

Senior Legal Guidebook

Basic Information about Idaho's Laws for Seniors

This Guidebook gives general information about legal issues frequently encountered by seniors and their families, neighbors, friends, and caregivers. It also suggests where to look and who to call for more detailed information and offers practical guidance.

No booklet can cover every legal issue or give advice for your unique situation. However, we hope that this Guidebook will give you a better understanding of what to expect, what questions to ask, and what you can do next.

This Guidebook is not copyrighted. Feel free to copy and share. You can download copies at

www.idaholegalaid.org.

You may need to talk to a lawyer about your unique situation. This Guidebook gives general information on legal issues. It is not a substitute for an opinion from an attorney or legal advice about your particular case. It also does not create an attorney-client relationship with Idaho Legal Aid Services or anyone else.

Elder Abuse: Facts and Myths

Defining “Elder Abuse”

Elder abuse takes many forms. It can mean any mistreatment of a senior and may look like:

Abusers may be family members, caregivers, or trusted friends.

Myth: “We don’t have that problem in our community.”

Fact: Elder abuse is often not seen or recognized.

Some people believe that elder abuse is not a problem in their community. Unfortunately, every community—no matter the size, nationality, income, or religion—has its share of seniors suffering from abuse, neglect, or exploitation.

Myth: “It’s just part of growing old.”

Fact: Elder abuse is preventable. It should not be tolerated.

Every senior deserves respect. No senior should be physically harmed, financially exploited, deprived of food or medicine, sexually harassed, or unreasonably coerced to live where they don’t want to. **What to know:**

You shouldn’t have to live in fear or violence. You matter. You don’t deserve abuse, and you’re not to blame for it. People should have your permission to make decisions for you.

Many people have experienced what you are going through.

It’s probably not “just money.” Other things—like your

safety and wellbeing, your eligibility for public benefits like Medicaid, and the welfare and resources of other loved ones who would be affected if abuse isn't prevented or stopped—may be at risk.

Help is available. There can be better days ahead.

Civil Remedies

If you are being abused, neglected, or financially exploited by someone named as your agent in a power of attorney, or if that person is not acting in your best interest, you can revoke the power of attorney. You may also be able to bring a civil lawsuit—a non-criminal case seeking money to compensate you for physical or financial harms—against an abuser. For example, if an adult child took money from a senior's bank account without permission, a civil lawsuit could be filed to try and recover the money. If you wish to pursue a civil lawsuit, you may want to talk with an attorney about your case. If you are a victim of physical or sexual abuse, you can seek a **civil protection order** requiring an abusive family member or household member to stay away from you. You can apply for a civil protection order at your local courthouse. Free forms to apply for a civil protection order are available at www.idaholegalaid.org.

Criminal Remedies

Criminal remedies punish a person who has violated the law. Various Idaho laws protect seniors from fraud, theft, physical abuse, neglect, and unwanted sexual contact. If

you suspect that you are a victim of a crime, you can call police; they will investigate. Filing criminal charges can help ensure your safety by putting an abuser behind bars. In some criminal cases, you can request a **no contact order** so that a perpetrator can be jailed or imprisoned or have probation revoked for contacting you.

Getting Help

If you or someone else is in danger, call 911.

If you are suffering from abuse or neglect or a neighbor, friend, or family member is being abused or neglected call Adult Protection Services. Its staff investigates allegations of abuse, neglect, self-neglect, and exploitation of vulnerable adults and can work with the police, Health and Welfare, nursing homes, banks, and lawyers to investigate and address abuse and neglect. You can learn more about Adult Protection Services on the Idaho Commission on Aging's web site, www.aging.idaho.gov.

Resources and Volunteering

Justice Alliance for Vulnerable Adults

The Idaho Justice Alliance for Vulnerable Adults (JAVA) (go to www.javaidaho.org) is a network of organizations and individuals working to prevent elder abuse through action and education.

Idaho Commission on Aging Resources

The Idaho Commission on Aging (ICOA) helps Idaho seniors live as independently as possible by providing basic necessities like transportation, nutrition, in-home services, legal services and respite care.

Aging and Disability Resource Center

The Aging and Disability Resource Center at www.aging.idaho.gov provides useful resources for people planning long-term care, applying for government benefits, and answers to many common questions about seniors' rights and options. You can also call the ADRC at 1-800-926-2588.

Area Agencies on Aging

Area Agencies on Aging in Idaho help seniors with many types of problems. Your local AAA may be able to help you arrange for:

Ombudsmen

Ombudsmen are advocates for residents of nursing homes and assisted living facilities. They provide information about how to find a facility and what to do to get quality care. They are trained to resolve problems. An ombudsman can assist you with complaints. However, unless you give the ombudsman permission to share your concerns, these matters are kept confidential.

For more information about these services, call your local AAA office (listed on page 45) or visit www.aging.idaho.gov.

Protecting Your Money

**“I noticed my neighbor is giving lots of her money away...
now she hasn't been able to buy food.”**

“My brother is taking mom’s Social Security and buying things for himself.”

Financial Elder Abuse

Not all elder abuse involves physical harm. Financial exploitation is a form of abuse. Examples include scams, undue influence, misuse of a senior’s property, and outright theft. Common signs of financial exploitation include:

- A senior inexplicably cannot pay bills or buy necessities.

- A senior transfers an unusual amount of money or property to others, or there are withdrawals or transfers from an account that he cannot explain.

- A senior has a new “best friend” with an unusual or suspicious interest in the senior’s finances and assets.

- The senior makes large cash withdrawals, or you see checks written to “cash.”

- Changes are made to a senior’s advanced directives that they can’t explain or understand.

- Someone assists the senior with their finances, but refuses to provide copies of bank statements or an accounting of how funds are being spent.

- Property goes missing or is sold without the senior’s knowledge or consent.

An attorney may be able to help a senior recover some

money from an abuser through a civil lawsuit. Some acts of financial abuse may be considered crimes, such as theft or fraud. Call Adult Protection Services or the police if you suspect financial abuse and would like a case investigated, or you can call Idaho Legal Aid's Senior Legal Hotline if you have legal questions related to financial exploitation.

Scams

New scams are created every day, and many scammers target seniors. Be wary and don't buy anything under pressure. **YOU CAN SAY NO!** Don't give your credit card number, social security number, or other personal information to anyone who contacts you over the phone. Don't pay for anything that comes in the mail if you didn't order it. The Idaho Attorney General's Consumer Protection Division prints a Senior Citizens Manual that describes many common types of scams that target seniors, such as: _____

To get a copy of the manual, call the Consumer Protection Division at 1-800-432-3545 or visit its web site at www.ag.idaho.gov.

Have you been a victim of fraud? If someone defrauds you, call Idaho Legal Aid's Senior Legal Hotline. You can also file a complaint with the Attorney General Consumer Protection Division and the Better Business Bureau at 1-800-218-1001.

Contracts

Being smart about contracts

Contracts are legally enforceable promises. Some contracts are written; some are spoken. People sometimes enter into contracts without knowing or understanding what they've promised to do. Unless you were greatly pressured or deceived about what is in a contract, a court will probably hold you to the contract. Idaho does not have a "cooling off" period to get out of a contract except for telemarketing and certain door-to-door sales. Protect yourself from problems with contracts before you sign.

Before you sign any type of contract, **READ ALL OF IT.**

If you don't understand anything or something doesn't seem quite right, **ASK QUESTIONS** before making any commitments. Do some research. Consult qualified and trustworthy professionals.

DON'T SIGN IT until you understand it.

If the contract has blanks that aren't filled in, **DON'T SIGN IT!**

GET A COPY of the contract and take it home before signing it! You can sleep on it!

