

Can You Sue for Emotional Distress in Louisiana? Three Different Claims

People use "emotional distress" to describe very different things. A person hurt in a wreck may be unable to drive without panic. Someone else may escape a dangerous event without a physical injury but live with serious fear afterward. A parent may see a child gravely injured. Louisiana law does not treat those three claims the same way.

The first useful question is simple: Whose injury are you claiming, and what did you experience yourself? Get that answer right before arguing over a diagnosis or a dollar amount.

Editorial & Legal Accuracy Notice (Louisiana)

Last reviewed for statutory accuracy: September 23, 2026. Author: Stephen Babcock, Louisiana Bar No. 26792. This page gives general Louisiana legal information, not advice about a particular claim. The event, injury date, parties, applicable statute, and proof can change the analysis.

First: emotional harm from your own injury

If another person's fault caused your injury, emotional harm may be part of your personal injury damages under [La. Civ. Code art. 2315](#). A crash victim may have physical treatment and also fear driving, insomnia, anxiety, or a changed family routine. The legal work is to connect those changes to the event and show their actual effect on the person's life.

A PTSD diagnosis may matter, but it is not a substitute for proving fault and causation. Equally, the absence of a formal diagnosis does not make every account of suffering worthless. What did the person experience, when did it start, what changed, and who or what can corroborate it? Our separate [guide to stress and PTSD after accidents](#) focuses on symptoms and documentation. This page focuses on the different legal routes to a claim.

Second: can you recover without a physical injury?

Sometimes. Louisiana's Supreme Court addressed this in [Spencer v. Valero Refining Meraux, LLC](#) (La. Jan. 27, 2023). A direct claim for negligent infliction of emotional distress without physical injury is legally possible under Civil Code article 2315. The person still has to prove a duty, breach, causation, and actual damages. There must also be special circumstances carrying an unusual likelihood of genuine and serious distress. Ordinary worry or a passing fright will not do.

The Court rejected two supposed blanket requirements: the defendant need not owe a special personal duty aimed at protecting emotional well-being, and the defendant's conduct need not be outrageous. It also said medical treatment and expert testimony are not legal prerequisites for this particular claim. That does not make proof optional. The distress must be serious, and the claimant must show what actually happened to him or her. The Court reversed the awards in *Spencer* because the evidence did not establish sufficiently serious distress, even though it recognized the type of claim. [Spencer](#), pp. 15-18.

Three different claims

Start with what happened to you and what you saw.

01 Your own injury

Emotional harm is evaluated with the injury claim.
Fault, causation and the actual effect on your life matter.

02 No physical injury

A direct distress claim may be possible under Spencer.
Serious distress plus the required negligence proof matter.

03 Someone else was hurt

A bystander claim follows Civil Code art. 2315.6.
Relationship, what you witnessed, and severity all matter.

Wrongful-death grief is a separate legal question under Civil Code art. 2315.2.

The first question is which of these three claims the facts describe. Each route has its own legal test.

Third: you saw someone else get hurt

Louisiana has a specific bystander statute, [Civil Code art. 2315.6](#). It applies to listed close relatives who view the event injuring another person or come upon the scene soon afterward. The statute includes a spouse, children, grandchildren, parents, siblings, and grandparents. It does not extend simply because a person learned terrible news later.

Even a qualifying relative must satisfy the rest of the statute. The injured person's harm must be serious enough that one could reasonably expect serious distress in the relative's position. The relative's own distress must be severe, debilitating, and foreseeable. These are demanding conditions; they are not the same test the Supreme Court applied to a direct, emotional-only claim in Spencer. [Art. 2315.6\(B\)](#).

If the loved one died, a family's grief may raise a distinct wrongful death question under [Civil Code art. 2315.2](#). Do not assume that a wrongful death claim and a bystander claim require the same proof or have the same deadline.

How do you prove emotional harm?

Start with what can be checked. Save the crash report, scene evidence, video, and names of witnesses. Keep the messages you sent near the time describing your condition. Tell treating professionals what changed if you seek care. Write down specific effects: missed work, no longer driving a particular route, interrupted sleep, or changes someone close to you observed. A clean timeline usually says more than a long list of adjectives.

Therapy records or a diagnosis may provide strong evidence when treatment is needed, but no one should misunderstand Spencer as requiring an expert in every direct claim without physical injury. The real question is whether the evidence shows serious harm caused by the defendant's conduct. Bystander claims carry their additional statutory requirements.

Show what changed after the event

Proof of distress has to connect the harm to a specific event.

1 Event

Crash report, scene photos, witnesses, video.

2 Changes

First symptoms, sleep, driving, panic, routine.

3 Function

Work, school, care, relationships, daily tasks.

4 Support

Contemporaneous messages, records, people who noticed.

Spencer: treatment and expert testimony are not legal prerequisites

for a direct claim without physical injury. The distress must still be serious.

Document the event and its real effects. The legal standard still depends on which claim is being made.

Questions that come up after a wreck

I was nearly hit but suffered no physical injury. Can I sue?

It is possible, but a near miss and understandable fear do not automatically meet the Spencer standard. We would need the facts of the event, a legally recognized duty and breach, and credible proof of serious distress tied to it.

I watched my family member get hurt. Is that my claim or theirs?

The injured person may have a claim for his or her own harm. You may have a separate claim only if the relationship, timing, underlying injury, and your own distress satisfy article 2315.6. Give a lawyer the exact sequence of what you saw and when you arrived.

Will an insurer say the distress was already there?

Often the fight is about what changed after the event. Earlier records can establish a baseline. Later treatment, work records, messages, and witnesses can help show whether the event caused a new problem or worsened an existing one. No one should have to pretend a prior condition never existed.

Do not guess at the deadline

For delictual claims arising after July 1, 2024, the general prescriptive period is two years from the injury or damage under [Civil Code art. 3493.1](#). [Act 423 of 2024](#) applies prospectively. Older events and special claims, including some wrongful death and medical malpractice matters, require their own deadline analysis. Do not use this general period as permission to wait.

In an ordinary negligence case involving an event on or after January 1, 2026, comparative fault can also affect recovery: [Civil Code art. 2323](#) generally reduces damages for fault below 51 percent and bars recovery at 51 percent or more, subject to the statute's exceptions. The date of the event controls which version of the law applies.

Talk through the facts before they get flattened into a label

If an accident changed your ability to work, sleep, drive, or care for someone, make a simple account of what changed and when. If you witnessed an injury to a close relative, preserve the exact sequence of what you saw. Then a lawyer can identify the correct claim and evaluate the evidence under the correct rule.

Call Babcock Injury Lawyers at [\(225\) 500-5000](#) or use the [contact form](#) to request your free 48 to 72 hour action plan. Bring any report number, messages, medical records, or other materials you already have; you do not need a complete file to begin the conversation.

Primary sources: La. Civ. Code art. 2315; art. 2315.6; art. 2315.2; *Spencer v. Valero Refining Meraux, LLC*; art. 3493.1; art. 2323.