



LEGAL FIRST AID

SIX STEPS TO A LEGALLY
HEALTHY LIFE

BY ATTORNEY CORRIE R. GALLIEN
FOUNDER OF



GALLIEN LAW
WWW.GALLIENLAW.COM



INTRODUCTION

Your legal health is just as important as your physical health.

Most people don't think about the law until they're already in a crisis: facing an eviction, dealing with a loss, navigating an arrest, or trying to protect a business they've poured everything into. By then, the options are narrower and the stakes are higher.

I've seen it happen in courtrooms across Louisiana. And honestly, I've lived versions of it myself.

As an attorney practicing in juvenile, appellate, and civil courts, (and as someone who has faced my own seasons of rebuilding,) I know that legal protection isn't just for the wealthy or the well-connected. It's for every person who works hard, loves their family, and deserves to keep what they've built.

This guide was created for you. Whether you're starting a business, planning for your family's future, protecting your rights, or simply trying to understand a system that wasn't designed to be easy to navigate. These six legal pillars are your starting point.

You don't have to have all the answers today. You just have to start.

Legal First Aid gives you the tools to protect yourself, your family, and your future, before you need them.

Because knowing your rights isn't a privilege. It's a necessity.

— **Corrie Gallien, Gallien Law**

ESTATE PLANNING: PROTECTING WHAT YOU LEAVE BEHIND

Most people assume estate planning is only for the wealthy or the elderly. In Louisiana, nothing could be further from the truth. Without a plan, state law decides what happens to your property, your children, and your medical care, and it often doesn't align with your wishes.

Key Documents Every Adult Needs:

Last Will & Testament: Directs how your property is distributed after death. Wills must meet specific formality requirements.

Financial Power of Attorney: Authorizes someone to manage your financial affairs if you become incapacitated. A durable POA remains effective even if you become incapacitated.

Medical Power of Attorney: Designates someone to make healthcare decisions on your behalf when you cannot. This is different from a Living Will.

Advance Directive/Living Will: Documents your wishes regarding life-sustaining treatment, resuscitation, and end-of-life care.

Beneficiary Designations: Life insurance, retirement accounts (401k, IRA), and some bank accounts transfer outside of your will through beneficiary designations. These are usually payable on death and override your will. Keep these updated.

Digital Assets: Designate who can access your social media, email, financial accounts, cryptocurrency, and other digital property. Include login credentials in a secure document with your estate papers. Update as necessary.

Living Legacy: Your will transfers your property. Your Living Legacy transfers you. Build a Legacy Archive (pictures, videos, handwritten letters, journals, recordings, published writings, and family documents) to preserve your legacy. Without intentional planning, digital files get locked, platforms deny access, and physical materials disappear in a succession dispute. Include instructions in your will designating who manages and distributes your archive.



Trusts in Louisiana

A trust is a legal arrangement in which you, as the grantor, transfer assets to a trustee to manage and distribute for the benefit of your named beneficiaries. Louisiana recognizes three primary types of trust:

Revocable Living Trust: Created and funded during your lifetime. You maintain full control and can modify or revoke it at any time. Its primary advantages are avoiding the Louisiana succession process, protecting you during incapacity through a named successor trustee, and keeping your estate private. It does not protect assets from creditors or qualify assets for Medicaid purposes.

Irrevocable Trust: Created during your lifetime but generally cannot be modified or revoked once established. By surrendering control of assets you gain significant protection. Assets are transferred into an irrevocable trust and are generally protected from future creditors, removed from your taxable estate, and (after a five year look back period) are generally excluded from Medicaid eligibility calculations. A Special Needs Trust is a type of irrevocable trust that preserves assets for a disabled beneficiary without disqualifying them from SSI or Medicaid.

Testamentary Trust: Created inside your Last Will and Testament. It only takes effect at your death. It does not avoid succession but allows you to control how and when beneficiaries receive their inheritance. This is particularly valuable for minor children, spendthrift beneficiaries, or individuals with special needs who need structured distributions over time rather than a lump sum.

Do You Need a Trust? If So, Which Type?

Not everyone needs a trust, but you may benefit from one more than you think.

Choose a Revocable Living Trust if:

- You want to avoid succession
- You want incapacity protection
- You want to maintain full control during your lifetime
- Privacy is important to you

Choose a Testamentary Trust if:

- You have minor children who need structured inheritance
- You have a beneficiary who cannot manage a lump sum
- You want simplicity without funding a trust during your lifetime

Choose an Irrevocable Trust if:

- You are concerned about nursing home costs and Medicaid eligibility
- You want to protect assets from future creditors or lawsuits
- You have a child or dependent with special needs
- You want to reduce your taxable estate

You may need more than one. Many Louisiana estate plans combine multiple trust types (each serving a distinct purpose). When in doubt consult an estate planning attorney. The right trust at the right time can protect everything you've worked to build.



ESTATE PLANNING: PROTECTING WHAT YOU LEAVE BEHIND

Louisiana-Specific Laws:

Forced Heirship: Louisiana is one of the only states that limits how you can distribute your estate. Children 24 and younger, or permanently incapacitated children of any age, are "forced heirs" and are entitled to a portion of your estate by law regardless of what your will says.

Community Property: Louisiana is a community property state. Property acquired during marriage is generally owned equally by both spouses. Exceptions apply. Property owned before marriage, gifts, or inheritance are treated as separate property.

Intestate Succession: If you die without a will in Louisiana, your estate passes by law. For married individuals with children, the surviving spouse gets usufruct (use of the property) while children get naked ownership, a split that often creates conflict.

Testamentary Requirements: Many Louisiana legal documents, such as powers of attorney and notarial will, require notarization and witnesses. Although Louisiana recognizes an olographic (handwritten) will, specific requirements must be met. A will that does not meet formality requirements is invalid. Consult with an attorney to ensure compliance.

Succession Process: Louisiana uses a succession process called "Probate" to transfer assets. A petition to the court is required to probate assets. Small estates may qualify for simplified procedures. Proper planning, such as creation of a trust, reduces or eliminates the need for court involvement.

Common Mistakes to Avoid

- Hoping that things will work out without a plan in place.
- Failing to update beneficiary designations and other estate planning documents after major life events, such as marriage, divorce, death of a beneficiary, relocation, or new assets.
- Assuming a will covers everything. It does not govern retirement accounts or life insurance.
- Naming a minor child directly as a beneficiary without a trust or custodian.
- Using a do-it-yourself will template that may not meet Louisiana formality requirements.



ESTATE PLANNING: PROTECTING WHAT YOU LEAVE BEHIND

PILLAR 1

Estate Planning Checklist

- I have a valid, signed Last Will & Testament.
- My will has been reviewed or updated in the last 3-5 years.
- I have consulted with an attorney about whether a trust is appropriate for my situation.
- I have a durable financial Power of Attorney.
- I have a Medical Power of Attorney designating a healthcare agent.
- My Power of Attorneys know my wishes and I trust them to make decisions in my best interest.
- I have a signed Advance Directive / Living Will.
- All beneficiary designations are current and match my wishes.
- I have a plan for my digital assets and online accounts.
- My family knows where my important documents are kept.
- I have created a Living Legacy archive that preserves my legacy.
- I understand how Louisiana community property rules affect my estate.

When to Call a Lawyer:

- You have minor children or dependents with special needs.
- You are approaching retirement and concerned about long term care costs.
- You own a business or have significant assets subject to liability.
- Your estate includes a business, real estate, or significant assets.
- You are recently married, divorced, or widowed.
- You want to disinherit someone or leave unequal shares
- You have not reviewed your estate documents in more than 5 years.
- You have assets in multiple states.
- You want to preserve assets for your heirs beyond what a will alone can accomplish.
- You are concerned about Medicaid/Medicare eligibility in the future.

Know Who to Call:

Attorney Karnina 'Nina' Deane | K Deane Law LLC
337-722-9657 | www.yourlba.com

Attorney David Groner | David Groner Law |
337-364-3629, EXT. 2 | www.davidgronerlaw.com



KNOW YOUR RIGHTS IN EVERYDAY LIFE

Civil law governs disputes and relationships that arise in your daily life. Disputes over your lease, your medical bills, your insurance policy, your consumer purchases all fall under civil law. Knowing your rights before a problem arises is the difference between being protected and being taken advantage of.

Key Rights Every Adult Must Know:

Health & Medical Rights

HIPAA Rights: You have the right to access your own medical records, request corrections, and control who receives your health information. This means that healthcare providers are not allowed to release your medical information to others without your consent. Healthcare providers must respond to records requests within 30 days.

