

**2025 Legislative Legal Seminar
December 4, 2025 •1:00 pm**

2025 Legislative Session Civil Law and Procedure Updates

Presentation by

**The Honorable Gregory A. Miller, Senator, District 19,
Chairman, Senate Judiciary A Committee**

and

**The Honorable Stephen J. Windhorst
Judge, Fifth Circuit Court of Appeal**

TORT LAW CHANGES

Act 466 (signed by Gov) – Senate Bill 231 – Reese – Collateral Source, Recoverable Medical Expenses (Effective 1/1/26)

- Louisiana law previously required (and until 1/1/26 will require) that:
 - In cases where a claimant’s medical expenses have been paid by a health insurance issuer or Medicare to a contracted medical provider, the claimant’s recovery of medical expenses is limited to the amount actually paid to the contracted medical provider and any applicable cost sharing amounts paid or owed by the claimant.
 - The jury is informed only of the amount billed by a medical provider for medical treatment, and not whether any person, health insurance issuer or Medicare has paid or has agreed to pay any of the claimant’s medical expenses. Only after a jury verdict was rendered could the court receive evidence related to the limitations of recoverable past medical expenses under present law.
 - The court under current law is required to award to the claimant 40% of the difference between the amount billed and the amount actually paid to the contracted medical provider to the health insurer or Medicare in consideration of the claimant’s cost of procurement, as long as it would not make the award unreasonable.

- Act 466 (SB231) amended R.S. 9:2800.27 to:
 - Remove the requirement that the court award 40% of the difference between the amount billed and the amount actually paid.
 - Provide that in a trial to recover past medical expenses provided by a health insurance issuer or Medicare to a contracted medical provider, the trier of fact shall be informed of the amounts billed *and* the amounts actually paid for medical expenses that have been incurred by the claimant.
 - Limit the recovery of past medical expenses to the amounts paid to a medical provider and the amounts remaining owed to a medical provider, including medical expenses secured by a contractual or statutory privilege, lien, or guarantee.
 - Provide that in cases where the attorney for the claimant has entered into a pre-negotiated agreement with a medical provider of the claimant where the medical provider agreed to accept as full compensation an amount less than the amount billed, the claimant's recovery is limited to the amount actually paid pursuant to the agreement and any applicable cost sharing amounts paid or owed by the claimant.

Act 176 (signed by Gov) – House Bill 291 – Galle – Wrongful Death and Survival Action Prescriptive Periods (Effective 8/1/25)

- Brings prescriptive period for actions for damages in cases of wrongful death and survival action in line with previously passed legislation extending the prescriptive period for other delictual actions **to two (2) years.** (C.C. Art. 2315.1 and 2315.2)

Act 15 (signed by Gov) – House Bill 431 – Chenevert – Modified Comparative Fault (Effective 1/1/26)

- Currently we have comparative fault in Louisiana: the law provides that if a person suffers injury, death, or loss as the result partly of his own negligence and partly as a result of the fault of another person, the amount of damages the plaintiff can recover is reduced in proportion to the degree or percentage of negligence attributable to the person suffering the injury, death or loss.
- HB431 will now bar a plaintiff who is found to be 51% or more at fault in causing his own damages from recovering any damages. (C.C. Art. 2323)

Act 16 (signed by Gov) – House Bill 434 – Dewitt – Limitation on Recovery if Owner/Driver Does Not have Automobile Insurance (Effective 8/1/25)

- Increases the bar on recovery from the first \$15,000 to the first \$100,000 of bodily injury damages based on any cause or right of action arising out of a motor vehicle accident in which the owner or operator of the motor vehicle has not maintained auto liability insurance.
- If the owner or operator of the motor vehicle without motor vehicle insurance institutes an action to recover damages in any amount, regardless of whether that owner or operator is at fault, and that owner or operator is awarded \$100,000 or less, then the owner or operator shall be assessed and held liable to pay all court costs incurred by all parties to the action. (R.S. 32:866)

Act 17 (signed by Gov) – House Bill 436 – Firment – Limitation on Damages Recoverable by Unauthorized Aliens (Effective 8/1/25)

- Prohibits awarding of general damages and past and future wages to a person who is unlawfully presenting the United States according to federal Immigration and Nationality Act (C.C. Art. 2315.12)