If someone won't give you a copy of a contract, **DON'T SIGN IT!**

Breach of contract

If someone breaks a promise made to you in a contract, that is called breach of contract. You can write them a demand letter (send it certified mail, return receipt requested) stating what you want them to do (pay you money, finish work, etc.). If that doesn't work, you can file

a lawsuit asking for damages (money) that you are owed, but you must file your lawsuit within a certain time from the date the other party breached the contract. In Idaho, for oral (spoken) contracts, you have four years. For written contracts, you have five years.

Warranties and Defective Merchandise

Warranties

A warranty is a type of guarantee that comes with a product. It can be express (written or spoken) or implied (unspoken or assumed, like that a product will work as advertised). Implied warranties come with most products, unless they are marked with a disclaimer like “as is.” If a product does not perform as promised, that may be a breach of an express or implied warranty by the manufacturer and/or the merchant, and you may have the right to ask them to honor the warranty and fix the problem or bring a suit against the manufacturer or seller. If they won’t honor the warranty, you should discuss your case with a lawyer right away.

Complaints about merchandise

You can write a demand letter (certified mail, receipt requested) to the merchant that sold you the product. Specifically describe your complaint and include a copy of your purchase receipt, contract, warranty, or other documents. Keep a copy of your demand letter and originals of supporting documents. If there is no satisfactory response within a reasonable time, you can follow up by filing a complaint with the Better Business Bureau or the Consumer

Protection Division of the Idaho Attorney General's Office (www.ag.idaho.gov). If the amount in dispute is less than \$5,000, you can sue in small claims court. The Idaho Consumer Protection Act protects seniors (over 62) and disabled consumers. You may recover triple damages (three times the money that you actually lost) from deceptive merchants in a civil lawsuit. Learn more about filing demand letters and lawsuits on page 40. If the amount of your claim is more than \$5,000, then you may want to contact a private attorney to discuss your case.

Being Smart about Loans and Credit

You may get a loan or credit card offer that sounds like a great deal. Or you may seek out a loan because you need cash and want to get the loan in a hurry. Be careful, because credit often causes more problems than it solves. Loan products are usually created to make the lender as much money as possible, and seniors are often targeted by predatory lenders. Be cautious before using a credit card or signing a loan, especially if you plan to secure the loan with your home, a car title, or other property.

Before Signing

Know the terms of the loan

Know how many payments you'll have to make and when

the payments are due. Some loans have large “balloon” payments due later that are hard to pay.

Think twice before co-signing on a loan

Many seniors get into trouble by agreeing to co-sign on loans for children, grandchildren, or other loved ones. This often turns into a disaster, as the person they are trying to help fails to make the loan payments and the senior is held fully responsible for the debt.

Know your budget

Can you really make the loan payments and still comfortably afford necessities such as rent, food, utilities, insurance, taxes, clothing, and medicine?

Don't hesitate to get help

Ask an attorney to review the terms of a loan if you aren't sure whether they are fair or don't understand the loan documents. Taking a little more time before signing may save a lot of trouble later!

Falling Behind and Getting Help

You are not legally excused from debts because you have lost your job, get sick, or can't afford to pay for some other reason. If you owe a creditor, the creditor may report a default to a credit bureau and sue you to collect the debt. The creditor may also sell the debt to a debt buyer or collection agency to pursue collection.

Collection letters or bills sometimes have errors in them. Keep all records of your debt. Pay attention to the

numbers. If you dispute that you owe the debt or the amount of a debt, send a letter to the creditor or collection agency. Keep copies of all letters that you send and receive about the debt. Have an attorney help review the disputed debt. If it has been more than four or five years since you made a payment or charge on the account, then the statute of limitations (time within which the creditor can legally enforce the debt) may have passed. This could be a defense if a creditor sues you. If you think this may be the case, consult with an attorney.

If you dispute that you owe a debt, write a letter to the collection agency within 30 days of receiving a collection notice to explain why you dispute the debt.

Debt Collectors and Harassment

A federal law, the Fair Debt Collection Practices Act prohibits lenders, collection agencies, and their lawyers from:

Harassing you, scaring you, or threatening you with violence or criminal prosecution.

Calling you at work if your boss doesn't allow it.

Calling your friends or neighbors.

Calling before 8:00 a.m. or after 9:00 p.m.

Contacting you after you send them a **cease communication letter**.

If a collection agency violates the Fair Debt Collection Practices Act, report the agency to the Idaho Department

of Finance (1-888-346-3378). You also have the right to sue collection agencies for \$1,000 for each violation of the Fair Debt Collection Act. If you are considering filing such a lawsuit, contact a consumer law attorney.

Writing a cease-contact letter

Include your account number

Ask for written proof of the amount you owe

Ask for a copy of the agency's Idaho Collection Agent permit

Request that they stop contacting you.

Even if you send a cease-communication letter, the agency may still sue to collect the debt or send certain notices required by law.

You don't need a lawyer to write a letter like this. Contact the Idaho Legal Aid Senior Legal Hotline for a sample letter or visit www.idaholegalaid.org to download a free sample form.

Negotiating with the creditor

You may avoid harassment before it starts by contacting a creditor and explaining your situation. If you offer to make a small payment each month, the creditor may accept the offer and not turn your debt over to a collection agency.

If you agree to a payment plan, ask the creditor to provide a written agreement including the terms you agreed to. If you need help paying debts, consider contacting a debt counseling service that can provide advice and may be able to negotiate a new payment plan with your creditor. But beware of "debt consolidation" companies and debt

counseling services—some are scams! Call the Consumer Protection Division of the Idaho Attorney General's Office (1-800-432-3545) if you aren't sure about a particular or debt counseling service.

Collections Lawsuits

If you owe a debt, the creditor may sue you to obtain a judgment that will allow the creditor to collect what they're owed. Sometimes a store or credit card company will sell the right to collect a debt to a debt buyer and the debt buyer will sue you. If you've never heard of the company suing you, it might be a debt buyer.

File an Answer within twenty (20) days

If you are sued, you should receive a **Summons** (a notice from the court that you are being sued) and **Complaint** (a document stating the grounds for the lawsuit). You have twenty (20) days after receiving a complaint to file a written response or **Answer** with the court.

Consider discussing any possible defenses in your case with an attorney. If you have a valid defense, state so in an Answer. State if you think a debt isn't yours, if the amount asked for is wrong, or if the statute of limitations on the debt has passed. Some collectors have inaccurate records. The collector must prove you owed the debt and how much you owe. Answer forms are available through your local Court Assistance

Office (courtselfhelp.idaho.gov).

What if I have no defense?

If you don't dispute a debt and have no defenses, you may lose a collection suit whether or not you file an Answer. If

you file an answer and the court rules against you more attorney fees may be awarded against you. If a court determines that you owe an amount you will receive a court decision that you owe the money, called a **judgment**. The creditor may then try to collect by garnishing your wages (having your employer send the creditor some of your pays until the debt is paid), having your bank send the creditor funds from your bank account, or even taking some of your personal property to sell. Creditors cannot, however, take “exempt” property or income.

Property Exempt from Collection

A significant amount of your money and property may be “exempt” from attempts to collect on a judgment under Idaho law.

Examples of income and property that is exempt include:

Claiming exempt property

Creditors must follow a legal process to collect on a judgment.

A creditor with a court judgment against you can get a **Writ of**

Execution from the Sheriff. This is a legal paper allowing the creditor to try to collect money from you by taking some of your wages, money from your bank account, or personal property, or putting a lien on your real estate. However, Idaho law states that some property and income is exempt from collection and may not be garnished or taken, even if there is a judgment against you! A list of

exempt assets in Idaho is found on the ILAS website in a document called _____.