Informed Consent: You have the right to receive information about proposed treatments, risks, and alternatives before consenting to a medical procedure. Review all papers provided by healthcare providers before consenting to a medical procedure. This paperwork often includes disclosures of known risks to allow you to make an informed decision.

Surprise Billing Protections: Federal law (No Surprises Act) protects you from unexpected bills from out-of-network providers at in-network facilities. If you receive a surprise bill, you have a right to dispute it.

Medical Debt: Medical debt has different rules than other consumer debt. In Louisiana, medical providers may place liens on personal injury settlements. Know your rights before signing a medical lien agreement. Although a lien allows you to receive treatment in advance of payment, you are obligated to pay the debt out of your personal injury settlement.

Contracts & Consumer Rights

Read Before You Sign: A signed contract is generally enforceable in Louisiana. Read every document, including lengthy digital agreements, arbitration clauses, and automatic renewal terms.

Consumer Protection: The Louisiana Unfair Trade Practices Act (LUTPA) protects against deceptive business practices. Violations can result in actual damages plus attorney fees. However, courts interpret LUTPA narrowly.

Debt Collection: The federal Fair Debt Collection Practices Act (FDCPA) limits how collectors can contact you. They cannot call before 8am or after 9pm, threaten violence, or use abusive language. You can demand they stop contacting you in writing.



Insurance: The Right Coverage Matter

Insurance is a legal protection tool. The wrong coverage, or no coverage, can be financially devastating.

Life Insurance: This is one of the most powerful and underutilized legal protection tools available. A life insurance policy ensures your family is not left financially devastated by your death. It can help cover final expenses, replace lost income, pay off debts, and fund your children's future.

Understand your policy type.

Term Life Insurance: Provides coverage for a specific period of time (typically 10, 20, or 30 years). If you die during the term, your beneficiary receives the payout. If the term expires and you are still living, coverage ends. Because of this, it is advisable to purchase a new term policy before you old one ends.

Overlapping coverage ensures you are never unprotected during the transition. Keep in mind that premiums increase with age, so the earlier you purchase or renew, the more affordable your coverage will be.

Generally, term life insurance is the most affordable option and ideal for covering specific financial obligations like a mortgage, young children, or income replacement during working years.

Whole Life Insurance: Provides permanent coverage for your entire life as long as premiums are paid. Builds cash value over time that you can borrow against. Premiums are significantly higher than term but the death benefit is guaranteed regardless of when you die.

Keep your beneficiary designations current, and store your life insurance policy information where your family can find it. Also, make sure your insurance provider has your beneficiaries current contact information. A life insurance payout passes directly to your named beneficiary (outside of your will/outside of succession).

Health Insurance: Understand your deductibles, out-of-pocket maximums, and network. Request an Explanation of Benefits (EOB) for every claim and dispute errors promptly.

Renters Insurance: Many renters don't realize their landlord's insurance does NOT cover their personal property. Renters insurance is typically inexpensive and covers theft, fire, and liability.



KNOW YOUR RIGHTS IN EVERYDAY LIFE

Insurance Continued:

Auto Insurance: Louisiana requires minimum liability coverage. The current minimum coverage required is \$15,000 per person/\$30,000 per accident. Uninsured/underinsured motorist coverage (UM/UIM) is not required but strongly recommended, because Louisiana has a high rate of uninsured drivers. A signed UM/UIM rejection must be received in order to decline coverage. Know your coverage and pay close attention to the documents you execute when purchasing your policy.

Homeowners/Flood Insurance: Covers damage to your home and personal property caused by specific perils, typically fire, wind, hail, theft, and vandalism. It also includes liability coverage if someone is injured on your property.

If a person is injured on your property, notify your homeowners insurance provider immediately. Most policies require prompt notification as a condition of coverage. This means that a delay in reporting can jeopardize your right to a defense and any payout. Do not wait to see if the injured party makes a claim. Report it now and let your insurer guide next steps.

What most homeowners don't realize is what Homeowner's Insurance does NOT cover. Flood damage, earthquake damage, and normal wear and tear are almost always excluded. Louisiana is a high-risk flood zone. A separate flood policy is critical. Also, in Louisiana, wind and hurricane coverage can be limited or separately deductible depending on your policy.

Read your declarations page carefully so you are never surprised by an exclusion when you need your coverage most.

Small Claims Court

In Louisiana, City Court is where disputes up to \$5,000 are handled. You do not need a lawyer and most litigants in city court are unrepresented. Common uses include security deposit disputes, property damage, unpaid wages, and consumer fraud.



Common Mistakes to Avoid

- Signing a contract without reading it fully. Always read the fine print, arbitration clauses, and automatic renewal terms. If you do not understand, consult an attorney or at least research with online tools. A signature is a signature in Louisiana. Lack of understanding does not void an agreement.
- Assuming your landlord's insurance covers your personal belongings. It does not. Renters insurance is your responsibility.
- Failing to document repair requests to your landlord in writing. Verbal complaints are difficult to prove and easy to deny.
- Ignoring medical bills hoping they will go away. Unaddressed medical debt can result in liens, collections, and damage to your credit.
- Not reviewing your insurance policies annually. Your coverage needs change as your life changes. A policy you purchased five years ago may no longer protect you adequately. This is true regardless of the type of insurance policy.
- Failing to notify your homeowners insurance provider immediately after an incident on your property. Delay may jeopardize coverage.
- Accepting a debt collector's demands without verifying the debt is valid and legally collectible. You have the right to request written verification before paying anything. Additionally, you are not obligated to pay a debt after the statute of limitations has run. In Louisiana, a creditor generally has three years to pursue legal action on most consumer debts; however, this period may reset if you make a payment, acknowledge the debt in writing, or take other actions that revive the obligation. Know your rights before you pay or respond to anything.
- Assuming a verbal agreement is enough. In Louisiana, oral contracts can be enforceable but are extremely difficult to prove. Get everything in writing.
- Not knowing what your health insurance actually covers before a medical procedure. Understanding your deductible, copay, and out-of-network rules in advance prevents devastating surprise bills.
- Letting the statute of limitations expire on a valid legal claim. In Louisiana, most personal injury and property damage claims must now be filed within two years. Missing that deadline forfeits your right to recover.



Louisiana Debt: Know Your Time Limits

Type:	Time Limit:	What this Means:
Credit cards / open accounts	3 years	How long a creditor can sue you
Written contracts / promissory notes	5 years	How long a creditor can sue you
Court judgments	10 years	How long a judgment remains enforceable
Negative credit reporting	7 years	How long debt appears on your credit report (Federal law: Fair Credit Reporting Act (FCRA))
Federal student loans	No limit	No statute of limitations (never expires)

A note on judgments: In Louisiana, a court judgment is enforceable for 10 years, but creditors can and frequently do renew the judgment before it expires, restarting the 10-year period. A renewed judgment can follow you for decades. If a judgment has been entered against you, do not ignore it. Ignoring a judgment does not make it go away; it gives the creditor time to pursue wage garnishment, bank levies, and property liens while the clock resets.

Consulting a Bankruptcy Attorney: If you are overwhelmed by debt, judgments, or creditor actions, consulting a bankruptcy attorney is not an admission of failure; it's a strategic legal decision. Bankruptcy can stop collection actions immediately through an automatic stay, discharge certain debts entirely, and give you a fresh financial start. A bankruptcy attorney will evaluate whether Chapter 7 (liquidation) or Chapter 13 (repayment plan) is appropriate for your situation and help you understand the long-term implications for your credit and assets. The consultation is often free and you are not obligated to proceed.



Civil Protection Checklist

- I have copies of all my signed leases, contracts, and insurance policies.
- I have a life insurance policy in place and know my coverage amount, policy type, and premium due date.
- My life insurance coverage is sufficient to cover my debts, income replacement, burial expenses, and the financial needs of my dependents.
- I know my health insurance deductible and out-of-pocket maximum.
- I have renters or homeowners insurance in place.
- I have reviewed my auto insurance coverage, including uninsured motorist in the last 12 months.
- I have made a knowledgeable decision about whether I want to accept or reject uninsured motorist coverage.
- I have separate flood insurance if I live in a flood zone.
- I know I can request my medical records at any time.
- I know that medical providers cannot release my medical records without my written consent.
- I understand I can dispute unexpected medical bills.
- I know debt collectors cannot harass or threaten me.
- I have documentation of any housing repair requests to my landlord.
- I have a current list of all my debts including creditor, balance, interest rate, and due date.
- I know the difference between secured debt (mortgage, car note) and unsecured debt (credit cards, medical bills).
- I know whether any judgments have been entered against me.
- I have checked my credit report recently and confirmed its accuracy.
- I know the prescriptive period applicable to each of my outstanding debts.
- I will not make any payments on time-barred debt without first consulting an attorney.
- If I am struggling with debt, I will consult a bankruptcy attorney to understand my options.
- I know Small Claims Court is an option for disputes under \$5,000.



