

# ON YOUR OWN



The Vermont Bar Association



## Your Legal Rights @ 18

4th Edition



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# ON YOUR OWN: YOUR LEGAL RIGHTS AND RESPONSIBILITIES UPON TURNING 18

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# INTRODUCTION

This booklet contains a general overview of the legal rights and responsibilities that a person—perhaps someone like you—often wants to know and should know when reaching legal majority at age 18. For instance, have you ever wondered what you should do if you have a car accident? Or what your rights are if you're arrested? Or what you should look for in buying a used car? Or what your legal obligations are if you get married? **On Your Own** gives you some answers.

The rights explained in this booklet are your legal rights. Just knowing your rights is not enough—using your rights with good old common sense will help you get along even better. There is also a lot of practical advice available in books and magazines that, when combined with a knowledge of your rights, will take you even farther. We know we can't answer all the questions you're likely to have in a booklet this short, but we hope we've answered the important ones. After reading **On Your Own**, if you think there are other topics that we should have covered, or other things that we should have emphasized, please let us know. We'd like to have your opinion.

Because laws may and do change, this booklet is intended for general information purposes only. It does not attempt to provide legal advice. What it does give is a summary of the laws as they existed at the time of publication. Legal advice should come from an attorney of your choice who can take into account all the factors relevant to your particular situation. You should contact an attorney if you need advice about one or more of the subjects covered in this booklet. The information contained in this booklet is current as of October, 2004.

**Sit back and read!**  
**We hope you enjoy *On Your Own* and that you find it useful.**

## ❑ ON THE ROAD: NEW AND USED CARS, REPAIRS, AND RULES OF THE ROAD

### Buying a Car

If you don't already have a car you probably want one. While a new car would be nice, at today's prices it's probably out of the question.

**What type of car do you want? Need? Can afford?** Research your choices by reviewing magazines such as *Consumer Reports* for evaluations.

**Compare prices between two or more dealers who sell the same type of cars.** Remember, the sticker price you see on the window of the car is only the manufacturer's *suggested* retail price. You don't have to pay that much. Car dealers expect you to bargain with them! Magazines such as *Consumer Reports* can tell you approximately what dealers pay for each make and model car, which will show you how much room you have to bargain.

**Compare warranties.** Most new cars come with at least a 12-month or 12,000 mile warranty, but some have 5-year or 50,000 mile warranties. Most warranties at least cover engine, power train and rust corrosion; some may cover more. Others offer virtually free maintenance for the first several years. These differences are important; maintenance and repair costs can be significant over time.

**Consider financing options.** Car dealers offer special low interest financing from time to time which can be a much cheaper way to finance the car than what you can get from a bank or credit union. Compare before you decide where to borrow.

**Buy only the options you want.** Dealers can certainly put extras such as pinstripes, radios, and rustproofing on cars but they must also tell you that you can buy the car without all the extras. You can usually buy these same items from auto parts or auto specialty stores for much less than what the dealer will charge you.

### Dealing with New Car Problems

A problem with your new car can be a frustrating consumer problem. Don't despair! For new car owners Vermont enacted a "Lemon Law" which can result in a refund or new car if the following conditions are met:

- your dealer after three attempts, the first of which occurred during the warranty period, cannot repair a serious manufacturer defect which substantially impairs the use, safety, or value of your vehicle; or
- your vehicle was out of service for 30 or more days during the warranty period; and
- you have not defaulted on your payments

For further advice on what to do with a possible new car lemon, contact the Motor Vehicle Arbitration Board (828-2669).

### Don't Get Abused When You Buy Used!

Used cars can offer great deals but it's hard to really know what you're getting—how the car was driven, maintained or where it was kept. But with a little checking—and using your rights under Vermont law—you can eliminate a lot of the unknowns about a used car you're thinking of buying.

There are three basic rights you have when you buy a used car from a used car dealer: **The right to know about the car's past, the right to a safe car, and the right to know how far the car has traveled.**

#### The Car's Past

Before buying a used car (or truck), ask the dealer the name and address of the previous owner. Under Vermont law you are entitled to this information.

You should call the previous owner and ask about the history of the car. Were there any problems with the car? Was it ever in an accident? If so, what was the extent of the damage? Were there any problems with the car? Was the damage to it fully repaired? What was the mileage on the car (the odometer reading) when the dealer bought it? You should pose these same questions to the dealer.

Some cars come with manufacturer's warranties that may be transferred by the car's previous owner. Check with the dealer or previous owner to see if there is a warranty that can be transferred to you when you buy the car.

The dealer is not required to give you any warranty apart from the manufacturer's, and he or she may ask you to sign a paper excluding any "implied" warranties that you might otherwise have under state law. However, if the car and the price are otherwise acceptable, negotiate the best deal you can: try to get at least a 30-90 day warranty on all of the major systems of the car, and get it in writing.

## The Car's Safety

The safety of any car depends on how much use it has gotten and how well it has been maintained. Ask the dealer and the previous owner to see all available maintenance and repair records.

Older cars with high mileage are likely to have more safety problems than newer cars with low mileage. Safety problems can be caused by rusted-out frame and body parts or worn out mechanical parts.

Always ask to take the car for a ride and have it examined by your mechanic. It is better to rely on an independent evaluation than on the advice of a person who has a financial interest in selling you the car.

In Vermont, a dealer does not have to display a certificate of inspection on the day of sale or transfer of a vehicle. However, if you are satisfied with the information you got from the previous owner and your mechanic—and you have decided to buy the car—insist that the dealer inspect the car and attach a current state inspection sticker to the windshield.

Passing inspection means that the regular and parking brakes, the horn, all lights, the wipers, the suspension, the exhaust system, and the steering work. In addition, the car must have seat belts, a rear view mirror, tires with sufficient tread, proper alignment, no rust holes in the body, reflectors, fenders, and windows that you can see through in both directions. If the car is a 1983 model or newer, it must have a catalytic converter and a filler neck restriction on the gas tank.

The car's appearance can tell you a lot. Check to see if the car has been repainted by looking for paint spray around the locks, along the edge of rubber moldings, and under the hood, trunk and fender well areas. If the car was repainted, try to determine if this was because the car had rust holes repaired, or was in an accident, or had defective paint to start with.

**BE SMART: Get everything the dealer promises in writing.** For example, if the dealer tells you, "If you have a problem in the first 90 days, just bring it back," insist on having the promises stated precisely and reduced to a signed *writing*. Otherwise, if a problem does arise, you will have no proof of what the dealer said and may have difficulty enforcing the promise.

## The Car's Mileage

Anyone who sells you a car must provide a written statement showing the make and model year of the car and the odometer reading (the mileage). The statement should also say whether the mileage on the odometer is the actual mileage that the car was driven, or whether the original odometer has been replaced.

Check the mileage on the vehicle. Does it appear to be low for the year of the car? The average mileage *per year* is about 12,000 to 15,000 miles. This means that the average odometer reading of a four-year-old car is about 50,000 to 60,000 miles. If the mileage on the odometer is a lot lower, it is possible that the odometer has been tampered with.

Other ways of determining the true mileage of the car:

- Examine the date and the mileage indicated on the state inspection sticker located on the inside of the windshield, or on repair orders, and compare with the odometer reading.
- Examine the car's tires. Are the original tires on the car? The original tires should still be on a car that has been driven under 30,000 or 40,000 miles. If the tires have different brand names on them and the odometer reading is low, you should question the mileage. The degree of wear on the tires (as well as on the foot pedals inside the car) may also reveal high mileage.
- If the mileage is low and the car appears to have been repainted, it is possible that the car was involved in an accident. Some cars that are declared "totaled" are sold to used car dealers or body shops, rebuilt, and resold. Anyone who sells a car in Vermont which has been determined by an insurance company to have been totaled (or a car for which a "salvage" certificate has been issued) must inform a prospective buyer of that fact, both verbally and in writing before a sale occurs.

## Accidents

If you are in an accident, you must stop as soon as you can without endangering traffic. If you hit an unoccupied vehicle you must leave a note with your name and address; and if you hit roadside property you must try to find and inform the owner of your name and address. If someone is injured, you must offer assistance, and call a doctor or ambulance. You must also exchange the following information with the other driver: **name, address, the name of the owner of the vehicle, and driver's license number.**

If the accident resulted in death or injury to anyone or in property damage of \$1,000 or more, you must **make a written report to the Commissioner of Motor Vehicles on the forms provided by the Commissioner. This report must be mailed within 72 hours after the accident.**

If you are in an accident get the names of witnesses; do not comment on the accident and do not place blame on yourself or others, even though you may think you know where the fault lies; assist the police if possible; see a doctor if you are aware of any injury whatsoever; and inform your insurance company as soon as possible.

## Motorcycle Helmets

Helmets are required when riding a motorcycle.

## Seat Belts

The law requires that the driver and all passengers must wear seat belts, or appropriate child restraints, or else the driver of the vehicle can be fined. The penalty is \$10 to \$25 for violation of this law. Children under the age of eight are now required to be secured in child safety seats.

## Insurance

**You should always have your auto insurance identification card with you when you drive.** It is best to keep this information in your car (in glove compartment or somewhere else safe) or in your wallet with your driver's license. If you are stopped by a law enforcement officer for a moving violation, or if you are involved in an accident, you must present a motor vehicle insurance identification card or evidence of financial responsibility, and proof of uninsured motorist coverage.

No owner or operator of a motor vehicle required to be licensed shall

operate or permit operation of the vehicle in Vermont without having in effect an automobile liability policy or bond. There are specified minimum requirements for the amount of insurance coverage that is required in Vermont. You must provide proof of insurance both to register a vehicle and to have it inspected in Vermont.

## Speed

Speed limits are those posted on traffic signs. If no limit is posted on a state highway, the maximum speed is 50 m.p.h. Regardless of what speed is posted, you always have to obey the basic rule: you may drive only as fast as is safe under the prevailing conditions. For example, during heavy rain, snow, or fog, you can be pulled over and fined for imprudent driving even if you were not going faster than the posted speed.

**Safe driving guidelines recommend keeping one car length between you and the car in front of you for every 10 m.p.h. For example, if you are driving 30 m.p.h. you should keep three car lengths between you and the car in front of you.**

The points assessed against your license increase depending on how far over the limit you were going. Also, the amount of the fine increases with the amount over the speed limit. Lastly, driving considerably over the speed limit can result in either a conviction for careless driving or reckless driving, offenses for which conviction can result in a jail sentence.

## Drunk Driving

Vermont law provides that, as a condition of being granted the privilege of operating a motor vehicle in this state, every person who operates, attempts to operate, or is in actual physical control of any vehicle on any road has given his or her consent to a breath test to determine the person's alcohol concentration or the presence of other drugs in the blood. If breath testing equipment is not reasonably available, or if the person is unable to give a sufficient sample of breath for testing, or if the officer has reasonable ground to believe the person is under the influence of a drug other than alcohol, the person can be required to submit a blood test by an officer who has reasonable grounds to believe that a person was operating, attempting to operate, or was in actual physical control of a vehicle on a road while under the influence of alcohol or a drug other than alcohol.

A person under the age of 21, who operates, attempts to operate, or is in actual physical control of a vehicle on a highway when the person's blood alcohol content (BAC) is 0.02 or more, commits a civil traffic violation that

carries a six month loss of license for a first violation. A second violation suspends the person's license until the person is 21 or a year, whichever is longer.

A person may be asked to submit to two different types of breath tests. The difference between these tests is the technology. The first is a preliminary breath test, usually administered roadside. For a person under 21, this test is admissible in court and a refusal to take the test will be considered a violation, subject to the same suspension as failing the test. The police do not have to let the person talk to an attorney prior to taking this test. For a person 21 or older, the preliminary breath test result is not admissible in court for most purposes, although a refusal to take the test may be admissible. The second type of test is the Datamaster or infrared test, usually administered at a police station. A person has the right to speak with an attorney prior to deciding whether or not to take this test. While a person cannot be forced to take this test, refusing to submit to this test is a separate crime on a second offense, with punishments the same as DUI. The refusal to take this breath test can be introduced into evidence in a court proceeding, but the judge, in a trial, must advise the jury that the person has the right to refuse.

If a person refuses to provide a sample of breath upon request, and the request by the law enforcement officer is found to be reasonable, then the refusal may be introduced as evidence in a criminal proceeding. For a DUI first offense, the license suspension for refusing to provide a sample to an officer who had reasonable grounds to believe that the person was operating, attempting to operate, or was in actual physical control of a vehicle on a road while under the influence of alcohol is six months as opposed to three months for a person who takes the test and is over the legal limit of .08%. This is intended as an incentive for people to submit to the test. If your license is suspended you must complete a court-approved alcohol rehabilitation program. In Vermont, there is no limited license to get to and from work. Simply put, you cannot drive until you are reinstated: no exceptions.

A person processed for DUI has certain rights. First, the police cannot force you to speak, perform dexterity tests, or take breath or blood tests. Refusal to take breath or blood tests can be used against the person in subsequent court hearings, but refusing to speak and/or perform dexterity tests cannot be used against the person. Nor can refusing to take the roadside test be used against the person. Second, once arrested, the police must inform the person of the so-called "Miranda" rights before questioning can continue. In Vermont, absent a signed waiver of these rights, all questioning must stop. Third, as mentioned above, a person has a right to speak with an attorney before deciding whether to take the Datamaster or infrared test. There is a 24-hour on-call system of

attorneys who take these calls and speak with individuals free of charge. If, however, the police are unsuccessful in contacting a lawyer after trying for 30 minutes, the person will need to make the decision without speaking to a lawyer. If the person takes the test, then the police must offer the person an opportunity to take the test again. In addition, after the police processing is over, a person always has the option to go to a hospital to have an independent blood test. If the person is incarcerated after the processing, the police, upon request, will take the person to the hospital for an independent test. The results of the independent test would only go to the person and/or the person's attorney.

Under some circumstances, such as if the person has suffered serious bodily injury or has died, or if the person is unable to respond, or if the police think the person is under the influence of drugs and not alcohol, or if breath testing equipment is not readily available, the police may seek a warrant to take a blood sample from the person.

