

The ALERT



The Legal Aid Society
of Cleveland
Since 1905

V.32, NO.2 FALL 2016

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Auto Title Loans: A problem for employment

By Christopher Kolezynski

"Jobs in Northeast Ohio are least accessible for the people who need them most," according to Brett Barkley, Cleveland Federal Reserve. Over the last 15 years, Cleveland has experienced a large drop in jobs located near where people live and currently ranks below average for access to employment by public transport.¹ In areas of high poverty, this drop has been especially large. Jobs which have lower qualifications, such as those that only require a high school diploma or pay less than \$1,250 a month, are the hardest to get to by public transportation.²

Auto title loans are making this transportation and jobs problem worse. An auto title loan is a loan where a person borrows money using the title of their car as "collateral" or security for the loan. These loans usually have very high fees and the borrower often cannot afford to pay off the loan when due. If the borrower does not pay the loan when due, the lender can repossess and sell the car to pay off the loan. Borrowers who cannot pay off the original loan are forced to take out another loan or lose their car. The new loan again includes the high fees. Each time the borrower is unable to pay off the loan, the borrower is forced to take out another loan with the same high fees, so the borrower falls deeper and deeper in debt.³

The federal Consumer Financial Protection Bureau reports one out of five people who borrow auto title loans lose their vehicle.⁴ The Center for Responsible Lending reported that in 2013, 135,746 auto title loans were made in the state of Ohio. So, approximately 27,000 Ohioans, in 2013 alone, may have lost their cars due to their inability to pay off an auto title loan.⁵

Auto title loans may seem like a quick fix in an emergency, but very seldom provide the help a person needs. Because jobs are not always accessible by public transportation, the loss of a car can also mean the loss of a job. For these reasons, auto title loans should be avoided. Not only do these loans create problems for individuals, but they can impact our entire community by undermining opportunities for employment.

¹<http://www.brookings.edu/research/reports2/2015/03/24-people-jobs-distance-metropolitan-areas-kneebone-holmes>

²<https://www.clevelandfed.org/newsroom-and-events/publications/a-look-behind-the-numbers/albfn-20151123-a-long-ride-to-work-job-access-and-public-transportation-in-northeast-ohio.aspx>

³http://www.cleveland.com/consumeraffairs/index.ssf/2014/08/auto_title_loan_ads_gloss_over.html

⁴<http://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-one-five-auto-title-loan-borrowers-have-vehicle-seized-failing-repay-debt/>

⁵http://www.responsiblelending.org/payday-lending/research-analysis/crl_ohio_analysis_nov2015.pdf

Thank you

to Legal Aid's 2016 summer associates who helped create this issue of "The Alert."

Resolving Federal Tax Lien Problems

By Frank George

When a homeowner does not pay a tax debt, the Internal Revenue Service (IRS) may impose a tax lien on the taxpayer's property. The tax lien can have a negative impact on the individual taxpayer and the community. A tax lien gives the federal government a right to the property or money from the sale of the property before anyone else. Additionally, the IRS can seize and sell this property, making it difficult for property owners to manage their property.

The problem for the taxpayer is that a lien prevents owners from selling their property and makes it difficult for them to refinance their mortgages. As a result, the owner may have to pay high interest rates, may not be able to sell a home, and the likelihood of foreclosure increases. For the community, foreclosures decrease the value of nearby homes, discourage spending in the surrounding area, and contribute to other problems associated with vacant and abandoned property.

People struggling with tax debts and who may already have tax liens on their property, have options to address the situation. First, a taxpayer can complete the IRS's application for a Certificate of Subordination of Federal Tax Lien. This makes the federal

government's interest in the property come after other creditors, such as the bank that holds the mortgage. The successful completion of this application could make refinancing a mortgage possible for a property owner. Refinancing can reduce the owner's monthly mortgage payments.

Second, a taxpayer can request that the IRS discharge a tax lien, which can allow the sale of property. Though a discharge does not eliminate the lien altogether, it does remove the lien from the specific property being sold and places a lien on other property the taxpayer may own. Property free from liens is much easier to sell.

Finally, a taxpayer that cannot afford to pay tax debt may qualify for an "Offer in Compromise" (OIC). An OIC is an attempt to settle tax debt with the IRS for less than the amount that is actually owed. If the IRS accepts the settlement offer, the taxpayer's debt – along with liens on property – will be eliminated.

If you have a problem with the IRS, call 1-888-817-3777 to find out if you are eligible for help from Legal Aid's Low Income Tax Payer Clinic.