Know When an Attorney Is, and Is Not, Your Best Option

One of the most honest things an attorney can tell you is this: hiring one is not always the most financially practical decision. The law exists to protect you, but litigation costs money. Sometimes the cost of pursuing a legal remedy exceeds the value of what you're trying to recover.

As a general rule of thumb, if the amount in controversy is under \$5,000 consider your options carefully before retaining an attorney. Attorney fees, court costs, and the time invested in litigation can quickly consume or exceed the potential recovery.

In these situations you may be better served by:

- **Demand Letter:** A well written demand letter sent directly to the other party is sometimes enough to resolve a dispute without ever stepping into a courtroom.
- **Negotiation:** Direct negotiation with documentation of your position and the facts can resolve many disputes under \$5,000 without any formal legal process.
- **Mediation:** A neutral third party helps both sides reach a resolution without court. Faster, cheaper, and often more satisfying than litigation. However mediation requires the agreement and voluntary participation of both parties; it can't be forced on an unwilling party. If the other side refuses mediation, consider other options listed here.
- **Small Claims Court:** Louisiana Small Claims Court handles disputes up to \$5,000. You do not need an attorney; the filing fees are minimal; and the process is designed for everyday people to navigate without legal representation. It is one of the most underutilized and most accessible tools in the legal system.

This is not to say an attorney is never appropriate for smaller matters. sometimes the principle, the precedent, or the circumstances make legal representation worthwhile regardless of the dollar amount. But financial practicality is always a legitimate consideration and a good attorney will tell you when your money is better spent elsewhere.

The goal is not to maximize litigation. It's usually to maximize your protection or recovery.



When to Call a Lawyer

- You receive a demand letter or are being sued.
- Someone owes you greater than \$5,000.00
- A landlord is attempting an illegal eviction.
- You have been injured and another party may be at fault for your injury.
- A debt collector is violating your rights or harassing you.
- An insurance company denies a valid claim.
- You need to understand the terms of a contract before you sign, or you signed a contract with terms you don't understand.

Know Who to Call:

For Personal Injury and Civil Law Questions:

Attorney Corrie R. Gallien | Gallien Law
| [337-761-1585](tel:337-761-1585) | www.gallienlaw.com

For Bankruptcies:

Attorney Lisa Thomas | [L.W. THOMAS & ASSOCIATES](http://www.lwthomas.com)
| [337-235-8801](tel:337-235-8801) | www.bankruptcylawlafayette.com



KNOW BEFORE YOU'RE IN THE BACKSEAT

You don't have to be guilty of anything to find yourself in a legal situation with law enforcement. Knowing your constitutional rights in advance (before a traffic stop, a search, or an arrest) is the most important legal preparation you can make.

Your Rights During a Traffic Stop

- You **MUST** provide your driver's license, registration, and proof of insurance when asked.
- You have the right to remain silent beyond providing identifying information. Clearly state: "I am invoking my right to remain silent."
- You do **NOT** have to consent to a search of your vehicle. Clearly state: "I do not consent to a search." A refusal cannot be used as probable cause.
- If the officer conducts a search anyway, do not physically resist. Object verbally and challenge the search in court.
- There is no reason to waive your right to silence or to consent to a search without first consulting an attorney. Law enforcement is legally permitted to make promises they do not intend to keep in order to induce you to waive your rights, and they often do.
- Do not give in. Do not be pressured. Do not be persuaded by the promise of leniency, a faster resolution, or the suggestion that cooperation will help your situation. It may not.
- If you waive your right to remain silent or consent to a search, anything discovered or said can and will likely be used against you in court.
- The most powerful thing you can say in that moment is also the simplest: "I am invoking my right to remain silent. I want an attorney." Then say nothing else.
- Stay calm, keep hands visible, and do not make sudden movements.

If You Are Detained or Arrested

- Ask clearly: "Am I free to go?" If the answer is no, you are detained or under arrest.
- Invoke your rights explicitly: "I am invoking my right to remain silent and my right to an attorney."
- Do **NOT** answer questions without an attorney present, even if you are innocent.
- You have the right to know the charges against you.
- You have the right to a phone call. Use it to contact an attorney or a trusted person.
- Do not sign anything without consulting an attorney.



KNOW BEFORE YOU'RE IN THE BACKSEAT

Search & Seizure Basics

4th Amendment: Protects you from unreasonable searches and seizures. Generally, police need a warrant, consent, or specific legal exceptions (plain view, exigent circumstances, search incident to arrest) to search your person, home, or vehicle.

Your Home: Police generally cannot enter your home without a warrant, your consent, or an emergency. You do not have to open the door. Do not consent to a search of your automobile or home.

Louisiana-Specific Laws:

Expungement: A criminal record can affect employment, housing, professional licensing, and more. Louisiana law allows expungement (sealing from public view) of certain records.

Crimes of violence and sex offenses are not typically expungeable regardless of how much time has passed, whether you completed your sentence, or how significantly your life has changed.

If you are uncertain whether your record qualifies, consult an attorney. Assuming you cannot expunge when you can means carrying a burden you no longer have to carry, and assuming you can when you cannot leads to false expectations and missed opportunities to plan accordingly.

Arrests Without Conviction: If you were arrested but not convicted, you may be eligible for expungement. You may be required to wait a period of time before obtaining an expungement, such as being required to wait five (5) years if you participated in a drug or alcohol pre-trial diversion program.

Misdemeanor Convictions: Generally eligible for expungement 5 years after completion of sentence, with no subsequent convictions.

Felony Convictions: Eligible for expungement 10 years after completion of sentence for many felonies. Some offenses are not expungeable (sex offenses, crimes of violence).

First Offender Pardon: Louisiana's first offender pardon is automatically granted upon completion of sentence for first-time felony offenders. This restores civil rights but does NOT expunge the record.

Act 716 (2018): Louisiana expanded expungement eligibility significantly. Many people who were previously ineligible may now qualify. Consult an attorney to evaluate your specific record.



KNOW BEFORE YOU'RE IN THE BACKSEAT

Expungement Fees & Fee Waivers (La. C.Cr.P. Art. 983)

The total cost to expunge a record in Louisiana generally does not exceed \$550, distributed among the Louisiana State Police, sheriff, district attorney, and clerk of court. For many people, this cost has been a barrier, even when they were legally eligible for expungement.

You may qualify to have all fees waived if:

- Your charge did not result in a conviction
- Your case was dismissed, refused by the DA, or resulted in an acquittal
- You completed no pretrial diversion program
- You have no felony convictions or pending felony charges anywhere in the country

To obtain the fee waiver, submit the Certification of Fee Waiver form to the District Attorney's office in the parish where you were arrested. The DA must sign and consent. Obtain this waiver before filing, as expungement fees are non-refundable once paid.

If you do not qualify for a DA fee waiver, you may file an In Forma Pauperis (IFP) affidavit requesting the court defer (pay after judgment obtained) fees based on financial hardship. Approval is at the judge's discretion. Recipients of SNAP, SSI, or Medicaid, or households below 125% of the federal poverty guidelines, are generally eligible.

Special fee waivers also exist for human trafficking victims, persons determined factually innocent, and those receiving an executive pardon (note: a First Offender Pardon does not qualify).

Important Note: If you have ever been convicted of a felony, including a previously expunged felony, you are ineligible for the DA fee waiver.

Occupational Licensing & Criminal Records

A criminal conviction can affect your ability to obtain or keep a professional license in Louisiana (nursing, contracting, cosmetology, real estate, etc.). Louisiana Act 707 (2021) requires licensing boards to consider rehabilitation evidence and limits blanket denials. If you have a record and are seeking a license, request a pre-application determination from the relevant board.

Juvenile Records

Juvenile records in Louisiana are generally confidential but not automatically expunged. Records of serious offenses may be accessible in certain circumstances. Sealing such a record requires a separate petition. Parents and young adults should consult with an attorney about sealing options.