In 1991 and 1997, the Vermont legislature made Vermont's already tough drunk driving law even tougher. There are two ways that you may be convicted of drunk driving. First and most common is a blood alcohol content of .08% or more. If your blood alcohol content is .08% or above, the law declares you to be legally drunk, no matter how much in control you may think you are. You may also be convicted of DUI if your blood alcohol level is below .08% or if there is no breath test. Without a breath test or a test below .08%, the prosecutor must establish that you were operating under the influence of alcohol or a drug other than alcohol. Evidence that is frequently used to establish "under the influence" includes: performance of dexterity tests, erratic vehicle operation, and statements of the accused and other witnesses. Vermont law requires that the state only establish any degree of impairment, however slight. Proof beyond a reasonable doubt of the slightest impairment by alcohol or a drug other than alcohol is sufficient to convict in a Vermont court.

There are also civil suspension provisions in the new drunk driving law. Pursuant to these provisions, the State may request a speedy hearing in front of a judge to prove that a person operated a motor vehicle over a .08% BAC. The State need only prove its case by a preponderance of the evidence, a lesser degree of proof than that necessary for a criminal conviction. Any license suspension would generally be the same as if there had been a criminal conviction, but there is no additional suspension upon a subsequent criminal conviction.

The penalties for drunk driving are severe. It is a criminal offense. Therefore anyone convicted of DUI has a permanent criminal record. For a first offense, the possible maximum penalty is a \$750 fine, two years in jail, or both. In addition, there is a 90-day license suspension. If there was a refusal to take the breath test, then the license suspension is six

months. For a second offense, the possible maximum penalty is a \$1,500 fine, two years in jail, or both. There is a mandatory 48-hour jail sentence for a conviction of a second offense. Usually, a person convicted of a second offense is placed on probation, in addition to the mandatory 48-hour jail sentence. The length of the license suspension for conviction of a second offense is 18 months. The length of the suspension cannot be shortened. In addition, after a second conviction, the state may seek immobilization of the person's vehicle.

A third conviction for DUI is a felony. The possible maximum sentence for a third conviction is a \$2,500 fine, five years in jail, or both. Most people convicted of a third offense are incarcerated for a significant period of time. The length of the license suspension for conviction of a third offense is life. The criminal penalties for subsequent convictions increase significantly. In addition, after a third conviction, the state may seek forfeiture of the person's vehicle.

Drunk driving is a serious crime. People who are otherwise law-abiding citizens are in our jails for violating our drunk driving laws. These laws are tough to protect all of us. Don't violate them.

## The Point System

Driving is a privilege which can be denied to you any time you accumulate a certain number of points for violations of the motor vehicle laws in Vermont. Demerit points are given for motor vehicle convictions and are erased after a specified period of time. The motor vehicle law sets out a schedule of offenses and the number of points for conviction of the offense.

Points remain assessed against a person's driving record for a period of two years from the date of conviction. When a person accumulates at least 10 points in a two-year period, the Commissioner of Motor Vehicles initiates suspension proceedings. The suspension period for this is 10 days for 10 points, 30 days for 15 points, 90 days for 20 points, and for a period increasing by 30 days for each additional 5 points. However, conviction for certain offenses carries a specified suspension period, regardless of point accumulation. **Accumulation of points may also result in increased insurance rates.**

You are entitled to an administrative hearing before your license can be suspended. However, there are no exceptions to the point system of suspension. Issues at the hearing usually center around proper counting of convictions and accuracy of records.

## □ ON YOUR OWN . . . SOONER (EMANCIPATION)

If you have reached a point where you feel you can no longer live with your parents, you have a couple of options. You can file with the court to have someone besides your parents appointed as a guardian (see Title 14 for details) or you can ask the court to emancipate you. The choice to seek either emancipation or a guardianship is a serious one with a number of repercussions. Guardianship allows you to have another family member or family friend stand up as your guardian and can be a less drastic compromise to problems with your parents. Emancipation means the release of a minor from the legal control of his or her parents. If you are 16 years old or older, and feel you cannot live with your parents, you may ask the Court to emancipate you. You need to tell the Court your name, date of birth, residence, and why you want to be emancipated. You also need to tell the Court who your parents are and where they live.

To be emancipated, you must have lived separate and apart from your parents, custodians, or guardians for at least three months before the hearing. You must be managing your own financial matters and be able to demonstrate the ability to be self-sufficient in your economic and personal affairs without being on general assistance. You must also have, or be working toward, a high school diploma, GED, or equivalent. You cannot be under the custody of the Department for Children and Families or the Commissioner of Corrections. Finally, you must show that it is in your best interest that you be emancipated. Emancipation may mean that you no longer qualify to be covered by the health insurance of your parent or guardian.

**Being emancipated does not give you all adult rights. You still may not vote or drink. If you commit a crime, you will be tried as an adult without the protection of the Juvenile Court.**

## ▣ CHOICES: COLLEGE

### Who Pays?

Most people entering college have reached, or shortly will reach, the age of 18. In Vermont, that is the age of *majority*, or adulthood. When you reach age 18 your parents' legal obligation to support you generally ends. A divorced parent's potential obligation of support may extend to age 19, or a child's graduation from high school, whichever comes first after age 18.

So . . . the legal answer to who pays for college is the same as the name of this booklet—you're "On Your Own." Ever since the creation of colleges and universities, however, some parents have agreed to assist their children with college expenses without any legal obligation to do so. This tradition represents an important distinction between those duties recognized and enforced by law, and those "duties" imposed by custom, moral obligation, or other values that are not legally enforceable. **The Vermont Student Assistance Corporation provides grants to some students based upon their need. You may reach them at 654-4050.**

## ▣ CHOICES: SELECTIVE SERVICE SYSTEM

Federal law requires all males between 18 and 26 years of age to register with the federal government's Selective Service System. This system is responsible for providing men to the country's armed forces in the event of a war or other national crisis. Registering with the system makes you eligible for the draft if it should be reinstated.

Even if you would claim to be a "conscientious objector" to serving in the military, you are required to register for the draft. If you do not register you could be prosecuted and fined up to \$250,000 and/or be put in jail for up to five years. Registration is also a requirement to qualify for Federal student aid, job training benefits, and most Federal employment. Men, born after December 31, 1959, who aren't registered with Selective Service, won't qualify for Federal student loans or grant programs. This includes Pell Grants, College Work Study, Guaranteed Student/Plus Loans, and National Direct Student Loans.

All United States Post Offices have Selective Service registration forms. To register, complete a registration form with the required information, and then give it to the postal clerk at the post office. There is no fee. Remember to bring a license or other picture identification when you turn in the registration form; the postal clerk may ask for proof of your identity.

For more information, pick up the Selective Service System's informational brochure, *Selective Service and You*, which is available without cost at all post offices.

## ❑ CHOICES: ON THE JOB

There's no doubt that finding a job you like—even just finding any job—can be tough. It's not a hopeless situation though, and with enough persistence you can do it.

The Vermont Department of Employment and Training can also assist you in finding employment without a fee. Your local office is listed in the yellow pages under "Employment Agencies." Another good source for job openings is the classified section of your local newspaper. The listings continually change so you should check them with each new edition of the paper.

No matter how you find a job opening, remember that federal and/or state laws make it illegal for an employer to refuse to hire you because of your race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin, place of birth, or age. Once you have a job, it is illegal to treat you differently with regard to promotions, transfers, wages, or working conditions for any of these reasons. In an interview, employers should generally avoid asking you about these issues. However, employers may, in some circumstances, inquire about whether you need any accommodations for a physical or mental disability in order to perform the essential functions of the job you seek. If you feel you have been denied a job for an illegal reason, contact the Vermont Attorney General's Office (828-3171). **If you believe you were illegally denied employment by a state agency you can contact the Vermont Human Rights Commission (828-2480).** You cannot later be denied a job because you filed a complaint.

### Your Rights at Work

Among your rights is the right to be paid a *minimum wage*, and in most jobs, to be paid time-and-a-half your regular pay rate for hours in excess of 40 hours per week. You also have the right to join or form a labor union, and to undertake concerted action with your fellow workers to see improved wages and working conditions. Questions or complaints about wage and hour regulations should be directed to the Wage and Hour Division of the Department of Labor and Industry at 828-2157. Questions about labor unions can be directed to the National Labor Relations Board's regional office in Boston, at 617-565-6700.

Furthermore, you have a right to a *safe workplace*. State law prohibits employers from firing, threatening, or otherwise discriminating against any employee for refusing to perform any assignment that the employee

believes will expose him/herself or any other person to risk of serious injury. However, the employee must first notify the employer of the dangerous condition and ask the employer to correct that condition.

If you have notified your employer of the existence of a dangerous condition, and the employer refuses to correct it within a reasonable time, you should report the condition to the Vermont Occupational Safety and Health Division (800-287-2765) or the U.S. Occupational Safety and Health Administration in Boston (617-565-9860). Again, the employer is prohibited from taking any action against an employee because that employee has reported a dangerous condition to the authorities.

### Family and Medical Leave

You are entitled to take up to 12 weeks of unpaid family leave due to birth or adoption of a child, whether you are the mother or the father, if you have been employed for at least 30 hours per week for the past year and if your employer has at least 10 employees. You are also entitled to take up to 12 weeks of unpaid medical leave for serious illness of yourself or an immediate family member if you have been employed for at least 30 hours per week for the past year and if your employer has at least 15 employees. (It is also possible you could use accrued vacation or sick leave for up to 6 weeks of your 12 week leave.) You are only entitled to take a total of 12 weeks of family and/or medical leave in any calendar year.

### Sexual Harassment at Work

It is against the laws of both the United States and the State of Vermont to "sexually harass" another person. The following definitions are generally recognized from a legal standpoint:

- 1) No one can require someone else to submit to verbal or physical sexual conduct as a condition of getting or keeping a job;
- 2) No one can legally be fired for refusing to submit to such conduct; and
- 3) No one can create or be forced to work in a "hostile working environment."

The first two are fairly self-evident. No one can insist on or be forced to give sexual favors in order to get a job or for job promotion. If you feel that you will not be promoted unless you give in to a supervisor's sexual demands, contact a lawyer or the Vermont Attorney General's Office.

Further, if you are told that you will lose your job unless you submit to such demands, this too is a violation of your rights.

Number three has caused most of the court cases. It seems obvious that you cannot be required to give in to a boss who demands sex from you to keep your job or to be promoted. But what about an office where sexual jokes are told by co-workers, or photos are displayed? The law forbids an “intimidating, hostile, or offensive working environment.” The issue of offensiveness is considered from the point of view of the person who feels insulted rather than the person or people who engage in the conduct. Nonetheless, this point of view must be reasonable. Generally the offensive behavior must be more than one or two incidents, and the fact that the victim did not complain to the perpetrators or a supervisor does not necessarily mean that he or she is not entitled to help. If you believe your rights have been violated under this standard, you may have the right to sue not only the person or people who caused the hostile environment, but also the employer. Again, the Vermont Attorney General's Office and/or an attorney can answer your questions.

## Other Forms of Harassment

Not only is it unlawful in Vermont to subject anyone to sexual harassment in employment, it is also unlawful to harass anyone on the basis of his or her race, color, religion, national origin, ancestry, place of birth, sexual orientation, disability, or age. If you are subjected to a hostile or offensive working environment on the basis of your belonging to any of these protected categories, you also have the right to bring a complaint to the Vermont Attorney General's Office, the Vermont Human Rights Commission (if the employer is a state agency), or to a private attorney.

## Drug Testing

In general, under Vermont law an employer cannot require you to submit to a drug test in order to get a job. *However*, if an employer has offered you a job, and you are given appropriate written notice of the type of drug test the employer wants you to take, and the test is part of a comprehensive physical examination, you might be required to submit to the test. After you are employed, the employer cannot require you to take a drug test as a condition of employment, promotion, or other part of your employment and cannot conduct random or company-wide drug testing unless it is required by federal law, and unless your employer has probable cause to believe you are using or under the influence of a drug on the job *and* the employer has a drug or alcohol rehabilitation program available for employees. If a person tests positive, he or she cannot be fired if he or she agrees to participate in and successfully completes the

rehabilitation program (but can be suspended for the time it takes to complete the program, but no longer than three months). A refusal to participate in the program after a positive test, or a subsequent positive test, can be grounds for dismissal.

## Workers' Compensation

You also have certain rights if you are injured on the job. These rights arise under the Vermont Workers' Compensation Law, which is administered by the Vermont Department of Labor and Industry in Montpelier (828-2286). Employers are required to post notices summarizing your rights. Because the law provides for compensation payments in the event you are unable to work due to your injuries, and provides for payment of medical expenses incurred on account of your injuries, the law also provides that, in most cases, workers' compensation is your exclusive remedy against your employer, and that you cannot sue your employer or other co-employees for injuries received on the job. If you have an injury, you should contact the Department of Labor and Industry or an attorney for an explanation of your rights.

# ❑ WELCOME TO THE VOTING BOOTH

## Voting and Public Office

When you reach the age of eighteen, as a citizen of Vermont and the United States you may vote in all federal, state and local elections. You may also run for any office except President, U.S. Senator, or U.S. Representative. You have all the same rights and obligations as all adult citizens.

You have to register to vote, of course, but this is a painless process. You need to complete a voter application form, available at the town clerk's office in the town where you reside. You may also register when you register your motor vehicle. Once registered, you may retain this voting status in your home town, even if you go away to college, enlist in the armed services, or live out of the country. If you change your permanent residence, then you will have to register to vote in the new town. In Vermont, you have to register only once, but it has to be done no later than the second Saturday before the election at which you cast your first vote. So don't wait until the last minute to visit your town clerk.

Vermont does not require any political affiliation or party registration in order to vote, as in some states. Other than the presidential primary, you are not required to tell anyone which party you favor in any election. In that primary, you have to tell the ballot clerk which party's ballot you want, but that doesn't mean you are a member of that party.

There are four types of elections in Vermont. First there are local elections. Town meetings are held every year in every town and city in Vermont. You should attend. That is where your town sets its property taxes for the year, and elects local officers like select board members, the town clerk, and others. It is a traditional Vermont experience, and it is our best example of direct democracy in action. It may be a floor meeting where anyone can ask questions. It may be an Australian ballot election, which is run in the same manner as a general or primary election, with preprinted ballots.