A Clean Slate: Benefits of Sealing Juvenile Records

By Rachel Kalayjian

Ohio law makes sealing juvenile records easier than sealing adult criminal records. Nonetheless, a person with a juvenile record may deny employment, benefits or enrollment based on the record.

Juvenile records do not automatically seal. A juvenile may request their record be sealed as soon as six months after completing their sentence, or immediately when they turn 18, as long as they are no longer under an order from juvenile court, such as probation. A "sealed record" only can be seen by the Court. Once a record has been sealed, a juvenile may petition the court to expunge it, which means to permanently destroy it.

The Court does not automatically grant a request to seal a juvenile record. The burden of proving a record should be sealed can be hard for a young person to meet, especially without the support of a mentor or representation by an attorney. "For youth without a support network, it's totally upon them to demonstrate they are sufficiently rehabilitated," says Attorney Ponce de Leon. If a prosecutor objects that a juvenile petitioner must demonstrate maturity, responsibility, and productive plans for the future to successfully seal it.

The process of applying to have a juvenile record sealed can be empowering for young adults, by teaching them about the justice system, explained Legal Aid Society Attorney Danielle Gadomski Littleton. Most people mistakenly believe that a juvenile adjudication is a conviction. But when an employer asks if you have a criminal conviction, if your only offense is a juvenile record, you can honestly answer "no."

Another important lesson is that court costs can be waived. Before the Court can seal a juvenile record, a petitioner must pay any outstanding court costs and fees. Attorney Gadomski Littleton advised that petitioners can always ask the Court to waive these fees after petitioning to seal their records but it's up to the court whether to grant that request.

More information about sealing juvenile records can be found at <https://lasclv.org/i-have-a-juvenile-criminal-record-which-offenses-can-be-sealed/>. To apply for help from Legal Aid with sealing a juvenile record, call 1-888-817-3777.

Lead Paint is Poisoning Our Kids

By Lauren Roberts

Lead poisoning has long been a problem in Northeast Ohio. Children are exposed to lead through paint chips, lead in the soil, and lead in toys. Exposure to high amounts causes lead poisoning, which impacts how our children learn, behave, and develop.

Who is at risk?

Children ages 0-6 and pregnant women are at the greatest risk. Lead poisoning disproportionately impacts renters, minorities, and low-income residents who have less access to affordable, quality housing. Certain zip codes are at higher risk for lead hazards because of the age of their housing and the number of other children who have been poisoned there.¹

Where is this problem?

Anywhere children may be exposed to lead. Common sources include old homes with peeling paint, the yard around such homes, outside near high traffic areas, old school buildings, and other buildings where children spend time (e.g. relatives, babysitter, and day care).

What are the signs?

Lead poisoning can cause many negative health impacts but children may not immediately present any symptoms of lead poisoning. Some long term consequences of lead poisoning in children include behavioral problems, cognitive delays, and trouble learning. High levels of lead poisoning can lead to hospitalization. Housing inspections don't routinely check for lead so parents must spot potential lead hazards in the home and insist on having their child's lead level's tested.

When do I need to address this?

Immediately. If your child has not been tested for lead poisoning, talk to your pediatrician. Medicaid pays for lead testing.

What can you do if you're concerned?


In addition to having your child's lead levels tested, you can take some steps to limit their exposure to lead. Use HEPA vacuum filters and vacuum windowsills, wipe surfaces periodically, keep shoes at the front door to not track in lead, wash your kids' hands and faces routinely, clean toys, watch where they play (avoid areas near peeling paint), feed them three meals a day with plenty of iron and calcium (greens, protein, milk). If your child's lead levels are high, try to identify the source of the exposure and if necessary, talk with your landlord or explore moving to a new home.

My child has been poisoned, what are my options?

- Get your house inspected. Contact your local health department to request an inspection.
- Request that your landlord remedy the lead paint problem.
- Discuss your options for suing your housing provider with an attorney.
- Seek early intervention. Talk to your pediatrician and contact your county's Help Me Grow program for enrichment services that can help mediate the impact of lead poisoning.
- Inform the school and ask for your child to be evaluated for special education services to address cognitive or behavioral problems.

¹For a list of high risk zip codes, see <https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/eh/lead-poisoning-children/2014/Updated-Brochures-Forms/BloodLeadTestingRequirementsandZipCodes.pdf>

For information about resources to address lead poisoning, visit <https://lascleve.org/i-have-a-juvenile-criminal-record-which-offenses-can-be-sealed/>.



