

The ALERT



The Legal Aid Society
of Cleveland
Since 1905

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Know Your Rights and Prevent Future Legal Problems

By Anne Sweeney

Many of us hope we never face a serious legal problem and do not have any reason to learn about our legal rights until we are forced to. But learning about your legal rights and responsibilities in common situations can be key to avoiding future legal problems. For example:

As a tenant, if your landlord does not make necessary repairs, you should know that you are still required to pay rent. You can use a process to deposit rent at the court in order to compel the landlord to make the repairs. If you stop paying rent, you will likely face eviction.

If you receive benefits from the Ohio Department of Job and Family Services, such as SNAP, Medicaid, or cash assistance, you have the right to notice and a hearing before your benefits are terminated. If you request a hearing within 15 days of getting a termination notice, your benefits must continue until after the hearing. Otherwise, you may still request a hearing, but your benefits will stop more quickly.

The Legal Aid Society of Cleveland shares information about legal rights and responsibilities in several ways.

- On Legal Aid's website you can find a variety of frequently asked questions, brochures, and other self-help materials. Visit lasclv.org, click "Services & Resources" then "Legal Resources" to view resources by topic.

- Videos are posted on Legal Aid's YouTube Channel (youtube.com/user/LegalAidCleveland) and Facebook page (facebook.com/LegalAidCleveland) that explain common legal topics.
- Request a speaker from Legal Aid to speak with your group about legal rights. Send an email to outreach@lasclv.org. In the email, be sure to include all the details about what you want to learn, who is in the group, and when you would like to schedule the event.
- Individuals and families with low income in Northeast Ohio can get advice about their legal rights in specific situations by attending a Legal Aid Brief Advice Clinic to speak with an attorney. Find clinic dates and locations online: lasclv.org/events.

You may also find other helpful information online. Be careful to rely only on trusted websites. Some examples of other online resources with reliable information include:

Ohio Legal Help
ohiolegalhelp.org

Pro Seniors
proseniors.org

Office of the Ohio Public Defender
opd.ohio.gov

Special thanks to Legal Aid's summer associates

Heavenly Aguilar (Family Practice Group); Brandon Delia (Intake – Bankruptcy Project); Nida Imam (Health and Opportunity Practice Group); Maya Kapur (Community Engagement Practice Group); Bilal Mozaffar (Economic Justice Practice Group); and Allison Younger (Housing Practice Group) - for their contributions to Legal Aid and for helping to create this issue of The Alert.

Eviction 101 for Commercial Tenants

By Maya Kapur

A commercial lease agreement is the contract between a landlord and tenant for use of space for the tenant's business. Commercial leases are not covered by Ohio landlord tenant law, and tenants generally have fewer protections in commercial leases than in residential leases. In a commercial lease, a landlord can evict a tenant by going to court or by using self-help, if a self-help clause is included in their lease. In either case, a landlord can only legally evict a tenant if the tenant breached their lease, by not paying rent, for example.

In Ohio, landlords usually aren't allowed to change the locks or get rid of a tenant's belongings whenever they want. However, if a commercial lease includes a clause that allows a landlord to use self-help, then self-help is legally allowed. If a lease includes a self-help clause, it will usually describe exactly what actions the landlord is allowed to take to evict the tenant. Tenants must read and understand their lease, and look for a self-help clause, before signing it.

If the lease does not include a self-help clause, landlords must file an eviction in court, called Forcible Entry and Detainer (FED action), to evict a commercial tenant. A FED action is a quick legal process landlords can use to take back control of property from someone who won't give up possession. A landlord must complete three steps before the court will grant the eviction and order a tenant to leave:

1. The landlord must officially end the tenancy. Most commercial leases include a "notice and cure" clause. This means that the tenant hasn't breached the lease until the landlord tells them about a problem (like late rent) and gives them some time to fix it.
2. The landlord must give the tenant a three-day notice to leave.
3. The landlord must file a complaint for a FED action after the three-day notice period. But, if a landlord accepts rent after giving a tenant a three-day notice, the landlord may have a harder time getting the court to evict the tenant.