KNOW BEFORE YOU'RE IN THE BACKSEAT

Your Right to Bear Arms: What You Need to Know

The Second Amendment protects the right to keep and bear arms, but it is not absolute. Federal and state law impose significant restrictions for persons convicted of certain offenses and violating these restrictions carries serious criminal consequences.

Who CANNOT Legally Possess a Firearm Under Federal Law:

- Anyone convicted of a felony offense;
- Anyone convicted of a misdemeanor crime of domestic violence;
- Anyone subject to certain domestic violence protective orders;
- Anyone who has been adjudicated mentally deficient or committed to a mental institution;
- Unlawful users of controlled substances;
- Fugitives from justice; and
- Undocumented individuals.

Violating federal firearm possession laws is a federal felony carrying up to 10 years in prison.

Louisiana-Specific Rules:

- Louisiana is a shall-issue state for concealed carry permits.
- In 2024, Louisiana enacted constitutional carry, which allows most law-abiding citizens 18 and older to carry a concealed firearm without a permit.
- A permit is still recommended. It is recognized in reciprocal states and provides legal presumptions.
- Louisiana law adds additional categories of prohibited persons beyond federal law, including certain drug offenses and crimes of violence.

Does Expungement Restore Firearm Rights?

This is one of the most common and most dangerous misconceptions in Louisiana law.

In Louisiana, expungement seals your record from public view, but it does not automatically restore your federal firearm rights.

Before purchasing or possessing a firearm after any criminal conviction or expungement, consult an attorney. The consequences of getting this wrong are federal.

Restoration of Firearm Rights:

Louisiana law does provide a process for restoration of firearm rights for certain offenders after a period of time following completion of sentence. However, federal law may still prohibit possession regardless of state restoration. Again, please consult an attorney. This area of law requires individualized legal analysis. Do not rely on general information alone.



KNOW BEFORE YOU'RE IN THE BACKSEAT

Firearms and Controlled Dangerous Substances

Federal and Louisiana law both restrict firearm possession in connection with controlled dangerous substances, but they operate very differently and the distinction matters.

Under Louisiana law (La. R.S. 14:95(E)), it is unlawful to possess a firearm while simultaneously in possession of CDS. The key word is simultaneously, both the firearm and the drugs must be on your person at the same time. This is a separate criminal offense regardless of the underlying drug or weapons charge.

Under federal law (18 U.S.C. § 922(g)(3)), the prohibition is significantly broader. Federal law prohibits any person who is an unlawful user of or addicted to a controlled substance from possessing a firearm, regardless of whether drugs are present at the time the firearm is found. You do not need to have drugs on you. Federal prosecutors can establish unlawful user status through prior drug convictions, failed drug tests, admissions of drug use, paraphernalia found near the firearm, text messages, or witness testimony about your drug use patterns.

The practical danger: A person who uses marijuana, even occasionally and even in a state where it is legal, and owns a firearm may be a prohibited person under federal law. Many people do not discover this until they are facing a federal charge.

Bottom line: If you have any history of drug use or drug convictions and you own or are considering purchasing a firearm, consult an attorney before you act. The consequences of getting this wrong may result in state and/or federal charges

Concealed Carry Permit:

- Accepted as ID in many situations
- Required for reciprocal carry in other states
- Demonstrates you cleared a background check
- Provides legal protections in certain self-defense situations



KNOW BEFORE YOU'RE IN THE BACKSEAT

Juvenile Transfer to Adult Court. Age Is Not Always Protection.

The most dangerous misconceptions a young person can have is that age automatically protects a juvenile from serious criminal consequences. Serious juvenile crimes are a life-altering mistake.

In Louisiana, the age of adult criminal jurisdiction is 17. This means that at 17 years old, a person is automatically prosecuted in adult court regardless of the offense. A 17 year old cannot vote, cannot purchase alcohol, and is not treated as an adult by society, BUT they can be charged, tried, convicted, and sentenced as a full adult. The courtroom does not wait for their 18th birthday.

For juveniles under 17, transfer to adult court is still possible. Under the Children's Code, juveniles who are 15 years of age or older and charged with certain serious offenses may be transferred to adult court.

Louisiana law authorizes the transfer of juvenile cases to adult court (where adult sentences, including lengthy prison terms, apply). Do not assume that because someone is a minor, the consequences will be minor.

How Transfer Works in Louisiana

Under the Louisiana Children's Code, juveniles who are 15 years of age or older and charged with certain serious offenses may be transferred to adult court. Transfer can occur in two ways:

Discretionary Transfer: For juveniles 14 years of age, the juvenile court judge has discretion to transfer a case to adult court after considering factors including the seriousness of the offense, the juvenile's prior record, the sophistication and maturity of the juvenile, and the likelihood of rehabilitation. However, a 14 year transferred cannot be sentenced beyond the age of 31.

Mandatory Transfer: Certain serious offenses committed by juveniles 15 and older are automatically transferred to adult court by operation of law. This means the juvenile court has no discretion. These include first and second degree murder; Aggravated rape; Aggravated kidnapping; and Armed robbery.

Once transferred, a juvenile is tried as an adult and subject to adult sentencing guidelines including the possibility of decades in prison (or in serious cases life sentence). The U.S. Supreme Court now requires most juvenile life sentences to be eligible for parole after 25 years. However, significant prison sentences remain likely for serious offenses.

The bottom line: A teenager charged with a serious offense in Louisiana is not automatically protected by their age. The juvenile justice system is designed for rehabilitation, but the consequences can be serious.

If your child is charged with any serious offense, do not consent to an interview. Contact an attorney immediately. The decisions made in the first hours/days of a juvenile case often determine when/if he or she comes home.



KNOW BEFORE YOU'RE IN THE
BACKSEAT**Common Mistakes to Avoid**

- Voluntarily waiving your right to remain silent believing cooperation will lead to leniency. Silence is always your safest first move.
- Consenting to a search of your vehicle, home, or person without consulting an attorney. A polite but firm refusal is your legal right and cannot be used as probable cause.
- Believing that because charges were dropped or refused (arrest without conviction) you have no record. An arrest creates a record regardless of the outcome. Only an expungement removes it from public access.
- Failing to pursue expungement when you are eligible.
- Assuming expungement automatically restores your firearm rights.
- Possessing a firearm while in possession of CDS.
- Using or being addicted to controlled substances while owning a firearm. Federal law prohibits firearm possession by unlawful users or addicts (even without drugs present at the time the firearm is found).
- Ignoring the occupational licensing consequences of a criminal record. A conviction can affect your ability to obtain or maintain a professional license in Louisiana even after you have completed your sentence. If you require a professional license, please consider the implications of a criminal arrest or conviction.
- Signing anything or making any written statement without consulting an attorney.
- Assuming a first offender pardon expunges your record. It restores certain civil rights but does not seal or remove your record from public view.
- Failing to monitor your children's social media activity. One post can change a life.
- Posting photos, videos, or any content on social media depicting firearms, drugs, gang affiliations, or any activity that could be construed as criminal, particularly for juveniles. What feels like a harmless post or flex can be screenshot, preserved, and handed to law enforcement or a prosecutor.
- Social media posts may be used to establish gang membership, prove possession, establish intent, and introduce prior bad acts into evidence. Deletion does not mean destruction. Law enforcement can and regularly does obtain court-ordered warrants requiring social media platforms (Instagram, Facebook, Snapchat, TikTok, etc.) to produce your account data, messages, posts, and deleted content. These platforms retain data on their servers long after you delete it from your view, and a warrant compels them to turn it over regardless of your privacy settings.