In even-numbered years, Vermont holds the second type of elections, state elections. Governor, State Senators, State Representatives and other constitutional officers are elected every two years in Vermont. County officers like State's Attorneys and Sheriffs are elected every four years. General elections are held on the first Tuesday following the first Monday of November. Before then, on the second Tuesday of

September, the state holds a primary to decide the names of those candidates who will represent the major parties in the general election. In this election, there is a perforated ballot. Each voter selects one part, and must vote only for candidates in one of the major parties. No one gets to know in which party or for whom you voted. You place the voted ballot in the box yourself.

In the third type, general elections, you receive a single ballot for any federal, state, and legislative offices to be filled, and may select any candidate from any party, or even write in the name of someone else.

The fourth type of election is the presidential primary. It is held at the annual town meeting in March, in the year a President and Vice-President are to be elected. It is by party, and the result of the vote is to bind the state political party to elect delegates to its national convention in the proportion to the votes cast in the presidential primary.

In all elections except the traditional floor-type town meeting, as a voter you are entitled to ask and receive an absentee ballot. This is a ballot sent or delivered to your home, identical to the one you would use in the polling place, which you can use to vote, as long as it is returned to the polling place or town clerk before the polls close on election day. No reason need be given for requesting absentee ballots, but you must request absentee ballots no later than the deadline, which is the day before the day of election. You may also vote in the town clerk's office on any day except election day.

Run for office? Don't be too quick to dismiss this idea. Vermont has seen eighteen year olds as select board members, town clerks, and even a state representative. If you can get elected, you have a right to serve. This may mean having nominating petitions signed and delivered to the town clerk six weeks in advance of the election. We won't tell you how to do it here. That is one of the responsibilities of public office—learning what you need to be elected. Pundits routinely complain that eighteen year olds have the worst voting record of any group. They say that young men and women don't care about the government or public issues. Prove them wrong. Exercising your rights as a voter will show them. Running for public office will be good for everybody. Think about it.

## □ DATING AND DATING RELATIONSHIPS

Dating probably makes up a significant part of your social life. Remember that even in dating relationships you have legal rights and responsibilities, particularly when it comes to decisions and behavior involving sex.

It is a crime for any person to compel or force any other person to engage in any kind of sexual contact or activity. This is true even if the two people know each other or have been dating for a long period of time. Forcing or compelling someone to engage in a sexual act includes physical violence, threats, and giving a person drugs or alcohol and taking advantage of them. **It is a crime to engage in a sexual act with a person without their actual consent.**

If someone has forced you to engage in any sexual contact or activity against your will, you should contact the police and the rape crisis center in your area. You can find the number to call in the Yellow Pages under “Social and Human Services.”

Unwanted sexual contact puts both your health and safety at risk and should be taken seriously. Protect yourself by taking control of your own safety, and avoiding situations where you feel threatened or uncomfortable.

**It is a crime for a person of any age to engage in a sexual act with someone under the age of 16 regardless of whether or not they consent. Even if they tell you that they are older than 16 years, if it is not true, the act is still against the law.**

### Personal Safety

**State law protects you from harassment, stalking, threats, or violence.** If you feel that your personal safety is being threatened, call the police. If you and the person threatening your safety are family members, or are members of the same household, in addition to calling the police you can file for a temporary relief from abuse order at any Vermont Family Court, 24 hours a day, at no cost. Household members mean people who for any time period are living or have lived together, are sharing or have shared a dwelling, are engaged or have engaged in a sexual relationship, or minors who are dating or have dated. The temporary relief from abuse order typically lasts ten days, when a hearing will be held in Family Court on the issue of abuse. At that hearing, the judge may grant a final order for relief from abuse that usually is good for one year and is automatic-

ly renewable. Relief from abuse orders can give the household, temporary custody of any children, and sometimes temporary living expenses to the plaintiff. Violation of a relief from abuse order is a criminal offense. There are further criminal law protections available through and enforced by the police. You do not have to choose between Family Court and the police to get protection from abuse; both the Family and District Courts are empowered to protect you in different ways.

There are also other protections available from the Superior Court, such as injunctions against stalking, if the person threatening you is not a family member, household member, nor someone you've lived with in a sexual relationship. Contact a lawyer if this describes your circumstances.

**If you are in need of shelter or other immediate assistance *because of harassment, etc.*, or you just need someone to talk to, check the Yellow Pages under “Social and Human Services” for the nearest battered women's agency, or call the statewide toll-free domestic violence hotline at 1-800-228-7395.**

## □ STARTING DOWN THE PRIMROSE PATH

If you're planning to marry or enter into a civil union soon, you hopefully have thought about the many ways it will affect your life. Before you marry, you must get a marriage license from the town clerk in the town where you or your partner reside.

If both you and your partner are 18 or older, you do not need your parents' consent to get married. Your parents' permission is needed if you are less than 18; and if you happen to be less than 16, permission from a court in your county is also required.

You can be married by an ordained minister of any religion, a judge, or a justice of the peace. There is no "common law" marriage in the State of Vermont. To be married, you must go through the marriage process outlined above.

If you are experiencing difficulties in married life or have concerns prior to getting married, there are counselors available to help you and your spouse through your troubles. The phone book is a good source for locating a marriage counselor in your area. If your partner is abusive or threatening toward you, however, see the section below on "Domestic Violence."

No matter where or how you are married, remember: marriage is a contract that imposes certain obligations. For example, each spouse must support the other, and parents must support their children. If you do not, you could be charged with a crime, and you could have your children taken from you and placed with a relative, foster home, or the state.

After you're married, there are several new questions you will face regarding your life together.

**Your Name.** When you get married, you can choose whether to take your spouse's surname or to keep your own. If you do take your spouse's name, you will have to send notification of your name change to people such as the Social Security Office and any place where you have charge accounts or credit cards.

**Bank Accounts.** As a married couple you may wish to change your bank accounts to "joint accounts"—accounts in both of your names. Joint accounts can provide a "right of survivorship" which means if either of you

dies, the other spouse automatically owns everything in the account. Joint accounts are also handy in that you both have equal access to your funds, which could be important in cases of sickness or emergencies. However, it can be difficult to keep good records if more than one person writes checks on a joint account.

**Property.** Each of you owns what you brought into the marriage whether it be real estate, a car, jewelry, cash, household items, or any other property. **Being married does not give you, as husband or as wife, the right to manage the other spouse's property. It does, however, make your property subject to distribution by the Family Court in the event of divorce.**

Property that you bring to the marriage or acquire during your marriage belongs to both of you and is considered "marital" property which can be divided if you get divorced.

**Premarital Agreements.** Two people may agree to certain terms in the event that the marriage fails by signing a contract prior to the marriage. In this contract, you and your future spouse may determine what rights you each have to buy, sell or use property and the division of property. You can agree to the terms of spousal support, death benefits, and the making of wills. You cannot change the terms of child support if it will adversely affect the child.

## Domestic Violence

**State law protects both married women and married men from harassment, stalking, threats, or violence from their partners.** If you feel that your personal safety is being threatened by your spouse, call the police immediately. In addition to calling the police, you can file for a temporary relief from abuse order at any Vermont Family Court, 24 hours a day, at no cost. The temporary relief from abuse order typically lasts ten days, when a hearing will be held in Family Court on the issue of abuse. At that hearing, the Judge may grant a final order for relief from abuse that usually is good for one year or more and may be renewed at the end of that period. Relief from abuse orders can give the household, temporary custody of any children, and sometimes temporary living expenses to the plaintiff. Violation of a relief from abuse order is a criminal offense. There are further criminal law protections which are available through and enforced by the police. You do not have to choose between Family Court and the police to get protection from abuse; both the Family and District Courts are empowered to protect you in different ways.

**If you are in need of shelter or other immediate assistance *because of domestic violence*, or you just need someone to talk to, check the Yellow Pages under “Social and Human Services” for the nearest battered women’s agency, or call the statewide toll-free domestic violence hotline at 1-800-228-7395.**

## Divorce

The courts of the State of Vermont must approve every divorce. There are several legal grounds for a divorce. The most commonly alleged legal ground for divorce is “no fault” divorce.

Suits for divorce are filed in Family Court. When you file for a divorce, or when you receive a divorce complaint, there is usually an automatic order which prohibits you from restraining the liberty of your spouse, selling or transferring property (except as a part of your business, by agreement or court order), removing your spouse or children from your medical insurance policy, or moving out of state with your children.

The court can make a variety of orders when it grants a divorce, including ordering either spouse to pay spousal maintenance (alimony) to the other. The maintenance alimony order may require regular monthly payments or a lump sum payment, funded in part by the transfer of property from one party to the other. If you have children, the court will also issue an order determining parental rights and responsibilities for the children, which means custody, visitation and the amount of child support to be paid. Child support is calculated according to Child Support Guidelines adopted in this state and is based on the incomes of the parents among other factors. In determining parental rights, the court’s decision is controlled by “the best interests of the children.” The court may not prefer one parent over the other solely because of the parent’s sex or the child’s age or sex, and may not consider “abandonment” of the residence (i.e., who moved first) as a factor determining the children’s primary residence. The court can change alimony, custody, visitation, and child support if circumstances change substantially after divorce.

At the conclusion of the divorce, the court will equitably divide your marital property. (For an explanation of “marital property,” see page 25.) To do so, it will consider the length of your marriage, how much each of you contributed toward the acquisition of the property (including the value one of you may have provided as a homemaker) the value of the property given to each of you, what you and your spouse may have done to increase or decrease the value of your property, and your respective economic circumstances at the time the property is to be divided. The court may also take into account the conduct of each party during the marriage,

including adultery, abuse, or desertion. If you disobey any of the court’s orders, you could be found guilty of “contempt of court” and fined, jailed, or both.

If you are represented by an attorney in the divorce, many of the details concerning maintenance, property settlement, and custody can be negotiated before you actually go to court. The court will review the negotiated settlement and either accept it or hold a hearing at which it will take evidence and then issue its order.

## Adoption

Adoption is a legal proceeding in which an adult, or couple, legally makes a minor or adult their own child.

With limited exceptions, a birth parent’s parental rights and responsibilities must be terminated by a court prior to adoption. This can occur through voluntary consent when the adoption is private, relinquishment when there is an agency involved, or termination of parental rights if the consent is not voluntary. A birth parent has 21 days from the date he or she signed a consent or relinquishment to change his or her mind by letting the court know he or she revoked their consent or relinquishment. Consent must be signed in the presence of a judge, unless a father has signed a notarized statement disclaiming any interest in the minor child. This statement may be signed during the pregnancy or afterwards.

The Adoption Act provides that the birth father of the adoptee should be identified and notified of the adoption proceedings. If a birth parent receives notice of an adoption or termination, he or she must respond within the time set by the court, or show up at the hearing, or else his or her rights would be terminated by default. A birth parent who is a minor has the right to be represented by an attorney provided for by the court without expense to the birth parent. In addition, all birth parents have the right to adoption counseling paid for by the adoptive parents or agency, but they must request the counseling from the court.

Any person interested in adopting must be found suitable to be an adoptive parent pursuant to a placement evaluation done either prior to placement, or, if placement has occurred, after the adoption petition is filed. If you are considering adoption, you may speak confidentially with an adoption agency regarding your options.

There is a state-wide Adoption Registry which collects and discloses, when appropriate, information regarding biological parents and siblings of the adoptee.

## Birth Control and Abortion

Birth control and abortion information can be obtained from Planned Parenthood of Northern New England (which has offices throughout the state), your family doctor, or other clinics. It is important to protect yourself by obtaining information and by being responsible about your sexual activities. Under current law you can obtain birth control information and devices without your parents' consent, even if you are less than 17 years old. Phone numbers for family planning offices can be found in the telephone book or call 1-800-359-3359.

## Parents, But Not Married . . .

The court can decide child custody issues when the biological parents of a child are not married. Both parents have a legal obligation to support their children. Also, both parents are entitled to contact and visit their children, unless the court has ruled otherwise. The court can define and enforce an obligation to pay support, or an entitlement to visit or contact a child.

**A parent, who wants to have "custody," or prove that someone is the father of a child, can bring a legal complaint to establish paternity or custody.** The court can order a DNA test if there is a doubt about who the father is. Once paternity is determined, the court will order child support to be paid, establish custody, and set up a visitation schedule for the non-custodial parent.

If unwed parents are not living together and welfare benefits are being paid to the parent who has custody of the child, Prevention, Assistance, Transition, and Health Access (PATH) can sue the non-custodial parent who is not paying support to the welfare recipient. This suit usually demands the non-paying parent to reimburse the State for welfare benefits paid to the custodial parent. The State, through the Office of Child Support, can also request the court to order an on-going child support amount. If you are behind in your child support obligation, the department may suspend your license to drive a car, to practice a profession, fish, or hunt.

**Unmarried parents may allow their child to be adopted.** Both the biological father and the biological mother must consent, in writing, to the adoption. If one biological parent has never supported the child, never tried to visit the child, and never had any other contact with the child, the court may terminate parental rights and allow the adoption to proceed without that parent's consent. All adoption proceedings are heard in Probate Court.

**Being a parent is more of a responsibility than a right.** If you cannot meet your responsibility to your child and place your child in circumstances which jeopardize the child's health or welfare, the law permits the State to remove your child from your home. This law applies to parents of all ages. Do not make a decision to have a child unless you know you can provide a good home.

**Some organizations offer free or low-cost legal advice to low-income Vermonters in certain types of cases. A good place to start is Vermont Legal Aid, at 1-800-889-2047.**

## ❑ LIVING WILLS AND DURABLE POWERS OF ATTORNEY FOR HEALTH CARE

One day you or one of your parents, or a close relative may sustain serious injuries or become terminally ill and will no longer be capable of making decisions about the future. You can make decisions now about what action you would like taken if this ever happens to you by making a “living will.” In a living will you can direct that if you are very seriously ill and cannot make decisions, your family or physician are authorized to withdraw or withhold all life sustaining treatment which is not necessary to keep you comfortable. You can also authorize or direct that they not continue providing food and water. A living will allows you to make choices about your own future now in case you lose the ability to make those choices in the future.

