



SO YOU'RE

18

Answers to your questions
about your legal rights and
responsibilities

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Eighteen, the Magic Number

Age of Majority: This is the age when a person is no longer a legal minor and now has full legal responsibility. In Virginia, 18 is the age of majority.

But what does that even mean? Turning 18 does not come with a set of instructions. That is why the Virginia State Bar and the Conference of Local and Specialty Bar Associations created this handbook—to help you understand some of your rights and obligations as an adult and to help you avoid some of the pitfalls facing young adults as you take on legal responsibilities.

So You're 18 is intended to be an initial resource of information regarding basic law-related references and a good summary of the various legal issues you may encounter. However, if you have more detailed questions about a particular subject or if you need legal advice about a specific case, you should contact an attorney to discuss your specific issues. Remember that the law changes over time. The information in *So You're 18* was accurate at the time of publication but may change in the future.

The information in *So You're 18* is updated regularly at soyoure18.com, and the booklet is published yearly. You can watch the *So You're 18* video, download a copy of the booklet, and order printed booklets at vsb.org/site/publications/sy18. You can also suggest additional topics and questions you want answered in this resource. Help us spread the word about *So You're 18* with #SY18.

Information is power. Share it.

The Basics

What are some of the rights that I have at age 18 that I didn't have before?

- You have the right to vote in national, state, and local elections.
- You have the right to live independently from your parents and be free of their control.
- You have the right to marry without your parents' permission.
- You have the right to enter into a contract.
- You have the right to make a will.
- You have the right to run for some elective offices.
- You have the right to obtain medical treatment without the consent of your parents.
- You have the right to apply for credit in your own name.
- You have the right to work in all types of jobs.
- You may enter military service without your parents' permission.

What are some of the new responsibilities that I have when I become 18?

- Your parents are no longer required to support you.
- You are responsible for all your actions. If you violate the law, you will be tried and sentenced as an adult, not as a juvenile.
- You may sue and be sued by others for contracts that you make.
- You may be called for jury duty.
- You can be sued for child support and the medical bills relating to your child's birth.
- If you are male, you must make sure you are registered with the Selective Service.

What doesn't change after I turn 18?

Even though you are generally considered to be an adult at the age of 18, you cannot purchase, possess, or use alcohol. You cannot apply for a concealed weapon permit until you are 21 years old. However, this does not prevent you from having a weapon for legal hunting.

Voting

What are the requirements for voting in Virginia?

- You must be a US citizen, as well as a resident of Virginia and of the precinct in which you intend to vote.
- You must be at least 18 by the next November general election (you can vote in the primary at 17 if you will be 18 by the next November general election).
- You must register to vote.
- You must not have been convicted of a felony as an adult, unless your right to vote has been restored.
- You must not have been declared mentally incompetent, unless your competency has been re-established.
- You must show valid picture identification such as a state-issued ID card, driver's license, or passport. If you do not show a photo ID, you will be given a provisional ballot with a requirement that you submit the proper ID later. Otherwise, your provisional vote will not be counted.



Where do I vote?

Voting takes place at a designated “polling place,” usually a school or other public building, within your voting precinct. When you receive your voter registration card, the address of your voting location will be provided. If you are still unsure of where to vote, consult the registrar for your locality.

Registering to vote—how do I do it?

If you have a driver's license or identification card issued by the Virginia Department of Motor Vehicles, you can complete and submit your voter registration application online by accessing the State Board of Elections' website at www.vote.virginia.gov.

You also may fill out the application to register that is available at your local library, post office, DMV branch, or through your local registrar. Applications also are available online at the State Board of Elections website: elections.virginia.gov/index.php/registration/voter-forms. If you have any specific questions about voter registration, call the State Board of Elections at (800) 552-9745.

Can I register on Election Day?

No. Voting record books are closed twenty-two days before an election, so be sure to register well in advance. You can register to vote before your eighteenth birthday if you will be 18 when the next November general election occurs.

Can I vote in the city where I go to college?

You may vote there if that is where you claim your residency; however, in claiming residency there, you may be required to pay taxes and other fees there. If you maintain your residency with your parents in another city, you must vote in that city. If you are unable to return home on the day of the election, you may obtain an absentee ballot by completing an application form online well in advance of the election. You may also complete an application and mail or fax it to your local registrar.

American Citizenship



Am I a United States citizen?

You are a United States citizen if:

- You were born in the United States or one of its territories such as Puerto Rico, Guam, The Virgin Islands, The Panama Canal Zone and The Northern Mariana Islands;
- You were born abroad, both your parents were US citizens and married at the time of your birth, and at least one of them has lived in the United States before your birth;
- You were born abroad, one of your parents was a US citizen and married to your other parent when you were born and that US citizen parent lived at least five years in the United States before your birth, with at least two of those five years occurring after the parent's 14th birthday; time abroad serving honorably in the US Armed Forces or employed with the US government or with certain international organization can be counted towards the physical process requirement. (Please note that different residency requirements apply to those born before November 14, 1986);
- You were born abroad to an unmarried US citizen father or mother, provided special requirements related to paternity acknowledgement, financial support, and physical presence are met;
- You have completed the US Bureau of Citizenship and Immigration Services' (UCIS) naturalization process.

How do I know if I am eligible to become a US citizen through naturalization?

You are eligible to be naturalized and become a US citizen if you are a permanent resident, you have a valid alien registration card (green card), and you have lived continuously in the United States for at least five years (or three years if you are married to a US citizen sponsor). In addition, you must be of good moral character; have an understanding of US history and civics; be willing to take an oath of allegiance to the United States; and be able to read, write, and speak English and pass the Citizenship Test.

One of my parents became a naturalized citizen after I was born but before I turned 18 years old. Did I automatically become a citizen?

Maybe. If you were born after February 27, 2001, you are under 18, residing in the United States pursuant to a lawful admission for permanent residence, and are in the physical and legal custody of the US citizen, then you can automatically become a US citizen. Also, you can become a US citizen if you were born after February 27, 2001, and were adopted by a US citizen before your 16th birthday, so long as you are legally in the United States under the physical and legal custody of the US citizen with whom you have resided for the past two years.

What are the benefits and responsibilities of citizenship?

- You have the right to vote in federal, state, and local elections.
- You can obtain a US passport and have freedom to travel outside of the United States.
- You can serve on a jury.
- You will become eligible for certain jobs in the federal government that require citizenship.

If you have questions about your immigration status or the naturalization process, it is best to speak with an attorney who practices immigration law. You also can call the US Citizenship and Immigration Services (USCIS) at (800) 375-5283 [TD (800) 767-1833] or visit its website at www.uscis.gov.

Watch out:

Immigration consultant fraud occurs when an individual without authority either as a licensed attorney or as a Board of Immigration Appeals accredited non-lawyer representative offers to provide services related to procuring an immigration benefit for an individual, family, or business. These individuals call themselves "notarios," "notario publicos," "visa consultants," "immigration consultants," "licenciados," and other terms in other languages. They take advantage of undocumented aliens, US business owners, legal permanent residents, and US citizens. They usually charge fees for their services, but are not authorized to give legal advice about immigration law.

Learn more from the Virginia State Bar www.vsb.org/site/public/immigration-fraud

Military Service

When can I enlist in the armed forces?

You must be 18 to enlist but, with the written consent of your parent or guardian, you may enlist at the age of 17.

Are all 18-year-old males still required to register with the Selective Service System?

Absolutely. Even though this country has not had a draft for quite some time, every male citizen of the United States still is required to register for the United States Selective Service within thirty days before or after his eighteenth birthday. Females still need not register for the



Selective Service System. All males between the ages of 18 and 26 who are not citizens of the United States also must register, unless they have legally entered the country as non-immigrants. Although it may seem unusual, illegal aliens still are required to register for the Selective Service.

You may be exempt from registering if you are already on full-time active duty with the armed forces, but part-time duty with the National Guard or Reserves does not exempt you from registering.

If for some reason you do not register when you are 18, you should register as soon as possible. The federal government will not prosecute you if you register before criminal action against you has been started. But if they find you first, it may be a different story. For failing to register, you could be convicted of a federal crime punishable by up to five years in prison and a fine up to \$250,000! If you need even more reasons to register, those who fail to do so are ineligible for federally-funded student financial aid, civilian jobs with the federal government, and federal job training programs.

How do I register?

To register, you simply go to any post office and fill out a Selective Service registration form. You also can register online at www.sss.gov. After your registration is processed, a Selective Service registration card will be mailed to you.

The Selective Service System gets addresses of men with driver's licenses from the Department of Motor Vehicles (DMV), so you may be automatically registered when you turn 18. You should receive a letter from the Selective Service System within thirty days of your eighteenth birthday. It is your responsibility to make sure you are registered.

What if I think I may be exempt from the draft?

You still must register. Draft cards are not issued at the time of registration, and you will not get a physical examination or receive a military classification. If a draft were to occur, you would be notified by the Selective Service. Your notice would order you to report for a physical examination and would provide information on possible exemptions and deferments at that time.

For further information you may visit the Selective Service System website at www.sss.gov or call them at (847) 688-6888 or toll free (888) 655-1825.