Tenants may also have the option of ending the lease early. A "termination or term of lease" clause will say how the tenant can end the lease early. A tenant may want to end the lease early if they have problems with the landlord, like poor maintenance.

No matter what the problem between a landlord and commercial tenant is, the tenant should not stop or reduce rent payments without an agreement with the landlord.

If you are a tenant with questions about your commercial lease, visit a Legal Aid Brief Advice Clinic. Find clinic dates and locations online: laslev.org/events.

Understanding "Buy Now, Pay Later" Services

By Brandon Delia

"Buy Now, Pay Later" (BNPL) services offer low payments spread over an extended amount of time. These services may seem like an affordable choice that will save money, but often they hide high costs by disguising them with low recurring payments. With BNPL services you will almost always pay more.

The Hidden Risks of Buy Now Pay Later

With BNPL services, buyers are placed on a set payment plan to spread out payments. This makes something seem more affordable at the time of purchase, which can lead buyers to take on more debt than they can afford - especially if they try to juggle multiple BNPL repayments.

Such circumstances create a higher risk of missing a payment. You could face severe consequences if you make late payments or "default" on your debt, which could negatively impact your credit score. A poor credit score restricts your financial freedom to build and use credit in the future.

Buy Now, Pay A Lot More Later

BNPL services are financially dangerous. Even if your payments are small, you are still building large amounts of debt. This debt increases with time.

BNPL services DO NOT build credit. These debts can harm credit

scores, especially for people who already struggle to get approved by banks. These services aren't regulated by the same federal rules that banks and credit unions follow. Without these rules, consumers are less protected and may face unexpected fees and high interest rates.

Depending too much on BNPL services can lead to a never-ending cycle of debt. Not repaying BNPL loans can hurt more than just your credit score. Unpaid balances may be sent to collections and could lead to lawsuits for unpaid debt or could result in the denial of housing because of a poor repayment history.

Tips for Smart Borrowing

If you need to use BNPL services or any other loan, remember to review the contract. Before committing, you should (1) calculate the total cost you will pay with interest, (2) know what happens if you miss a payment, and (3) learn about the creditor to see how they treat their consumers. By making informed financial decisions, you can protect yourself and avoid potential problems.

What if I need help getting out of debt?

If you have been sued for an unpaid debt or if you have judgments for money owed, Legal Aid may be able to help. Contact Legal Aid at 888.817.3777 or apply for help online at laslev.org/apply.

Request Services Early to Minimize Serious School Discipline

By Russell A. Hauser Jr.

Recognizing the early signs that a student may need additional support in school is one of the most important ways to ensure success. Parents and guardians should pay attention to warning signs because they may suggest that a student would benefit from a special education evaluation or other accommodations. For example, a student who is often sent home from school or otherwise disciplined for behavior problems, or who is regularly suspended or receives detentions, might benefit from behavior interventions and preventative steps.

Additional reasons to think about early interventions include poor attendance and new medical diagnoses. Even health conditions that do not directly impact learning and behavior might affect a student at school if they experience stigma, stress, or if their treatment impacts engagement at school.

Schools must only provide support and accommodations to students when the school knows about the problem. If a student has a new medical diagnosis that can impact their education, it is critical to update their school with the information as soon as possible. This way, schools will consider the student's health when conducting special education evaluations or eligibility for accommodations.

If a student struggles with behavior issues in school, then parents and

guardians should consider requesting a special education evaluation through the child's school. Put the request in an email to the principal or another administrator. A special education evaluation can result in the creation of an Individual Education Plan (IEP) or a 504 Plan to provide support and accommodations for a student aimed at helping them learn to manage behaviors in school. IEPs and 504 Plans also provide additional protections for students in cases of school discipline, meaning schools must consider a child's disability before expelling a student or suspending them for more than 10 days in a single school year.