KNOW BEFORE YOU'RE IN THE BACKSEAT

Common Mistakes to Avoid *Continued*

- Talking about your case on social media. Anything you post publicly, and privately, can be screenshots, subpoenaed, and used against you in court. Say nothing online about a pending criminal investigation or case.
- Failing to appear for court dates assuming the matter will resolve itself. A failure to appear after being subpoenaed to do so results in an automatic warrant for your arrest and can require you to remain in jail after being arrested until your matter is resolved.
- Accepting a plea deal without fully understanding the long-term consequences. A guilty plea is a conviction. It may affect your voting rights, firearm rights, professional licensing, housing eligibility, and immigration status. Never plead guilty without consulting an attorney.
- Assuming a misdemeanor conviction is not serious. It carries consequences that can follow you for years including employment background checks, professional licensing denials, and firearm restrictions for domestic violence misdemeanors.
- Lying to law enforcement. Remaining silent is your right and carries no criminal penalty. Lying to an officer or making false statements is a separate crime. Silence protects you; lies can incriminate you.
- Assuming your phone cannot be searched. Law enforcement generally needs a warrant to search your cell phone, but exceptions exist. Do not hand over your phone voluntarily.
- Failing to understand the difference between a first offender pardon and an expungement.
- Assuming probation or parole completion ends all legal obligations. Certain reporting requirements, firearm restrictions, and registry obligations may continue beyond the completion of supervision. This is especially true for domestic violence and sex offenses.
- Not telling your attorney everything. Your attorney cannot effectively represent you without the full picture. Attorney-client privilege protects your disclosures; your silence with your own attorney does not protect you.
- Assuming drug court or diversion program completion clears your record. Successful completion may avoid a conviction but does not automatically expunge the arrest. A separate expungement petition is still required and diversion completion may affect fee waiver eligibility and when you may apply for an expungement.
- Resisting arrest even if the arrest is unlawful. Your remedy is in the courtroom, not on the street. Resisting arrest may result in additional charges and often escalates your danger.



Criminal Law Checklist

- I know I must provide ID, registration, and insurance at a traffic stop.
- I know I do NOT have to consent to a vehicle search.
- I know to invoke my right to remain silent clearly and explicitly.
- I know to ask "Am I free to go?" if detained.
- I know not to sign anything without consulting an attorney.
- I have researched whether any prior arrests or convictions may be expungeable.
- I understand a criminal record can affect professional licensing.
- I have an attorney or legal resource I can call in an emergency.
- I understand that law enforcement is legally permitted to make promises they do not intend to keep to induce me to waive my rights.
- I do not consent to a search of my home without a warrant.
- I understand that an arrest without conviction still creates a public record that must be expunged to be removed from public access.
- I know that deleting social media posts does not protect me. Law enforcement can obtain warrants requiring platforms to produce deleted content.
- I do not post photos, videos, or content depicting firearms, drugs, or any activity that could be construed as criminal.
- I understand that a guilty plea is a permanent conviction with long term consequences.
- I know that successful completion of a diversion program does not automatically expunge my record.
- I know that a First Offender Pardon restores certain civil rights but does not expunge or seal my record.
- I know that failure to appear for any court date results in an automatic arrest warrant.
- I have consulted or plan to consult an attorney about expungement if I have any prior arrests or convictions on my record.



KNOW BEFORE YOU'RE IN THE BACKSEAT

When to Call a Lawyer

- You are arrested or charged with any offense (misdemeanor or felony).
- You believe your rights were violated during a stop or search.
- You have a prior record that may affect employment or licensing.
- You want to explore expungement of an arrest or conviction.
- You want to purchase a firearm but have a prior arrest or conviction.
- You own a firearm and have any history of drug use, mental health adjudication, or domestic violence conviction, even a misdemeanor.
- You receive a subpoena or are asked to testify or appear at court.
- A family member has been arrested and you need guidance
- Law enforcement asks you to come in for questioning.
- You are placed on probation or parole and do not fully understand the conditions of your supervision.
- You are facing revocation of probation or parole.
- You believe you're under investigation even if no charges are filed yet.
- You received a letter from a federal agency that suggests you are a target of a federal investigation.
- You have been asked to provide a statement, sign a document, or cooperate with any government agency or investigator.
- You or your child receives any contact from a juvenile court officer, DCFS, or law enforcement regarding a juvenile matter.
- You are a victim of a crime and want to understand your rights in the criminal process including restitution and victim compensation.
- You are a non-citizen and have been arrested or charged. A criminal conviction can have immediate and permanent immigration consequences including deportation.
- Your employer or professional licensing board has initiated an investigation or disciplinary proceeding based on a criminal matter.
- A protective order has been filed against you. Even a temporary one carries immediate legal consequences including firearm restrictions.

Know Who to Call:

Attorney Dwazendra Smith | D.Smith Legal
| 337-534-3020 | www.dsmithlegal.com

Attorney Taneisha Riggs | Law Office of Taneisha W. Riggs
| 337-232-1600 | www.twriggsfirm.com



Family law touches the most personal areas of life: marriage, children, domestic safety, and inheritance. Louisiana's civil law tradition creates rules that differ significantly from other states, and misunderstanding them can have lasting consequences.

Protective Orders

Temporary Restraining Order (TRO): Can be obtained on an emergency basis (the same day in most cases) without the other party present. Prohibits abuse, harassment, stalking, or contact.

Protective Order (Preliminary or Permanent Injunction): A longer-term order (up to 18 months, renewable) issued after a hearing. Can include provisions for custody, use of the family home, and support.

How to Get One: File at your parish courthouse. Many courthouses have advocates to assist. You do not need an attorney but one is strongly recommended (regardless of whether you are pursuing one or have one filed against you), especially if children are involved.

Violation: Violating a protective order is a criminal offense. Document every violation and contact law enforcement immediately.

Child Custody Basics

Types of Custody:

Legal custody refers to decision-making authority: who has the right to make major decisions regarding the child's education, healthcare, religious upbringing, and general welfare.

Physical custody: where the child actually lives and spends time.

Both can be joint or sole. However, Louisiana courts strongly favor joint custody as the default; meaning both parents typically share legal custody and have a meaningful role in the child's life. A court may deviate from joint custody only when it is shown to be in the best interest of the child.

Louisiana typically designates one parent as the domiciliary parent (the parent with whom the child primarily resides and who has authority to make day-to-day decisions when the other parent is not present). The non-domiciliary parent is generally awarded a custody schedule with regular visitation.



Types of Custody *Continued*

The domiciliary designation does not mean the other parent is cut out. Also, the domiciliary parent does not automatically win on every issue. Major decisions (school choice, medical procedures, relocation) can and often do require agreement of both parents or court intervention when parents disagree.

Best Interest Standard: Louisiana courts determine custody based on the best interest of the child, considering factors such as each parent's capacity to provide, the child's relationship with each parent, child's wishes (weight of this factor depends on age of child), stability, and any history of abuse.

Unmarried Parents: An unmarried father has no legal custody rights until paternity is formally established (through acknowledgment or court order). Establish paternity early to protect parental rights.

Modification: Custody orders can be modified if there is a material change in circumstances. Document changes carefully.

Child Support

In Louisiana, Child support is not optional and is often not subject to private negotiation between parents. It is governed by the Louisiana Child Support Guidelines (La. R.S. 9:315) which establish a formula based on both parents' income, the custody schedule, childcare costs, health insurance, and other expenses.

Key points to know:

- Child support belongs to the child; not the custodial parent. A parent cannot waive child support on behalf of a child.
- Child support orders are modifiable when there is a material change in circumstances, which is a significant increase or decrease in either parent's income, a change in custody, or a change in the child's needs.



Child Support *Continued*

- Failure to pay court-ordered child support can result in wage garnishment, seizure of tax refunds, suspension of driver's and professional licenses, passport denial, and jail time for contempt of court.
- Child support generally continues until the child turns 18 or graduates from high school, whichever is later, but not beyond age 19, unless special circumstances exist, such as the adult child is disabled and unable to care for themself.
- Once court ordered child support is rendered, an informal agreement between parents to modify support without a court order is not enforceable. Get every modification in writing and approved by the court.

Adoption

Adoption permanently terminates the biological parent's legal rights and responsibilities and establishes the adoptive parent as the child's legal parent in every respect, including inheritance, support obligations, and decision-making authority.

Key points to know:

- In Louisiana, adoption requires a formal court proceeding. It cannot be accomplished by agreement alone.
- Voluntary adoption occurs when biological parents consent to relinquish their parental rights. Consent must be executed before a judge or notary and witnesses in Louisiana and cannot be withdrawn after a specified period.
- Involuntary adoption occurs after termination of parental rights by court order, typically following findings of abuse, neglect, or abandonment.
- Stepparent adoption is one of the most common forms of adoption. A stepparent adopts the spouse's child. The biological parent whose rights are being terminated must either consent or have their rights involuntarily terminated.
- Adult adoption is permitted in Louisiana under certain circumstances.
- Once an adoption is finalized the child has full inheritance rights from the adoptive family.
- Adoption records in Louisiana are generally confidential; however, an adopted person may petition the court for access to original birth records under certain circumstances.