Jury Duty

Who can be called for jury duty?

To be called for jury duty, you must be 18 years old, have lived in Virginia for at least one year, and have lived in the city or county where you are being summoned to serve as juror for at least six months immediately preceding your summons. If you have been convicted of a felony as an adult or have been declared mentally incompetent and your competence has not been reinstated, you are not eligible to serve on a jury.

The Constitutions of the United States and of Virginia guarantee that all people, regardless of race, religion, sex, national origin, or economic status, have the right to trial by impartial jury. An impartial jury should be a jury of the defendant's peers – i.e., a cross section of people who are representative of the local community. Juries decide the fates of criminal defendants and the outcomes of civil cases and are essential to the overall administration of justice. Therefore, is very important for everyone in the local community to respond and fully participate in jury duty if asked.



How are people called to serve on a jury?

Jurors are selected randomly from lists designated by the court, such as the voter registration list and the DMV list. Each individual selected for jury duty will receive a summons from the sheriff that will identify the date, location, and time to report for jury service. Keep in mind that receiving a jury summons does not automatically mean that you will sit on a jury. When you report for jury duty, you should dress appropriately to show respect for the court and for those persons whose case will be heard that day. When you arrive in the courtroom, the judge and the lawyers involved in the particular case will ask you questions about any relationship you may have with the parties or any interest you may have in the outcome of the lawsuit. This process is called "voir dire." After these questions are asked, the lawyers will have an opportunity to remove jurors from the panel for any reason, other than race and sex, until the jury is reduced to the number of jurors required for that particular case.

If I'm called to serve on a jury, do I have to go?

Yes. All qualified citizens have a legal and civil obligation to serve as jurors when called.

Can I be excused from jury duty?

Upon request by a potential juror, the following shall be exempt: mariners employed in maritime service; custodians of minors who require continuous care; persons responsible for care of physically and mentally impaired person during court hours; persons over 70 years of age; breast feeding mothers; those whose spouses are on the same jury panel; and persons whose services are essential to operations of a particular business. Only a few people are automatically exempt from jury duty; these include members of Congress and the General Assembly (during session), licensed active attorneys, judges, members of sheriff's departments, state troopers, certain corrections officers, and members of executive branches of state and federal governments. Others may be excused from jury service after contacting the court, but requests are determined on a case-by-case basis.

What if I get called for jury duty after I turn 18, but while I'm still in high school?

You have an obligation to serve on the jury, so you will be excused from school for jury selection and trial.

If I am attending college in a different town or state than my home address and get called for jury duty, do I have to travel home every week for the month I'm called?

There is no statutory exemption for college students from jury duty, even if you are living away from your home address. Students may ask to be excused from jury duty under these circumstances and offer to be available when they are home during school breaks. But there is no guarantee that the court will grant the request. Many courts have websites describing how to ask to be excused from jury service. If there is no specific instruction on how to ask to be excused, contact the clerk of the court who issued the summons for jury duty.

How long can I be required to serve on a jury?

As long as it takes. Some trials last only a few hours, others a day or two, and some trials can last even longer. Before a lengthy trial, it is likely that the judge will ask you whether you have any problems that could prevent you from serving on such a jury. It will then be up to the judge to decide whether you have a valid excuse from service.

Will I get paid for being on a jury?

Yes, but not much. In Virginia, jurors are paid \$30 per day of service. Any expenses a juror may have, such as meals and transportation, must come out of this \$30.

What happens if I have to miss work for jury duty?

You are obligated to report for jury duty and your employer cannot fire you or make you use sick days or vacation days for the time you miss. Whether you will continue to be paid your salary for the time you miss in order to serve on a jury depends on your employer.

How often can I be called for jury duty?

You can be called for jury duty no more than every three years.

Driving



“Driving is not a right, it’s a privilege in Virginia.” Summed up, that means you have to have a valid license to drive, and your license can be revoked or suspended for certain infractions or criminal convictions.

Do I have to have car insurance?

Here is how it works in Virginia: if you own a car, you have to register your car and provide the Department of Motor Vehicles (DMV) with proof of insurance or the payment of \$500 per year as the annual uninsured motor vehicle fee. You may, however, opt to satisfy DMV with proof of a security bond and receive a self-insurance certificate. Thus, you basically have three options to satisfy the law; you can 1) insure your vehicle with bodily injury coverage with the minimum liability coverage of \$25,000 per person/ \$50,000 total for all persons per accident, and \$20,000 in property damage, 2) receive a self-insurance certificate from DMV/to show proof of a security bond or 3) pay the uninsured DMV annual fee.

What happens if I get too many traffic tickets?

The more traffic convictions you get, the stiffer the penalties. Certain “traffic tickets” call for the court to suspend your license.

In Virginia, driving violations are rated according to demerit points. When you are convicted of certain violations, your driving record is “pinged” (penalized) with demerit points assigned to those violations. With an accumulation of demerit points your driver’s license can be suspended. Demerit point suspensions depend on age, number of demerit points, and nature of offense. Minor violations are -3 points, major violations are -6 points. When you accumulate a certain number of demerit points, the Department of Motor Vehicles will take action such as requiring you to attend a driver improvement course, conducting an interview with you, placing you on probation, or even revoking your driver’s license. In addition, multiple driving violations will impact the cost of your insurance and possibly your ability to obtain and maintain car insurance. Driving improvement classes are also available on a voluntary basis and when completed it will reduce your total overall demerit points.

Can I hang stuff from my rearview mirror?

No. Not only is it against the law to hang anything decorative from the rear view mirror of a motor vehicle, including graduation tassels, air fresheners, flags, and ornaments, it is even against the law to hang a handicap/parking permit sign from your rear view mirror while driving. You are inviting the police to stop your vehicle by having something hanging from your rear view mirror while you drive down the road.

Can I smoke in the car while someone else pumps gas?

No. Any person who smokes or uses an open flame within twenty feet of a fuel pump is guilty of a Class 3 misdemeanor, punishable up to a \$500 fine. Anyone who causes a fire or explosion as a result of smoking at the pump can be charged with a class 1 misdemeanor.

What about texting while driving?

Don't even think about it. Texting and driving could easily lead to you or someone else being killed.

Using a phone or tablet or any other device is really dangerous. It is unlawful to operate a moving motor vehicle while using any hand-held personal communications device to text or read any email or text message. There is a \$125 fine for the first offense and a \$250 fine for every subsequent violation. It is prohibited for a person to hold a handheld personal communications device in your hand while driving in a highway work zone, with certain exceptions. There is a mandatory fine of \$250 for violating this law.

Do I have to wear a seat belt?

The short answer is "Yes." The long answer is that the law in Virginia requires all persons 16 years or older occupying the front seat of a motor vehicle to wear their seat belts while the vehicle is in motion. There are exceptions for those with medical problems (you must have a signed statement by a doctor) and for certain professions such as mail carriers and newspaper deliverers. In addition, if you are the driver, you are responsible for ensuring that anyone less than 18 years old except for those required to be secured in a child restraint are properly fastened.

How do I become an organ donor?

You can register as an organ donor when you apply for a new driver's license or renew your existing license. You can also contact DMV at any other time about the process and/or indicate same in some form of end of life directive/document.

What should I do if I am involved in an accident?

If you are involved in an accident resulting in injury or property damage, you must immediately stop as close to the scene of the accident as possible, without obstructing traffic, and report your name, address, driver's license number, and vehicle registration number to the police and to the other people involved in the accident. Further, you must provide reasonable assistance to anyone injured.

If an accident occurs that results only in damage to an unattended vehicle or property, you must make a reasonable effort to find the owner of the vehicle or property and provide the same information as above. If the owner cannot be located, you must leave a note in a visible place at the scene of the accident and provide a written report to the police within twenty-four hours.

The driver of a vehicle involved in an accident resulting in injury or death shall give immediate notice to law enforcement – failure to report this can result in criminal charges.

What should I do if there is a stopped vehicle with flashing lights, like a police car, at the side of the road?

Proceed with caution -- it's the law. When you approach a stationary vehicle on a highway with at least four lanes, two of which are designated for travel in the same direction as you, for the safety of your vehicle and others, cautiously with regard for the safety and traffic conditions, yield the right of way by making a lane change. You should make a lane change into the lane farthest from the stationary vehicle. If safe, move over! If such a lane change is not safe, proceed with caution and at a safe speed at least ten miles below the posted speed limit.

Highway safety is always of the utmost importance. Violation of this law can result in conviction of a Class 1 misdemeanor that can be punished with jail time, a fine, and license suspension.

Drinking



What is the minimum drinking age?

You must be 21 to purchase or possess any alcoholic beverage, including beer, wine, or liquor. In the Commonwealth of Virginia, it is against the law to have alcohol in your system, if you are under 21. Even if you are not in possession of the alcohol/ beverage container, the court can still find that you are guilty of possession of alcohol.

Can someone under 21 buy alcohol with parental consent?

No. Parents cannot legally authorize an underage child to buy alcoholic beverages of any type. It is against the law for anyone to sell alcohol to, make alcohol available to, or purchase alcohol for a person under 21.

What are the penalties for underage possession of alcohol?