Schools can also provide additional support for students even if they do not have special education services or 504 Plans. For example, schools can implement attendance intervention plans, regular check-ins, and behavior interventions for students to help them succeed. Schools can also conduct Functional Behavior Assessments (FBA) to watch and collect information on behaviors. This type of assessment may lead to a Behavior Intervention Plan (BIP) that can provide even more support for behavior issues.

Regardless of your student's eligibility for special education services, it is important to be proactive with their school and share information about any learning and behavior challenges. The school should then explore all options for supporting the student and avoiding serious discipline.

Shared Parenting Plans – What Parents Need to Know

By Heavenly Aguilar

A shared parenting plan is an agreement between two parents as to their legal rights and responsibilities for their child.

A shared parenting plan is commonly negotiated during a divorce or when a juvenile court determines who the parents are. If the parents are unable to negotiate their own plan, then the judge decides the rights and responsibilities of both parents. When a shared parenting plan is signed by a judge, it becomes an order of the court. If a parent violates the shared parenting plan, they may be in contempt of court because they did not follow a court order.

Since a shared parenting plan will create rights and responsibilities for both parents, the parties should work hard to ensure the shared parenting plan precisely reflects the desires of the parents. Both parents should participate in making the plan, so it is as fair as possible. Some terms to include in the plan are living arrangements, child support, providing for the child's medical and dental care, school placement, and who the child will be with during holidays and birthdays.

As circumstances change (e.g., one parent moves), and as the child grows older, the shared parenting plan may need to be modified or terminated. A shared parenting plan can be modified when one or both parents show that a change has occurred in the circumstances of the child, the child's residential parent, or either of the parents involved in the shared parenting plan. The modification must be necessary to serve the best interests of the child. A modification changes certain terms within the parenting plan but does not get rid of the plan.

If a parent wants to terminate a shared parenting plan, the parent must ask the court for sole custody of the child. Courts generally want both parents engaged in their child's care. A request for sole custody and to terminate a shared parenting plan must be in the best interest of the child.

If you are considering modifying or terminating your shared parenting plan, you may find helpful information online. Look for resources about parenting time in the "Family" section of ohiolegalhelp.org. You can also visit a Legal Aid Brief Advice Clinic. Find clinic dates and locations online: lasclev.org/events.

Medicaid Estate Recovery

By Bilal Mozaffar

Homeowners who have Medicaid may not realize their homes could be transferred to the State of Ohio instead of to relatives after they die.

In 1993, Congress wanted Medicaid to get back some of the money that it spent. To do that, Congress created a process known as Medicaid Estate Recovery (MER). MER lets Medicaid collect healthcare costs by taking people's property after they pass away. In Ohio, MER allows Medicaid to take a person's home, even if the person wanted to pass the home onto someone else.

There are some ways that MER can be **postponed**. If a deceased person who was on Medicaid has (a) a spouse; (b) a child under 21; or (c) a child who is blind or disabled, the State will not take the house from that person. Also, if the deceased had (d) siblings who lived in the home for at least one year before the person was moved to a nursing home or other care facility, that sibling caregiver would be allowed to keep the home. Finally, (e) a child of the deceased who is over 21 and who lived in the home for at least two years and cared for their parent

before they moved into a facility is allowed to continue living in the home. If any of these individuals who have the legal right to the home decide to sell it, then Medicaid will take the proceeds of the home sale.

MER can be **canceled** altogether if losing the home would create significant hardship for the potential heir. In those situations, the heir can ask the Ohio Attorney General (AG) for an "undue hardship waiver." As soon as the AG mails the MER claim to the person responsible for the deceased person's estate (or to anyone who received the deceased person's property), that person can contact the AG's MER office and explain why it would be difficult for them if the home was taken by the State. If the AG's office agrees, then the home will not be taken.

The MER rules allow the State to take a home under many circumstances. Therefore, families that have an ailing homeowner on Medicaid should learn about options to protect their property. Learn more on the Ohio Department of Medicaid's website. Visit [medicaid.ohio.gov](https://www.medicaid.ohio.gov) and type "Medicaid Estate Recovery" in the search bar.

