees should be discussed if you wish to retain the attorney’s services.
The York County Bar Association created the York Lawyers for the Arts (YLA) program to help the growing arts community in York County find legal assistance. YLA provides pro bono (free) and modest means (reduced fee) arts-related legal representation and education to low-income artists and nonprofit arts and cultural organizations. To protect themselves and their creative endeavors, artists should understand certain legal and business matters. We believe that artists should understand certain legal and business matters to protect themselves and their creative endeavors. To do so, we offer legal counseling, educational programs, and more information contact:

Janelle Black, Esq., Director of Legal Services and Advocacy
Email: janelle.black@yorkbar.com or call 717-854-8755
Visit www.yorkbar.com to download an application!
HOW IT ALL HAPPENS

ARREST

criminal record information is created, saved, and shared

PRE-TRIAL

DA Discretion

FORMAL CHARGES

BY THE DA

DA Discretion

DIVERSION PROGRAM

(FOE EXAMPLE: ARD)

FORMAL CHARGES

by the DA

PLEA BARGAIN

95% of cases

TRIAL

NON-CONVICTION DATA

acquittal, not guilty, nolle prossed, dismissal, charges withdrawn

CONVICTION DATA

guilty and guilty plea

UNDERAGE DRINKING

turn 21 yrs old

SUMMARY OFFENSE

arrest/conviction free 5 years

DIE

OVER 70 YRS OLD

arrest/conviction free 10 years

PARDON

if granted by the governor

EXPUNGEMENT

QUESTIONS? in
York County
717.854.8755

York County Bar Association/Foundation
www.yorkbar.com

form created by:
PHILADELPHIA LAWYERS for
SOCIAL EQUITY
Under Act 5 certain criminal records will be able to be sealed as of **November 14, 2016**, and will only be able to be seen by law enforcement and state licensing agencies. The most common offenses that can be sealed include drug possession, DUI, minor theft, disorderly conduct, and prostitution. Use this chart to see if your record can be sealed.

**Can your record be sealed under Act 5?**

- **1st Degree Misdemeanor or a felony offense.**
- **2nd Degree Misdemeanor**
  - Was it for simple assault?
  - Yes
  - No
  - Has it been more than 10 years since you finished your sentence for the offense?
  - Yes
  - No
  - Have you ever been convicted of any felony?
    - No
    - Yes
  - Have you ever been convicted of any 1st degree misdemeanor?
    - No
    - Yes
  - Have you ever had a 1st or 2nd degree Simple Assault conviction?
    - No
    - Yes
  - Do you have 4+ misdemeanor convictions on your record?
    - No
    - Yes
- **3rd Degree Misdemeanor**
- **Ungraded Misdemeanor punishable by no more than 2 years in prison**

**No.** Unfortunately, at this time, your record can not be sealed. You can apply for a pardon from the Governor.

**Possibly.** It is possible that your record can be sealed and CLS may be able to help. Visit us at 1424 Chestnut Street, 9am-12pm, Monday-Friday to learn more.