Act 18 (signed by Gov) – House Bill 450 – Melerine – Evidentiary Presumptions in Personal Injury Claims (Effective 5/28/25)

- In claims for personal injury damages not raised under Louisiana’s Workers’ Compensation Law, the lack of a prior history of an illness, injury, or condition shall not create a presumption that an illness, injury, or condition was caused by the act that is the subject of the claim.
- Explicitly states the new law is intended to overrule *Housley v. Cerise*, 579 So. 2d 973 (La. 1991). (Code of Evidence Art. 306.1)

PROTECTION FOR CHILDREN ONLINE AND DOMESTIC ABUSE SURVIVORS

Act 236 (signed by Gov) – House Bill 37 – Schlegel - Kids Online Protection and Anti-Grooming Act (Effective 6/1/26)

- Breaks ground in creating a duty of care online platforms covered under the new law owe a minor (an account holder under the age of 16) when they contract with a minor online.
- Requires the covered platform to take reasonable measures to prioritize the privacy of the minor's account and establish a set of default privacy settings for minors that allow the minor's legal representative to choose to set the minor's account up so that they cannot connect with other adults, receive private messages from adults, share their physical location, etc. without the legal representative being notified in real time by text, voice or email. Provides for a process for the Attorney General to enforce the law with civil fines. (R.S. 9:2717.4)

Act 225 (signed by Gov) – House Bill 74 – Mike Johnson – Termination of Manufacturer Vehicle Tracking in cases of Domestic Abuse, Sexual Assault, or Stalking (Effective 8/1/25)

- Requires a motor vehicle manufacturer to suspend the remote access technology on a motor vehicle within two (2) business days of a complete remote access suspension request (as provided in new law) from a survivor. (R.S. 14:323; R.S. 46:1291-1296)

COURTS AND NOTARIES PUBLIC

Act 219 (sent to Secretary of State) – House Bill 63 – Green – Constitutional Amendment to Change the Mandatory Retirement Age of Judges

- Asks voters statewide on April 18, 2026 to vote on whether they support an amendment to change the mandatory retirement age for judges from seventy (70) to seventy-five (75), provided that a judge may continue to serve to complete a term of office.

- (If approved by voters, would amend Louisiana Constitution Article V, Section 23(B))

Act 258 (signed by Gov) – House Bill 259 – Taylor – Bonds for Notaries Public (Effective 2/1/26)

- Increases the required bond amount that Notaries Public must maintain from \$10,000 to \$50,000. (R.S. 35:71, 191, 192, 391, 412)

Act 352 (signed by Gov) – House Bill 310 – Zeringue – Filings in Civil and Criminal Courts (Effective 8/1/25)

- Current law provides that beginning on January 1, 2026, attorneys filing civil and criminal court filings must file them electronically with the clerk of court.
- HB310 provides that as of January 1, 2026, attorneys shall file pleadings electronically, but adds that attorneys may also file in person in paper at the courthouse, for both criminal and civil filings. The restriction to these two methods is only on attorneys, though. Individuals who are not attorneys may still file by mail or fax, or electronically, or in person.
- Also adds in the Code of Civil Procedure that, notwithstanding the new law, the following original documents may be filed in paper form, either in person, by U.S. mail, or by commercial courier:
 - An original will or testament filed and retained in accordance with C.C.P. Art. 2911.
 - An original promissory note, other instrument, or any evidence required to be in authentic form in accordance with C.C.P. Art. 2635.
 - Motions for default judgment which do not require a hearing in open court pursuant to C.C.P. Arts. 1702 and 1702.1 and supporting attached documentation.
 - Documents which are required to be original in order to support or defend against a claim.
- (C.C.P. Art. 253; C.Cr.P. Art. 14.1)

LOUISIANA STATE LAW INSTITUTE BILLS

Act 27 (signed by Gov) – Senate Bill 35 – Price – Provides for Legal Servitudes (Effective 8/1/25)

- Updates the law dealing with enclosed estates, rights of passage, and utility servitudes within the Civil Code and R.S. 9.
- Removes the utility servitude from the enclosed estates articles. The utility servitude is provided for in R.S. 9:1281, et seq.