Underage possession of alcohol is a Class 1 misdemeanor. A Class 1 misdemeanor carries a possible fine of up to \$2,500 and/or a sentence of up to 12 months in jail. If convicted, the court shall order you to pay a mandatory minimum fine of \$500 or perform a mandatory minimum of 50 hours of community service as a condition of supervised probation. If guilty, your license to operate a motor vehicle in the commonwealth shall also be suspended for a period of not less than six months, and not more than one year. Upon a demonstration of hardship, the court may authorize the use of a restricted permit to operate a motor vehicle, if convicted.

Drunk Driving



What is a DUI?

Driving under the influence (DUI) includes both driving under the influence of alcohol, as well as driving under the influence of any narcotic drug, any self-administered intoxicant or drug or substance which impairs the ability to drive/operate a motor vehicle, engine or train safely. That description also includes impairment by medications legally prescribed to you if the medication impairs your driving. Illegal substances which can be the basis for DUI include but are not limited to cocaine, marijuana, methamphetamine, phencyclidine (PCP) and methylenedioxymethamphetamine (MOMA ecstasy).

In Virginia, if the vehicle is in motion, it can provide probable cause for an officer to make the stop. Also, if your vehicle's engine is running, but the car is not in motion, or if you are in the driver's seat at the time of the stop, that also provides probable cause. Probable cause gives the officer observing the behavior the authority to make the stop.

What happens if I am stopped for driving under the influence?

You will be asked to give a preliminary breath test at the site of your arrest to determine the level of alcohol in your system. If the preliminary test administered at the roadside registers a blood alcohol concentration of 0.08% (by weight by volume) or more, or 0.08 grams or more per 210 liters of breath as indicated by a preliminary breath test, you have met the threshold for being charged.

There are also roadside tests available for drug impairment. There are, additionally, field sobriety tests given to measure your balance and response to instructions. The officer who stops you may also notice the odor of alcoholic beverage in your vehicle or on your person. (In Virginia, having an open container of alcoholic beverage in the car with you is prohibited.)

The officer, will, if he or she determines that you appear to be under the influence, offer you further tests to determine accuracy of results. If you refuse to take the offered tests, you can be

further charged with “refusal” which carries additional penalties and additional loss of license if you are convicted. When you drive on a public street or highway, in Virginia, you are implying that you consent for the taking of breath and/or blood samples.

What does zero tolerance for alcohol for under age 21 mean?

Presumably you are under age 21 when you are reading this information. Virginia has enacted a zero tolerance policy re alcohol consumption if you are younger than 21; the technical blood alcohol level is 0.02 or higher. This contrasts with the 0.08 required to charge those over age 21. Conviction for underage DUI includes a mandatory minimum fine of \$500 or performance of at least 50 hours of community service, plus suspension of privilege to drive for one year.

What are the penalties for DUI re alcohol or drugs for those over 21?

If breath/blood tests provide results showing blood alcohol content at 0.08% or higher, (see exception for under age 21 above) you’re presumed to be driving while impaired. For first-time convictions, DUI is a Class 1 misdemeanor which imposes a mandatory minimum fine of \$250, driver’s license suspension for one year, and possible incarceration up to 12 months. Higher concentrations of alcohol in your system result in the imposition of minimum mandatory jail sentences. Subsequent convictions result in increased fines, increased suspension of license, and increased jail confinement. Those found guilty will also be referred to court-approved counseling programs, the cost for which is also the responsibility of the defendant. If you are permitted to have a restricted license, an ignition-interlock system must be installed in your vehicle (this involves a substantial fee) and it applies to those under age 21 as well.

Can my license be suspended before I am convicted?

If you’re arrested for DUI and if you refuse a breath test, or if your breath test indicates 0.02 results or more and you are under 21, you will immediately lose your license for 7 days. This is in addition to other penalties available to be imposed.

What if I am operating a boat or moped or motorcycle or riding lawnmower?

Yes, driving under the influence laws apply to these vehicles/categories as well.

Criminal Charges



What happens if I am charged with a crime after I turn 18?

First, always remember that you are presumed innocent until proven guilty. Evidence that can be presented in court against you not only includes physical evidence but can include testimonial evidence. Evidence may include camera footage from the officers on scene and/or their vehicles. You have the right not to testify in court, but that decision is best made in consultation with your lawyer. Remember that anything you say about the offense can be repeated in court by anyone who hears you say that - it is an exception to the “hearsay rule” because it is presumed to be an admission or confession.

For all criminal offenses committed after your 18th birthday, you are tried as an adult. A record of convictions is maintained by the Commonwealth of Virginia and by the NCIC (National Crime Information Center). This permanent record may have negative impacts in many areas, including military enlistment eligibility, obtaining security clearances, ability to legally own firearms, immigration status, employment eligibility and whether you’re eligible to participate in certain government programs. Felony convictions remove your eligibility to vote. A procedure called expungement is available to remedy the record of convictions, but only if your conviction qualifies for that consideration by the court. If your case is taken “under advisement” by the court, that will affect negatively your right to have the case expunged, even if you successfully comply with the conditions of the advisement.

If I am arrested for a criminal offense, what do I have a right to expect from the arresting officer?

The arresting officer will advise you of the charge against you. If you feel you are not free to leave, you are “in custody” and must be advised of your rights established by a United States Supreme Court case known as “Miranda.” You must invoke these rights, or they will not apply. You have the right to REMAIN SILENT; you may ask for an attorney to be present during questioning. Remember: while being detained, or if in custody, or being arrested, you have this right to REMAIN SILENT, but it is something you MUST INVOKE on your own. It is true that anything you say can and will be used against you. You should speak to an attorney before making any statement or answering any questions. If you invoke Miranda and subsequently say ANYTHING (such as “where is the bathroom?”) the Miranda rights go away and you must immediately renew your right to maintain your silence, or you may be swiftly interrogated, and your statements recorded for use.

What happens if I am arrested?

Remember that you must demand to speak to an attorney and maintain your silence under the protection of Miranda. However, you will be taken before a magistrate, who decides whether or not to establish bond for you. You may have to answer certain questions the magistrate asks about your life circumstances, but you do not have to answer questions about the offense for which you are under arrest. If a magistrate denies bond for you, when you obtain services of an attorney (retained or court appointed), you can have that attorney request a hearing before the Court for bond.

What does it mean to be released on bail?

When setting bond (bail), magistrates consider whether the defendant’s release would constitute a danger to the defendant or to the public, as well as the likelihood that the defendant will return as directed for court appearances. Factors enabling this assessment include prior criminal history. Personal recognizance bond means a defendant is placed on bond based on the defendant’s agreement to appear for all subsequent court appearances, and to maintain peace and good behavior (which includes not only obeying all laws, but all rules of any pre-trial agency supervising the defendant). A surety bond is a financial guarantee to back up that agreement to appear as required. Disregard of any of the circumstances imposed will be a reason for revocation of bond established.

Some criminal offenses carry the presumption that no conditions imposed will reasonably assure the appearance of the defendant, nor the safety of the public. If this is the situation, defendants can request a bond hearing, but bond will not be set unless the presumption is rebutted satisfactorily.

What is the difference between a felony and a misdemeanor?

Felonies are major crimes and misdemeanors are lesser crimes. Felonies are classified from Class 1 to Class 6 in descending order for purposes of sentencing. Online access to felony classification and punishments as specified in the Virginia Code can be found at Section 18.2-10 of the Virginia Code (available online).

Misdemeanor classifications and punishments can be found at Section 18.2-11.

Misdemeanor sentences are served in jails and regional detention centers. Sentences given for jail sentences are stated in months, and actual time served is 50 percent of the active sentence imposed. Felony sentences are usually served in the Virginia Department of Corrections prisons and related facilities. Calculation of time to be served is 85 percent of the active sentence. Any time spent incarcerated while waiting for trials or hearings is credited toward your active sentence.

Suspended sentences remain suspended unless there are subsequent conditions or arrests making them vulnerable to show cause hearings wherein, they can be revoked and made active.

If you have been arrested and know the Code section your arrest was based upon, you can search the Code online by the section number and learn more about what you are facing

Federal court classify felonies and misdemeanors as outlined in Cornell's US Code online.

Be aware that the commonwealth and the federal government are two separate sovereign entities, which means that each can charge you for committing the same crime, if the offense is outlined in both codes and chargeable. That would not qualify as "double jeopardy," which under the US Constitution means you cannot be charged twice for the same crime (by the same sovereign entity).

Can a juvenile delinquency adjudication of "not innocent" of a felony charge be used against me after I become an adult?

If a juvenile court finds you are "not innocent" of a felony (juvenile delinquency disposition), you can be prohibited from owning or possessing a firearm. Violation of that condition can result in conviction of various adult felony charges resulting in mandatory minimum prison sentences. Juvenile court records can surface in adult proceedings by enhancing sentencing guidelines and other considerations in final dispositions. Juvenile records can also impact ability to obtain security clearances or enlist in the military, as well as other considerations.

What if I cannot afford to hire a lawyer?