The sheriff will typically provide you with the Writ of Execution and a Claim of Exemption form. The Claim of Exemption form is your chance to protect exempt assets and income from being seized. **This form MUST be filled out and returned to the Sheriff within fourteen (14) days.**

Avoid mixing exempt funds with non-exempt funds

Mixing exempt funds with non-exempt funds (like Social Security with money from your job) can make the entire amount available to creditors. It may be wise to put non-exempt funds in a separate bank account from exempt funds.

Can a creditor take my home?

Up to \$100,000 of the net value (the value of the property minus how much you owe on it) of a house or manufactured home is protected from creditors. This is called a “homestead exemption.” There are many additional exemptions not discussed above.

Contact Idaho Legal Aid Services for a detailed list of exemptions and how to claim them. Also, find a free Claim of Exemption form and more information at www.idaholegalaid.org.

Bankruptcy

If you’ve fallen behind on debt, you might have considered declaring bankruptcy. When you file for bankruptcy, the

court will issue an “automatic stay,” which is an order that will stop most collection activity against you like collection calls or garnishment of wages.

Chapter 7 versus Chapter 13

In a Chapter 7 bankruptcy, the Court will appoint a Trustee who will sell any non-exempt property you may own, but will allow you to keep exempt property. After a Chapter 7 bankruptcy is finalized, you will receive a discharge of most of your debts. (Some debts may not be discharged, such as student loans and tax debts.) In a Chapter 13 bankruptcy, you enter into a repayment plan set by the court and lasting three to five years; if you comply with the plan you may receive a discharge of remaining debts.

Costs

The filing fee that you must pay the court to start your case is \$310 for a Chapter 13 and \$335 for a Chapter 7 case (in 2015). If you want to hire an attorney to help you with your case, there will be an additional fee for the attorney. However, many bankruptcy lawyers will let you make payments to pay their fee and the court will sometimes allow you to make payments on the filing fee as well.

Because bankruptcy damages your credit and reduces your credit score, you need to know that it will be harder to get credit or loans after you file, and any credit or loans you do qualify for after a bankruptcy will likely have higher interest rates and cost you more.

The timing of when you file for bankruptcy can be very important. If you are considering getting married or

divorced or anticipate taking on more debt in the near future, consult with a bankruptcy lawyer before you file. You can call the Idaho State Bar Lawyer Referral Service at (208) 334-4500 or look online for an attorney at isb.idaho.gov.

Social Security and SSI Benefits

There are three types of Social Security benefits: 1.) retirement, 2.) disability, and 3.) Supplemental Security Income (SSI). All are run by the Social Security Administration (SSA). Contact the SSA at 1-800-772-1213 or visit it online at www.ssa.gov for more information. Find out what benefits you may be eligible for using SSA's Benefit Eligibility Screening Tool (BEST), available at ssabest.benefits.gov.

Social Security Retirement. By working and paying taxes, you earn credits toward qualifying for Social Security retirement. You must earn 40 credits (10 years of work) and have reached retirement age—age 65 to 67 depending on the year you were born—before you can begin collecting retirement benefits. The amount of money you get depends on how much you earned in the course of your career. You can get early retirement benefits as early as age 62, but your benefit will be reduced. If you delay retirement, your benefit amount will be higher.

Social Security Disability. If you are unable to work due to a disability that is expected to last more than one year or until your death and have worked during five out of the last ten years, you may qualify for Social Security disability. You can apply for Social Security disability on

your own or with the help of an attorney. Most people receive an annual statement that projects their Social Security retirement and disability benefits.

Supplemental Security Income (SSI). You can qualify for SSI benefits even if you don't have enough work "credits" to qualify for Social Security retirement or disability if you can show that:

You are over 65 or blind or disabled.

You are low-income, meaning that your income is lower than \$733 monthly or \$1,100 per month if married. (These amounts are for 2015, and typically go up annually.)

You have few assets: less than \$2,000 for a single person or less than \$3,000 for a married couple, not counting your house.

If your application for disability or SSI is denied, you can request that your application be reconsidered but have limited time to do so. Contact a lawyer right away if you need assistance with your request. A free brochure explaining this process is available on the Idaho Legal Aid Services web site at www.idaholegalaid.org.

Other Public Benefits

Veterans' Benefits

Disabled veterans may be compensated for injuries and

diseases suffered during their military service. Veterans may also receive pensions if they are low-income, have few assets, and are permanently disabled. There are other veterans' benefits including payment for medical aids, prosthetics, education, and loans. If you are denied VA benefits, you can request a hearing but must do so quickly. Contact the Veteran's Affairs regional office nearest you or visit www.va.gov.

Unemployment Benefits

Unemployment benefits are collected from the state after a job loss, such as a layoff or plant closure. The amount you get is based on how much you earned when working. You have 14 days from the time you are denied to protest the denial and request a hearing. Additional information about unemployment benefits, how to apply and appeal forms is available at labor.idaho.gov, or you can call the Idaho Department of Labor at 208-332-3570.

Aid to the Aged, Blind & Disabled (AABD)

AABD is a state program that provides cash assistance to people who are 65 or older, blind, or disabled. This cash benefit of up to \$53 (in 2015) can be used towards everyday living expenses. To qualify, your income must fall below limits set by the state: below \$786 for an individual and below \$1,120 for a married couple in 2015. Contact your regional office of the Idaho Department of Health and Welfare (IDHW) to apply for AABD.

Supplemental Nutrition Assistance Program (SNAP)

SNAP provides funds for low-income families to buy food.

In order to qualify, your income must be below \$1,265 for a single person or \$1,705 for a couple (2015) and your resources or assets must be below \$5,000. You must also be a citizen, a resident of Idaho, and either employed, in a training program, elderly (age 60+), or disabled. Contact your local IDHW office to apply for SNAP benefits.

General Tips About Government Benefits

Apply early. Apply for benefits programs well before the time you think you'll need the financial help. The application process can be confusing, and you may need to gather lots of personal and financial information to fill out the application.

Write it down! Keep every written statement you get from a government agency in a special file. Read everything carefully and pay attention to dates! Keep a written record of every time you call a government agency when you are applying. Write down the person's name, what they tell you, and what you tell them.

Appeal denials. If you've been improperly denied a benefit, or if your payment is reduced or cut off, you may wish to appeal that determination. You can appeal on your own or with help from an attorney. Don't wait to take action because there are short time limits for requesting appeals!

Some common defenses:

Statute of limitations. If over 4–5 years have passed since you last made a payment or charge on an account, a court may be able to dismiss any suit against you to collect the debt.

Mistaken or stolen identity. "I didn't run up this debt!"

Debt already discharged. “I paid that!” or “I discharged that in bankruptcy!”

Wrong amount. “My records show I don’t owe that much!”

Health Care for Seniors: Medicare versus Medicaid

Medicare

Medicare is federal health insurance for people who: 1.) are age 65 and over or 2.) have received Social Security disability benefits for over two (2) years. Medicare, like other health insurance, has premiums, co-payments, and deductibles.

Medicare covers certain health expenses:

- reasonable and necessary hospital stays
- short stays in skilled nursing facilities
- certain home health care needs, medical aids, and prosthetics.
- hospice services
- certain doctor visits and, ambulance rides.

Long-term care is only covered by Medicare in very limited circumstances and for a short time.

If you are in a hospital or nursing facility and are told that Medicare will no longer pay for your stay there, you have a right to appeal. It’s important to ask for an appeal quickly. If you are denied coverage for a medical service or expense, you should receive written notice of non-coverage from the doctor or hospital. This notice, called a Medicare Summary Notice, will explain how to appeal.