You might also choose to make out a “durable power of attorney for health care.” Basically, a durable power of attorney for health care provides that you would like someone else called your “agent,” such as a parent, spouse, or relative, to make decisions for you if you are in a condition in which you are no longer able to think, function, respond, or care for yourself. Such a power of attorney authorizes your agent to make important medical decisions that you cannot make for yourself.

**Forms are available to make a living will or durable power of attorney for health care at your local hospital or Vermont Ethics Network (802) 828-2909.**

## ❑ RENTAL HOUSING

Renting an apartment or house is a step to being “on your own.” Being careful about the legalities of renting will save you many hours of turmoil and money. A general rule to remember here is, “When in doubt, write it out.” **For more information on any of the topics discussed in this section, contact Vermont Tenants, Inc. at 864-0099 for a free copy of their booklet, “Renting in Vermont.”**

### Residential Leases

Rental agreements can be either oral or written. Oral agreements are as binding as written agreements, but they are more difficult to prove, and while there is no law stating that a tenant must receive a written lease, it is preferable for both parties to get any agreements in writing.

Tenants should always get copies of leases and all agreements that they sign; in fact, they should insist on two copies being signed by both parties at the same time, one to be kept by the tenant, and one by the landlord. Without his/her own copy of the lease, a tenant might have trouble proving what the tenant and landlord agreed to. All written agreements should be kept in a safe and accessible place to refer to if and when problems arise. Written agreements between roommates regarding financial and other responsibilities can also be helpful in preventing problems.

Leases are transferred from one landlord to another when the building is sold.

The rental agreement determines the specific rights and responsibilities of both tenants and landlords, but cannot take away basic rights granted under state, federal, or local laws. The landlord cannot enforce a lease provision that takes away any rights the tenant has under the law, even if the tenant agrees to the provision by signing the lease. For example, clauses which give the landlord the right to physically put a tenant out on the street or shut off the utilities because of unpaid rent are forbidden by law and are void. However, the other provisions of the lease that are legal would still be valid and enforceable.

Tenants should always read leases carefully and ask about terms they don’t understand, and should try to get landlords to change or remove lease terms which seem unfair. If either landlords or tenants have questions about the legality of a clause in the lease, they should get legal advice.

## Discrimination is Illegal

Next, you should know that federal and state laws make it illegal, with a few exceptions, for landlords to refuse to show or to rent property to you or to require different rental terms because of your age, sex, sexual orientation, race, religion, physical or mental disability, ethnic background, or because you receive public assistance or have minor children. The Vermont Human Rights Commission is authorized to investigate claims of housing discrimination. Their number is 828-2480.

## Safe and Decent Housing

Vermont's Warranty of Habitability law requires that the home you rent be safe, clean, and fit to live in. It must also comply with any local housing codes and state plumbing and electrical codes. The law requires landlords to fix promptly any condition that could harm your health or safety—water from a leaky roof dripping on electrical wiring, for instance. Another Vermont law requires all apartments and rented homes to be equipped with smoke detectors near bedrooms and in the basement of the building.

If the landlord fails to provide housing which meets code, it is the tenant's responsibility to notify the landlord of any problem **in writing**. The tenant should also contact the Town Health Officer or Housing Inspector and ask for an inspection to verify that the problem is a violation of the housing code. Once the Health Officer or Town Board of Health issues an order, the landlord must make the repairs within a reasonable amount of time. A reasonable amount of time will vary depending on the severity of the problem. To find out who your Town Health Officer or Housing Inspector is, call the Department of Health at 1-800-464-4343.

If the tenant gives the landlord written notice of a problem that materially affects the health and safety of the tenant, and the landlord fails to make repairs within a reasonable amount of time, there are several remedies available to the tenant. These include:

1. Withholding rent until the problem is corrected.
2. Getting an order from a judge telling the landlord to correct the problem.
3. Suing for damages, costs, and attorney's fees.
4. Terminating the rental agreement on reasonable notice.

A tenant can do any one or all of these at the same time. The only instance where these remedies are not available is if the tenant or the tenant's guests caused the problem negligently or deliberately. If you are considering any of these options, seek legal advice.

## Minor Problems: Repair and Deduct

For minor problems which violate the housing code, the warranty of habitability, or the terms of the rental agreement, the tenant has the option of repairing the problems and deducting the cost from the next month's rent.

In order to repair and deduct, a tenant must first give the landlord notice of the problem, preferably in writing. If the landlord fails to make the repairs within 30 days of being notified, the tenant may make the repair and deduct from the rent the actual and reasonable cost of the work, but no more than one half of one month's rent. The tenant must give the landlord written notice of the cost of the repairs when the deduction is made, along with receipts if available. Repair and deduct is not an option if the problem was deliberately or negligently caused by the tenant or the tenant's guests.

## Renter's Insurance

Most landlords have insurance on their buildings, but this insurance does not cover a tenant's personal belongings. Renter's insurance or "content of apartment" insurance is inexpensive and usually covers vandalism, theft, fire, and water damage. If tenants have possessions of value, it is a good thing to have. A comprehensive policy is available through most insurance agencies for about \$60-\$100 per year. Tenants who have car insurance can often get renters insurance through the same company as a package for very little extra.

## Security Deposits

A security deposit is any deposit or prepaid rent which is refundable to the tenant when the tenant moves out. It should be used only for damages beyond normal wear and tear, unpaid rent or utility bills owed by the tenant, or to cover expenses for removing belongings left behind after a tenant has moved out.

The landlord must return the security deposit by hand delivering or mailing it to the tenant's last known address within 14 days from the day the tenant moves out, together with a written statement itemizing any deductions. If the landlord fails to return the entire deposit or the written statement within the 14-day period, the landlord must return the entire deposit.

The 14-day period begins to run on the day the landlord becomes aware that the tenant has moved out. This is not necessarily the last day of the lease or the day the tenant and the landlord agreed that the premises would be vacated. A tenant who does not receive his or her deposit back, or who disagrees with some of the deductions, may go to Small Claims Court. To begin a small claims suit contact the Superior Court for your county, found in the phone book under State of Vermont - Courts.

If the landlord willfully withholds or fails to return the security deposit and written statement, the landlord may, at a judge's discretion, be ordered to pay the tenant two times the amount of security, plus reasonable attorney's fees and costs if the tenant goes to court.

**If the landlord returns a check for only part of the deposit, and the tenant feels he or she should get more back, the tenant may cash the check and still pursue his or her right to contest the balance of the deposit.**

If the building is sold, the former owner must transfer the deposit to the new owner, and the new owner must give the tenant his/her name and address and state that the deposit has been transferred. The new landlord then becomes responsible for returning the deposit. Some municipalities have separate security deposit laws which require that interest be paid on security deposits and that the deposit be kept in a separate account.

## Privacy and Access

Your landlord will need to come into the unit on occasion. However, the landlord must respect the privacy of the tenant. State law clearly sets out when and under what circumstances a landlord may enter the tenant's apartment. A landlord may enter with the tenant's permission at any time they both agree upon and the tenant may not unreasonably withhold permission. A landlord may also enter without the tenant's permission, but only after no less than 48 hours notice, only between the hours of 9 a.m. and 9 p.m., and only for the following reasons:

- to inspect the premises;
- to do repairs, alterations, or improvements to the apartment;
- to supply agreed upon services; or
- to exhibit the apartment.

A landlord may enter the apartment without consent or notice only in a case of genuine emergency, when the landlord "has a reasonable belief that there is imminent danger to any person or property."

## Late Fees

Tenants have an obligation to pay their rent on time, since landlords rely on timely payment from their tenants in order to meet their own payments for mortgages, taxes, maintenance, etc. A landlord may charge the tenant for expenses the landlord incurs because the tenant is late in paying rent. This charge may only cover the landlord's actual expenses incurred because the tenant is late, however. It may not simply be a penalty. A late fee which is not reasonably related to the landlord's expenses is invalid, and the tenant does not have to pay it.

## Rent Increases

A landlord must give tenants written notice of a rent increase at least 60 days before the first day of the rental period when the increase starts. For example, when rent is due on the 1<sup>st</sup> of the month, if notice is given on June 25<sup>th</sup>, the tenant must pay the rent increase starting on September 1<sup>st</sup>. Except for residents of mobile home parks and subsidized housing, there are no laws regulating the amount of an increase or how often the rent can be raised. If there is a written lease, the landlord may not increase the rent during the duration of the lease term unless the lease specifically allows it.

## Moving Out

**With No Lease.** If there is no written lease or other agreement, the law requires that before moving out the tenant must give the landlord written notice at least one rental payment period prior to the move out date.

**With a Written Lease.** When a written lease expires it does not automatically terminate the tenancy, unless the lease specifically states that the tenancy terminates and the tenant must leave when the lease is up. If the lease does not state this, the tenancy becomes month to month after the lease expires, and is then governed by the laws that regulate such tenancies. Therefore, tenants who wish to move out at the end of the lease term should give the landlord written notice of their intention at least one full rental period before the lease expires.

## Evictions

Eviction is the legal procedure used when a landlord wants a tenant to move out of an apartment. The eviction process protects the rights of both parties. A tenant is not “evicted” until the entire court process is complete, a judge issues an order, and the order is delivered to the tenant. **Under no circumstances may a landlord remove a tenant who is still living in an apartment without first getting a judge’s order to do so.**

If a tenant doesn’t have a lease, the landlord does not need a reason to evict. A landlord can ask the tenant to leave at any time, even in winter, and even if the tenant has children, provided the tenant has been given proper notice.

If a landlord wants to evict a tenant, he or she must first give the tenant a notice to vacate. Proper notice must be in writing. It must give the reason for the eviction, include the termination date, and within a specific period of time in advance, be properly furnished to the tenant. The amount of advance notice the tenant receives depends on the reason for the eviction.

If a tenant hasn’t moved by the termination date, the landlord can sue the tenant in court to get him or her out.

**Eviction for Non-Payment of Rent.** In non-payment of rent cases, actual notice must be given by a written notice hand delivered to the tenant or mailed to the tenant’s last known address. It must give the tenant at least 14 days before the termination date specified in the notice to leave or face eviction. That date must be at least a full rental period after the rent was due. The tenant has until the termination date to pay the rent owed; if the tenant pays all the rent before the terminated date the rental agreement continues.

**The notice must specifically state how much rent is due, and that if the tenant pays all back rent due before the termination date, the tenancy will continue.** A tenant can “catch up” this way only three times in twelve months; after that the landlord can evict for nonpayment, even if the tenant did pay the back rent.

**Eviction for Breach of Rental Agreement.** If the tenant violates the lease or the landlord/tenant law, the landlord may terminate the tenancy by giving the tenant at least 30 days written notice. The notice must specifically state what actions of the tenant caused the eviction.

**Eviction For No Cause.** If a landlord is evicting a tenant for a reason other than those listed above or for no reason at all, and the tenant is renting month to month or weekly, the tenant is entitled to at least **60 days notice if renting by the month, or 21 days written notice if renting by the week.** If there is a lease for a set period of time, the tenant may not be evicted for no cause before the end of the lease unless the lease specifically allows it (see below).

If a tenant receives a 60 day no cause termination notice and decides to move earlier, he or she must still give the landlord a full rental payment period notice of moving (see page 35, “Moving Out.”)

**Eviction Under a Written Rental Agreement.** If there is a written lease, it may provide that the landlord, the tenant, or either may terminate the tenancy for no cause or for any reason on which the parties agree. Such a provision may reduce the notice period required for a no-cause eviction to less than 60 days, but, except in cases of nonpayment of rent, under no circumstances may the lease allow the landlord to give less than 30 days notice of termination if rent is payable monthly, and seven days if payable weekly.

## Going To Court

If the tenant hasn’t moved by the termination date in the notice, the landlord can sue the tenant in court. The landlord must have the court papers (Summons and Complaint) delivered to the tenant by a sheriff or constable. Once the tenant is served with a Summons, he or she must give a written response (called an Answer) to the court and give a copy of the Answer to the landlord’s lawyer within 20 days of being served. If a written response is not filed, the Court will issue an Order giving the landlord the right to take possession of the apartment shortly after the sheriff delivers the Order to the tenant. Just showing up in court without filing a written answer will not prevent this.

If an Answer is filed with the court, the case will eventually be scheduled for trial, unless the tenant and landlord work out a deal beforehand. Such a deal may provide, for example, that the tenant will move out on a certain day, in exchange for the landlord dropping some or all of his or her claim for back rent. It may also provide that the landlord will do needed repairs and the tenant will start paying rent again when the repairs are completed. Any settlement should be put in writing with each party getting a copy, and another copy should be filed with the court clerk.

The landlord may at any time ask the judge to order the tenant to pay some or all of the rent due into escrow with the court starting on the date

the next payment of rent would be due—normally the first of the next month. If the judge orders payment into court and the tenant fails to pay as ordered, the judge will issue an order called a Writ of Possession. This Order will give the landlord the right to take possession of the apartment not less than five business days (not including weekends and holidays) after the Writ is served. Since the tenant has the right to argue against payment into court escrow, the tenant should seek legal advice as soon as s/he receives a Summons or other court papers.

**Some organizations offer free or low-cost legal advice to low-income Vermonters in certain types of cases. A good place to start is Vermont Legal Aid, at 1-800-889-2047.**

## Illegal Evictions

It is **ILLEGAL** for the landlord to:

1. **TURN OFF** the heat, electricity, or other utilities except for temporary interruptions for emergency repairs.
2. **PADLOCK OR CHANGE THE LOCK** on the door to the apartment (without a court order) so the tenant cannot get in.
3. **MOVE THE TENANT'S BELONGINGS** out of the apartment without a court order, unless the tenant has abandoned the apartment.
4. **CONFISCATE OR DENY A TENANT ACCESS TO HIS OR HER BELONGINGS** due to back rent owed or for any other reason. (The landlord may, however, require the tenant to pay reasonable moving and storage costs if the landlord has lawfully removed the tenant's property.)

## Remedies for Illegal Evictions

If the landlord has done any of the above, the tenant should:

1. Notify the local and/or state police at once that the landlord has committed an illegal eviction.
2. If utilities have been shut off, notify the utility company and the Town Health Officer or Housing Inspector (see page 32, "Safe and Decent Housing.")
3. If the landlord has illegally locked the tenant out, take whatever steps are necessary to get back in, including using reasonable force to break into the apartment if unable to convince the landlord to let the tenant back in. (The tenant should first notify the police of his or her intention to do this to avoid any misunderstanding.)
4. Contact an attorney to explore bringing an action for injunctive relief, damages, costs, and attorney's fees.