If you are charged with a traffic or criminal offense for which the penalty may include incarceration, and if your assets and income are not sufficient for the court to believe you can hire your own attorney, you can request that an attorney be appointed to represent you. Even if your offense does not carry possible incarceration as a penalty, you may want to consult with an attorney to make sure you know the best possible way to proceed. Always remember that since you're 18, your conviction now establishes an adult criminal record, which, among other things, removes your right to vote if it is a felony. If you only have misdemeanor convictions, you can still vote. Other rights may be impacted.

It is important to understand that even if you are tried and convicted without being represented by an attorney, the conviction can be used against you for the rest of your adult life in several ways. The conviction can be used for enhanced punishment in the future, may impair your ability to obtain credit or loans, and may impact your marketability in the job force. Your right to bear arms also may be revoked.

What is "sexting," and can I really get into trouble?

Sexting is the electronic transmission of video information or an image of a non-consenting person who is nude or undressed to expose genitals, buttocks, pubic area, or female breasts. Sexting may be considered the distribution of child pornography if the image includes relevant images of an underage (under 18) person, whether consenting or not. Records of your phone/computer activity can be provided upon subpoena to the prosecution without your permission. Deleting an account does not mean it is not reachable for prosecution.

You may be prosecuted for sending, displaying, reproducing, copying, transmitting, filming, soliciting (asking), or attempting to prepare/produce the "pornography." Convictions for felony sex offenses carry prison time, and registration (lifelong) on the Sex Offender and Crimes Against Minors Registry. Again, deleting messages from your own device does not affect the prosecution's ability to obtain what was transmitted, even if accounts are deleted since the transmission.

What if I just send or show sexual cartoons, animations, or images?

Anyone over the age of 18 who displays child pornography or a grooming video or materials to a child under 13 years of age with the intent to entice, solicit, or encourage the child to engage in the fondling of the child or another, sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, or object sexual penetration is guilty of a Class 6 felony.

Are phone pranks illegal?

Yes. If you cause another phone to ring/signal just to annoy the owner and if you allow someone to do that with a phone which is yours, you can be found guilty of a Class 3 misdemeanor. A second or subsequent offense becomes a Class 2 misdemeanor. Records of calls made between one number and another can be obtained without your knowledge or permission by the prosecution.

Further, if you annoy, harass, hinder, or delay emergency personnel in the performance of their duties (public/private entities providing fire, police, or emergency medical service) or permit the use of a phone under your control, you may be charged with a Class 1 misdemeanor.

What happens if I curse or use indecent language?

If you curse or abuse another person or use violent abusive language to another concerning that person or any of that person’s family or otherwise use such language, and such language is reasonably calculated to provoke a breach of the peace, you can be found guilty of a Class 3 misdemeanor. It’s a Class 1 misdemeanor if you communicate obscene, vulgar, profane, lewd, lascivious or indecent language or make an obscene proposal, or threaten an illegal/immoral act to another. If you communicate a threat to do bodily harm (cause personal injury) to another in writing, you can be charged with a felony.

Can I charge someone for harassing me over the internet or via broadcast?

Yes

What happens if I fail to pay any fines and costs from any court for traffic cases or criminal cases?

Be aware that, whatever your fines and costs are, interest is added to unpaid amounts as time goes by. Options the courts have if you do not pay include unsuspending all or a part of your suspended sentence(s), and if you are on probation, your nonpayment can be considered a probation violation as well.

Bullying



Bullying can include what is known as assault and battery which is the illegal approach and touching of another individual without permission or justification. The touching must be done in a rude, angry, insulting, or vengeful way. The battery is the actual committing of a physical harm to the person. Bullying can also be threats which take place over the phone or electronically by means such as a computer. Stalking can be another form of bullying where a person is threatening or menacing, placing another person or the person’s family or household members in reasonable fear of death, criminal sexual assault or bodily injury.

How is bullying handled at school?

In school, bullying can be physical, verbal, or written whether electronic or paper. It is any aggressive and unwanted behavior that is intended to harm, intimidate or humiliate the victim

who has the perception that the aggressor is in the position of power over repeated times and is causing severe emotional trauma. Bullying is not ordinary teasing, horseplay, argument, or peer conflict.

Any person who threatens another bodily harm or death in writing whether electronically, or not, on school grounds or on a school bus regardless of whether or not the proposed victim receives the threat is guilty of a felony.

Any person who verbally threatens bodily harm or to kill to a school employee at school, on a school bus, or at a school sponsored event could be found guilty of a Class 1 Misdemeanor.

What about bullying outside of school?

If you are touched by someone who purposely touches you without your permission without excuse or justification, he or she may have committed a battery provided that the touching was done in a rude, angry, insulting, or vengeful way. An assault does not have to include actual harm, but a battery is the actual committing of a harm to a person. Assault is the approach to attempt a battery (physical touching) or the failed attempt to commit a battery. The person who commits an assault and/or battery can be found to be guilty of a Class 1 Misdemeanor. If you are intentionally attacked due to race, religious conviction, color or national origin, the actor of such an assault and battery could face mandatory time in jail. If an assault and/or battery is against a law enforcement officer, the actor faces could face a felony and jail time.

If you communicate in writing, including electronically, a threat to kill or do bodily harm to a person or his or her family and the threat places such person in reasonable apprehension of death or bodily harm for himself or herself or for his or her family, the actor could be guilty of a felony.

If threats are communicated over the phone to you, that person communicating the threats could be guilty of a Class 1 Misdemeanor.

When is it not bullying?

Everyone knows that we have the First Amendment, and we are permitted to freely state our opinions, but we are not allowed to harm others with our statements. If we cause others to feel fear or to feel threatened, our speech will not be protected. The test becomes whether a reasonable person would feel fear due to the statements that are made. We are not allowed to hurt others, and others are not allowed to hurt us.

What do I do about someone bullying me?

Call the police if the danger is immediate. You may wish to consult a lawyer to see exactly how you should approach the matter. You can potentially also take out a criminal warrant by contacting the magistrate in the county or city where the act occurred. If the bullying occurs at school, contact a school official or the school police officer.

What do I do if charges are brought against me?

Do not volunteer information to anyone without consulting a lawyer. By volunteering information, you may be incriminating yourself. A lawyer can give you legal guidance. Serious criminal charges can result, and your perspective may not be the way that others will view the case. If a confrontation resulted from the bullying, you may wish to consult a lawyer before considering bringing charges against the other individual.

Employment



How do I find a job?

Finding a job you like, or any job for that matter, can be difficult. Read the classified ads in your local newspaper, attend job fairs, watch for “help wanted” signs, and tell friends and neighbors that you are looking for a job. The Virginia Employment Commission (www.vec.virginia.gov) has resources to help you find a job, or you can use the resources of a private employment agency (although there may be a cost to you).

How can I improve my chances of getting a job?

An employer’s first impression of you is extremely important. Dress neatly and appropriately. Reconsider wearing non-traditional jewelry (such as jewelry associated with body-piercings) and wearing clothing that reveals tattoos, etc. to a job interview or when you file a job application, because this could lead your potential employer to form a wrong impression about you. Arrive for your job interview on time. Be thoughtful and truthful when preparing the job application. Make sure you know what the job entails, and let the employer know what skills and talents you have that are well suited for the job.

What information must I provide to an employer if hired?

You must provide various types of information about your background, including a copy of your driver’s license and other forms of photo identification, plus your Social Security Number.

If I have a juvenile criminal/delinquency record, how do I answer a question asking if I have prior criminal convictions?

If, as a juvenile, you were charged with having committed a delinquent offense (that is, it would be a crime if committed by an adult), you have a “juvenile record.” If the delinquent offense was dismissed or if it is pending to be dismissed, so long as “subject to” conditions imposed by the judge are satisfied by you, you have not been convicted either of a delinquent offense or a crime. Even if you were found guilty/not innocent of a delinquent offense, under Virginia law you have not been convicted of a “crime.”

What if the employer asks if I’ve ever been charged with a crime and, if so, explain?

This is a much broader question. As discussed above, if the charge is one that occurred when you were a juvenile, technically it is not considered a “crime” under Virginia law, but instead is viewed as a delinquent act.

When I apply for a job can my potential employer review my social media listings?

Yes. Today, many employers when considering hiring prospective employees scan the various social media websites to determine if the applicant has a presence on those websites and, if so, what the page says about the applicant. You therefore should clean up your social media pages to remove any images or content that you believe might give an employer concern about you (and keep it clean, if hired) so that your employer will get the correct impression of you as an employee.

However, as of July 1, 2015, Virginia code section 40.1-28.7:5 prohibits employers from requiring employees to provide social media passwords or requiring employees to include supervisors/employers on social contacts or friends list with access to your social media account. law.lis.virginia.gov/vacode/title40.1/chapter3/section40.1-28.7:5/

Must an employer give employees a written contract?

No. Most employment contracts in Virginia are verbal.

Do I have a right to sick days, personal days, and vacation days?

You need to ask your prospective employer whether you are entitled to sick days, personal days, and vacation days. There is no law that guarantees you such paid days off. If you work for an employer with fifty or more employees, and you have worked long enough to qualify, the Family and Medical Leave Act entitles you to up to twelve work weeks of unpaid leave during any twelve-month period for the birth or adoption of a child; to care for your spouse, child, or parent with a serious health condition; or for a serious health condition that makes you unable to perform the functions of your position.