If you have questions about Medicare,

call 1-800-MEDICARE or visit [medicare.gov](https://www.medicare.gov)

Medicaid

Medicaid is a federal health program for people with low income, regardless of whether they have worked or not.

Medicaid eligibility

Medicaid helps many low-income people pay for medical necessities. Medicaid can provide full health coverage, such as for physician visits and hospital stays, but only for qualifying children under age 19, pregnant women, adults with a child under 19, seniors age 65 or older, or persons who are blind or disabled.

Medicaid can also pay the costs of long-term care, such as in-home nursing, assisted living, or nursing home care.

You may be eligible for Medicaid to cover long-term care if:

- 1.) Your income is less than the Medicaid income cap (\$2,199 per month for a single person in 2015); and
- 2.) The value of your assets (property) is below the Medicaid asset cap (\$2,000 for a single person, but significantly higher for a married couple); and
- 3.) You have a demonstrated medical need for long-term care.

Meeting the asset requirements for eligibility as a married couple is complicated; discuss with an attorney what it would take to qualify.

Medicaid's income limit

Many people find that they do not have enough income or

savings to pay the high costs of long-term care, yet have too much income to qualify for Medicaid. If your income is above the income cap, you can still qualify for long-term care coverage through Medicaid by using a special type of trust called a “Miller Trust.”

“Miller Trusts” are basically agreements where a “trustee” agrees to hold and manage money for another person who needs long-term care (called the “beneficiary”) and to spend the money only in ways approved by Idaho Department of Health and Welfare (primarily paying long-term care costs). Income that goes into the trust is not counted, so the trust can be used to help a person qualify for Medicaid. Because Miller Trusts can be confusing and even ineffective if not done correctly, it is important to contact an attorney if you need a Miller Trust or have questions about qualifying for Medicaid.

Medicaid's asset limit

If you have too many “non-exempt” assets to qualify for Medicaid, you can “spend down” your assets in order to qualify. If your assets significantly exceed the \$2,000 cap, though, or if you are married, do not spend down without first talking to a lawyer. If your assets are only slightly over the cap, you could spend down by paying for long-term care out of pocket; buying exempt assets such as clothing and personal items, a vehicle, or an irrevocable burial fund; or spending the money on other goods or services. Spending down can be very complex and have tax consequences. If you are married or have significant assets, you should consult with an attorney.

Transfer penalties

Many people think that they can just give away assets to meet Medicaid's asset cap. Doing this, however, might disqualify you from receiving Medicaid benefits for a period of time, and you could be subject to penalties. For example, if you give a house to a daughter or son, the total value of the gift will be divided by the number of months (calculated based on Medicaid regulations) that you could have paid for your own long-term care with the property you gave away. You will be disqualified for Medicaid for that number of months. For a house worth about \$150,000, the penalty can be over two years. Medicaid looks back five years from the time you apply to see if you gave away (transferred) any assets for less than market value. If you want to give property away but there's a reasonable likelihood that you may need to be eligible for Medicaid in the next five years, meet with a lawyer to discuss your case.

Estate recovery: Medicaid gets paid back

You may have heard that Medicaid will put a lien on your house or take your property. This is partially true: Medicaid does not take anything during your lifetime, but after you pass away, they can make a claim against your estate for the amount they paid for your care. Medicaid will not go after an estate, though, until both the Medicaid recipient and the recipient's spouse have passed away. Also, if you have a child with disabilities, you should consult with an attorney regarding rights the child may have.

**In some cases, Medicaid may seek to recover assets from
an estate even though the eligibility requirements**

were met.

Senior Health Care Issues

County Assistance

If you cannot afford hospital and medical care, including medications, or basic necessities such as rent, food, and utilities, then the county may assist you in paying for them. This is a “last resort” program, meaning that the county will pay for these services or necessities only if you have no other way of paying for them on a temporary basis. The County can put a lien your property until such assistance is repaid.

Long-Term Care Insurance

Long-term care insurance can help pay for long-term care if you buy it in advance and pay premiums for a certain time. Long-term care insurance may not be a good option if you cannot afford premiums; if you have very limited assets; if your only income is social security or Supplemental Security Income (SSI); or if you often have trouble paying for utilities, food, medicine, or other basic needs. Long-term care insurance can, however, be beneficial for people with significant assets. If you wish to buy long-term care insurance, consider a policy that is part of Idaho’s Long-Term Care Insurance Partnership Program. These policies earn credit for benefits paid out by the insurer, so an insured person could qualify for Medicaid without having to spend down all her assets.

Institutional Elder Abuse

“When we went to visit mom at the nursing home, she had bruises and hadn’t eaten for two days.

I don't think she's being taken care of."

Sadly, some seniors experience abuse while in the care of nursing homes and other institutions. Friends and family members should check on a regular basis to see if their loved ones:

- have eaten enough and get their medicine

- have bedsores or other injuries

- are missing personal items or money from their accounts

- complain about verbal or physical abuse from the staff

- show other signs that they have been mistreated.

Ombudsmen and Institutional Abuse

Ombudsmen advocate for the elderly. They investigate complaints and respond to requests for assistance from residents in long-term care facilities, as well as from seniors living in the community and assisted living facilities. Ombudsmen serve free of charge. See page 47 of this Guidebook for a local Ombudsman's phone number.

Renter's Rights

Tenants' Rights under Idaho Law

Discrimination in Housing

Landlords may not discriminate against you because of your sex, race, color, religion, disability, national origin, or familial status (whether you have children or not). These are called "protected classes." Federal and local anti-discrimination laws apply when you are looking for a rental and when you already are living in one.

If you think you might have suffered discrimination

because you belong to a protected class, call one of these numbers:

Idaho Human Rights Commission
(888) 249-7025 or (208) 334-4751 (TTY)

Intermountain Fair Housing Council
383-0695 or 1-800-717-0695 (TTY)

HUD / Fair Housing and Equal Opportunity Office
1-800-877-0246

Requesting Reasonable Accommodations

If you have a documented disability, you can seek a “reasonable accommodation” or “reasonable modification” to make it possible to enjoy living in a rented residence like any other person.

A “reasonable accommodation” is a modification to or exemption from a landlord or rental agency’s rules or policies, like providing you with a first-floor unit. A “reasonable modification” is a change to the physical structure (like building a ramp or lowering a countertop) that allows a person with a disability to fully use and enjoy their housing.

Any accommodation that you ask for must be reasonable, meaning that it cannot place an undue financial or administrative burden on the housing provider. For example, asking your landlord to help pay your bills or drive you to appointments might be an undue burden and unreasonable. However, asking your landlord to relax a “no pets” policy so you can live with your assistive animal would likely not be an undue burden and is likely reasonable. You may have to ask a qualified health

professional to write a letter stating that you are disabled and that your disability is connected to the accommodation you are requesting. The letter should not discuss details about your disability, which is confidential health care information. Contact Idaho Legal Aid Services or the Intermountain Fair Housing Council if you have questions. You can also download free, interactive forms at www.idaholegalaid.org, including forms for requesting reasonable accommodations.

Repairs

Idaho law (Idaho Code Sections 6-320 and 6-321) gives tenants the right to sue a landlord that fails to make repairs necessary to habitability of a unit within three (3) days of receiving a written request for repairs. A landlord must keep the following in good order and fix any other conditions hazardous to tenant health or safety:

- Water-proofing, weather-protection

- Electrical and plumbing

- Heating, ventilation, and cooling

- Sanitary facilities

- A smoke detector.