Termination of Parental Rights

- You cannot voluntarily terminate your own parental rights to avoid child support.
- If you are the primary custodial parent, you cannot voluntarily terminate the parental rights of the other parent due to failing to pay child support or failing to visit the child.
- One of the most biggest myths in family law is that a parent can simply "sign away" their parental rights to escape child support obligations. In Louisiana this is not how the law works.
- Outside of an adoption, a parent cannot unilaterally terminate their own parental rights, and a parent cannot terminate the rights of the other parent. In Louisiana, voluntary relinquishment of parental rights and termination of parental rights by the other parent only occurs in the context of an adoption. This means there must be an adoptive parent ready, willing, and approved to step into that legal role.
- Relinquishment without a corresponding adoption is not permitted because it would leave the child without a legal parent and without financial support.
- The bottom line: If you are a legal parent you are financially responsible for that child until the law says otherwise. Period. No agreement between parents, no notarized document, no verbal arrangement, and no absence changes that obligation.
- Only a court order following a formal legal proceeding can terminate parental rights, and termination can proceed only when an adoption is in place or grounds for involuntary termination exist.
- Attempting to avoid child support by abandoning a child or claiming to have relinquished rights informally is not a legal defense. It is the basis for additional legal action against you. And if a child support order exists, you will continue to incur arrearages if you fail to pay support.



Spousal Support

- Spousal support (alimony) is financial support paid by one spouse to the other following separation or divorce. Louisiana law recognizes two distinct types of spousal support:
- **Interim Spousal Support:** Temporary support paid during the pendency of divorce proceedings. Its purpose is to maintain the status quo and ensure the lower-earning spouse can meet basic needs while the divorce is ongoing.
- Either spouse may be awarded interim support regardless of fault.
- Interim support terminates 180 days after the judgment of divorce is signed unless extended by the court
- The court considers the needs of the requesting spouse and the ability of the other spouse to pay
- **Final Periodic Spousal Support:** May be awarded after divorce is finalized. Unlike interim support, fault is a factor. This means that a spouse who is found to have been at fault in the dissolution of the marriage is not entitled to final spousal support.
- Fault in Louisiana means legal fault (abandonment, adultery, abuse, or cruel treatment) not simply that the marriage did not work out.
- The requesting spouse must prove that they are free from fault and lack sufficient means of self-support.
- The court considers the earning capacity of both spouses, the length of the marriage, the lifestyle established during the marriage, and the health and age of both parties
- Final periodic support is capped at one third of the paying spouse's net income
- It is modifiable upon a material change in circumstances.
- It terminates upon the death of either party or the remarriage of the recipient spouse.
- Cohabitation with a romantic partner may also be grounds for termination or modification.
- **Lump Sum vs. Periodic Support:** Louisiana courts may award spousal support as periodic monthly payments or as a lump sum. A lump sum award is final and not modifiable, but periodic support remains subject to modification.
- Spousal support is not automatic. It must be requested and proven
- Length of marriage alone does not guarantee support.
- A working spouse can still qualify if their income is significantly lower than the other spouse's.



Louisiana-Specific Laws:

Community Property

Louisiana is one of only nine remaining community property states. Community Property laws have major implications for married couples.

Community Property: Property acquired during marriage with community funds is generally owned 50/50 by both spouses, regardless of whose name is on it.

Separate Property: Property owned before marriage, or received during marriage as a gift or inheritance, is separate property, but only if it is kept separate. Mixing separate and community funds can "commingle" these funds, which may convert it to community property.

Division at Divorce: Community property is divided equally (50/50) at divorce. Separate property is returned to its owner. The division of who owns what can be contested and complex.

Reimbursement Claims: One of the most valuable rights in a Louisiana divorce is the right to reimbursement. Louisiana law recognizes that during a marriage one spouse's separate property may benefit the community, or community property may benefit one spouse's separate estate. When that happens the law provides a mechanism to seek reimbursement for that contribution.

Matrimonial Regime: Couples can enter a prenuptial or postnuptial agreement (matrimonial regime) to opt out of the default community property rules. Post-marriage agreements require court approval.

Common-Law Marriage Myths

Louisiana Does NOT Recognize Common-Law Marriage

In Louisiana, no matter how long you have lived together, you are NOT legally married without a marriage ceremony and license.

Succession Rights for Unmarried Partners

An unmarried surviving partner has NO inheritance rights under Louisiana intestate succession. Without a will naming your partner, your estate will pass to your blood relatives, even if you have been together for decades. If you have a partner who you want to receive these rights, it is essential to have a will, trust, beneficiary designations, and a medical POA that reflect your wishes.



Common Mistakes to Avoid

- Assuming Louisiana recognizes common-law marriage.
- Failing to establish paternity for children born outside of marriage.
- Relocating (moving more than 75 miles or out of state) with a child without following Louisiana's relocation statute. Violating the relocation statute (failing to provide proper notice and/or to obtain court approval) can result in contempt findings, reversal of the move, and modification of custody against you.
- Making informal child support agreements outside of court. A handshake deal or text message agreement to modify child support is not enforceable. Only a court-ordered modification protects both parties.
- Believing you can sign away your parental rights to avoid child support.
- Commingling separate and community funds. Depositing separate funds into a joint account or vice versa can permanently destroy the separate character of the assets.
- Failing to document the source of separate property contributions. Without paper trails reimbursement claims are difficult to prove. Keep records of significant financial transactions during your marriage.
- Assuming the domiciliary parent can make all major decisions unilaterally.
- Using children as messengers or weapons in a custody dispute.
- Posting about your divorce, custody dispute, or co-parenting conflict on social media. Judges read social media. Attorneys subpoena it.
- Failing to update your estate planning documents after divorce.
- Assuming spousal support is automatic.
- Failing to preserve financial records when divorce is contemplated. Once divorce proceedings begin access to financial records can become restricted or contested. Gather and preserve bank statements, tax returns, mortgage records, and financial documents before filing.
- Ignoring a protective order filed against you.
- Negotiating directly with your spouse about major divorce issues without attorney review.
- Assuming fault does not matter in Louisiana divorce. Fault directly affects eligibility for final spousal support and can influence other aspects of the proceeding.
- Failing to file a reimbursement claim during partition proceedings. Louisiana imposes a prescriptive period on reimbursement claims. Missing the deadline forfeits your right to recover contributions of separate funds to community assets.



Family & Domestic Checklist

- I know how to obtain a Temporary Restraining Order if needed.
- If I have children, I have a custody order or parenting plan in place.
- If I am an unmarried parent, paternity has been legally established.
- I understand how community property rules affect my marriage.
- My will reflects my wishes regarding my partner (if applicable) and family.
- My partner has a Medical POA and I have theirs.
- I understand that Louisiana does NOT recognize common-law marriage.
- If unmarried, my partner is named in my will and beneficiary designations.

When to Call a Lawyer

- You are experiencing domestic violence or need a protective order.
- You are going through a divorce or separation involving children or property.
- You want to establish or contest paternity.
- You are unmarried and want to protect inheritance rights for your partner.
- Your custody order needs to be modified.
- You want a prenuptial or postnuptial agreement.

Know Who to Call:

Attorney Dwazendra Smith | D.Smith Legal
| [337-534-3020](tel:337-534-3020) | www.dsmithlegal.com

Attorney Taneisha Riggs | Law Office of Taneisha W. Riggs
| [337-232-1600](tel:337-232-1600) | www.twriggslawfirm.com



Starting or running a business without the right legal foundation is one of the most common, and costly, mistakes entrepreneurs make. The right structure, insurance, and contracts protect your personal assets and give your business credibility from day one.

Business Structure Basics

Sole Proprietor: It is the simplest structure. It has no formal registration required. The major risk of a sole proprietorship is that you are personally liable for all business debts and lawsuits. Your personal assets (home, car, savings) are at risk.

This means if a creditor sues you, you may have to list and surrender personal assets in satisfaction of the judgment.

Limited Liability Company (LLC): The most popular structure for small businesses. An LLC separates your personal assets from business liabilities. In Louisiana, LLCs are formed by filing Articles of Organization with the Secretary of State.

Corporation (S-Corp / C-Corp): More complex structures with additional tax benefits for certain businesses. Best evaluated with both an attorney and a CPA.

Partnership: Two or more people operating a business together. Without a written partnership agreement, Louisiana default rules govern, and they may not reflect your intentions.

Personal Liability Protection

Forming an LLC only protects you if you maintain separation between your personal and business finances and you do not engage in fraudulent activities.