## □ MONEY MATTERS

If you are truly "on your own," managing your finances will quickly become an important issue. Most people starting out do not make enough to do everything and get everything they want. Sometimes, there isn't even enough for what they need. Whether your source of income is a job, parental support, a public assistance program, or a combination, you will need to learn about the following:

### Bank Accounts

Banks and credit unions will take your money and hold it for you, or pay it out on your instructions. The old categories of a savings account and a checking account have given way to a wide range of options. Become an educated consumer and learn about those options. Do you want and can you qualify for overdraft protection? Would you prefer a monthly fee or a per check charge? Do you need copies of your cancelled checks?

You should also understand the implications of opening a joint account with someone else. Typically, either person can take out all of the money, or if one person overdraws, both are liable.

### Borrowing and Credit

Sooner or later, you will want or need to borrow money for some purpose. Your ability to borrow depends on your credit. Often, a new loan applicant without a prior credit history or at least a steady job for a year or more is turned down. Someone with established credit can "co-sign" for you, but they become liable if you default.

Your credit history is maintained by one or more credit reporting agencies, and most of your credit transactions, including your payment history, will be recorded and then the information will be released to prospective lenders when you apply for a loan. Once again, if you are on a loan or credit card with someone else, and they default, that default, and the responsibility for it, may go on your credit report.

Ours is a credit society, and because of this, there are several things you should know about credit, your credit rights, and how to use credit wisely.

## Access to Credit

**You have an equal right to credit.** You cannot be denied credit because of your race, sex, color, religion, national origin, marital status, age (unless you're not 18 yet), or because you may be receiving public assistance of some kind. In addition, if you're married, the creditor may not, as part of the credit application process, ask about your plans to have children.

**You have the right to know how much credit will cost you.** Federal and state laws require that you be informed how much credit will cost you. You must be informed of the actual cost of credit—the “finance charge”—and credit costs must be referred to in terms of the annual percentage rate of interest (APR). This uniform rate will enable you to compare the cost of credit from lender to lender.

**If your credit application is denied, you have the right to know why.** The law requires creditors to notify you within 30 days whether your credit application has been accepted or rejected. If your application is rejected, you must be told why in writing, or that you can request the specific reasons why by contacting the creditor within 60 days. The creditor then has 30 days to answer.

If your credit is denied, it's good to find out why. A mistake may have been made. If not, the reasons will help you make a better application the next time. And if the law was broken and your application was not fairly evaluated, you have rights and can seek correction.

## If You Fall Behind or Don't Pay

If you fall behind or don't pay a bill on time—even for a legitimate reason—you may be in **default**—you may have broken your promise (the contract) to pay according to a certain schedule. It is usually best to let the creditor know that you are having trouble making payments before you are in default. Once you have defaulted, the creditor may take certain actions to collect the debt. But you still have rights . . .

## If the Creditor Repossesses

A creditor may repossess *collateral* (take back the car, stereo, or other item you bought with the money loaned to you) only when your credit contract permits it. However, a creditor may not use force or otherwise *breach the peace* attempting to repossess your goods. Your home may not be entered to repossess goods unless there is a court order to do so.

Your car may be repossessed wherever it is parked, as long as no breach of the peace and no forced entry take place. If your car is parked in a locked garage, a court order must be obtained before it can be taken away. All items in the car at the time of repossession still belong to you, and you are entitled to get them back undamaged.

In most cases, once a creditor repossesses your goods, you will be notified in writing that the goods will be sold at public or private sale. Until that sale occurs, you have the right to redeem the goods by paying the entire unpaid balance owed plus reasonable collection costs.

**NOTE: If the sale price doesn't cover the entire balance you will have to pay the difference.** But if the goods were sold for more money than you owe, the creditor must return the surplus to you, though reasonable repossession costs may be deducted.

If you simply can't pay your debt and you're thinking of letting your creditor repossess your goods to take care of the problem once and for all, think again! Turning the goods in will result in a “repossession” notation in your credit report files. Consider selling the goods and paying off your loan. That way a repossession won't show up on your credit record. (Before you sell the goods, you must get permission from your bank or credit union, if they hold title to or have a lien on, the goods.)

## Debt Collectors

If you stop paying on a loan or retail installment contract, or if you owe additional money after the goods are repossessed and sold, the creditor may hire a “debt collector” to recover the money you owe. All collectors wherever located are subject to the provisions of the Fair Debt Collection Practices Act.

The law protects consumers in many ways. For example:

- Whenever a debt collector calls you, he or she is required to tell you they are trying to collect a debt.
- If you ask, a debt collector must “validate” the debt; i.e., tell you who the creditor is, how much money is owed, and how to dispute the debt.
- If you don't want to be contacted at all by the debt collector, you can write to the collector to stop contacting you. Your written request must be honored.

A debt collector:

- cannot call you at inconvenient times, such as before 8 AM or after 9 PM, or call repeatedly to harass you;

- cannot use or threaten to use violence or other criminal means;
- cannot tell anyone other than your spouse about the debt; or
- cannot call you at work, if you tell him not to do so.

## Credit Cards

If you don't have credit cards now, you probably will soon. There are a few things you should know about their use.

**If you lose 'em.** If you lose your credit card, the law limits the maximum amount you may have to pay for any unauthorized uses of your card to \$50. For example, if someone finds your lost card and runs up \$300 worth of charges, you are only responsible for \$50. If you immediately notify the bank or company issuing the card that it was lost, you will not be responsible for any charges that are made with your card after that point. It's always a good idea therefore, to keep handy your card numbers and the phone numbers of the issuers, so you can immediately notify them if your cards are lost or stolen. One way to do this is to make a photocopy of your credit cards and keep it in a safe place other than your wallet.

**Billing errors with credit cards.** Under the federal Fair Credit Billing Act you have the right to prompt correction or explanation of apparent billing errors. The law applies to open-end credit accounts like credit cards, revolving charge accounts at stores, and credit-line checking accounts at banks. The law **does not apply** to a loan or a credit sale where you have a fixed payment schedule until the entire amount is paid back (like a car loan). While you may be able to resolve your problem quickly by calling the company or bank directly, to use your rights under this law **you must notify the creditor in writing** of the billing error. Your letter must reach the creditor **within 60 days** of the date the first bill containing the error was mailed to you. Your letter should include your name, address, and account number, and why you think there's an error. Your letter must be acknowledged by the creditor in writing within 30 days of receipt unless the problem is cleared up before that. The creditor then has two billing cycles, but no more than 90 days total, to correct the problem or explain why the bill is correct. You may refuse to pay the amount in dispute, including any finance charges, until the problem is resolved. Until it is resolved, the creditor may not threaten to damage your credit rating, report you as delinquent to anyone, restrict your credit card account, or charge you interest on the amount in dispute.

If your bill is incorrect, the creditor must give you a written explanation of how the bill will be corrected. All late charges and finance charges relat-

ed to the error must be removed.

If the creditor still believes you are wrong, you must promptly be notified in writing. At this point you are then responsible for the bill and any finance charges that may have accumulated on it. If you think the creditor is wrong, the dispute may have to be settled in court. The creditor is now free to begin regular collection procedures against you, but must also report that you still dispute the bill to any credit bureau that asks about your creditworthiness.

## Credit Ratings and Credit Reports

**Credit reports must be accurate.** Credit ratings—records of whether you have paid your bills on time—are developed by private companies called credit bureaus or credit reporting agencies and are made available upon request to most businesses where you ask for credit. These reports let them know if you are a good credit risk or not. While the records often include confidential personal information, by law they cannot include information about your marital status, race, religion, color, ancestry, ethnic origin, sex, sexual preference, or political affiliation, except as required for government record keeping. **Under Vermont law, a business may not obtain a report on you without your permission, except under limited circumstances.**

If you are denied credit based on a credit report, the user of the report must give you a written summary of your rights under the Fair Credit Reporting Act and the name and telephone number of the credit reporting agency that provided the report (including a toll-free number, if it is a nationwide CRA that provided the report). The user of your credit report may not give the information in the file to anyone besides you—it is private and confidential.

An investigative credit report cannot be prepared about you unless you have been provided clear written notice of the investigation not later than three days after the report was first requested. This notice must also give you a written summary of your rights under the Fair Credit Reporting Act and the name and toll-free number of the credit reporting agency if one was involved.

Because your credit rating is so important, under Vermont law you can request a free copy of your credit report once a year. (To see if there's a file on you at a credit bureau, call some in your area. Their numbers can be found in the Yellow Pages under "Credit Reporting Agencies.") If you dispute any of the information, the credit bureau must re-investigate and correct the mistake if it finds an error. The credit bureau must give you a

written report of the investigation and a copy of your report if the investigation results in any change. If the bureau decides that there is no error but you still dispute the information, **you may file a brief statement setting forth your side of the story and the credit bureau must put this information in your file.** You also are entitled to be given the names of people or companies who recently received your credit report.

**Credit reports in your own name.** If you are married, you may choose a joint or individual account. If you choose a joint account, federal law requires that it be reported in both your and your spouse's name. If you get divorced, or if you want to apply for credit under your own name, and your joint credit rating is not very good, federal law requires creditors to consider any information you offer that shows that the unfavorable information in your joint account does not accurately reflect your ability to pay. Even if you're not applying for credit at the moment, you can still send a letter to the credit bureaus with reports on you explaining these facts and have that letter placed in your file.

## □ SMART BUYING

If you're in the market for any product or service—things like clothes, stereos, educational courses—there are several simple rules you should keep in mind. If you follow them, your dollars will go a lot farther and you'll be a lot more satisfied with the results.

### Shop and Compare

Compare products on the basis of features, warranty protection, and price. The best buy isn't always the cheapest. Use the Yellow Pages and magazines like *Consumer Reports* to help you.

**Don't fall for deceptive advertising.** Advertisements can provide useful information. Too often, though, ads appeal to your emotions rather than your intelligence. While there are laws against deceptive advertising enforced by the Attorney General, it's still best to avoid a problem by watching out for deceptive ads rather than getting snared by them and having to rely on a law or someone else to get you out of a mess.

**Ask for promises in writing.** Contracts don't have to be in writing to be binding (it's easier, of course, to make someone stick to something that's in writing than something that's based on your recollection of the agreement). If a salesperson makes important claims about a product that are not in your contract or warranty, try to get them in writing.

**Read the terms of your contract or warranty carefully.** Know what you can expect and what's expected of you. If you don't understand something, ask questions or seek help from a friend, parent, teacher, or lawyer.

**Never sign a contract with blank spaces.** Fill in blank spaces or draw a line through them.

**Keep good records.** Keep copies of all contracts, receipts, warranties, all notes or letters you've written regarding the product or service, and records of payments, maintenance, repairs, and other services. Once you get the basics under your belt, you're still not out of the woods. The next area you need to explore is warranties.

### Warranties: Spoken, Written, and Implied

The warranty (or guarantee) is that part of your contract that specifies the quality and dependability of the product or service. It's the place where

the seller tells you what you can expect from the product, what you must do if you have a problem, and what will be done in return.

There are three types of warranties: **Oral, written, and implied.**

An *oral* warranty is simply the seller's spoken promise about the product that you rely on in deciding to buy. While oral warranties are binding, they're obviously hard to prove. It's best to get these promises in writing, if you can.

A *written* warranty is simply a written promise about a product. A seller is not required to give you a written warranty. However, most do. If the seller does give you a written warranty, the seller must declare whether the warranty is **FULL OR LIMITED**. The distinction is important. A **full** warranty gives you the best protection: for example, if a product breaks down, the seller must try to fix it within a reasonable time. You pay nothing for parts or labor. If it can't be repaired within a reasonable time, you get your money back or a brand new product. A **limited** warranty is anything less than a full warranty. Under a limited warranty the seller might pay for replacement parts, but you might have to pay for labor. If the seller couldn't fix the product after a reasonable number of tries, you would still probably be entitled to your money back, except that the legal steps you would have to go through would be a lot more complicated. Full warranties are definitely best.

Federal law also requires that all products costing more than \$15, with warranties, must have their warranties available for you to look at **before** you buy, so that you can examine and compare them. Do it!

The third type of warranty is an unwritten and unspoken one—that's why it's called an *implied* warranty. Vermont law declares that these types of warranties are given to you automatically by the seller even though they are not formally expressed to you. They come on all products. For purposes of consumer goods (other than used cars), these warranties cannot be taken away from you. The most important implied warranty for consumers is the **implied warranty of merchantability**. This is a warranty of basic quality—it assures you that a thing will at least do what it's supposed to do—a toaster must toast, a reclining chair must recline. This kind of warranty covers new and used products and services, and may entitle you to repairs at no cost. If you purchase an item that proves to be *seriously defective*, it is *not too old* (still within its "useful life") and you have *not abused it*, then you might very well have an implied warranty claim against either the seller or the manufacturer.

## □ BUYING ON THE INTERNET

The internet can offer good deals on products, and it's convenient. But you have to be smart to shop online, to protect your personal financial information and limit the risk of buying merchandise from someone at a distance.

Follow these tips whenever you shop online:

- **Use a secure browser.** This is the software you use to navigate online, and it scrambles the purchase information you send over the Internet, helping to secure your transaction. Most computers come with a browser installed; you also can download some browsers free over the Internet. Many browsers allow you to set your own "privacy preference," so you may want to adjust the setting to increase your privacy protection. Also, no private information should be given over the Internet unless the "secure" lock appears on the toolbar.
- **Keep your password private.** Be creative when you establish a password, and never give it out to anyone. Use a combination of numbers, letters and symbols, instead of a telephone number, birth date, or portion of your Social Security number.
- **Shop with companies you know.** Anyone can set up shop online under almost any name. If you're not familiar with a company, ask for a paper catalog to get a better idea of its merchandise and services. Also, find out the company's refund and return policies before you place your order. These should be posted on the company's website.
- **Pay by credit card, if possible.** If you pay by credit or charge card online, you are protected by the federal Fair Credit Billing Act. Under this law, you can dispute the charge if the goods never arrive or are substantially different from what you ordered. You can also temporarily withhold payment while your card issuer investigates. If your card is used without permission, you are generally responsible only for the first \$50; but if this happens, you should call your card issuer as soon as you learn of the unauthorized use. Some companies offer a guarantee that ensures that you will not be held responsible for any unauthorized charges made online, and some cards may provide additional benefits. (If someone uses your debit card without your consent, you can lose \$50 to \$500 or more, depending upon when you report the theft.)
- **Keep a record.** Be sure to print a copy of your purchase order and confirmation number for your records. Also, the federal Mail and

Telephone Order Merchandise Rule covers online purchases, so that unless the seller states otherwise, your merchandise must be delivered within 30 days; and if there are delays, the company must notify you.