What if my employer fails to pay me?

You can file a wage claim with the US Department of Labor or the Virginia Department of Labor and Industry, Division of Labor and Employment Law.

For what reasons may I be fired?

If no employment contract exists, an employee may be fired for any reason except one prohibited by law such as age, race, sex discrimination, sexual harassment, or disability. If an employment contract exists, the language of the contract will dictate the terms for dismissal. Where no specified time is fixed determining the duration of the employment, it is presumed to be an "employment at will" that can be terminated at any time by either party.

What are unemployment benefits?

Unemployment benefits are government funds provided to an employee who is laid off or discharged through no fault of his or her own for a limited period following termination from employment.

What is workers' compensation?

Workers' compensation provides for the payment of certain expenses incurred by an employee for injuries or illness arising out of, or in the course of, employment. You should report all such injuries or illnesses to your employer as soon as they occur, and you should review your situation with both the workers' compensation department and a lawyer to be fully advised of your legal rights.

Whom should I contact if I think I have been discriminated against?

Contact the Office of the Attorney General, Division of Human Rights, the Virginia Office for Protection and Advocacy, the US Equal Employment Opportunity Commission (EEOC), your local county Human Rights Commission, or private organizations that deal with discrimination. You should make contact as soon as possible because there may be a specific time frame in which you must act to file a claim. The law not only protects you from discrimination in hiring and firing, but it also protects you from discrimination regarding wages, hours, and promotions.

Contracts

A contract is an agreement between two or more persons that creates an obligation to do or not do a particular thing. Once you graduate from high school and go to work or college, you likely will face many situations in which you are asked to enter into a contract. Some of the more common contracts you may encounter include leases on apartments, credit cards, sales contracts for goods and services, car loans, student loans, and insurance policies.

Can I make a contract before turning 18?

Yes, but you will probably find that most people will refuse to enter into a contract with someone under the age of 18 because courts generally will not enforce contracts against minors. However, there are certain exceptions, including some government and student loans and contracts for "necessaries" (such as food, lodging, and clothing).



Must all contracts be in writing?

No, not all contracts have to be in writing. However, the law does require that contracts for the sale of land and long-term leases be in writing.

What are some of the advantages of a written contract?

A written contract allows you to see clearly the terms of the agreement between you and the other party. There is less chance of a misunderstanding or disagreement when a well-written contract is prepared.

What are some of the disadvantages of written contracts?

Certain contracts, especially form contracts prepared by only one of the parties, may contain language not easily understood and that may be unfair to you. These contracts may contain clauses that, without the advice of an attorney, put you at a real disadvantage if problems arise in the future. If you do not understand any portion of a written contract, it is always best to consult an attorney before signing.

What are some general rules to follow when asked to sign a contract?

The first and most important rule is READ THE CONTRACT! After you have read the contract, if there are items you do not understand or disagree with, do not sign it until you are completely satisfied with the answers and understand every clause or until you have consulted with your attorney. Never blindly accept the explanation or assurances of the other party about the meaning of any terms in the contract. Get any explanation or changes agreed to in writing *and* added to or attached to the contract. Once a written contract is signed, courts generally will not allow verbal understandings to be considered in the event of a dispute. Also, watch out for unduly harsh penalty clauses or any clause in which you agree to waive any rights that you otherwise may have under the contract or under existing law. Finally, as a practical matter, you should be sure that you can meet the obligations imposed by the contract, whether that be payment of money or providing goods or services.

Smart Spending



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If you are in the market for any product or service—such as a car, clothes, stereo system, or educational course—there are several simple rules to keep in mind. If you follow them, your dollars will go further, and you will be more satisfied with the results.

- Shop and compare. Compare products based on features, warranty protection, and price. The best buy is not always the cheapest. Use the internet and magazines like Consumer Reports to help you.
- Do not fall for deceptive advertising. Advertisements can provide useful information. Too often, though, ads appeal to your emotions rather than your intelligence. Although there are laws against deceptive advertising, it still is best to avoid a problem by watching out for deceptive ads. Look at each word in the ad to find any exceptions.
- Ask for promises in writing. Contracts do not have to be in writing to be binding. It is easier, of course, to make someone stick to something that is in writing rather than something that is based on your recollection of what was agreed upon. If a salesperson makes important claims about a product that are not in your contract or warranty, get it in writing and added to or attached to the written contract or warranty.
- Read the terms of your contract or warranty carefully. Know what you can expect and what is expected of you. Certain contracts, especially form contracts, may contain language not easily understood and that may be unfair to you. If you do not understand something, ask questions or seek help from a friend, parent, teacher, or lawyer. Never sign a contract or

agree to terms and conditions without reading the provisions first, very carefully. If you don't understand them, then don't sign them!

- 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, and all notes or letters you have written regarding the product or service and records of payments, maintenance, repairs, and other services.
- Returning Merchandise. Remember that a merchant is free to establish a policy concerning refunds, credits, exchanges, and layaways. A merchant is not required to refund your money for returned merchandise unless it is defective. Even then, the merchant may decide to correct the problem or replace the defective product instead of giving your money back.

What is a warranty?

A "warranty" is part of a contract that specifies the quality and dependability of the product or service you are purchasing. The warranty tells you what you can expect from the product, what you must do if you have a problem, what the seller will do in return, and how long the warranty is in effect.

Are warranties important?

Yes. A good warranty can save you much money and frustration if the item you buy needs to be repaired or replaced within the warranty period. You always should check to see if the items you intend to buy are covered by warranties and find out exactly what the warranties include and exclude.

Do I have any protection after the warranty period ends?

You might, depending on the situation and what state and federal laws apply. You also may have protection under products liability law if you or someone else is injured by a defective product even after the expiration of the warranty period.

Do these warranties apply to used items?

An item may be specifically warranted by its seller whether it is new or used, but many used items are not covered by a warranty. You should be aware that if an item is sold "as is" it is not covered by a warranty, and you buy it at your own risk. Virginia law requires that used car dealers clearly indicate on the cars what warranty, if any, will apply to the vehicle.

Whom should I contact if I have consumer questions?

You should contact the Virginia Office of the Attorney General – Consumer Protection Office (804-786-2042), your local Chamber of Commerce, the State Corporation Commission's Division of Energy Regulation (for utility complaints) (804-371-9611), or the Virginia Bureau of Insurance (804-371-9741).

Credit



If you do not have cash to buy certain goods and services (a car, for example), then the salesperson may be willing to sell the item to you in exchange for your promise (almost always made in writing) to pay the purchase price over time in installments. That is buying on credit. Your ability to buy on credit depends on your credit rating. If you have a good credit rating (for example, you have a history of paying your bills on time or you have a dependable income), then you are more likely to be able to buy goods and services on credit.

How do I get a credit rating?

Credit ratings 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 whether you are a good credit risk. Although the records often include confidential and personal information, by law they cannot include information regarding your marital status, race, religion, color, ancestry, ethnic origin, sexual preference, or political affiliation, except as required by government record-keeping.

Because your credit rating is so important, the law allows you to check personal or financial information in your file at the credit bureaus. Consumers can request and obtain a free credit report once every twelve months from each of the three nationwide consumer credit reporting companies. AnnualCreditReport.com provides consumers with the secure means to do so. There are also free secure websites where you can check your credit regularly, i.e. CreditKarma.com®. Also, several credit card companies now offer free credit score and credit monitoring as part of their services.

You also can request your credit report by mail by filling out the request form and mailing it to Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281. You also can order your free report by calling (877) 322-8228. Ordering reports by phone or by mail is recommended to avoid impostor websites and identity theft. If you dispute in writing any of the information in your file, the credit bureau must investigate and correct the mistake if it finds an error.

If the bureau decides that there is no error but you still dispute the information, you may file a brief statement explaining 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 persons or companies who recently received your credit rating.

It is important to use credit wisely and, if possible, build your credit rating over time. There are several factors that help to make up your credit rating. The most important is your payment history. You are expected to pay your creditors on time every month. If you are late in paying your creditor, you will usually have up to thirty days to make your regular payment before you are reported to the credit bureau as being late on your payment. Generally, the creditors will report whether you are thirty, sixty or ninety days late on a payment. Every late payment negatively affects your credit rating and the later the payment, the more severe the impact on your rating.

Another important factor is credit utilization -- the percentage of credit being utilized. It is important that you obtain credit limits that allow you to use only a percentage of your total available credit. For example, if you have three credit cards with \$1,000 credit limit on each, you should avoid high credit balances and try to manage your credit so that your debt balance on each card is as low as possible (preferably, pay off your balance each month and never exceed 50 percent of your available credit on credit card accounts). If you must use your credit to make a purchase, try to utilize the cards with the lowest interest rates first.

The next factor to consider is "derogatory remarks." Creditors report information regarding actions taken on your credit account, such as foreclosures, civil judgments, tax liens, garnishments, loan defaults, bankruptcy, or if your account has been placed into collection because of failure to comply with the terms of your credit agreement. These "derogatory remarks" can have a significant impact on your ability to obtain new credit. Other less important factors that may also affect your credit rating include: the age of your credit history; the total number of open and closed accounts; and the number of credit inquiries. Checking on your own credit is not considered a "credit inquiry" for reporting purposes and does not

have a negative impact on your rating. Be careful! Applying for multiple credit cards at the same time will be considered a “credit inquiry” and will have a negative impact on your credit.