Maintain Your Medicaid

By Nida Imam

Medicaid recipients must complete a redetermination this year to keep their benefits. Avoid legal problems, such as a loss of coverage and unpaid medical bills, by preparing for and completing your Medicaid redetermination.

For the past few years, the Families First Coronavirus Response Act (FFCRA) called for a Public Health Emergency (PHE) due to the COVID-19 pandemic and prevented states from disenrolling people from Medicaid. Medicaid recipients during this time did not need to renew their eligibility and qualified for Medicaid regardless of income.

With the end of the PHE, Medicaid redetermination will again require proof of income eligibility, as was the case before the pandemic. Ohio resumed normal operations earlier in 2023, and Medicaid benefit terminations and disenrollment started in April 2023.

Ohio Department of Medicaid (ODM) should mail renewal notices 90 to 120 days before they are due to be completed. To continue receiving Medicaid benefits, be sure to take the following steps:

- **UPDATE** contact information with your local Job and Family Services or by contacting ODM at 800.324.8680;
- **RESPOND** to the Medicaid renewal form when it comes in the mail;
- **SEND** copies of the information requested from you before the deadline; and
- **KEEP** a copy of all the documents submitted and write down the date they were mailed.

For Medicaid renewals, you may need to send copies of documents such as birth certificates, driver's license/state IDs, pay stubs or tax returns, bank statements, proof of address, bills for housing, utilities and other expenses, medical records, and immigration status records. You must send the required documents early enough that they are received by the due date.

If recipients do not respond, they may lose their coverage even if they are still eligible. Parents should respond even if they are not eligible because their children could still qualify for Medicaid coverage.

If the local Department of Job and Family Services determines a person is NOT eligible for Medicaid and the person disagrees, they should immediately request a state hearing. The request for a hearing must be received within 90 days of the denial. If a person sends the hearing request within 15 days of when the notice was mailed, benefits and services will not stop or decrease until the hearing takes place and a decision is made. Learn more on the Ohio Department of Medicaid's website, [medicaid.ohio.gov](https://www.medicaid.ohio.gov).

People not eligible for Medicaid should check for health insurance coverage through their employer or through the Affordable Care Act Marketplace at [healthcare.gov](https://www.healthcare.gov).

Get Covered Ohio is a collaborative effort to connect Ohioans to free information and assistance with exploring their health insurance options, enrolling in health coverage, and understanding their coverage. Learn more online at [getcoveredohio.org](https://www.getcoveredohio.org), or by calling 833.628.4467.

Housing Protections for Survivors of Domestic Violence

By Allison K. Younger

If you are a victim of domestic violence, dating violence, sexual assault or stalking, and you live in public housing, have a housing voucher or if your housing is otherwise supported by the federal government, then the Violence Against Women Act (VAWA) protects your rights as a tenant.

VAWA prohibits a landlord in these public and subsidized housing programs from:

1. Refusing to rent to an applicant solely because the applicant is, or has been, a victim of sexual assault, domestic violence, dating violence, or stalking;
2. Evicting a tenant who is the victim of sexual assault, domestic violence, dating violence, or stalking because of threats or violent acts committed against the victim – even if the acts took place on the property, and even if they were committed by a household member or a guest; and
3. Holding a tenant who is a victim of sexual assault, domestic violence, dating violence, or stalking to a higher standard than other tenants in any way (noise, damage to the rental unit, etc.).

In addition to VAWA, tenants also have protection under the Fair Housing Act's anti-discrimination policies. Four in five victims of domestic violence are women, and women cannot be discriminated against due to their gender in housing situations. The U.S. Department of Housing and Urban Development's (HUD) LGBT Rule requires equal access to HUD-assisted/insured housing regardless of actual or perceived sexual orientation, gender identity or marital status. Further, anti-discrimination protection also applies to private landlords who have FHA-insured mortgages or participate in the Housing Choice Voucher Program. You have rights as a survivor of abuse and can take steps to protect yourself from housing discrimination.

Questions you might be asking yourself:

I don't feel comfortable disclosing my history as a survivor to a landlord – how can I describe my living situation?