If you need repairs, send your landlord a written demand letter. Keep a copy of the letter for your records and send it by certified mail or hand-deliver it with a witness. If the landlord does nothing, you can sue the landlord for any damages and costs you suffered because the repairs weren't made or seek a court order forcing him to make the repairs. Idaho law does not allow tenants to make repairs and deduct repair costs from rent. You can

download a free interactive form to request repairs from your landlord and learn more about your right to live in a safe, healthy rental property at www.idaholegalaid.org.

Security Deposit

When you move out of a rental, take lots of pictures to show the condition of the property. Your landlord has 21 to 30 days from the date you move out to return your deposit or provide you with an itemized list of any charges that offset the obligation to return the deposit. If your landlord fails to return your deposit, or you disagree with charges the landlord claims, send the landlord a demand letter. If you and the landlord cannot reach an agreement, you can sue the landlord in small claims court (for up to \$5,000) and ask the judge for triple the amount of your deposit back.

Manufactured Homes

If you own a manufactured home and rent land to put it on, you have unique rights, spelled out in Idaho's Manufactured Home Residency Act (Idaho Code Sections 55-2001 through 55-2019). For example, the landlord must give you 90 days' written notice if the landlord does not intend to renew your lease, wants to raise your rent, or wants to change the community rules. The landlord also cannot evict you for complaining about the health and safety of the community or for joining a tenants' association.

**For help finding a rental property, call 1-877-428-8844
or go to www.housingidaho.com**

Evictions

Receiving an eviction notice or being threatened with eviction can be terrifying. You have a right, however, to proper notice before you may be evicted. A landlord may have to give you a chance to fix a mistake you made or pay rent if your rent is late.

The landlord only has a right to evict you for certain reasons:

The landlord may not evict you because you:

A landlord who wants to evict you must give you a proper eviction notice. If you violate the lease agreement or are behind on rent, the landlord must give you a notice that gives you 3 days to “cure” (fix) the violation or pay your rent. If you “cure” the lease violation in those 3 days, you may not be evicted. If you don’t cure and don’t move out, your landlord can bring an eviction suit against you. Your landlord may not, however, try to force you out by locking you out or turning off utilities.

If you think you are being treated unfairly or evicted illegally, contact Idaho Legal Aid Services. You can find more information and a free, interactive form to use in responding to an eviction notice at www.idaholegalaid.org.

Other Housing Issues

Federal Housing Programs

There are several kinds of federal housing programs. Some give tenants “vouchers” to help pay rent for houses and apartments owned by private landlords. In other programs, a government agency charges rent at a reduced rate, based on a tenant’s ability to pay. You must apply to get into one of these programs. There may be a

waiting list before you are accepted.

Federal housing programs sometimes offer additional tenant protections. For example, the landlord might be required to follow special notice requirements before attempting to raise rent or evict you. Your lease might require that you cannot be evicted except for “good cause.” Make sure to read your lease agreement carefully so you are aware of any additional rights you may have. If you have questions about federal housing programs, you can contact the office of your local housing authority or Idaho Legal Aid.

Homeowner Rights in Foreclosure

Millions of people, including seniors, have found themselves facing foreclosure in the last few years. There are often options to help you avoid foreclosure, such as a loan modification to reduce your interest rate or a short sale or deed in lieu of foreclosure if you no longer want the home. You may qualify for free legal services from Idaho Legal Aid Services if you are a homeowner facing foreclosure. Be sure to act quickly, as there are time limits for requesting certain types of assistance.

Housing counselors are also available to help homeowners avoid foreclosure:

Idaho Housing and Finance Association — 1-877-888-3135

Boise Neighborhood Housing Services — 208-343-4065
ex. 100

Pocatello Neighborhood Housing Services — 208-232-9468 ex. 105

Community Action Partnership Agency in Lewiston — 208-746-3351 ex. 4187 or 1-800-326-4843

Reverse Mortgages

Many seniors have heard of reverse mortgages as a way to pay off other debts, avoid foreclosure, or enjoy extra income in retirement. A reverse mortgage allows someone age 62 or older to convert equity in his or her home into cash without having to sell the home or repay the loan in monthly payments. The reverse mortgage is paid off when you move out of the home or at your death. Before taking out a reverse mortgage, it is important to understand that the costs and fees can be high, that any equity in your home that you might otherwise wish to leave to your heirs may be lost to a reverse mortgage, and that interest rates on reverse mortgages may be variable and change over time. You should consider what will happen to your spouse, especially if he or she isn't included on the reverse mortgage loan agreement. For more information about reverse mortgages, you can call the U.S. Department of Housing and Urban Development (HUD) at 1-800-CALL-FHA or AARP at 1-800-209-8085.

Family Law Issues

Filing for Divorce

Idaho is a “no fault” divorce state; you don't have to prove that your spouse did anything wrong to get a divorce and you do not need your spouse's consent to file. You just need to prove that there are “irreconcilable differences” between you and your spouse.

Residency: You must live in Idaho for six full weeks in a row before filing for divorce.

Community Property and Debt: Idaho courts assume that both spouses contributed equally to a marriage, even if only one spouse worked. Property acquired by either spouse during a marriage that is not “separate” is called “community property” and usually split 50/50 at divorce. The community’s debts are also divided equally. However, you can ask for a different arrangement if your unique situation (income, age, illness, etc.) justifies a different division.

Pro se: You can file for divorce “pro se” (by yourself, without an attorney). The forms you will need are available at the Court’s Assistance Office of your county courthouse or online at www.courtselfhelp.idaho.gov. To find more information and download free, interactive legal forms you can use to file for divorce, go to www.idaholegalaid.org.

Grandparents Raising Grandchildren

Grandparents may have difficulty proving to hospitals or schools that they have authority to make decisions for a grandchild. If you are caring for a grandchild, even for a short time, you should get written permission (called a parental power of attorney) from at least one of the child’s parents. A parental power of attorney form is available at www.idaholegalaid.org. If you have had custody of a child or are raising your grandchild for a longer period of time, it may be wise to ask a court to make you the child’s legal guardian. This will give you legal authority to care for a grandchild and often make it possible to put your grandchild on your health insurance.

Guardianship of a Minor

To become a child's guardian, you must show a judge that you are qualified to be the child's guardian and that a guardianship is in the best interest of the child. You must also show the court that the child's parents have abused, neglected, or abandoned the child or cannot provide a stable home environment. If the parent fails to maintain a "normal parental relationship" with the child for six months without a good excuse, the court will assume that the parent has abandoned the child. You will have to send notices to the child's parents that you are petitioning for a guardianship. The court will likely appoint a guardian ad litem (an attorney) to speak for the child during the process. If you are appointed guardian, you will have to file an annual report with the court. An attorney is generally needed to successfully pursue a guardianship case. You can find resources for grandparents raising a grandchild at:

<http://www.211.idaho.gov/kincare/Kincare.html>.

Guardianship and Conservatorship of Adults

If an adult loses the ability to care for his or her own welfare and affairs, a family member or friend may ask a court to name a **guardian** (someone to make decisions about things like health care and housing) and/or a **conservator** (someone to make decisions about money) for the incapacitated person. Before doing so, a court must find that the protected person is **incapacitated**. If the person will likely suffer significant harm before a guardian or conservator is appointed, a temporary guardian or conservator can be appointed. A temporary appointment

only lasts 90 days, enough time to seek a permanent guardianship or conservatorship.

A court must take steps to ensure that a guardianship is necessary and any protected person is cared for. The protected person must receive notice of a proposed guardianship. The court will appoint a court visitor to interview the protected person and proposed guardian, visit the protected person's proposed residence, and report to the court. The court will also appoint a physician to examine the protected person and give a written opinion as to whether the protected person is incapacitated. Finally, the court will appoint a guardian ad litem (an attorney) to represent the protected person. The judge will review reports of the physician, court visitor, and guardian ad litem and hold a hearing to decide whether a guardian and/or conservator is needed. The protected person has the right to attend this hearing and hire their own private attorney.