The "corporate veil" can be pierced if you:

- Commingle personal and business funds
- Fail to follow basic formalities (operating agreement, records)
- Use the business as an alter ego for personal expenses
- Undercapitalize the business intentionally to avoid debts
- Commit fraud or breach your professional duties to the LLC

Open a business bank account. Keep separate records. Pay yourself a salary or documented distributions.



Louisiana-Specific Laws:

Contracts: The Foundation of Business

Every business relationship should be documented in writing. In Louisiana, verbal agreements are enforceable but difficult to prove.

Client/Service Agreements: Define scope of work, payment terms, deadlines, ownership of work product, and dispute resolution. Include a clear termination clause.

Independent Contractor vs. Employee: Misclassifying employees as contractors is a major legal risk. Louisiana and federal law have specific tests for classification. Get it right from the start.

Non-Disclosure Agreements (NDAs): Protect confidential business information when working with vendors, contractors, or potential partners.

Operating Agreement (LLC): Governs the internal operations of your LLC (member roles, profit distribution, decision-making, and what happens if a member exits). Even single-member LLCs should have one.

Business Insurance is Non-Negotiable

General Liability Insurance: Protects against third-party claims for bodily injury, property damage, and personal injury. Essential for any business that interacts with clients or the public.

Professional Liability / E&O: Errors & Omissions insurance covers claims that your professional services caused financial harm. Critical for consultants, healthcare providers, attorneys, accountants, and other professionals.

Business Owners Policy (BOP): Bundles general liability and property insurance at a reduced rate. A good starting point for most small businesses.

Workers Compensation: Required in Louisiana when you have one or more employees (with limited exceptions). Failure to carry it is a serious violation.

Home-Based Business: A standard homeowners policy does NOT cover business equipment or liability from business activities conducted at home. You likely need a separate rider or policy.



Common Mistakes to Avoid

- Operating as a sole proprietor without considering the liability consequences. Every business debt, lawsuit, and judgment reached against your business can be collected from your personal assets (your home, car, savings account).
- Forming an LLC but failing to maintain it properly.
- Commingling personal and business finances.
- Failing to have a written operating agreement. Even a single member LLC needs an operating agreement. Without one Louisiana default rules govern your business, and they may not reflect your intentions regarding profit distribution, management authority, or what happens if you become incapacitated or die.
- Going into business with a partner on a handshake. Partnerships without written agreements often result in business litigation. What happens when one partner wants out? Who makes decisions when you disagree? Who owns the intellectual property? Answer these questions in writing before you need to answer them in court.
- Signing a personal guarantee on a business loan or lease without understanding the consequences. A personal guarantee eliminates any liability protection your LLC provides. You are personally responsible for that debt regardless of your business structure.
- Misclassifying employees as independent contractors. The IRS and Louisiana Workforce Commission have tests for proper classification. Misclassification exposes you to back taxes, penalties, unpaid benefits, and workers compensation liability.
- Failing to have clients sign written contracts before beginning work. A verbal agreement is difficult to enforce when a client refuses to pay. Each client relationship should begin with a signed written agreement defining scope, payment terms, deadlines, and dispute resolution.
- Not registering your business name or trademark before building your brand around it. Investing years of time and money into a brand name someone else legally owns is a devastating and avoidable mistake.
- Assuming your homeowners or renters insurance covers your home based business. It usually does not.
- Failing to obtain general liability insurance before opening your doors. A slip and fall or property damage lawsuit without insurance can bankrupt a small business. Insurance isn't an expense; it's infrastructure.
- Paying yourself informally without documentation (salary, distributions, loans) creates tax problems, complicates your books, and can be used against you if your corporate veil is ever challenged.
- Ignoring your annual report and registered agent obligations.
- Failing to plan for business succession. What happens to your business if you die, become incapacitated, or want to exit? Address these questions in your operating agreement and estate plan.
- Accepting payments without a paper trail. Cash transactions without documentation create tax exposure and make it difficult to prove income or enforce payment obligations. Document everything.
- Not consulting an attorney before signing a commercial lease. Commercial leases are complex, heavily negotiated documents that almost always favor the landlord in their standard form.
- Assuming a business license means you are legally protected.
- Failing to consult a CPA AND attorney when forming your business. The legal structure and the tax structure of your business must work together.
Always consult a professional.



Business & Financial Checklist

- My business is registered with the Louisiana Secretary of State.
- I have a dedicated business bank account separate from personal finances.
- I have a written Operating Agreement for my LLC.
- I have general liability insurance in place.
- I have professional liability/E&O insurance if I provide professional services.
- All client/service relationships are documented in signed contracts.
- I have properly classified my workers as employees or contractors.
- I have workers compensation coverage if I have employees.
- I have a separate business insurance policy (not relying on homeowners).
- I have an EIN (Employer Identification Number) from the IRS.

When to Call a Lawyer

- Before signing any commercial lease or significant business contract.
- When bringing on a business partner or co-owner.
- If you receive a demand letter or are sued.
- When hiring your first employee
- If a client disputes payment or breach of contract.
- When you want to buy, sell, or merge a business.

Know Who to Call:

Attorney Micaela Simpson | Maxim Legal
| www.instagram.com/maximlegal/

Attorney Karnina 'Nina' Deane | K Deane Law LLC
[337-722-9657](tel:337-722-9657) | www.yourlba.com



Your brand (your name, logo, content, and creative work) is a legal asset. Without proper protection, others can use it, copy it, or profit from it. Intellectual property law gives creators and business owners powerful tools to protect what they build.

Trademark Basics

What is a Trademark? A trademark is any word, name, symbol, or combination that identifies the source of goods or services and distinguishes them from others (think Nike's swoosh, Apple's apple).

TM vs. ®: You can use the TM symbol immediately upon using a mark in commerce. No registration is required. The [®] symbol (registered trademark) can only be used after your mark is officially registered with the USPTO.

Federal Registration Benefits: Federal trademark registration provides nationwide protection, the right to use [®], the ability to stop imports of infringing goods, and a stronger legal presumption of ownership.

Common Law Rights: Even without registration, you may have some rights to a trademark in the geographic area where you use it. Federal registration is far stronger.

Clearance Search: Before investing in a brand name, conduct a trademark clearance search (USPTO database at [USPTO.gov](https://www.uspto.gov)) to ensure your name is available. Do not build a brand on a name someone else owns.

Copyright Protection

Automatic Protection: Copyright attaches automatically when an original creative work is fixed in a tangible medium, such as a written document, a photo, a video, a recording. No registration required for protection to exist.

Registration Benefits: Federal copyright registration ([Copyright.gov](https://www.copyright.gov)) is required before you can sue for infringement, and entitles you to statutory damages (up to \$150,000 per willful infringement) and attorney fees.

What Copyright Protects: Original written works, music, photography, visual art, video, software, architecture. Copyright does NOT protect ideas, facts, names, titles, or slogans (those may be trademark territory).

Work for Hire: If you create content as an employee or under a work-for-hire contract, the employer/client may own the copyright; not you. Clarify ownership in writing before starting any creative project.



Personal Brand Protection

Your Name as a Brand: If you are building a personal brand, consider trademarking your name in connection with your services. Many influencers, speakers, and professionals have done this successfully.

Domain Names: Register your domain name early, even if you are not ready to launch a website. Domain squatters register names and resell them at a premium. Register .com, .net, and any common misspellings.

Social Media Handles: Claim your brand name across all major platforms immediately, even if you are not active on all of them. Consistent handles across platforms reinforce brand identity.

Right of Publicity: Louisiana law provides a right of publicity, which protects your name, image, and likeness from unauthorized commercial use. This applies especially to public figures and influencers.

Trade Secrets

What Qualifies: A trade secret is confidential business information that gives you a competitive edge, such as recipes, customer lists, pricing strategies, business processes. Unlike patents, trade secrets are protected as long as they remain secret.

How to Protect: Use Non-Disclosure Agreements (NDAs) with employees, contractors, and partners. Limit access to sensitive information on a need-to-know basis. Mark confidential documents clearly.

When Someone Steals Your Brand

Cease & Desist Letter: The first step in most IP disputes is a cease and desist letter demanding the infringing party stop the unauthorized use. An attorney should draft this for maximum effect.

DMCA Takedown: If someone uses your copyrighted content online without permission, you can file a DMCA (Digital Millennium Copyright Act) takedown notice with the platform (Instagram, YouTube, etc.) to have the content removed.