- **Protect your privacy.** Online companies can collect information about you and potentially give or sell that information to others. To protect your privacy:

- Keep your personal information private. Don't disclose information such as your address, telephone number, Social Security number, or email address, unless you know who is collecting the information and why and how they will use it.
- Look for an online privacy policy. Many companies post their policy on their website. The policy should say what information is being collected and how it will be used. If you can't find a policy, email the website to ask about its policy.
- Make choices. Many companies allow you to choose whether and how your personal information is used. They may also permit you to "opt-out" of having your personal information used for marketing or shared with other companies.

## Internet Safety

The Internet may be the world's "information superhighway," but like any highway, it has its risks. When you go online, you should keep these in mind.

### What are the risks on the Internet, and how can you avoid them?

- **Predators.** There is always a risk that, while online, you may provide information or arrange an encounter that could compromise your safety. In some cases, pedophiles have used e-mail, bulletin boards, and chat rooms to gain a young person's confidence and then set up a face-to-face meeting. Of course, you can't tell whether the other person online is who he says he is—a "teenage girl" could turn out to be a middle-age man. If you have reason to believe this is happening, call the police.
- **Loss of privacy.** When you enter information online, you're giving up a bit of your privacy. At best, your name could wind up in some database to be used to sell you something now or later. At worst, the disclosure could be used to harm or exploit you. Just because a Web site seems to be operated by a reputable group or individual

doesn't mean that it's what it is. Anyone—including creeps and criminals—can set up their own Web site. So be very cautious before saying anything online that you wouldn't want to say in public. This is especially true with sites that contain adult material.

- **Exposure to inappropriate material.** Many Web sites are wonderful, others are dumb, and still others are threatening, racist, sexist, or violent, or contain false information. Some of these sites contain material that can be disturbing, even for adults. If you wander into any of these areas, leave the site immediately.
- **Identity theft.** Personal or financial information given out over the Internet can be used to charge your credit card or bank account, or to buy things or take out loans in your name without your permission. Never disclose this type of information unless you have initiated the contact and know whom you are dealing with.
- **Viruses.** Your computer and the information on it can be damaged by viruses, worms, and Trojan horses. A virus is a piece of computer code that attaches itself to a program or file so it can spread from computer to computer. A worm is a type of virus that can spread without user action. A Trojan horse is a computer program that appears to be useful but actually does damage. To avoid these problems, never open anything on your computer that's attached to an email unless you were expecting the attachment and know the contents of the file. Otherwise, delete the email immediately. (Viruses can spread through anyone's email; if you get an email from a friend but weren't expecting the attached file, check with the sender before opening.) You should also equip your computer with up-to-date virus and firewall software, as well as current patches for software and operating systems.
- **Web site downloads.** Be careful about downloading anything from a Web site. Some Web sites ask your permission to download a program or "plug-in." In some cases these programs can be used to display unwanted advertising on your computer, but they can also track what you're doing online, plant viruses, or increase your risk of a "hacker attack." Don't download anything unless you're sure it's from a trustworthy source.
- **Spamming.** It's best not to answer spam email from someone you don't know. By responding, you are verifying your e-mail address to the sender, and that information can be used to encourage a person to send inappropriate e-mails or get you on even more lists. If you receive a message containing material that is sexually explicit or violent, or that makes you feel uncomfortable, report it to your Internet service provider.

- **Peer-to-Peer.** P2P systems allow you to exchange software, video, photo, and text files without having to go through a Web site or other centralized system. Aside from the legal and ethical issues with unauthorized sharing of copyrighted material, there are serious safety concerns with some of these services. Some downloadable files may contain disturbing and illegal material, such as child pornography. Some services may turn your PC into a server that shares your files, placing you in legal jeopardy and allowing others to access personal information on your computer. Some available software includes “spyware” that can invade your privacy and display unwelcome advertising. If you do use a file-sharing service, be careful about what “permissions” you give when you set it up; avoid sharing your own files and decline any offers to install extra software.

## Identity Theft

You may have heard of identity (or ID) theft. That’s when someone uses your personal information (like your name, address, Social Security number, or credit card account number) to divert your mail, borrow money in your name, or buy things posing as you.

How does identity theft happen? Thieves steal wallets and purses containing your ID and credit and bank cards; steal your mail, including bank and credit card statements or pre-approved credit offers; rummage through your trash; use personal information you share on the Internet; send email posing as legitimate companies or government agencies and ask for financial information; or hack into computer files in offices where you’re a customer, employee, patient, or student.

There are a number of things you can do to avoid ID theft:

- Place passwords on your credit card, bank, and phone accounts
- Secure personal information in your home
- Don’t carry your Social Security card; give your SS number only when absolutely necessary
- Don’t give out personal information over the phone, through the mail; or over the Internet unless you’ve initiated the contact or are sure you know who you’re dealing with
- Guard your mail and trash from theft
- Destroy offers of credit received in the mail that you don’t respond to; also, you can “opt out” of receiving free offers of credit

- Review your credit reports at each of the three major credit bureaus once a year; such reports are free

If you find that you are or may be a victim of ID theft, here is what you can do:

- Close any accounts that have been tampered with or opened without your permission
- File a police report
- File a complaint with the Federal Trade Commission and the Attorney General’s Office
- Place a fraud alert on your credit reports and review your credit reports
- Keep copies of all papers relating to the ID theft (and the original of any police report), and keep a record of all contacts you’ve made

ID theft can create problems for years—including when you apply for credit, try to buy a house, or look for a job. Take steps to ensure that it doesn’t happen in the first place!

## ❑ MAIL ORDER DISORDER

Shopping by mail can be a great convenience. More and more people are doing it, and you can buy almost anything through the mail. But . . . problems await the unwary.

**“But I didn't order this . . .”** If you receive goods in the mail that you did not order, both state and federal laws allow you to keep them as a gift! You do not have to pay for them. Of course, if something is delivered to you by mistake (it has someone else's name on it for instance), you cannot keep it and must return it to the post office or to the proper person.

If any company sends you *unsolicited merchandise* and then attempts to make you pay for it, it is breaking the law. If this happens to you, contact the postmaster in your town, or the Attorney General's Office in the company's state, and let them know. If that doesn't work, contact the Postal Inspection Service, PO Box 2217, Boston, MA 02205-2217 (617-654-5825).

### Compact Disc, Cassette, and Book Clubs

Book, compact disc, and record club advertisers give an appealing sales pitch—your choice of four books for 99 cents or 12 tapes for one cent, if you join the club. However, “if it sounds too good to be true, it probably is.” Before you succumb to the urge to get a great deal, understand your obligations once you join. Beware of high postage and handling charges!

Generally mail order clubs require you to purchase a certain number of books or tapes within a specified period of time. Usually you will be sent a small catalog of books or tapes every few weeks from which you can choose. The club will generally offer one book or tape as the selection of the month and unless you notify the club that you do not want that selection, it will automatically be sent to you, and you will be billed. Under these plans, **silence means you want the selection**. Because your membership in the club is a contract, if you break any of the terms of the agreement you could be sued.

If you're not very good at remembering to do things, perhaps you ought to say “no” to the record and book club option.

### Delivery time.

If you order something by mail, the law requires the company to ship the goods within the time promised. The Federal Trade Commission's Mail

Order Merchandise Rule also states that if the company does not say when the product will be shipped, then it must be shipped within 30 days. This rule applies when you order by mail, regardless of whether your product comes by mail or by a private carrier such as UPS. The rule does not apply to: magazine subscriptions (except for the first order), photo developing services, seeds and nursery products, book and record clubs, and any C.O.D. orders.

If the company does not ship your goods within the time required, it must notify you of the delay and remind you that you have the right to cancel your order and receive a full refund, or wait for a new shipping day. The company must give you a free way to notify them of your choice: a postage-paid, pre-addressed postcard or a toll-free number you can call. If you decide you want to cancel, you must notify the company—**silence on your part means you're willing to wait for the new date**.

If you decide to cancel, the company must refund your money within 7 business days of cancellation. If you purchased by credit card, the company must adjust your statement by the next billing period.

If your order is delayed a second time, the company must notify you again and must assume you want to cancel. If you do not want to cancel, you must notify the company.

If the company does not follow the law, you should notify the Federal Trade Commission, Office of the Secretary, Washington, D.C. 20580.

For more information on consumer issues or problems, contact the Vermont Consumer Assistance Program through the process described below.

### Seeking Help

The Public Protection Division is part of the Attorney General's Office in Montpelier. Its primary responsibility is to enforce Vermont's Consumer Fraud Act, which prohibits “unfair methods of competition” and “unfair or deceptive acts or practices.” The Division's Consumer Assistance Program (CAP), located in Burlington, mediates about 200 consumer complaints each month. The scope of the activities of the Division are governed by legislation, and there are certain things that the Division, by law, can and cannot do.

The Public Protection Division can . . .

- attempt to resolve every complaint CAP receives relating to

allegedly unfair or deceptive acts or practices in the marketplace by contacting the business complained about and requesting that it contact you either to resolve your complaint or to explain satisfactorily its side of the story;

- investigate complaints where there appears to be a pattern or practice in violation of the law, and follow up with legal action if a significant violation is found; and
- write and promote consumer legislation.

The Division cannot . . .

- get involved in matters where there has been no violation of the Consumer Fraud Act;
- represent you as an individual in court or give legal opinions or legal advice; the Division represents the State of Vermont and can only act in the name of the State;
- resolve every complaint to the satisfaction of all parties; because of limitation of time and staff, as well as jurisdiction, decisions on which cases will be pursued through investigations are based on how much will be accomplished to benefit ALL Vermonters if the case is pursued; and
- give an opinion as to the reputation of particular businesses. But the staff of CAP can point out general problems in the particular industry, tell you how many complaints have been filed in the past against a particular business, and give you advice on how to proceed to minimize the chances of encountering problems. In addition, the complaint files are public records and you may request, in writing, to inspect or copy them. Certain fees may apply.

## How to File a Complaint

Before you file a complaint with the Consumer Assistance Program, you should contact the business at least once and allow it an opportunity to resolve your problem voluntarily. If you are still dissatisfied, you can file a complaint with the Division by sending a letter. Your complaint **MUST** contain the following information:

- the correct name and address of the business about which you are complaining;
- your full name, address, and phone number;
- a brief, concise description of the problem; and
- a description of the relief you are seeking.

Written complaints should be mailed to:

Consumer Assistance Program  
104 Morrill Hall  
UVM  
Burlington, Vermont 05405

You may also call the Consumer Assistance Program toll-free at 1-800-649-2424. Callers in the Burlington area may dial 656-3183.

All complaints will be forwarded to the business with a request from CAP that the business resolve the matter. Many complaints are resolved in this way. The business' complaint file will also be reviewed to find out whether complaints of a similar nature have been received and whether an investigation is warranted. The Public Protection Division can investigate only a limited number of complaints; as a result, although your complaint may be legitimate, it may not become the basis for an investigation. If such is the case, you may wish to consult an attorney or file an action yourself in small claims court, where you do not need to be represented by an attorney.

## Who's That Knocking at My Door?

No matter how you tell there's someone at your door, there's something you ought to know if that someone is a salesperson. If a salesperson whom you didn't first contact comes to your home, to where you work, or telephones you and entices you to enter into a contract to buy something costing more than \$25, you can cancel that contract within 3 business days. Before the contract is effective it must be put in writing and signed by both you and the seller. The contract must also inform you of your three day right to cancel. Once the contract is in order, you may cancel it by mailing a letter to the seller stating you've changed your mind before midnight of the third business day after the day you signed the contract. (If you signed a contract on Friday, you could cancel it by mailing a letter before midnight Wednesday night.) If you do cancel, the seller has to refund any money you paid within 10 days of the notice, and if anything is left with you and not picked up within 20 days, you can keep it as a gift!

## □ CLIMBING THE CONSUMER COMPLAINT LADDER

Complaining isn't fun. Sometimes it works and sometimes it doesn't, requiring more serious steps to be taken. Obviously, the best thing you can do is to shop carefully, avoid problems, and eliminate the task of righting the wrong. However, if you do end up with unsatisfactory products or services, you have a responsibility, as well as a right, to complain. If you don't complain you do no one a favor—you merely make more room in the marketplace for poor products and shoddy service.

Before you complain, make sure you have a legitimate complaint and not a problem that you caused yourself. Next, decide what's wrong and exactly how you want it corrected. Do you want a new product? The product fixed at no charge? Your money back? (The warranty you were given by the company will affect your choices in this regard to some extent.) Choose a solution that's fair and reasonable. Finally, decide how best to start the complaint process: in person, by phone, or by mail.

### STEP 1: In resolving any complaint:

- Identify yourself and explain your problem clearly, concisely, and politely.
- Have receipts, warranties, and all other pertinent documents on hand.
- If sending a complaint letter, keep a copy of the letter, consider sending it by registered mail for proof that it was received, and state a date by which you would like a reply so you know if the company is ignoring you.
- Record the name and title of everyone you talk with when you complain in person or over the phone.
- Give the person hearing your complaint a fair chance to respond.
- Stand firm—don't accept a solution you feel is inadequate.
- If you don't get any satisfaction from the people you've spoken to or written to, consider going higher up in the company—all the way to the president, if necessary!
- If you have to send more than one letter to an out-of-state company, consider sending a copy to the Consumer Division of the Attorney General's Office in that state.
- Promptly confirm any agreement by letter. Insist that all promises be put in writing.