If you are successful in handling your credit, in the future you will be able to borrow money at lower rates of interest and have other avenues open to you. If, however, you develop a bad credit rating, that bad credit rating has a number of consequences, such as: you can be denied future credit and/or loans; your existing credit cards and/or loans can be terminated; you may not be able to rent or buy a house or car; and, prospective employers may not hire you because they view you as being unreliable or untrustworthy. You are starting with a “clean slate” as far as your credit is concerned. Be careful, make wise use of these opportunities, and do not bite off more than you can chew!

Don’t ever “lend” anyone your credit. Do not take loans out on behalf of another person with the expectation that they will repay it to the creditor. It is your responsibility to pay your debts and if the third party fails to pay on time, then your credit will suffer – not theirs. Avoid “co-signing” loans with third parties (even family members) unless it is to obtain an interest in specific collateral (ie., you are purchasing a 50 percent interest in a house, car, boat, etc.)

What is collateral?

Collateral is real property (a house or land, for example) or personal property (an automobile or bank account, for example) pledged to ensure that a debt is repaid. For example, a car can serve as collateral to secure payment of the loan used to buy the car. Most people who buy cars do not have enough money to pay the purchase price in full. Therefore, they borrow the money from either the car manufacturer or a bank. The buyer pledges the car to assure the lender that the loan will be repaid. Pledging the car as collateral for the loan gives the lender the ability to take the car away from the buyer if the buyer fails to repay the loan. If the lender has to repossess (take back) the car because the buyer fails to pay the loan, the lender can sell the car and use the proceeds to pay off the loan. If the sale does not provide enough money to pay off the loan (and the costs associated with the sale), the buyer still is responsible for the deficit.

What if the store does not offer a way to purchase on credit?

You may go to a bank and apply for a loan. Many people purchase cars by obtaining a loan from their bank rather than financing the car through the automobile dealership. Banks also will check your credit rating to determine if you are a good credit risk. When purchasing anything on credit it is best to shop around to see what stores or banks give the best rates and terms for lending you money to purchase the product you want.

What if I buy a TV or stereo on an installment contract and have problems getting it fixed?

As a general rule, you still must make your required payments to the lender.

What if I need to borrow some money?

Banks and credit unions are preferred lenders when borrowing money for the best interest rates. *Be aware of the interest rate on a loan prior to signing a contract. Some places may charge up to 300 percent. In particular, you should try to avoid “Pay-Day Loans” and “Car Title Loans” for short term needs.* Alternatives may include among other things less expensive short-term financing from another financial institution, family, or friends, a cash advance on a credit card, an account with overdraft protection, or a loan repayable over several months.

What can happen if I miss payments or don't meet other obligations of a contract?

If you breach (fail to perform) your contract with another party, you may be liable for all damages (losses) suffered by the other party as a result of your breach. The other party can take you to court and seek judgment for money damages or, in some cases, force you to perform the

contract. When you buy goods on credit such as automobiles, televisions, or furniture, the creditor (seller) may be able to repossess (take back) the item sold to you. Even if the item is repossessed, you still may owe some of the debt to your creditor. Also, if judgment is entered against you by the court, your wages or bank accounts may be garnished (paid to the creditor) or your personal property may be subject to sale by the sheriff.

Can a store automatically take some of my wages if the purchase contract says it can?

No. A store or other creditor can garnish your wages only after the court has granted a judgment regarding your debt. Provisions in a purchase contract that say your wages can automatically be taken, or that say you grant permission for your wages to be automatically taken, are not enforceable.

What can I do if I owe more money than I can pay?

If you cannot make your payments as they come due, you should contact your creditor as soon as possible, explain your situation, and seek to work out a new payment schedule or extension. Never ignore your creditors. Always be courteous and explain your situation. If your creditor will neither give you an extension of time nor reduce your payments, you may have to file bankruptcy. Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, you must undergo a “means test” to qualify for Chapter 7 (liquidation) bankruptcy. The means test is used to determine who can file for Chapter 7 bankruptcy. Your income and expenses are examined in detail to see how they compare to the standard for your area as set by the IRS and the Census Bureau. If you earn less than the median income for a family of your size in your state, you can file for Chapter 7 bankruptcy. But if your income from the last six months is greater than the median income and you can pay at least \$7,700 over five years or \$128 a month toward your debt, you are not allowed to file for Chapter 7 bankruptcy but must file for Chapter 13 bankruptcy instead. Chapter 13 (reorganization) bankruptcy will require you to use all of your “excess” income to repay a portion of your debts over three to five years. A part of the means test requires that you file any overdue tax returns within weeks of filing a Chapter 7 bankruptcy. Also, under the law, when you file for bankruptcy you must receive approved credit counseling and a budget analysis at your own expense. Credit counseling should address the means test calculation for you. Bankruptcy should be seen as your last resort if you are in financial trouble and should be chosen only after very careful consideration. Additionally, some debts are not dischargeable in bankruptcy. Consult an attorney before you choose bankruptcy.

What are some of the consequences of bankruptcy?

If you file for bankruptcy, you may be forced to turn over your non-exempt assets (real property and personal property) to the bankruptcy court, and these assets will be used to help pay your creditors. Non-exempt assets are those assets that are not protected by state or federal laws (exemptions) that keep the assets from being turned over to your creditors. You should speak with an attorney to determine what exemptions, if any, apply to your assets in bankruptcy. Once the bankruptcy proceedings are successful, you will receive a discharge, which means that in most cases your prior debts will be wiped out. There are negative aspects of bankruptcy, however, including a poor credit rating that will make it more difficult for you to obtain a loan in the future.

How long does it take to clear up a bad credit report?

Most derogatory remarks and other negative credit notations (late payments, loan defaults, etc.) are maintained for up to seven years in your credit file. Bankruptcy notations are maintained for ten years in your credit file. In the event of a disagreement with a creditor, a letter can be placed in your credit file explaining your position. In the event of computer error, a conference with the appropriate representative of the Retail Merchants Association will assist in correcting the problem.

Landlord/Tenant



Must a lease be written to be enforceable?

No. An oral lease is enforceable if the term set at the time it is entered into is for a period that does not exceed one year. However, as with any contract, it is advisable, for both the landlord and tenant, to have the terms in writing.

What should I be concerned about when signing a lease?

As with any written contract, you should understand and agree with all of the terms. Leases usually are form contracts that may contain language not easily understood and that may unfairly favor the landlord. If you do not understand something, ask questions or seek help from a lawyer. Signing a lease begins a relationship with your landlord that will continue throughout the term of the lease. You therefore should keep records of rental payments, written repair requests, etc. If you request it in writing, and the lease is subject to the VRLTA, a landlord must give you a written receipt for rental payments.

What are my obligations as a tenant?

Your chief obligations are to pay the rent and to maintain the property in the condition you received it, except normal wear and tear. A good tenant is mindful of neighbors' rights as well. Generally, no other people may move in with you without a written change to the lease signed by you and the landlord.

Are there specific laws in Virginia that govern landlord/tenant relationships?

Yes. The Virginia Residential Landlord Tenant Act (VRLTA) applies to all multi-family rentals and to single family rentals when a landlord owns more than two single-family dwellings. The VRLTA balances rights and obligations between tenant and landlord. Many rental properties use standard leases reflecting the terms of the VRLTA. Leases that do not fall under the VRLTA are governed by another set of laws that are not as favorable to the tenants. The VRLTA may apply even if the lease does not reflect the terms of the VRLTA.

What is a security deposit and how is it used?

A security deposit is an amount of money, not to exceed two months' rent, required by the landlord at the beginning of a lease term. It serves as security for the landlord to cover any damages to the leased property above and beyond normal wear and tear caused by the tenant or their guests or to cover unpaid rent and late charges.

The landlord and tenant should walk through the property together at the beginning and at the end of the lease term. An inspection report should be signed by both the landlord and the tenant at the beginning of the lease to document the condition of the property. Both parties should keep a copy of the report. This report will protect the tenant from an unscrupulous landlord who may try to keep the security deposit to pay for a condition that existed prior to leasing the property. The tenant and a witness should draft a list if the landlord won't do a walkthrough.

The security deposit is not supposed to be used for the last month's rent, but it must be returned to the tenant after the landlord conducts a favorable walk-through inspection after the lease expires. Landlords under the VRLTA have forty-five days after tenant moves out before they have to return or account for the use of the security deposit.

In a monthly lease, can I end the lease by just leaving at the end of a month?

No. Unless the parties agree otherwise, if the lease term is month to month, thirty days' written notice to the landlord is required.

If I sign a lease with friends, and they move out, do I have to pay the full rent or only my share?

Most leases signed by more than one person provide that the tenants are “jointly and severally liable” for the rental payments. That means the landlord has the right to seek the entire monthly rent from any one of the co-tenants even though one or more may have moved. However, if one tenant pays more than their share, they may be able to seek contribution from the co-tenants that abandoned the lease.