Send a text for Legal Aid intake hours, office locations, Brief Advice Clinic schedule and more!

Send a message to 216.242.1544 starting with "LAS" followed by a key word related to your question - hours, address, clinic, etc. For example, if you text "LAS hours" you will get a message back letting you know the hours Legal Aid is open for new intake applications. If you text "LAS office" you will get a message with our Cleveland address, and inviting you to text another city (Painesville, Elyria, Jefferson) for those office locations.

Immigration Consequences from Old Criminal Convictions

By Samerra Allooh and Luis Martinez

Legal permanent residents (LPRs) who are not citizens in the United States face serious immigration problems in addition to criminal penalties when charged with a crime. Any criminal conviction has serious consequences on a person's immigration status. A person's application for a visa may be denied or a person with legal status can lose it and be deported.

The immigration issues resulting from criminal convictions impact a person's family and community. For example, a legal permanent resident (LPR) lived in the U.S. since 1974. In 1989, at the age of 18, he was convicted of possessing marijuana and placed on probation for two years. Due to his status as a LPR, he was notified in 2011 - nearly 27 years after his conviction - that he was being removed because he is an alien convicted of a violation of the law relating to a controlled substance.

Having entered the U.S. over forty years ago, the man has become a husband, a father, and a valued and contributing member to his

church community. If he were deported, it would create significant hardship for himself, his family and his community.

In some instances, a person can avoid deportation through a process called "Cancellation of Removal." To qualify for cancellation of removal, a person must establish at a hearing in immigration court that:

1. He has been a legal permanent resident for at least five 5 years;
2. Prior to committing the offense, he had at least 7 years of continuous residence in the U.S. after having been lawfully admitted in any status; and
3. He has not been convicted of an aggravated felony.

Non-citizens are always subject to removal. The best way to avoid any risk of deportation is to naturalize. For information about immigration legal assistance available at Legal Aid, see <https://lasclev.org/category/brochures/immigration-brochures/> or call 1-888-817-3777 to apply for help.

Smoking Bans and the Potential Impact on Your Housing

By Abigail Pink

Housing providers have started banning smoking in residential buildings. The bans prohibit residents smoking in their units or outside of designated smoking areas. The U.S. Department of Housing and Urban Development supports these bans in the interest of residents' health and minimizing repair costs.¹

Public housing authorities (PHAs) in the five counties served by the Legal Aid Society may soon implement a smoking ban given HUD's proposed "Smoke Free Public Housing" rule from November 2015.² Even in regions with relatively low smoking rates, such as Cuyahoga,³ many citizens may be exposed to the health risks associated with smoking if they live or work in a smoking building.

If you live in a building considering a smoking ban, you may have the opportunity to voice your opinions about the ban. Look for signs or notices of a residents' meeting within your building regarding a smoking ban. A residents' meeting may be your best opportunity to speak directly to the PHA about the ban.

Another option for Cleveland residents to express their opinion is to contact the Cleveland Tenants Organization (CTO). CTO advocates for affordable and fair rental accommodations.⁴

Tenants' groups will be interested in working with PHAs to draft the ban because violations by tenants or tenants' guests may result in a lease violation or even eviction. If you would like to speak with someone at CTO regarding a smoking ban, call (216) 432-0617.

Finally, if your building creates a smoking ban, be aware of your responsibilities. You may be asked to sign a lease addendum regarding the policy during a recertification meeting.⁵ Read all documents carefully and ask your property manager any questions you have during that meeting. You may also request copies of the paperwork to review later or to discuss with a tenant advocate. Clarify when the new policy takes effect, and what is expected of tenants. You should also know the potential penalties for violating the ban so you can be sure to follow the new rules once effective.

¹Change Is In The Air: An Action Guide for Establishing Smoke-Free Public Housing and Multifamily Properties, Department of Housing and Urban Development, p. 10-17 (2014).

²Instituting Smoke-Free Public Housing, 80 Fed. Reg. 71,762 (Nov. 17, 2015)

³Ellen Jan Kleinerman, "Cuyahoga County smoking rate is lowest in Ohio." The Plain Dealer, September 15, 2010. http://www.cleveland.com/healthfit/index.ssf/2010/09/cuyahoga_smoking_rate_lowest_i.html

⁴"Mission & Values", www.clevelandtenants.org (2015).

⁵Change Is In The Air, p. 63.