If your efforts at the source are not successful, start climbing the complaint strategy ladder.

**STEP 2: Send copies of your complaint letters to trade and professional organizations** of which the merchant you have a complaint against may be a member. These groups may be able to persuade the merchant to resolve your complaint.

**STEP 3: Contact the Better Business Bureau.** Contact the Better Business Bureau, 1235 West Central St, Suite 1 Natick, MA 01760, 1-800-422-2811, or at [www.bosbbb.org](http://www.bosbbb.org); (email: [info@bosbbb.org](mailto:info@bosbbb.org)). If you are about to do business with a company or organization and want more information, it is best to call the Better Business Bureau *before* you make the purchase, or sign the contract.

**STEP 4: Complain to government agencies.** At the state level the different agencies that work on consumer complaints and enforce consumer laws are the Consumer Assistance Program of the Attorney General's Office, 104 Morrill Hall, UVM, Burlington, VT 05405, 1-800-649-2424; and the Vermont Attorney General's Office, 828-3171. If these agencies can't help you, they will know who can. It's also useful to notify them of your problem so they can generally keep track of problems that consumers are having. Complaints concerning professional services can be directed to the Vermont Secretary of State, at (802) 828-2363.

At the federal level, the primary government agencies responsible for consumer protection are the Federal Trade Commission (FTC), 600 Pennsylvania Ave. NW, Washington, D.C. 20580, (202) 326-2222 and the Consumer Product Safety Commission (CPSC), Washington, D.C. 20207, 1-800-638-2772. The FTC is responsible for policing unfair and deceptive business practices, while the CPSC is charged with protecting consumers from hazardous products.

**STEP 5: Tell it to the judge.** If your efforts at all other levels fail, think about going to court. If your claim involves less than \$3,500 you can argue the case yourself in Small Claims Court. For example, you might go to Small Claims Court to try to get back the security deposit your landlord owes you, or to get a mechanic to do a repair job over again because it wasn't done right the first time.

You don't need a lawyer to bring an action in Small Claims Court, and filing is relatively inexpensive (\$35 if the amount in dispute is \$500 or less, and \$60 if the amount in dispute is over \$500). Vermont Small Claims Courts provide an informal forum for resolving disputes where you can state your case in plain English. Court rules are simple; the process is

usually speedy.

If you win, the judge may order the defendant to pay part or all of your claim up to \$3,500. The defendant might also have to pay the plaintiff's filing fee, and any additional costs you encountered in serving the court summons.

**STEP 6: Hire A Lawyer.** If your problem involves more than the \$3,500 Small Claims Court limit, you will have to take your case to Superior Court. You may want to hire a lawyer to do the case for you. Under many state and federal consumer laws the business you are suing may be ordered to pay your reasonable attorney's fees and court costs if you prove that it broke these laws in dealing with you.

To find a lawyer, ask a friend or acquaintance who has had a similar legal problem to make a recommendation. Also, check your local newspaper or the Yellow Pages of your phone book under "Lawyers." Many lawyers are now advertising, and you might learn something from their ads. For example, an ad might tell you that the lawyer does not charge for the first meeting. The Vermont Lawyer Referral Program in Montpelier (1-800-639-7036) can refer you to a lawyer in your area. If you cannot afford a lawyer, call Vermont Legal Aid at 1-800-889-2047 and you may qualify for free legal assistance. In addition, you may want to call your local youth agency; they may also provide legal assistance.

## ❑ TO YOUR HEALTH (INSURANCE)

As a young person starting out, you may feel that health insurance is a low priority. If you are healthy, why spend your hard-earned money on insurance?

Health problems, whether through accidents or unexpected illness, can create enormous medical costs. A lengthy stay in a hospital can create a debt that can follow you for many years and may even cause you to go into bankruptcy. Health insurance can pay such bills and protect your economic future.

Health insurance is often provided by employers and this is a significant benefit to consider when choosing a job. You may also purchase health insurance privately. As a Vermonter, you can purchase health insurance from any company doing business in the Vermont small group insurance market. You may easily get the names of such companies and their rates by contacting the Vermont Department of Banking, Insurance, Securities and Health Care Administration in Montpelier, at 828-2900. Under certain circumstances, you may be eligible for Medicaid, a form of insurance provided by the State. Call your local PATH Office for more information about whether you might qualify for Medicaid.

## ❑ PUBLIC BENEFITS OVERVIEW

Many people run into financial problems at some time in their lives. If you ever need financial support when you are “on your own,” there may be a government benefit program to help you pay for basic living expenses, health care, housing, utilities, or food. The following is a brief overview of most of the government benefit programs available to Vermont residents.

It is important to keep in mind that each benefit program has its own eligibility rules. Many have limits on income and on what you can own. If you are not eligible for one type of benefit, you may still be eligible for another, even if the programs are run by the same office. If you apply for any benefit and are turned down, you always have the right to appeal that decision. If you want legal advice about appealing, you should contact Vermont Legal Aid at 1-800-747-5022.

### Basic Living Expenses

**Reach Up.** Low-income households with children can receive a monthly payment; the amount depends on your income, housing costs, and household size. You may be eligible for some Reach Up even if you have income from work or disability benefits. You can own a house and a car, and you may be eligible even if you are living with other people who have high incomes. Many adults will have to meet a work search requirement or work requirement in order to get Reach Up. Reach Up can also make additional payments to help cover education or work related needs, such as textbooks, car repairs, and work clothes. Apply through Vermont Department for Children and Families (DCF) Economic Services Division (1-800-287-0589).

**Post Secondary Education (PSE).** Low-income parents who are college students may be eligible for monthly payments from this program. The rules are very similar to Reach Up, but parents do not have work requirements while they are in school. Apply through Vermont Department for Children and Families (DCF) Economic Services Division (1-800-287-0589).

**Child Care Subsidies.** Parents may get help paying for child care if they are in a school or training program, if they are working, or if they just need extra help taking care of their children. Apply through Vermont Department for Children and Families (DCF) (1-800-287-0589).

**Essential Person Benefits (EP).** You may receive small monthly cash assistance if you are a low-income disabled person and you have some-

one living with you who helps care for you and is also low-income. Apply through Vermont Department for Children and Families (DCF) Economic Services Division (1-800-287-0589).

**General Assistance (GA).** GA can give a little spending money each month (about \$60), plus help with utilities, room and board, or partial rent payments. You should be able to get monthly GA if you are unable to work for 30 days and have no other money. Apply through Vermont Department for Children and Families (DCF) Economic Services Division (1-800-287-0589).

**Social Security.** If you are disabled and under age 65, you can get monthly Social Security Disability payments (SSDI) or Supplemental Security Income payments (SSI). Whether you get SSDI, SSI, or some of each, depends on how much you have worked in your life and what other income and property you have. If you are over age 62 you can get Social Security payments when you retire from work. There are also monthly payments available in some cases for the children, spouse, or divorced spouse of a worker who has become disabled, blind, or has died. Apply through the Social Security Administration (1-800-772-1213).

**Unemployment Compensation.** Unemployment Compensation provides money to replace part of your lost wages for up to 26 weeks if you have been laid off from your job, if your work hours have been severely reduced, or in some cases if you quit or were fired. Whether you are eligible for unemployment benefits depends on many factors including how long you worked, how much you were paid over a particular period of time, and why you were terminated. Apply through the Vermont Department of Employment and Training (1-877-214-3330).

**Veterans' Benefits.** Monthly Veterans Administration payments are available to disabled, blind, or elderly military veterans and their children, spouses, widows, or widowers. You may qualify for benefits even if the disability is partial or is not connected to time in the service. You can also get help paying for medical expenses. In some cases, you can get benefits even if you have a significant amount of other income. Apply at the Department of Veterans' Affairs (1-800-827-1000).

**Renters Rebate and Homeowners Rebate.** Vermont has significant rebates available for homeowners and renters who are low income. If you paid rent or paid property tax, you can be eligible for a rebate, even if you didn't have taxable income. Apply through Vermont Department of Taxes (1-866-888-2937 toll-free).

**Earned Income Tax Credit (EITC or EIC).** Low and middle income households with employment income can get this special tax refund when filing federal and state taxes. This is in addition to the tax refund you receive if they withheld too much from your pay. You can get the EIC even if your income was so low that you did not owe taxes. You can get the refund for the past three years if you were eligible but didn't file a tax return. If you have children, you can get next year's EIC in advance in your weekly paycheck. Apply at the Vermont Department of Taxes (1-866-888-2937 toll-free) and the Internal Revenue Service (IRS) (1-800-829-1040).

**Workers' Compensation.** If you are injured at your job and temporarily unable to work, you can get paid 2/3 of your wage for the hours you miss due to the injury. If the injury is permanent, you can get a life long weekly payment too. You can get this even if you are not fully disabled by the injury and can do other work. The amount you get will depend on what your work income was and how serious your injury is. This program can also help pay your medical bills for the injury. Your employer must fill out forms at the Workers' Compensation office to get this started. If your employer fails to report your injury, you can apply through Vermont Department of Labor and Industry, National Life Building, Drawer 20, Montpelier, Vermont 05620-3401 (828-2286).

## Health Care

**Emergency Assistance (EA).** For households with children and no available money who have an emergency medical need. EA can pay for doctor, dentist, eye care, prescriptions, and ambulance costs. Apply through the Department for Children and Families (1-800-287-0589).

**General Assistance (GA).** For individuals with no available money who have an emergency medical need. GA can pay for doctor, dentist, eye care, prescriptions, and ambulance costs. Apply through the Department for Children and Families (1-800-287-0589).

**Healthy Vermonters.** A discount prescription program for any Vermonter who meets income guidelines and has no prescription coverage or has exhausted their prescription coverage. Apply through the Office of Vermont Health Access (879-5900).

**HIV/AIDS Program.** If you have HIV or AIDS, you can get help paying for health insurance premiums if you have insurance through an employer and become too ill to work due to an HIV-related illness. The program also helps with the costs of medications and dental work. Apply through

the Division of Health Surveillance within the Department of Health (1-800-882-2437).

**Medicaid and Dr. Dynasaur.** Medicaid and Dr. Dynasaur are health insurance programs that pay medical bills, hospital bills, and prescription costs for low-income disabled people, low-income families with children, and pregnant women. Many children qualify for Dr. Dynasaur even though their families are not eligible for any other governmental benefit program. Families with incomes between 185% and 300% of the federal poverty level may have to pay monthly premiums. Apply through the Department for Children and Families (1-800-287-0589).

**Medicaid Working Disabled.** Health insurance for disabled individuals who are working a small amount. Similar to traditional Medicaid above, but it is available to beneficiaries with slightly higher incomes. Apply through the Office of Vermont Health Access (879-5900).

**Medicare.** If you are disabled or age 65 or older and are receiving Social Security Disability (SSDI), Medicare can help pay for your medical and hospital bills. You do not have to be low-income. Apply through the Social Security Administration (1-800-772-1213).

**Vermont Health Access Plan (VHAP).** VHAP is a health insurance program available to low income adults who are uninsured. VHAP helps pay for doctor's office visits, some hospital stays, medical supplies and equipment, and prescriptions. Beneficiaries may have to pay monthly premiums, depending on income. Apply through the Office of Vermont Health Access (879-5900).

**VHAP Pharmacy.** Prescription coverage for individuals who are disabled or age 65 or older and whose income is at or below 150% of the federal poverty level. Beneficiaries must pay monthly premiums, but there are no co-payments, deductibles, or co-insurance requirements. Apply through the Office of Vermont Health Access (879-5900).

**Vscript.** Prescription coverage for individuals who are disabled or age 65 or older and whose income is at or below 175% of the federal poverty level. Coverage is limited to maintenance medications. Beneficiaries must pay monthly premiums, but there are no co-payments, deductibles, or co-insurance requirements. Apply through the Office of Vermont Health Access (879-5900).

**Vscript Expanded.** Prescription coverage for individuals who are disabled or age 65 or older and whose income is at or below 225% of the federal poverty level. Coverage is limited to maintenance medications

whose manufacturers have entered into an agreement with the state. Beneficiaries must pay monthly premiums, but there are no co-payments, deductibles, or co-insurance requirements. Apply through the Office of Vermont Health Access (879-5900).

## Housing

**Emergency Housing Needs.** If you are homeless or at risk of homelessness, you may be able to get help through the EA or GA program. These programs can pay for emergency temporary housing in a motel, current rent costs, room and board, and moving expenses. For households with children, EA can pay for a security deposit and first month's rent. Apply through Vermont Department for Children and Families (DCF) Economic Services Division (1-800-287-0589).

**Affordable Housing.** There are many types of lower-cost housing available in Vermont. Local housing authorities can provide information. You can also learn what is available in your area at [www.housingdata.org/doarh/](http://www.housingdata.org/doarh/). Almost all of these housing options have waiting lists.

**Overdue Rent or Mortgage.** Households with children may be eligible for up to three months of back rent or back mortgage payments. Apply through Vermont Department for Children and Families (DCF) Economic Services Division (1-800-287-0589).

**Rural Housing Service.** This program can provide low-interest loans and grants for home purchase and home repairs. Call the Rural Development Office, which is part of the U.S. Department of Agriculture, at 828-6020.

**Section 8.** The Section 8 program can provide regular monthly help with rent payments (including mobile home lot rents), and in some cases mortgage payments. Apply through the Vermont State Housing Authority (1-800-820-5119), or ask them how to contact your local Housing Authority. The waiting list is sometimes closed for a period of time when it gets too long.

## Utilities

**Supplemental Fuel.** Low-income renters and homeowners can receive two payments each winter to help with heating costs. Apply through Vermont Department for Children and Families Office of Home Heating Assistance (1-800-479-6151) by August 31st. You can apply later, but the amount of fuel assistance you get will be reduced.

**Crisis Fuel.** Through this emergency program, you can receive payment for an emergency fuel delivery during the winter. Sometimes it is possible to get more than one payment from Crisis Fuel each winter. During the winter, when you have an emergency fuel need, apply at your local Community Action Agency (call 1-800-639-1053 and ask how to contact your local office).

**Lifeline.** If you receive other government benefits or if you are elderly, Lifeline can help pay monthly telephone bills. Apply through Vermont Department for Children and Families (DCF) Economic Services Division (1-800-287-0589) or your local phone company.