Many survivors are not comfortable talking about their situation but under VAWA landlords must keep that information confidential. Public and subsidized housing providers must keep the information confidential unless (a) a survivor gives consent in writing to release the information, (b) the information is required for an eviction proceeding or hearing regarding termination of housing assistance, or (c) the law otherwise requires.

I had to call the police on my abuser – am I going to be evicted?

If your landlord tries to end your lease or evict you because you utilized emergency services, contact an advocate. Under VAWA, landlords, homeowners, tenants, residents, occupants, guests of, or applicants for, any housing, subsidized and private, have the right to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance. You may not be penalized based on a request for assistance, based on criminal activity for which you are a victim, or where you are otherwise not at fault under a law, ordinance, regulation, or policy adopted by or enforced by a governmental entity that receives certain HUD funding.

What if I need to move before the end of my lease because of DV?

VAWA also created emergency housing transfer options in all federal housing programs. Survivors should be able to transfer to a different unit to have safer housing. Some public housing authorities and subsidized housing providers provide a preference to domestic violence survivors on their waiting lists. Survivors may be able to secure subsidized housing more quickly than if they were on the regular waiting list.

If you are facing Domestic Violence, you can get help by calling the National Domestic Violence hotline at 1.800.799.7233.



The Legal Aid Society
of Cleveland
Since 1965

Volunteer Lawyers Program
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} **free**
LEGAL ADVICE

Legal Aid provides services in the areas of consumer rights, disability, domestic violence, education, employment, family law, health, housing, foreclosure, immigration, public benefits, utilities, and tax.

**2023 Brief Advice and Referral Clinics
Civil Matters Only (Not Criminal)**

Visit laslev.org/events for full details about upcoming clinics

THURSDAY, OCTOBER 5 • 4:30 - 5:30 PM • Lakeland Community College, Kirtland

WEDNESDAY, OCTOBER 11 • 4:30 - 5:30 PM • West Side Catholic Center, Cleveland

SATURDAY, OCTOBER 21 • 10:00 - 11:00 AM • Cleveland Public Library - Hough Branch, Cleveland

WEDNESDAY, OCTOBER 25 • 2:00 - 3:30 PM • Cleveland Public Library - Main Library, Downtown Cleveland

SATURDAY, NOVEMBER 4 • 10:00 - 11:00 AM • Stephanie Tubbs Jones Health Center, East Cleveland



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Legal Aid serves people and groups with low-income in Ashtabula, Cuyahoga, Geauga, Lake, and Lorain Counties.

Legal Aid atiende a personas y grupos de bajos ingresos en los condados de Ashtabula, Cuyahoga, Geauga, Lake y Lorain en el noreste de Ohio.

 **Information and Intake online 24/7**
Información y admisión 24 horas al día, 7 días a la semana en línea
laslev.org

 **Apply by phone during most business hours**
Solicite por teléfono durante la mayoría del horario comercial
888.817.3777

Have a quick question? ¿Tienes una pregunta rápida?

Tenant Info Line 440.210.4533 or 216.861.5955
for questions related to tenant's rights and rental housing
para preguntas relacionadas con los derechos del inquilino y la vivienda de alquiler

Economic Justice Info Line 440.210.4532 or 216.861.5899
for questions related to employment, benefits, and student loans
para preguntas relacionadas con empleo, beneficios y préstamos estudiantiles

Legal Aid provides interpreters and translation. *Legal Aid proporciona intérpretes y traducción.* 

Legal Aid uses Ohio Relay Service (800.750.0750) to support people who have a communication limitation.
Legal Aid utilizó el servicio de retransmisión de Ohio (800.750.0750) para ayudar a las personas que tienen una limitación de comunicación.

Request an outreach/education event or materials for your community group by email: outreach@laslev.org.
Solicite un evento o materiales de divulgación / educación para su grupo comunitario por correo electrónico: outreach@laslev.org.

This newsletter is meant to give you general information and not to give you specific legal advice. This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation or if you have questions.

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