USPTO Opposition: If someone tries to register a trademark that conflicts with yours, you can file an opposition during the USPTO's 30-day publication period.



Common Mistakes to Avoid

- Building a brand around a name you never searched.
- Assuming because a business name is registered with the Louisiana Secretary of State it is legally protected as a trademark.
- Using the ® symbol before your trademark is federally registered.
- Failing to register your trademark before scaling your business.
- Abandoning your trademark by failing to use it consistently in commerce.
- Not registering your domain name early.
- Failing to claim your brand name across social media platforms immediately.
- Assuming copyright registration is unnecessary because your work is automatically protected. Federal registration is required before you can sue for infringement and entitles you to statutory damages of up to \$150,000 per willful infringement plus attorney fees.
- Not registering copyright for high value creative work before publishing or distributing it. Once your work is public and someone copies it you cannot go back and register retroactively for full statutory damage protection. Register before you publish.
- Failing to have written agreements that clearly establish ownership of creative work.
- Sharing confidential business information without a signed NDA.
- Assuming an NDA alone protects your trade secrets. You must also take active steps to limit access to confidential information, mark documents as confidential, and maintain internal policies that demonstrate you treat the information as secret.
- Ignoring infringement of your brand because the infringer seems small or insignificant.
- Responding to a cease and desist letter without consulting an attorney.
- Sending a cease and desist letter without attorney involvement.
- Licensing your brand or intellectual property without a written licensing agreement.
- Not monitoring your trademark after registration. Registration does not enforce itself. Set up Google alerts for your brand name, monitor the USPTO database for conflicting new applications, and watch your market for unauthorized use. The USPTO will not police your trademark for you.
- Believing that operating under a different font or color makes copying someone else's trademark legal.
- Failing to renew your federal trademark registration.
- Not protecting your brand internationally if you operate or plan to operate outside the United States.



Brand & IP Protection Checklist

- I have searched the USPTO database to confirm my brand name is available.
- I am using the TM symbol on my unregistered marks.
- I have filed or plan to file a federal trademark application.
- I have registered my copyright for original creative works.
- I have registered my domain name(s).
- I have claimed my brand name on major social media platforms.
- I use NDAs with employees, contractors, and partners who access confidential info.
- My contracts clearly state who owns creative work product.
- I know the steps to file a DMCA takedown if my content is stolen online.
- I have documented evidence of when I first used my brand in commerce.

When to Call a Lawyer

- Before filing a trademark application (professional search and application reduces rejection risk).
- When you discover someone is using your name, logo, or content without permission.
- When you receive a cease and desist letter claiming you are infringing.
- Before signing any contract involving creative work, content, or licensing.
- When building a business where your brand is a primary asset
- When you want to license your brand or intellectual property to others

Know Who to Call:

Attorney Micaela Simpson | Maxim Legal
| www.instagram.com/maximlegal/



This guide is not exhaustive. The law touches every area of your life, and your legal health depends on knowing where to look. The six pillars in this guide are your foundation, but your protection does not stop here.

Review the checklists in this book. Every unchecked box is a gap in your legal protection.

Take time to research and understand these additional areas of law that may directly affect you, your family, and your community.

Your Health & Your Rights

- **Mental Health Rights:** You have legal rights regarding involuntary commitment, psychiatric treatment, confidentiality of mental health records, and the right to refuse certain treatments. A Psychiatric Advance Directive allows you to document your treatment preferences in advance in the event of a mental health crisis.
- **Disability Rights:** The Americans with Disabilities Act (ADA) protects you from discrimination in employment, public accommodations, and services. SSI and SSDI provide financial support for qualifying individuals with disabilities. Know your rights before you need them.
- **Healthcare Proxy & Psychiatric Advance Directive:** Distinct from a standard Medical Power of Attorney, a psychiatric advance directive specifically governs mental health treatment decisions when you are unable to make them yourself. Louisiana recognizes this document and every adult with a mental health history should have one.
- **Victims Rights:** Louisiana law provides significant protections for crime victims including the right to restitution, notification of proceedings, the right to be heard at sentencing, and access to the Louisiana Crime Victims Reparations program which can provide financial assistance for crime related expenses including medical bills, counseling, and lost wages.



KNOW MORE. PROTECT MORE.

- **Natural Disaster & FEMA Rights:** In Louisiana, you must plan for disasters. After a declared disaster, you have the right to apply for FEMA assistance, appeal denials, and file insurance claims. Contractor fraud following storms is rampant. Know your rights before signing any post-disaster repair contract. Get contracts in writing. Document all damage thoroughly before repairs begin.
- **Environmental Rights:** Louisiana has some of the highest environmental health risks in the country. You have the right to know about environmental hazards in your community, to access public environmental records, and to participate in public comment processes. Environmental exposure may have direct health consequences. Know your community's risk profile.

Your Family's Rights

- **Grandparents Rights:** Louisiana law recognizes grandparent visitation rights under certain circumstances. If you are a grandparent being denied access to your grandchildren consult an attorney about your options under Louisiana law.
- **Educational Rights:** Students have constitutional rights at school including protections against unreasonable searches, due process rights in disciplinary proceedings, and privacy rights in educational records under FERPA. Know these rights before your child needs them. If your child has a disability they may be entitled to an Individualized Education Program (IEP) or 504 plan under federal law. These plans are legally enforceable documents. Parents have the right to participate in their development and to appeal decisions they believe are inappropriate.
- **Senior & Elder Law:** Elder abuse (physical, financial, and emotional) is significantly underreported. Louisiana law provides protections for vulnerable adults including guardianship proceedings, Medicaid planning, and Adult Protective Services.
If you suspect elder abuse report it immediately.



Your Community's Rights

- **Voting Rights:** In Louisiana, persons convicted of a felony lose their right to vote during incarceration and while on probation or parole. Upon completion of sentence voting rights are automatically restored. Know your status and exercise your right.
- **Workers Rights:** Wage theft, workplace discrimination, and unsafe working conditions are all actionable under federal and Louisiana law. The EEOC handles discrimination complaints. The Louisiana Workforce Commission handles wage claims. You do not have to accept mistreatment in the workplace.
- **Housing Discrimination:** The Fair Housing Act prohibits discrimination in housing based on race, color, national origin, religion, sex, disability, and familial status. Louisiana law provides additional protections. If you believe you have been discriminated against in housing file a complaint with HUD.
- **Immigration Basics:** Regardless of your immigration status you have constitutional rights in the United States, including to remain silent, to an attorney in criminal proceedings, and to due process. DACA recipients have specific rights and implications requiring individualized legal guidance. Consult an immigration attorney.
- **Veterans Benefits:** If you served in the military you may be entitled to disability compensation, healthcare, education benefits, and housing assistance through the VA. Many veterans are unaware of the full scope of benefits available to them or how to appeal a denied claim.
- **Police Misconduct & Civil Rights:** If your constitutional rights have been violated by law enforcement you may have a civil rights claim under 42 U.S.C. § 1983. Document everything, preserve evidence, and consult an attorney promptly.

The law is not meant to be a mystery.

The more you know, the better protected you are.

Research these areas.

Ask questions. And when in doubt, call a lawyer.



LOOKING AHEAD

Thank you for spending this time with me.

Whether you are building something new, protecting what you have already worked hard for, planning for the people you love, or simply taking one courageous step toward understanding your rights today, I hope these pages reminded you of something important: you deserve to be protected.

The law was not always written with you in mind. But it exists, it applies to you, and knowing it changes everything.

Every person who walks through life without a will, without the right insurance, without knowing their rights at a traffic stop, without protecting their brand is leaving themselves exposed. Not because they don't care. Because no one ever handed them this information in a way that felt accessible, honest, and human. That is why this guide exists.

Legal health is not a luxury. It is not reserved for the wealthy or the well-connected. It is for every person who works hard, loves their family, and deserves to keep what they have built.

My hope is that the guidance shared here gives you clarity, confidence, and a starting point. I also hope it serves as a reminder that you do not have to navigate any of this alone.

As you move forward, take this truth with you:
You are not unprotected.
You are just getting started.

— Corrie Gallien, Gallien Law



Disclaimer: The content used in this blog include AI (Artificial Intelligence) generated elements. The information is for illustrative and educational purposes only. It does not depict actual legal scenarios and does not create attorney-client privilege. However, all content was reviewed and approved by Attorney Corrie R. Gallien of Gallien Law. This content is intended to provide general guidance and should not be considered specific legal advice.