If I break a lease, for what amount can I be sued?

If you break a lease, your landlord may seek the loss of rent to the end of the lease term minus any amount received when the property is re-let (leased to another party). The landlord also can seek recovery for any damages to the property above ordinary wear and tear.

How does a landlord terminate a lease for nonpayment of rent?

A landlord may terminate a lease for nonpayment of rent by giving notice to the tenant to either pay what is owed or leave the property. If the tenant pays within five days of receiving that notice, the tenant may remain. If payment is not made, the landlord may begin proceedings to evict the tenant by filing an “unlawful detainer” (eviction) action with the court. If the lease calls for it, a landlord also may recover reasonable attorney’s fees in the event of breach of lease. However, if the Landlord accepts the rental payment, and sends a notice of acceptance of rent with reservation, then Landlord may still proceed with an eviction.

Can a landlord use “self-help” eviction methods?

A landlord cannot legally move the tenant’s possessions or turn off the utilities or install new locks to get a tenant out. If the landlord does this, the tenant should call the police or sheriff.

When can my landlord enter the space I have rented?

The landlord has a right to access the property. If the VRLTA applies, a landlord may enter the property without consent of the tenant in the case of emergency or upon the tenant’s request for maintenance. Otherwise, the landlord may access the property at reasonable times after giving notice to the tenant (at least twenty-four hours’ notice is required for routine maintenance that has not been requested). A tenant may not unreasonably withhold consent to the landlord to enter the property in order to inspect the property, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or show the property to prospective purchasers. A tenant may be found in breach of the lease if they do not allow the landlord to access the property. If covered by the VRLTA, refer to Virginia Code Sections 55-248.10:1 and 55-248.18.

What can I do if a landlord refuses to make repairs to the premises?

If the condition for which the repairs are needed threatens your health or safety, you should send the landlord a written request that the repairs be made within twenty-one days and stating that, if such repairs are not made within this 21-day period, the rental agreement will terminate upon a date not less than thirty days from receipt of the notice. Examples of things that threaten safety include: lack of heat, running water, light, electricity, adequate sewage disposal, infestation of rodents/insects, mold, etc. You must send this by certified mail, return receipt requested. If the landlord refuses, you may terminate the lease not less than thirty days after his receipt of the notice, provided the tenancy is one covered by the VRLTA. Make and keep a copy of your written notice to the landlord. Any tenant may file an assertion (notice), along with a copy of the request to repair sent to the landlord, and the certified mail, return receipt requested card, in the court, stating that the landlord has been notified in writing and has failed to comply with the lease; you must then pay your rent directly into the court within five days of the due date for the rent. You should never simply withhold rent, because the landlord may then terminate the tenancy for non-payment. If covered by the VRLTA, refer to Virginia Code Section 55-248.21.

Am I liable for rent under the lease if I am in the military and am transferred somewhere else?

There are certain circumstances in which military members may terminate a lease. Certain notice is required and you should contact the legal assistance office at your base for advice on how to proceed at least sixty days before you plan to leave. You also may have rights under a Federal law called the "Servicemembers Civil Relief Act." If covered by the VRLTA, refer to Virginia Code Section 55-248.21:1.

Are there laws that govern the rental of mobile home lots in mobile home parks?

Yes. The Virginia Manufactured Home Lot Rental Act seeks to protect landlords and tenants of mobile home lots. The law has very specific provisions, and if you have a dispute involving the rental of a mobile home lot you should contact an attorney for advice.

Marriage/Divorce/Children



When can I get married?

You must be 18 years old to get married unless you have been emancipated (declared an adult) by a court.

What does it mean in legal terms to get married?

Marriage is a contract and a married couple has duties and responsibilities toward one another until one of them dies or the relationship is legally terminated. In a marriage, it is the duty of each spouse to provide support to the other spouse, and this duty often continues for one spouse even if the marriage results in separation or divorce. Getting married changes your life in many ways, and it is difficult to set out a list. However, some legal ramifications of getting married include potentially changing your last name, making additions or changes to your insurance, changing your tax status, writing a will, or updating an existing will and how marital status affects how you own property with your spouse.

How do I get a marriage license, and do I have to get a blood test?

You and your fiancé must go to the clerk of the circuit court in the city or county where you live, sign an application, and be issued a marriage license within sixty days before your wedding date. You do not have to get a blood test in Virginia.

What does it mean in legal terms to get divorced?

A divorce is a method of dissolving the legal contract that binds a couple together in marriage. The couple must have "grounds" or legal reasons that allow you to file for and for a court to grant you a divorce. To get a divorce in Virginia, one of the following must be shown:

1. Sexual intercourse or sodomy with someone outside the marriage;
2. Conviction of a felony by the spouse;
3. Willful desertion or abandonment;
4. Cruelty or the infliction of reasonable apprehension of bodily harm; or
5. The couple has lived separate and apart for one year with the intent to get a divorce, or six months if there are no minor children and the couple has a written settlement agreement.

Do I have to go to court to resolve the issues surrounding my divorce?

No. There are several methods for resolving the issues surrounding the ending of your marriage including disputes you may have regarding property, your children, and support. It is a Virginia lawyer's ethical duty to counsel you regarding mediation, negotiation, and other forms of dispute resolution. These forms of alternate dispute resolution should be weighed against the pros and cons of courtroom litigation.

Does the mother always get custody of the children?

No. In Virginia, both parents stand on equal footing in a custody dispute, and there is no preference for a mother over a father. The determining issue in all custody and/or visitation cases is the best interests of the child. To reach that determination, a judge must consider a number of statutory factors.

If I have a child when I am not married, what are my legal obligations to that child?

Both parents have legal obligations, regardless of whether you are married to the child's other parent. If you do not voluntarily take financial responsibility for your child, the court may order you to pay support in a fixed amount. This responsibility generally continues until your child reaches age 18, or if still a full-time high school student until age 19 or graduation, whichever occurs first. If you refuse to pay support, your wages could be garnished and you could even face imprisonment. If a man denies that he is a child's father, the court can order a blood test to determine paternity.

What are my legal rights, and where can I turn for help if I find myself in an abusive relationship?

Both married and unmarried people who find themselves in abusive relationships can seek help from the court system in Virginia. Individuals in fear of death, sexual assault, or bodily injury can go to court and ask for a protective order to shield them from acts of abuse by third parties, even if the threat comes from a family member. "Family abuse" is any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, or criminal sexual assault as defined by law or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury. The court may try to alleviate the abusive situation by prohibiting further contact or abuse between you and your abuser, granting you sole possession of the marital residence or forcing your abuser to provide you suitable housing, or even requiring you both to attend counseling. There are stiff legal and financial penalties if your abuser violates a court order. You also may bring criminal charges against your abuser by filing a complaint for assault and battery.

Domestic or relationship abuse is a very serious issue, and the first step is to seek help from an outside resource, which may be the police or an advocacy group in your area that addresses domestic violence. Check your local telephone listings or call the local police department for the number of a resource group that can provide you with further information on your options.

- The Virginia Family Violence and Sexual Assault Hotline
(for family violence and sexual assault)
(800) 838-8238
www.vsdvalliance.org
- Child Protective Services Hotline for Virginia
(for child abuse and neglect)
(800) 552-7096
- Adult Protective Service
(for elder and disabled adult abuse and neglect)
(888) 83-ADULT or (888) 832-3858
- National Domestic Violence Hotline
(800) 799-SAFE or (800) 799-7233 (voice)
(800) 787-3224 (TTY)
www.thehotline.org

Health Insurance



What is “Obamacare” and why should I care about it?

Medical care is expensive, and most people cannot afford to pay on their own for doctor and hospital services they need. Many Americans rely on health insurance sponsored by employers or schools, subsidized programs such as Medicare and Medicaid, or through individual policies to help control those costs. In the past, however, people with pre-existing disabilities and chronic health conditions were turned away from commercial insurance coverage.

The Patient Protection and Affordable Care Act, sometimes called “Obamacare,” was enacted in 2010 to increase the quality and affordability of medical care and to extend insurance coverage to more Americans. As part of the law, all insurance policies now are required to cover people who have pre-existing conditions and were unable to get insurance previously, and to provide maternity benefits and well-child care for their insured. The law also permits young people to continue to be covered under their parents’ insurance until the age of 26, a great benefit to young adults.

How do I get health insurance coverage?

If you are covered now under your parents’ insurance, you may want to remain on their policy for a few more years until you are working and have employer sponsored coverage. Many employers do not provide health insurance benefits, however, and one provision of the Affordable Care Act includes an “individual mandate” that all individuals who are not covered by a plan (employer-sponsored, Medicare, Medicaid, or other public insurance) purchase an approved policy on their own or pay a penalty. There are some exceptions, and there are some subsidies for low income people who purchase policies through the state or federal health care exchanges. To find out more information, what subsidies you may qualify for, and the different types of policies that are available to you, visit the Affordable Care Act website at www.healthcare.gov.

Wills/Advance Directive/ Power of Attorney



A Last Will and Testament (“Will”) is a legal document a person signs directing what is to be done with property after death. Although it may be depressing to think about, a little planning can really help your family and friends later on. Virginia law requires a Will to be drafted and executed in a very specific way.