**General Assistance (GA).** For people without children who have an emergency utility need, GA can help pay for current heat, water, or electric bills, and in some cases for heating equipment and utility deposits. Apply through Vermont Department for Children and Families (DCF) Economic Services Division (1-800-287-0589).

**Emergency Assistance (EA).** For people with children who have an emergency utility need, EA can help pay for current heat, water, or electric bills, and in some cases for heating equipment and utility deposits. Apply through Vermont Department of Children and Families (DCF) Economic Services Division (1-800-287-0589).

## Food

**Food Stamps.** Low-income individuals or households can receive a card like a debit card to help pay for food each month. The household includes everyone whom you live with and buy and prepare food with. You can check to see if you might be eligible at [www.vermontfoodhelp.org](http://www.vermontfoodhelp.org). Apply through Vermont Department of Children and Families (DCF) Economic Services Division (1-800-287-0589).

**Women, Infants and Children (WIC).** This program provides health education and supplemental food to pregnant or breast-feeding women, women who have had a baby in the last 6 months, and children under age five. It provides food deliveries, nutrition and health education, and information about health services. While eligibility is based on household income, many working women still qualify. Apply through the Vermont Department of Health (1-800-464-4343).

## ❑ IF YOU ARE A VICTIM OF A CRIME

You have certain rights if you are a victim of a crime that occurred in Vermont, if the offender is an adult, and if the crime was reported to law enforcement. When officers contact you at the beginning of their investigation, they should give you written information about your rights. This information will include how to get help with things you might need because of the crime and the court process. For more information about your rights call the Victim Advocate located in the State's Attorneys' office of your county or visit <http://www.state.vt.us/atg>.

If you are the victim of a violent crime, you may be eligible for Victims Compensation. Eligible expenses include, but are not limited to, crime-related medical costs, mental health counseling, funeral expenses, and loss of earnings. You must fill out a short application to be eligible to receive compensation. Applications are available at your local police department or State's Attorneys' office, by calling the Vermont Victims Compensation Program at 1-800-750-1213, or online at <http://www.ccv.s.state.vt.us>.

## ❑ IF YOU ARE ARRESTED

### When Can I Be Arrested?

#### Police officers can make an arrest:

- **With a warrant** (a specific order issued by a court)
- **Without a warrant**, if the law enforcement officer has probable cause to believe the person committed the crime in the presence of the officer. Such an arrest shall be made while the crime is being committed or without reasonable delay thereafter. An officer may also arrest a person without a warrant under the following circumstances:
  - (1) When the officer has probable cause to believe that the person has committed a felony (a crime punishable by more than two years in jail);
  - (2) When the officer has probable cause to believe that:
    - (a) The person has failed to provide satisfactory proof of identity;
    - (b) Arrest is necessary to obtain nontestimonial evidence upon the person or within the reach of the person, including an evidentiary test for purposes of determining blood alcohol content;
    - (c) Arrest is necessary to prevent the continuation of the criminal conduct for which the person was detained, to prevent harm to the person detained, or harm to another person;
    - (d) The person has no ties to the community reasonably sufficient to assure his or her appearance, or there is a likelihood that he or she will refuse to respond to a citation;
    - (e) The person has previously failed to appear in response to a citation, summons, warrant, or other court order issued in connection with the same or another offense;
    - (f) The person has violated an abuse prevention order issued by a court in this state pursuant to 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69;
    - (g) The person has violated a foreign abuse prevention order issued by a court in any other state, federally-recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia;
    - (h) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member;

- (i) The person has violated 33 V.S.A. § 6913(d) (sexual activity between a caregiver and an elderly or disabled adult);
  - (j) The person has abused, as defined in 33 V.S.A. § 6902(1):
    - (1) a person over the age of 60;
    - (2) an adult whom the officer has reason to believe has a disability which prevents the adult from providing his or her own care or protection; or
    - (3) a minor child of such a person;
  - (k) The person has violated 23 V.S.A. § 1201 (operating a vehicle under the influence), and has a prior conviction under section 1201;
  - (l) The person has violated a hate-motivated crime injunction issued pursuant to chapter 33 of Title 13;
  - (m) The person has violated a condition of release that relates to:
    - (1) a restriction on travel, including curfew;
    - (2) the operation of a motor vehicle; or
    - (3) direct or indirect contact or harassment of a victim or potential witness;
  - (n) The person has violated 13 V.S.A. § 1062 (stalking).
  - (o) The person has violated 13 V.S.A. § 1023 (simple assault).
  - (p) The person has violated 13 V.S.A. § 1025 (recklessly endangering another person).
  - (q) The person has violated 13 V.S.A. § 1304 (cruelty to children under ten by one over 16).
- (3) An officer may also arrest without warrant a person under the supervision of the Commissioner of Corrections if:
- (a) pursuant to 28 V.S.A. § 301, if the person is on probation and a correctional officer believes the person has violated a condition of his or her probation; or
  - (b) pursuant to 28 V.S.A. § 363, if the person is serving a supervised community sentence, and a correctional officer believes the person has violated a condition of his or her supervised community sentence; or
  - (c) pursuant to 28 V.S.A. § 551, if the person is on parole, and a correctional officer believes the person has violated a condition of his or her parole; or
  - (d) pursuant to 28 V.S.A. § 808, if the person is on furlough, and the law enforcement officer or a correctional officer believes the person has violated a condition of his or her furlough.

If an officer has probable cause to believe a person has committed a misdemeanor outside the officer's presence, the officer may cite the person to court, unless the circumstances listed above exist, in which case, the officer may arrest.

An officer is no longer permitted to arrest a person without a warrant for the purpose of preventing possible future harm to property, but may still arrest a person without a warrant if the officer has probable cause to believe arrest is necessary to prevent continuation of the offense, harm to the person arrested, or harm to another person.

While you are under arrest, the police have the right to take your photograph, your fingerprints, and to search you. They may also ask questions as long as they do not make promises or threats or use force in an effort to get an answer. You do not have to respond to their questions.

## If You Are Arrested

### If you are arrested, you have the following rights:

- **You have the right to be informed of your rights.** If the police wish to question you, they must inform you of your right to remain silent, that any statement you make may be used as evidence against you, and of your right to a lawyer.
- **You have the right to remain silent.** This means you can remain completely silent or answer some questions and not others. It is up to you. You cannot at any time be made to answer any questions or sign any statement. You should report any force or threats to the court, the prosecuting attorney's office, or to your lawyer.
- **You have the right to telephone an attorney** and to telephone your friends or family to notify them of your arrest. If you can't afford a lawyer, you are entitled to a court-appointed lawyer at no charge to you.
- **You have the right to consult with your lawyer** wherever you are being held.
- **You have the right to be released on bail before trial in almost all cases.** Your release may be conditioned on the deposit of money or the posting of property as security, your signature on an unsecured bail bond, and/or your compliance with certain conditions such as remaining in the state, reporting to a probation officer, or refraining from seeing or associating with certain individuals.

After being arrested, you have the right to be taken before a court official (judge or magistrate) without any unnecessary delay, to be informed of the charge against you, and be appointed a free lawyer if you can't afford one. If you decide to plead guilty, the prosecuting attorney may agree to intervene with the court on your behalf. Don't rely on the promise of a policeman to help you in exchange for a confession. You may, however, rely on a promise of the prosecuting attorney to drop certain charges or

to recommend a particular sentence to the court in exchange for a guilty plea. This is known as “plea bargaining” and it is entirely legal in Vermont.

Before the court will accept your plea of guilty you should be informed of the consequences of your plea (possible punishment) and of the fact that you waive certain rights (such as the right against self-incrimination and the right to a jury trial) if the judge accepts your guilty plea.

## Liquor Liability

Who pays damages? Any person, including your best friend or parent, who gives or sells alcohol or drugs to a person under 21 years of age, or to any age person who is visibly intoxicated, may be ordered by a court to pay up to \$250,000 in damages, not including medical costs. Even if your parents did not provide the alcohol or drugs, they could still be liable for damages caused by you or your friends if you used their home for a party, or if you still live at home or are supported by them. You also can be held liable if you cause damages while impaired by alcohol.

Recent changes in Vermont law make the furnishing of alcohol to people under 21 a serious offense. Substantial sentences may be imposed on parents who host “keg parties” for their children when a drunk driving fatality results.

## Vermont Drug Laws

It is unlawful in Vermont to possess, unless you have a valid prescription, to give away, or sell most drugs. The penalties are severe if you are convicted of these offenses. You can be sentenced up to 10 years in jail for selling even a small amount of cocaine or LSD, even for a first conviction. If you are convicted of selling these drugs on the grounds of a school, an additional 10 years can be added to your sentence.

Vermont law does not distinguish between a person who is selling a drug for profit and a person who simply gives the drug to a friend without receiving any compensation. In both situations, the person is subject to the same penalty.

Possession of even a small amount of marijuana is a criminal offense. The maximum fine for possession of any amount up to two ounces is \$500 for a first offense. Conviction for two ounces or more (up to one pound) is punishable by a fine of up to \$10,000 or three years in jail or both.

## Federal Drug Penalties

Federal drug laws also carry stiff penalties. Serious offenses, involving possession of large amounts of illegal drugs with intent to sell, carry **mandatory minimum prison terms of ten years**. That means if you are found guilty, the judge has no option but to put you in prison for at least ten years to life. Crimes involving lesser amounts of drugs may still require **a mandatory minimum prison term of at least five years**. In addition to imposing stiff fines, the government may seize and sell your home, your car, your jewelry, or anything else of value connected to your drug activity.

Federal drug laws are not limited to selling drugs. For example, it is against the law to maintain a house, a building or even a room to store drugs, even if for someone else who intends to sell the drugs. Possession of drugs without the intent to sell them is also a federal crime and may yield a jail sentence. Finally, using a telephone to arrange a drug transaction is a separate crime.

If the federal government charges you with a crime, you could be detained, in custody, while you wait for a trial. Federal law allows you to be held in jail without bail before trial if the judge finds there is a serious risk that you will flee, or that you are a danger to the safety of the community. In addition, where the crime charged is a crime of violence, a serious drug offense, or there is a serious risk that you will obstruct justice or threaten a witness, you will have to overcome the presumption in the law that you should **not** be released. You cannot, however, be held for more than three days without a bail hearing before a federal judge or magistrate.

## □ THE VERMONT COURT SYSTEM

As with legislative and executive branches of government, the judicial branch exists at both the federal and state levels. There are two Federal Courts in Vermont. One is the Bankruptcy Court, and the other is the Federal District Court. While the Bankruptcy Court handles exclusively bankruptcy matters, the Federal District Court is a trial court that hears a wide variety of both civil and criminal matters. There is a Bankruptcy Court and District Court in Burlington and Rutland. Each court has its own presiding judge, and the District Court has a magistrate. The magistrate generally hears less serious criminal cases and lawsuits in which the parties agree to have the magistrate decide their case. Magistrates also preside at bail hearings and hear preliminary matters.

**The U.S. District Court** is a trial court, which means that parties present evidence for the first time at this court. They may call witnesses and offer documents to the court to review. Depending on the subject-matter of the case and choice of the parties, the judge may decide a case alone, or with the assistance of a jury. District Court opinions may be appealed to the Circuit Court of Appeals for the Second Circuit, in New York City. Circuit Court decisions may be appealed to the United States Supreme Court in Washington, D.C.

**At the state government level, there are several types of courts in Vermont, each with its own power, or jurisdiction. The types of courts are as follows:**

- The **Superior Courts** are the courts with general civil jurisdiction. They handle cases in which one person sues another for damages or equitable relief (injunctions, etc.). They also handle a variety of other civil matters.
- **Small Claims Court** is a division of the Superior Court and is usually located in the same place as the Superior Court.
- The **District Courts** are the courts with jurisdiction over criminal matters. They also have jurisdiction over certain civil proceedings related to criminal cases, such as DUI license suspension hearings, drug forfeiture proceedings, etc.
- The **Family Courts** are the courts with jurisdiction over divorce, custody, paternity, child support, relief from abuse orders, and juvenile issues such as abused and neglected children.

- The **Probate Courts** have jurisdiction over guardianships, estates and adoptions. There is a Superior, District, and Family Court in each of the fourteen Vermont counties. There are Probate Courts in each county (three of the counties have two probate courts).
- There is one **Environmental Court** in the State of Vermont with statewide jurisdiction over certain environmental matters.
- The final court of appeal in the State of Vermont is the **Vermont Supreme Court** which hears appeals of cases from all courts.

Depending upon the sort of case you have, you may, or may not, be entitled to a jury trial. There is usually a right of appeal. Some cases are appealable to another trial court for a rehearing of the evidence while most cases are appealed on the record made at the trial to the Vermont Supreme Court.

Going to court can be an intimidating experience. The language and the process may seem strange if you are not familiar with it. Where important rights are at stake, you are well advised to have an attorney help you. In almost all proceedings you can represent yourself, or appear “pro se” (for yourself). If you are going to court it is a good idea to understand exactly what is the matter being decided and what options are available to you and to the court. You may contact the court ahead of time and learn from the clerk of the court when and where to be and what sorts of things you should bring. The court staff will give helpful information about the process if they can, but they cannot give legal advice or help you prepare your case. Often there are pamphlets available at court which describe the different processes. You should have prepared yourself before going to court for a trial, having all your evidence and witnesses ready.

**Some organizations offer free or low-cost legal advice to low-income Vermonters in certain types of cases. A good place to start is Vermont Legal Aid, at 1-800-889-2047.**

## Alternative Dispute Resolution

Increasingly, disputes traditionally resolved by judges in courtrooms have begun to be handled by methods of Alternative Dispute Resolution, or ADR. Forms of ADR include mediation and arbitration. Mediation is the most popular.

Mediation allows parties to reach compromise agreements without having to pay the high emotional and financial costs of litigation. Mediation also takes place much more quickly than court hearings. If both parties agree to mediation, for example, a dispute might be resolved in one day! There are several lawyers who specialize in mediation. They can be found in the Yellow Pages under "Mediation Services," by contacting the clerk of the court, or by calling the Vermont Bar Association Lawyer Referral Service (1-800-639-7036).



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