Act 30 (signed by Gov) – Senate Bill 49 – Gregory Miller – Provides for validity of testaments (Effective 8/1/25)

- Maintains for validity that an olographic will must be written, dated, and signed by the testator, but eliminates the requirements that the signature appear at the end of the testament and provides that the date is sufficient if indicated by the day, month and year.

- Provides that the signature of the testator may appear anywhere in the testament and is sufficient if it identifies the testator. Date may appear anywhere in the testament and may be clarified by extrinsic evidence.
- Provides that for validity the notarial testament shall be prepared in writing, dated, executed before a notary and two witnesses, and signed by the testator, each witness, and the notary.
- Eliminates the requirements that the testator declare that the instrument is his testament and that the testament include an attestation clause.
- Repeals certain requirements for form for notarial testaments when the testator is literate and sighted but physically unable to sign; when the testator is unable to read; when the testator is deaf or deaf and blind; and for the execution of a notarial testament in braille.
- Provides for new self-proving requirements and provisions.
- Provides that this new law will apply prospectively and retroactively and shall be applied to existing and pending claims, but shall not revive prescribed claims or final and definitive judgments. (C.C. Arts. 1575, 1576, 1581; C.C.P. Art. 2887, 2891; Repeals C.C. Arts. 1577-1580.1)

Act 34 (signed by Gov) – Senate Bill 67 – Foil – Provides for the Continuous Revision of Successions (Effective 8/1/25)

- Authorizes ex parte probate if there is no objection, without any longer requiring objections to be made orally at a hearing or filed prior to the hearing. Provides that an objection to ex parte probate may be presented in an opposition and shall be filed.
- Includes succession proceedings in current law allowing the privilege of litigating without the prior payment of costs. Provides that when a party is permitted to proceed without the payment of costs in a succession proceeding, the payment of costs due shall be ordered to be paid from the succession assets. (C.C.P. Arts. 2881, 2882, 2889, 2890, 2901, 5181, 5186)

Act 39 (signed by Gov) – Senate Bill 93 – Lambert – Enforceability of Penalty Clauses in Wills (Effective 8/1/25)

- Provides that a provision in a juridical act that purports to penalize a person for filing an action to challenge the act is unenforceable if there is a substantial likelihood that the challenge would be successful. Per the Law Institute, this bill was meant to help clear up inconsistent approaches within the court system to determine when penalty clauses are enforceable.
- Penalty, no-contest, or *in terrorem* clauses (imposing conditions on the legatee or heir that they will not challenge or dispute the provisions of the will) have traditionally been dealt with by Louisiana courts under C.C. Art. 1519. This new law adds C.C. Art. 1519.1.

Act 250 (signed by Gov) – House Bill 178 – Mike Johnson – Code of Civil Procedure Continuous Revision (Effective 8/1/25)

- Provides for ongoing revisions throughout the Code of Civil Procedure
- Also changes the law in Civil Code Article 3462, so that the filing of an action in a court of competent jurisdiction will interrupt the prescriptive period even if venue is improper. (There are, however, more specific statutes that still require an action to be filed in a court of both competent jurisdiction and proper venue in order to interrupt prescription. See Law Institute comments in HB 178).

Act 488 (became law without Governor’s signature) – House Bill 181 – Wiley – Civil Code updates (Effective 8/1/25)

- Provides with respect to definitions and use of various terms throughout the Civil Code.

MISCELLANEOUS HIGHLIGHTS

Act 406 (signed by Gov) – Senate Bill 34 – Luneau – Makes Alteration of a Repair Estimate without Notification to the Claim File or Issuer of the Estimate a Fraudulent Insurance Act (Effective 8/1/25)

- Adds to the Insurance Title (R.S. 22) that amending or altering the original adjuster’s or appraiser’s repair estimate, or a revision to the repair estimate, or a supplemental estimate, without documentation in the claim file or other means of notification to the issuer of the estimate, shall constitute a fraudulent insurance act. (R.S. 22:1923(2)(q))

Act 317 (signed by Gov) – Senate Bill 39 – Morris – Limitation of Liability of public entities for false imprisonment of an offender sentenced to a term of imprisonment (Effective 8/1/25)

