



ADDITIONAL RESOURCES

ESTATE PLANNING

Estate Planning Resources

Below please find links to resources that can help you better understand your legal rights when it comes to estate planning.

- Louisiana Law Library: [Living Wills](#)
- Louisiana Law Help: [Wills & Life Planning](#)
- LSBA Consumer Brochure: [Do I Need a Will? Your Estate and Louisiana Law](#)
- [FindLaw Estate Planning Documents Checklist](#)

Information About Wills

A will is a document that gifts one's property. The gift goes into place upon death. If there is no proper will in place at death, the question of "who gets what?" is decided by rules laid out in the law.

- A will must adhere to certain forms and criteria to be valid. There are two types of wills. The first and least common will is a "basic" or "olographic" will. It must be written, signed, and dated in your handwriting. It cannot be typed. The second and more common type of will is a "notarial" will. It requires your signature and witnesses' signatures in the presence of a Notary Public. Neither type of will is required to be prepared by a lawyer, but it is always wise to hire a lawyer to draft your will. A lawyer will ensure that no small (or large) omission prevent your end of life wishes from being satisfied.
- Forced Heirship is one such large omission with which many people may not be familiar. It requires a certain amount be left to your children if you die before their 24th birthday. Failing to properly provide for your Forced Heirs can result in your will being challenged in court after your death.

Information About "Powers of Attorney"

In Louisiana, Power of Attorney, which is formally called a "Mandate" or "Procuration," is a document that authorizes another person, called an "Agent", to act on your behalf.

- The Agent's actions might include financial decisions, medical decisions, and many more, but the authority that you grant to your Agent must be specifically stated in the Power of Attorney. For example, if you want your Agent to have the authority sell your car, you must specifically state that your Agent has the authority to sell your property.
- Granting Power of Attorney to an Agent does not have to be in a particular form, but when the law requires a particular form for a particular act (like selling a car) the mandate authorizing your Agent to sell your car must be in that same form.
 - For that reason — and because the forms that can be found and purchased on the internet are very risky — it is always wise to consult with a lawyer when granting Power of Attorney to another person.

Information About Testamentary Trusts

A Testamentary Trust is created by a donation effective at the death of the donor (“donation *mortis causa*”). Louisiana law allows for Testamentary Trusts to be created through both basic and notarial wills.

- These are the people involved in a trust: A “settlor” is the person who creates the trust. A “trustee” is a person to whom title to the trust property is transferred to be administered by them as the fiduciary. A “beneficiary” is a person for whose benefit the trust is created. The beneficiary may be a natural person, corporation, partnership, or other legal entity having the capacity to receive property.
- Here is how Testamentary Trusts are created: A Testamentary Trust may be created only in one of the forms prescribed by the laws regulating donation *mortis causa*. A donation *mortis causa* may be made using one of the testaments authorized by Louisiana law – a basic will or a notarial will.
- What can you include in a Testamentary Trust? Any property susceptible of private ownership, and any interest in such property may be transferred in trust.

What to Expect When Working with an Estate Planning Lawyer

To hire a lawyer, and when you hire a lawyer, to assist you with estate planning, plan to do the following:

1. Prepare to pay your lawyer. Most estate planning lawyers charge a flat fee, which is a one-time advance payment, or charge an hourly fee. When charging an hourly fee, the lawyer will likely request an advance payment, called a “retainer.” The retainer goes into the lawyer’s trust account and each month you will receive a bill for the work your lawyer has done. With your approval, your lawyer will transfer money into their operating account, at which point they are paid for their work. Confirm with your lawyer flat or hourly fees, and scope of work or specific expectations in writing.
2. Define the scope of work the lawyer is performing. To avoid confusion, neglecting legal matters, and over-billing, you and your lawyer should discuss exactly what you want your lawyer to do (ex., “I am paying my lawyer a flat fee to draft my will”).
3. Prepare to answer questions. Your lawyer will likely ask you for significant dates (ex., birth, marriage, death), where you and your family reside, and certain sensitive information for identification purposes such as Social Security Numbers and bank account numbers. When your lawyer is billing by an hourly fee, you can save money by gathering documents and being prepared to answer these questions.
4. You can find more information about finding and hiring a lawyer on the [Find Legal Help](#) page of the LSBA’s website.

Estate Planning Seminars and Events

The Louisiana State Bar Association (LSBA) and local bar associations host seminars that provide more information about estate planning and “Wills for Veterans” events where you can have certain estate planning documents drafted for free. Check with the LSBA or a local bar association for more information.

- [Lafayette Bar Association](#)
- [LSBA Young Lawyers Division](#)
- [New Orleans Bar Association](#)
- [Shreveport Bar Association](#)