Guardians must pass an online training course and submit a yearly report to the Court about the protected person's health and living situation. Conservators must submit annual accountings to the Court about the protected person's income, expenses, and assets. You can find free conservator and guardian reporting forms at www.courtselfhelp.idaho.gov and a free guardian's annual report form at www.idaholegalaid.org/SelfHelp/GuardianAnnualReport.

Complaints

If you have reason to believe that a guardian or conservator is not fulfilling their duties to a protected

person (for example, stealing or misusing money or other property, withholding medical treatment, or failing to provide food or shelter), you can file a complaint with the court. The form is available at www.idaholegalaid.org or through a local Court Assistance Office.

Powers of Attorney and Living Wills

Someone may have told you that you need a legal document called a “power of attorney.” There are different kinds of “power of attorney” documents, but they all have a similar purpose: to give someone else (an “agent”) legal authority to act or make decisions for you. Because this is a very important power that can easily be abused or misused, you should take care to know what you are signing. Talk to an attorney if you have any questions or concerns.

A power of attorney may last for a specific time or have no specific expiration date; know when and on what conditions any power of attorney will end.

Capacity: What It Takes

To make a valid power of attorney, you must have legal “capacity” when you sign it. That is, you must understand what you’re signing and why you’re signing it and have a reasonable idea what could or will happen once you sign it, including who will have your legal authority and what powers your agent will have.

Durability: Outlasting Incapacity

A power of attorney that remains in force when you are disabled or incapacitated is called a “durable” power of

attorney. Under Idaho law, a power of attorney is durable unless it states that it will end if you are incapacitated. If you want a power of attorney to last after you are incapacitated, make sure that it is durable. Be careful who you select as your agent, though; a durable power of attorney cannot be revoked while you are incapacitated.

Immediate vs. Springing: Now vs. Later

A power of attorney can be “immediate” or “springing.” Immediate means exactly that: the agent may take action or make decisions for you as soon as it is signed. Or you might want a “springing” power of attorney—a power of attorney that “springs” into action when something specific happens. Most commonly, people want a power of attorney to take effect only after a doctor has stated in writing that they are not competent to make decisions themselves.

Revocability: Changing Your Mind

You can change or revoke a power of attorney at any time, as long as you have capacity—removing an agent, naming another agent, or changing the powers given to your agent. You can revoke your current document in writing or execute a new power of attorney, dating it to make it clear that it replaces a prior document. This is your legal power, so you should choose who gets to have it! If you revoke or change a power of attorney, make sure that anyone who may have dealt with the old power of attorney gets a copy of the revocation document or of the new or updated power of attorney.

Who Should You Pick as Your Agent?

Anyone you give a power of attorney to should be a close friend or family member, implicitly trustworthy, reliable, and capable. It is a very important decision, and you should not be pressured into choosing anyone. Have serious talks with your agent so you know they understand your wishes and beliefs and are capable and comfortable acting in your best interest.

Powers over Health, Powers over Money

There are two main types of power of attorney: a power of attorney for health care and power of attorney for financial affairs. The first kind usually appoints someone to make health care decisions in the event that you cannot communicate with health care providers. For example, your agent might have to decide whether to allow a surgery if you were unconscious. A power of attorney for finances gives an agent power to handle financial and legal matters, such as accessing bank accounts, paying debts, signing contracts, and applying for public benefits. You choose which specific powers to give to your agent and which powers the agent will not need to have. If an agent will deal with real property (a house or land) for you, be sure to have the power of attorney notarized.

Living Wills

An **advance medical directive** or “living will” is often signed at the same time as or combined in the same document with a power of attorney for health care. It tells your health care providers ahead of time what life-sustaining systems you want to have provided or withheld if you are ever unable to express your own wishes due to an incurable and terminal condition or persistent

vegetative state. You have three main options: 1) provide all life-sustaining measures; 2) remove life-sustaining measures except to provide hydration (via an IV) and/or nutrition (via feeding tube); or 3) remove all life-sustaining measures. An advance medical directive form is available at www.idaholegalaid.org, or you can discuss this document with your doctor.

Durable Power of Attorney for Health Care

A durable power of attorney (DPOA) for health care names an agent to make health care decisions if you are ever incapacitated, for example, unconscious after an auto accident. It tells your health care providers who may make decisions about different medical options or procedures on your behalf. You can also leave special and specific instructions about your care for your agent.

A living will and DPOA for health care need not be witnessed or notarized. After signing them, keep the original and give copies to your agent and doctors. You can also register the documents for free with the Idaho Secretary of State. Low-income seniors may be able to get free help in drafting an advance directive or power of attorney by contacting Idaho Legal Aid Services.

Estate Planning

Most people know that it's important to create a will to determine who should get their property when they die, yet most people do not have a will. If you die in Idaho without a will (that is, you die "intestate"), state laws called "intestacy statutes" will decide how your property will be distributed. These laws are the state's attempt to distribute

property as most people would probably wish. It's easy to imagine that these laws might distribute your property in a way that you wouldn't necessarily have wanted. That's why having a valid will is important to ensure your wishes are carried out and determine who gets what. You do not necessarily need a lawyer to help write a will. However, it may be best to ask for help from a lawyer, especially if you own significant assets like land or a house or have family members who don't get along with each other.

Requirements for a typed will:

Requirements for a handwritten ("holographic") will:

Changing or Revoking a Will

You can add something to a valid will or change it by making a "codicil." You can make a codicil in the same way you execute a will. (For example, signing, dating, having two witnesses).

You can revoke a will by:

These requirements are VERY general. The law of wills can be complex. Contact an attorney if you have any questions.

Avoiding Probate

Probate is the court-supervised process of distributing the estate of someone who has died. It has a bad reputation, and many people think they should "avoid probate."

Probate does not have to be time-consuming or expensive, especially for people with relatively small estates (less than \$100,000). In rare cases, however—often involving disputes over large estates—probate can

be expensive and take years. You may believe that you need to avoid probate to avoid estate taxes. However, estate taxes only apply to estates valued at over \$5 million (in 2015) and therefore are not a concern for most Idahoans.

Alternatives to Formal Probate

It may be best to contact an attorney with questions about probate if your spouse or relative dies because there are many variables. If you do use a lawyer to go through probate, it is usually preferable to have them charge you a flat fee (for very small estates) or an hourly rate or and not a “percentage fee.” Don’t be afraid to go to a different attorney if you think you’re being charged too much.

Living Trusts

Property placed into *inter vivos* or “living” trusts does not have to go through probate, so living trusts can simplify transfers of ownership after death. Depending on factors such as the size of your estate and your unique circumstances and estate planning goals, you should consult with a

licensed Idaho attorney about any questions you may have about living trusts. Living trusts are not for everybody. Take time to make decisions about your estate and talk to a trusted attorney before investing in a living trust.

All the important parts of the will must be in your handwriting (not typed).

A statement of testamentary intent (a sentence saying you intend this to be your final will)

Capacity (you are over 18, of sound mind, not signing under duress)

You must sign it.

You must date it.

If your spouse dies, and you are the sole heir, you may be able to use an **affidavit in lieu of probate** or the process of **summary administration** for a surviving spouse.

If an estate is worth \$100,000 or less and contains no real estate, an **Affidavit for Collection of Personal Property** could be used to collect the deceased person's personal belongings and papers.

Age and Disability Discrimination

Employment discrimination means treating people differently in the workplace (with respect to hiring, firing, promotions, wages, training opportunities, etc.) because of their age or disability. There are two main laws that protect older people from discrimination by employers.

