

Indiana Legal Services, Inc

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Can a creditor come after me for my spouse's debts?

Usually, a person is responsible only for his or her own debts. So if you did not sign the contract or loan agreement for your spouse's debt, you usually would not have to pay that debt. However, if both you and your spouse signed for the debt, then the creditor can usually come after either of you to get payment.

Am I ever responsible for my spouse's debt if I didn't sign for the debt?

Sometimes, you can be liable for your spouse's debts even if you did not sign the contract or loan. This can happen only for "necessary" items, such as food, medical care, etc. The creditor can come after you for payment of these items only if your spouse doesn't have enough money to pay the debt and you do have enough money to pay the debt.

For example, assume the wife has medical problems and has to go to the hospital emergency room. Assume she can't pay the medical bills for this visit. If her husband does have enough money to pay these bills, the creditor can come after him for payment of these medical bills even if the husband did not sign anything agreeing to be responsible for the emergency room bills.

The creditor first has to try to get the money from the spouse who actually received the goods or services (such as medical care). If the creditor cannot collect from that spouse, the creditor can try to get payment from the other spouse if the goods or services were "necessary items."

We have been separated for ten years, but we are not divorced. Can his creditors still come after me for payment of his necessary items?

Yes. You are still legally married and the creditor could come after you for his debts for necessary expenses, such as medical care, during this separation. (However, if the creditor takes you to court for payment of these expenses, the Court may consider the fact that you have been separated for so long when deciding whether you should have to pay for his necessary items if he can't pay).

If you believe he is getting a lot of debt for these types of items, you may want to file a divorce. Once you are divorced, you would not be responsible to his creditors for payment of his debts, even for necessary items.

My ex-wife and I were divorced last year. She was supposed to pay our credit card bill. She didn't pay, and the creditor is coming after me. Do I have to pay the creditor?

If this was a joint debt (the credit card had both you and your ex-wife on the debt), then you may have to pay the creditor if your ex-wife does not pay. If your ex-wife was ordered in the divorce to pay this debt and you actually have to pay the creditor, you can then go back to the divorce court and ask the court to order your ex-wife to reimburse you for what you paid out on this debt.

The creditor does not really care what the divorce order says about who was supposed to pay the debt. If both your names were on the debt, the creditor could come after either of you. Then you would need to go back to the divorce court to get reimbursed from your ex-wife.

You can show the creditor the divorce order that says your ex-wife is supposed to pay, and some creditors may back off. However, the creditor does not have to back off, and can seek payment from you for joint debts.

If the credit card was in her name only, and you never signed to be responsible for that credit card, the creditor can come after you only if the charges were for her necessary items while you were still married to her, as discussed above. You could still go back to the divorce court to ask for reimbursement from your ex-wife if she was ordered to pay this debt.

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