- Provides that an offender challenging the computation or calculation of the offender’s sentence, release date, good time date, or parole date shall pursue that claim first through the Corrections Administrative Remedy Procedure (CARP), R.S. 15:1171, et seq, including judicial review in the parish of East Baton Rouge in the 19th JDC, before bringing any civil action for damages based on claims of false imprisonment. Such civil actions shall be governed by the Prison Litigation Reform Act, R.S. 15:1181, et seq.
- No such civil action shall be brought against a sheriff, the Department of Corrections, or any officer or employee thereof, unless the offender first obtains a bona fide termination in the offender’s favor in proceedings brought pursuant to CARP (R.S. 15:1171, et seq.). If the action is brought before a bona fide termination is obtained, it shall be dismissed without

prejudice. If the offender fails to timely pursue the CARP procedure, the civil action shall be dismissed with prejudice. Prospective application only. (Enacts R.S. 9:2800.30)

Act 465 (signed by Gov) – Senate Bill 61 – Luneau – Provides for Use of Credit Information in Underwriting or Rating of certain Personal Insurance Policies – (Effective 7/1/26)

- Provides that when an insurer writing personal insurance uses credit information in underwriting or rating a consumer, and when the insurer notifies the consumer that it may obtain credit information in connection with the application for insurance, the insurer shall also now notify the consumer of how he may obtain a copy of the credit information the insurer used in the underwriting or rating process.
- Provides that the Insurance Commissioner shall review the scoring models or other scoring processes filed with the Department of Insurance to ensure the insurers are complying with requirements under the law. (R.S. 22:1508, 1509, and 1510)

Act 116 (became law without Governor’s signature) – Senate Bill 156 – Pressly – Provides for In Vitro Fertilization (Effective 8/1/25)

- Updates or adds definitions for “human embryo”, “in vitro fertilized human embryo”, and “nonviable in vitro fertilized human embryo”.
- Provides for when an *in vitro fertilized human embryo* is considered a juridical person, and characteristics that attach to the embryo as a juridical person.
- Provides that an *in vitro fertilized human embryo* is not susceptible of ownership, and that neither a medical facility nor the physician acting as an agent of fertilization shall have decision-making authority over a viable *in vitro fertilized human embryo*. Provides that the intended parent or parents shall have control and decision-making authority over a viable *in vitro fertilized human embryo*.
- Provides for criteria that must be met for a person to engage in in vitro fertilization procedures.
- Provides for the legal transfer of rights and responsibilities with regard to an *in vitro fertilized human embryo*, and provides for judicial standards in place to resolve disputes related to in vitro fertilization agreements between parties. Provides certain limitations on criminal prosecution of participants in the in vitro fertilization process, and provides that all civil matters brought against a qualified healthcare provider participating in in vitro fertilization procedures shall be brought in accordance with Louisiana’s Medical Malpractice law.
- (Amends R.S. 9:121 – 124, 126-133)

Act 383 (signed by Gov) – House Bill 575 – Ventrella – Liability for the Unlawful Termination of a Pregnancy - “Justice for Victims of Abortion Drug Dealers Act”- (Effective 8/1/25)

- Present law provides that any person who performs an abortion is liable to the mother of the unborn child for any damages, with a three-year prescription period from date of discovery of the damage, preemptive period of 10 years.
- HB 575 updates the law to provide that the mother of the unborn child shall have a right and cause of action for damages against any person or entity as provided in law who knowingly performs or substantially facilitates an abortion.

- Increases the prescriptive period to five years; provides that “abortion” and “abortion-inducing drug” has the same meaning as in R.S. 14:87.1.

- Defines “substantially facilitates” to mean “administering, prescribing, dispensing, distributing, selling, or coordinating the sale of an abortion-inducing drug to a person in this state. Provides “substantially facilitates” does *not* mean administering, prescribing, dispensing, distributing, selling, or coordinating the sale of medications for legal therapeutic purposes under the laws of this state.

- Provides that with respect to the new law there shall be a rebuttable presumption that medical malpractice law (R.S. 40:1231.1 et seq.) applies to any covered healthcare provider licensed to practice in Louisiana and practicing within the lawful scope of practice in accordance with law.

- Provides that the following persons are exempt from liability under the new law:
 - The woman upon whom an abortion was performed or substantially facilitated.
 - A healthcare provider licensed to practice medicine in this state.
 - A pharmacist or pharmacy licensed in this state for actions and acting within the scope of regulations promulgated by the Board of Pharmacy.

- (Amends R.S. 9:2800.12)