The Federal Age Discrimination in Employment Act (ADEA), found at 29 U.S. Code Section 621, protects employees against age discrimination by employers who have 20 or more employees.

Idaho's anti-discrimination law is found at Idaho Code Section 67-5909, and it prohibits employment discrimination based on age (being age 40 and older) or disability. However, if a person has a particular disability that prevents a person from performing the work required by that employer, even with a reasonable accommodation, then the employer is not required to hire that person.

If you think you may have been discriminated against in your job because of your age, call the Idaho Human Rights Commission as soon as possible. Under federal law, you must file your complaint within 300 days (a little less than a year) from the date you were discriminated against. You do not need a lawyer to file a complaint.

If you were denied a job because of your age or disability, you can file a complaint with:

Idaho Human Rights Commission
317 W. Main St., Boise, Idaho 83735
(208) 334-2873 or 1-888-249-7025
TTY: (208) 334-4751

IHRC's web site also has lots of information about state and federal anti-discrimination laws:

www2.state.id.us/ihr/

If you or your employer need help coming up with an accommodation to help you perform job tasks, contact:

Job Accommodation Network
1-800-52607234 or 1-877-781-9403 (TTY)
askjan.org

Defending Your Legal Rights

You may find it necessary to use the court system to enforce one of your rights described in this Guidebook. In many cases, it will be a good idea to have a lawyer to help you in court.

**You can, however, take steps to defend your rights
with
or without an attorney. Practice “legal self-defense”
and
remember these “tricks of the trade”:**

If you have a dispute with someone, writing a letter stating your rights and referencing applicable law can have a powerful effect. Send it “certified mail” or hand-deliver it with a witness to prove the other person received it. Even if the person doesn’t respond, a copy of your letter may help your case if you have to sue.

Small Claims Court is available to resolve disputes involving \$5,000 or less. If a demand letter doesn’t work, you may have to sue in Small Claims Court. Neither side can have an attorney in Small Claims Court, so you will have to sue “pro se,” or represent yourself. You can, however, prove your case to the judge by bringing witnesses, photographs, documents, and other evidence, just like an attorney. There is a fee to file in Small Claims Court, but if you can’t afford it, you can apply for a fee waiver.

The Court Assistance Office in each county courthouse has all the forms you will need to help file a small claims lawsuit, as well as information on how to collect your money if you win. These forms are also available online at www.idaholegalaid.org.

Mediation may also be a good option; it can take less time and be less hostile than a lawsuit. Mediators are available in the phone book or through the Idaho Mediation Association.

Small claims court is only available for limited types of cases. If your case is not the type that is heard in small claims court, it will be filed in an Idaho Magistrate Court, an Idaho District Court, or (less frequently) in a Federal Court.

Although having an attorney is not required in cases in these other courts, you may need a lawyer to bring your suit successfully because the rules regarding witnesses and evidence are not as relaxed as in Small Claims Court and the judge is required to hold you to the same standards as an attorney.

If You Are Sued

If you receive a Complaint and Summons, the Court Assistance Office at your local county courthouse has forms available so you can file an Answer as a defendant in the lawsuit. Typically, you must file your Answer within 20 days.

Carefully read the plaintiff's claims in the Complaint. You will have to admit or deny each of the claims and state any defenses you have in your Answer. You must then sign the Answer in front of a notary and have it properly served on the other party and filed with the court. The Answer form should come with instructions, which you should follow carefully.

You can find a private attorney through the Idaho State Bar Private Attorney Referral Service or through the Idaho Volunteer Lawyers Program if you are low-income and have a qualifying case.

Idaho Lawyer Referral Service:

isb.idaho.gov or 208-334-4500

Idaho Volunteer Lawyers Program:

https://isb.idaho.gov/ilf/ivlp/seeking_legal_assistance.html

208-334-4510 or 1-800-221-3295

When you meet your lawyer, you can expect that:

Your lawyer should explain to you:

Your lawyer will ask you a lot of questions about your case and what results you want.

Be prepared with a timeline of relevant events and copies of all relevant documents.

An attorney's professional duty of confidentiality (meaning that your lawyer may not discuss your case with others without your permission)

Your role

The lawyer's role

The steps in the legal process

Your legal options

Your chances of getting what you want

The risks you may face, if any

The limits of representation and services the attorney will provide to you

Your Legal "Check Up"

Prevent serious legal problems by “checking up” on your legal documents and finding out more about your options today. Many of these questions you can answer yourself, but talk to an attorney or options counselor if you have questions or concerns.

Check your “Living Will.”

Have you stated what kinds of measures you want your doctors to take if you are in a permanent coma?

Do your friends, family, and doctors know your wishes?

Do your doctors have a copy of your document?

Check your Durable Power of Attorney for Health Care.

Have you named someone you trust to make medical decisions in an emergency if you can't?

Did you name a substitute person in case your first choice is not available?

Do the people you chose know your wishes about health decisions?

Do the people you chose know each have a copy of your document?

Do your doctors have a copy?

Is it durable?

Check or decide whether to create a Durable Power of Attorney for Financial Affairs.

Who can you trust to act as your agent?

Have you named a trusted person to make financial

decisions for you if you can't?

What powers does the agent have or will the agent have?

Does the agent have too much or too little decision-making power?

Do you know if the agent has the power right now, or does it "spring" into action if you lose capacity?

Is your power of attorney document notarized?

Does your agent know where the power of attorney can be located?

Check your will.

Do you have a valid, up-to-date will?

Is it kept in a safe place?

Does a person you trust know where it is?

Does your will still accurately spell out who should get your property?

Check your lease.

Do you have a copy of your lease?

Do you understand your rights and responsibilities under the lease?

Do you know when the lease ends?

Do you know all of your other housing options, including potential eligibility for federal housing programs?

Be aware of identity theft and financial exploitation.

Review your bank and credit card statements monthly.

Review your credit report annually.

Use strong passwords and don't share them with anyone.

Do not share your social security or Medicare numbers with anyone unless absolutely necessary.

Check your eligibility for health care and other public benefits.

Have you talked to an options counselor or an attorney about how to pay for health care (especially long-term care) in the future?

Do you qualify for Medicaid programs to help pay your Medicare premiums (QMB or SLMB)?

Do you qualify for SNAP (food stamp) assistance?

Do you qualify for cash assistance (AABD)?

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Idaho Legal Aid Services (ILAS) is a non-profit law firm serving low-income individuals with civil legal issues through seven local offices across Idaho.

Local Service Offices

Boise 1447 S. Tyrell Lane (208) 345-0106
Caldwell 1104 Blaine St. (208) 454-2591
Coeur d'Alene 410 Sherman Ave., #303 (208) 667-9559
Idaho Falls 482 Constitution Way, # 101 (208) 524-3660
Lewiston 633 Main St., # 103 (208) 743-1556
Pocatello 150 S. Arthur Ave., # 203 (208) 233-0079
Twin Falls 475 Polk St., # 4 (208) 734-7024

Statewide Hotlines

Idaho Senior Legal Hotline 1-866-345-0106

(end Espanol 1-866-954-2591)

Idaho Domestic Violence Legal Hotline 1-877-500-2980

TTY (Deaf and Hearing Impaired) 1-800-245-7573

Looking for more information?

Visit www.idaholegalaid.org for more free forms and information.

Emotional and verbal abuse

Physical abuse or injury

Neglect or abandonment

Intimidation, harassment, or threats

Unwanted sexual contact

Restraint or confinement

Financial exploitation

Not letting other friends or family members see a senior

Tearing it up (with all copies)

Writing “revoked” on it

Writing a new will dated after the old one

Resources for Idaho Seniors

2-1-1

Free community information and referral service. Dial 2-1-1.