Lakewood City Council Enacts Anti-Discrimination Laws

By Olivia Milne

On June 20th, the City Council of Lakewood passed an ordinance that extends the city's non-discrimination laws to protect lesbian, gay, bisexual, and transgender citizens. Ohio is one of 28 states which do not currently have statewide protections for the LGBT population. However, the passage of Ordinance 1-16 will make Lakewood one of 15 cities in the state to adopt such legislation.¹

Prior to the passage of this law, there was no protection against discrimination based on gender identity or sexual orientation in Lakewood in the areas of housing and employment. However, with the enactment of this ordinance, no citizen of Lakewood can be fired, evicted from their home, or denied government services based on the person's gender identity or sexual orientation. Employers can only fire, promote, or hire employees based on job performance. The ordinance was spearheaded by City Councilman Dan O'Malley and supported by a great number of city council members.

The ordinance also created a three member human rights committee to hear complaints about violations of the new law. The committee will hear complaints of discrimination based on age, race, color, creed, religion, national origin, ancestry,

disability, marital status, gender, gender identity or expression, sexual orientation or physical characteristics. The committee will have some enforcement powers, including the option of requiring employers to rehire fired victims of discrimination, and instituting fines of up to \$500 for damages.

Similar legislation in the City of Cleveland was debated and passed in July 2016. In 2009, Cleveland passed protections against discrimination for LGBT citizens in the areas of public services (such as bathrooms), but lawmakers amended the language to exclude private businesses from the requirements. Due to the passage of this new legislation, private business owners cannot legally deny public accommodations on the basis of perceived gender or gender identity. The new law, Ordinance 1446.13,² allows people who are transgender to use the bathroom, locker room, and dressing room of their choosing. Similar legislation in other Ohio communities such as Columbus and Bexley has already passed.³

¹Lakewood Ordinance 1-16: <https://www.documentcloud.org/documents/2891261-lkwd-Human-Rights-Ord-Draft-as-Adopted-06202016-1.html#document/p1>

²Cleveland Ordinance 1446: <https://assets.documentcloud.org/documents/1354865/restroomord.pdf>

³See <http://www.equalityohio.org/cleveland-city-council-to-vote-on-closing-discrimination-loopholes-in-local-ordinances/>

Legalization of Medical Marijuana and Its Potential Impact on Employees

By Tianyu Wang

Following passage of House Bill 523, Ohioans can start using medical marijuana legally in September 2016. Individuals with certain conditions or diseases may get a medical marijuana prescription from their doctor. If they choose to use medical marijuana, there could be unintended consequences for their job.

First, employers are not required to permit or accommodate their employees' use of medical marijuana. For example, employers who have a zero tolerance drug policy are not required to make any exception for employees who have a medical marijuana prescription.

Second, employees may use medical marijuana off duty but test positive in a workplace drug test weeks later. A positive drug testing result may violate their employers' drug policy and get them discharged or disciplined. In such cases, employees do not have a right to sue their employers for the adverse employment action taken against them.

Third, if employees' use of medical marijuana violates a workplace drug policy, employers may discharge them "for cause". A "for cause" discharge will make the employees ineligible for unemployment compensation.

Fourth, employees who suffer a workplace injury may claim workers' compensation. But if they test positive for drug use following the injury, their employers have a defense against their claim. Even if employees have a medical marijuana prescription, their employers still have the defense. If the defense succeeds, their claim for workers' compensation will be denied.

Before using medical marijuana to manage symptoms of health conditions, find out what the possible effect may be for your job. Even a prescription may not ensure you more tolerance or protection in the workplace. If you are concerned about your legal rights, talk with an attorney before you begin taking medical marijuana.



The
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Since 1905

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Legal Aid has improved its intake system to better serve the Northeast Ohio community.
Please share this information with your constituents:

**If you need legal assistance,
you can contact Legal Aid any weekday for help.**

New intakes are processed via phone:
888-817-3777 (toll-free)

Monday, Wednesday, Friday: 9 a.m. – 4 p.m.
Tuesday, Thursday: 9 a.m. – 2 p.m.

If you prefer an in-person intake application, those are handled:
Tuesday, Thursday: 9 a.m. – 1 p.m.

at any of our four Northeast Ohio offices (Cleveland, Elyria, Jefferson & Painesville).

Visit www.lasclev.org for more information!



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.

If you have a communications limitation, contact us through the Ohio Relay Service. Interpretation services are available so that anyone can communicate with us in his or her dominant and/or preferable language.

Publication of The Alert is made possible, in part, by a grant from the Ohio Department of Aging through the Western Reserve Area Agency on Aging and District XI Area Agency on Aging.