Why should I have a Will and what happens if I don’t make one?

Without a Will, state law determines how your property is distributed—who gets what. A Will allows you to make different choices from the state law, and to specify how you want your property divided after your death (for example, bank accounts, cars, jewelry, or furniture). You also may name the person you trust to handle your affairs after your death. Additionally, a Will is one of the best ways to make special financial and care provisions for your children and others who depend on you.

Who should draft a Will?

A Will should be drafted by someone who is familiar with Virginia law. There are specific legal requirements for a simple Will in your own handwriting. States have different laws about Wills, so “Will kits” you might purchase online or in book stores may create problems for your survivors. As important, your particular situation is different from everyone else. This is truly a case where one size does not fit everyone. Only a lawyer is qualified to give advice about writing your Will and properly signing it so your wishes are carried out.

Can I tell someone what to do in case I'm severely injured and cannot speak for myself?

Yes. Under Virginia law you can execute a written Advance Medical Directive to instruct your family, physicians, and care providers about your care, including the use or termination of life-sustaining measures in certain situations. The same document can appoint a trusted family member, friend, or professional to serve as your agent to make medical decisions on your behalf when you cannot do so yourself. You should consult an attorney to assist you in preparing an Advance Directive.

If I am injured or living away from home for an extended period of time, can someone handle my finances and pay my bills for me?

You can make and sign a "power of attorney" that gives someone you trust, like a parent or friend, the power to do business related things on your behalf, such as deposit or withdraw money from your bank accounts, call the insurance company on your behalf to discuss a claim, or sign contracts and leases that have your name on them. This power of attorney can be limited or very broad, and you can revoke it at any time. Most important, a properly drafted document can be especially useful in the event you become disabled or incompetent and need help. An attorney can help you understand the uses and possible limitations of a power of attorney when preparing this document.

Public Assistance



What public assistance is available to me?

The Virginia Department of Social Services administers a variety of programs that may assist you and your family, if any. These programs include but are not limited to, food assistance, medical assistance, childcare assistance, and general assistance. Contact your local Virginia Department of Social Services for more details.

How do I determine whether I am eligible?

To be eligible for most programs, an applicant must "(1) Live in Virginia; (2) Be a U.S. citizen or meet certain requirements if you are an immigrant; (3) Apply at the agency that serves the city or county where you live; (4) Meet specific requirements of each program for which you are applying; and (5) Apply for other benefits that you may be entitled to receive, such as Social Security, Worker's or Unemployment Compensation." Each program has its own verification requirements. Visit your local Virginia Department of Social Services, or the state website, for eligibility screening.

Persons with Disabilities



Does the law protect the civil rights of individuals with disabilities?

Yes. The Americans with Disabilities Act (ADA), as well as Section 504 of The Rehabilitation Act of 1973, provides federal civil rights protection to individuals with disabilities. The laws address equal opportunities in the areas of employment, public accommodations, transportation, state and local government, and telecommunications. For more information, call 1-800-514-0301 between 9:30-5:30 EST, M,T,W,F, and 12:30-5:30 EST TH, or visit www.ada.gov.

The Virginians With Disabilities Act (VDA) assures equal opportunity to persons with disabilities in Virginia. The VDA prohibits discrimination by state agencies, businesses, and educational institutions against otherwise qualified persons with disabilities. For information on the VDA in general, contact the Disability Law Center of Virginia at 1-800-552-3962 or visit www.dlc.v.org. The Disability Law Center has a very helpful page entitled "Coming of Age: Are you turning 18 or a young adult and wondering what to do next?" which is found at www.dlc.v.org/coa.

Who is someone with a disability, according to the VWDA?

A person with a disability is anyone who has a physical or mental impairment that substantially limits one or more “major life activities” or has a record of such impairment or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.

How do I take care of myself if I am disabled?

A person who is disabled may apply for Social Security Disability if he or she has a work record or apply for Supplemental Security Income (SSI) if there is an insufficient work record. Applications are filed at the local Social Security Administration Office. If your application is denied, you may appeal and have the matter heard by an Administrative Law Judge. You should consult an attorney if you appeal. For persons over the age of 18, the definition of “disability” under a Social Security Disability benefits analysis is “the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.” To qualify for Social Security Disability, you need a certain number of “credits” calculated using wages and years of work. Younger workers may qualify with fewer credits.

The Supplemental Security Income (SSI) program gives cash assistance to people with limited income and resources and who are age 65 or older, blind or disabled. Disability is determined similarly to Social Security Disability, but does not require specific work history.

Hiring a Lawyer



When should I go see a lawyer?

Even though you may have to pay to go and meet with a lawyer to find out about your rights or your liabilities, it is always better to meet with a lawyer and get advice before you get into a legal dispute or go into court. You should consult with a lawyer when:

- Planning to enter into a verbal or written contract or agreement that has financial consequences;
- Thinking about trying to get out of a verbal or written contract or agreement that is still in effect;
- Thinking about opening, closing, or making changes to your own business;
- You are involved in an accident involving either an injury to yourself or another person or damage to property;
- You are involved in a court matter such as a criminal case, a civil lawsuit, or a domestic controversy such as paternity, child support, or divorce;
- Drafting a will or plan for the support of someone after your death;
- You are considering filing for bankruptcy protection; or
- You want to learn about your legal position/options on any given matter.

How do I find a lawyer to represent me?

There are many ways to go about finding a lawyer. By talking to friends and family, you are likely to find someone who has hired a lawyer with whom they were pleased. The Virginia Lawyer Referral Service, provided through the Virginia State Bar, can give you the name of a lawyer who practices in your area in the field of law in which you need help. Lawyers in this service have agreed to consult with those referred for up to one half hour for a prepaid fee of \$35. If more time is needed, the lawyer and client can agree on terms of continued representation. You can get more information on the Virginia Lawyer Referral Service at www.vsb.org/vlrs or you can call them directly at (800) 552-7977 (toll-free Statewide and Nationwide), (804) 775-0808 (metro

Richmond), or (804) 775-0502 (for the hearing-impaired). Some local bar associations (groups of lawyers practicing in your area) have similar referral services. You can look online to locate contact information about the local bar association. Your local courts, the internet, and radio and television ads are also sources of information you can turn to when looking for an attorney.

How do I decide which lawyer to hire?

Some lawyers have a general practice, which means they deal with many types of legal issues. You will also find lawyers who specialize their practice in one field of law. The nature of your legal problem and the amount in controversy may have an impact on the lawyer you want to hire to do the job. Most lawyers will readily answer questions about their legal training and experience, and there are several directories on the internet and in your local law library that rate lawyers.

How do lawyers charge for their services?

There are several common fee arrangements offered by lawyers. With regard to the initial meeting, some lawyers charge their standard hourly rate, some charge a reduced rate, and some offer free initial consultations. During the initial meeting, do not be shy about asking how you will be charged for legal services if you decide to hire that lawyer. Depending on the kind of case you have, you may be charged an up-front flat fee (common in criminal cases) or you may be billed on an hourly basis. When attorneys bill on an hourly basis, they often ask for an upfront deposit known as an advanced fee. This money is held in a trust account for you by the lawyer and the time billed by the lawyer is paid from that account. In a case such as a personal injury case, your lawyer may charge a contingency fee, which is a percentage of any money you recover in the case. Don't forget to discuss and review what other legal fees and costs might be charged by your lawyer while he or she is representing you. These additional fees can include filing fees paid to a court, photocopying charges, and fees paid to process servers or expert witnesses. You should not hesitate to ask for a written fee agreement from any attorney you hire so that you are clear about how you will be charged.

Is the relationship of a lawyer and client confidential?

With a few exceptions, your lawyer has an ethical obligation to keep secret any information you give him or her as a client. Therefore, you should feel free to tell your lawyer all the facts in your case— even if you think those facts make you look bad or they are not favorable to you. However, your lawyer may in very limited circumstances be required by law or by court order to discuss information you have confided (for example, if you tell your lawyer you intend to commit a crime in the future).

What if I believe that my lawyer is not handling my case properly?

You should first raise all questions or concerns about the handling of your case with your lawyer. If you and your lawyer still cannot resolve your differences, you have several options: consider hiring a new lawyer; filing a complaint; mediating or arbitrating a fee dispute; or suing for malpractice.

The Virginia State Bar (VSB) provides all individuals with the opportunity to file complaints about lawyers whom they believe have failed to meet the rules of ethical conduct. To receive a complaint form from the VSB Intake Department, call (804) 775-0570 (Richmond), (866) 548-0873 (toll free), or visit the VSB website at www.vsb.org/site/regulation/inquiry.

If you are having a dispute with your lawyer over the fee you have been charged, the VSB provides a voluntary mediation and/or binding arbitration services to work out these issues. For more information, call (804) 775-9423, or for a copy of the rules and regulations regarding fee mediation and/or arbitration, visit the VSB website at www.vsb.org/site/public/fee-dispute-resolution-program. The VSB's website (www.vsb.org) provides public information concerning lawyers licensed in Virginia.

If you feel your attorney has committed malpractice, you may sue your attorney for damages to recover your losses.



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