Community Action Partnerships

Provides help to low-income Idahoans, such as food, telephone, or weatherization assistance.

www.idahocommunityaction.org

**Consumer Financial
Protection Bureau**

Resources for filing consumer complaints and information
about consumer financial laws.

www.consumerfinance.gov

Court Assistance Office

Tools and information for representing oneself in court.

www.courtselfhelp.idaho.gov

DisAbility Rights Idaho

Assists Idahoans with disabilities.

disabilityrightsidaho.org

**Idaho Attorney General's Office
Consumer Protection Division**

Enforces consumer protection laws, provides information,
and takes consumer complaints.

208-334-2424

Idaho Commission on Aging

Services for seniors.

www.aging.idaho.gov

ID Dept. of Health & Welfare

Apply for assistance at

<http://healthandwelfare.idaho.gov/Portals/0/FoodCashAssistance/ApplicationForAssistance1.pdf>

Idaho Senior Legal Hotline

Free legal advice on civil matters for Idaho seniors age
60+.

1-866-345-0106 or

Español (866) 954-2591

ID State Bar Attorney Referral

Referrals to Idaho attorneys

208-334-4500

ID Volunteer Lawyers Program

Recruits pro bono attorneys for low-income, qualifying Idahoans.

208-334-4510

**Intermountain Fair
Housing Council**

Information and assistance on Fair Housing Act discrimination.

1-800-717-0695

Rental Housing

Search for rental housing.

housingidaho.com

**Senior Health Insurance
Benefits Advisors**

Advice and information
regarding Medicare benefits.

1-800-247-4422

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Your Safety: [Elder Abuse](#)

*Civil and Criminal Remedies, Getting
Help, Resources and Volunteering*

Your Lawyer:	<u>When You Need a Lawyer</u>
Your Money:	<u>Protecting Your Money</u> <i>Financial Exploitation, Scams, Contracts, Warranties and Defective Merchandise</i> <u>Loans and Credit</u> <i>Before Signing, Getting Help,</i> <i>Harassment,</i> <i>Collections Lawsuits, Exempt Property</i> <u>Bankruptcy</u> <u>Social Security and SSI Benefits</u> <u>Other Public Benefits</u> <i>Veterans' Benefits, Unemployment, AABD, SNAP, General Tips</i>
Your Health:	<u>Medicare and Medicaid</u> <u>Senior Health Care Issues</u>
Your Home:	<u>Renters' Rights</u> <u>Other Housing Issues</u>
Your Family:	<u>Family Law Issues</u> <i>Divorce, Grandchildren, Guardianships</i>
Your Future:	<u>Powers of Attorney and Living Wills</u> <u>Estate Planning</u> <i>Wills, Probate, Alternatives to Probate</i>
Your Rights:	<u>Age and Disability Discrimination</u> <u>Defending Your Legal Rights</u>
Quick Legal Checkup	
Helpful Resources	

Feb. 2016

Free

3–6

6–7

8–11

12–17

17–18

18–19

19–20

20–23

24–25

25–29

29–30

31–33

33–36

36–38

39–40

40–42

43–45

45, 47

Telemarketing and online shopping scams

Scams to get personal or
financial information or
account passwords

Sweepstakes/prize scams

Home repair/contractor scams

Prescription drug and
medical aid scams

Living trust and legal scams

Charity and church scams

Scare scams

A caller pretends to be a government official and
threatens the listener or a listener's loved one.

A caller pretends to be a loved one in desperate need
of money.

Help with household tasks

Caregiver respite services

Group meals

Home-delivered meals

Transportation help

Legal assistance
Social Security income
Retirement benefits, pension funds, IRA & 401(k) accounts
Veterans Benefits
Public Benefits (AABD, TAFI)
A motor vehicle with a net value of up to \$7,000
Unemployment Benefits
\$7,500 worth of appliances, furniture, books, and clothing
(if no single item is worth more than \$750)
\$800 worth of miscellaneous other personal property
Visit www.idaholegalaid.org for a complete list

Do You Need a Lawyer?

Maybe you have just a quick question. Maybe you know you'll need an attorney, but can't afford to pay one. Help is available.

Idaho Legal Aid Services

Idaho Legal Aid Services provides free civil help to persons who qualify for its services.

Seniors age 60 and older can get free legal advice through the **Senior Legal Hotline at 1-866-345-0106**. Get any documents and facts together before calling; the Hotline attorney will be able to give better advice with specific and accurate information.

The attorney may give advice over the telephone or send information by mail. You might be referred to a staff or volunteer attorney for further legal services or to community

resources or a private attorney.

Visit www.idaholegalaid.org for free information and interactive legal forms. Contact information for ILAS offices is on the back cover of this Guidebook.

Idaho State Bar Lawyer Referral Service

Attorneys at the Idaho State Bar Lawyer Referral Service will meet briefly with you for no more than \$35 to assess your situation. Call them at (208) 334-4500 or go online to isb.idaho.gov.

Public Defender's Office

If you have been charged in a criminal case and cannot pay for a lawyer, you may have the right to and qualify to be represented by a public defender. ILAS cannot assist in criminal cases.

Court Assistance Office

Each Idaho county courthouse has a Court Assistance Office (CAO) to help people who don't have a lawyer in civil cases. The CAO has court-approved legal forms, videos, and brochures to assist *pro se* litigants. CAO staff can answer questions about how to use their forms, but cannot answer legal questions.

The Idaho Volunteer Lawyers Program

If you are low-income and need a lawyer in a civil case, the Idaho Volunteer Lawyers Program (IVLP) may be able to match you with a volunteer attorney in some types of cases.

Call 1-800-221-3295 or (208) 334-4510 (Boise area).

Legal Clinics

At legal clinics, volunteer attorneys donate time to answer legal questions. The number and types of clinics change frequently. For a calendar of free legal clinics, check the IVLP web site at <https://isb.idaho.gov/ilf/ivlp/ivlp.html> and click on the links there related to legal clinics.

As of the date of publication, some Idaho clinics include:

The Idaho Trial Lawyers Association Street Law and Family Law clinics in Boise. Call 208-345-1890 for more information.

The Legal Link Clinic is held in Coeur d'Alene. Call 208-416-4778 for more information.

The IVLP holds senior and veteran clinics across the state. Call 334-4510 for more information or 208-422-1000 for the Veteran's Clinic.

The Idaho Falls Senior Clinic is held regularly in Idaho Falls. Call 208-522-4357 for more information.

The right not to be discriminated against when looking for a place to rent or during a tenancy.

The right to a rental unit that is not dangerous or unhealthy.

The right to request repairs and have the landlord fix or repair certain conditions within 3 days.

The right not to be evicted without a proper court process.

The right to get back any security deposit unless the landlord provides an itemized statement showing the security deposit was used to pay for damages beyond

normal wear and tear or other valid obligations you have under the lease.

If you don't pay rent on time (even if you have a good reason like you lost your job or the place needs repairs).

If you violate the lease agreement.

If you have a month-to-month lease and the landlord gives you 30 days' notice.

Requested repairs.

Complained about housing code violations.

Joined a tenants' association.

Requested a reasonable accommodation or modification.

Are a member of a protected class.

A statement of testamentary intent (a sentence saying you intend this to be your final will)

Your signature and the date

Capacity (you are over 18, of sound mind, not signing under duress)

Two witnesses who would swear that you signed the will.
(They should sign the will themselves.)

Get it in writing

Make copies

Keep records

Don't sign legal documents you don't understand

Feel free to say no

Take along a witness

Look up the law

Take photos or videos if you can

Ask what the other person knows about the law

Write reasonable demand letters

Be aware of time limits and statutes of limitations