

THE LOUISIANA PUBLIC BROADCASTING

Legal

EAST



ALCOHOL ABUSE

Legal EASE

"The Legal Ramifications of Alcohol Abuse"

Instructional Guide

*for program three of the law-related education high
school video series produced by*

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Program

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OVERVIEW

The Legal Ramifications of Alcohol Abuse is the third program in the Legal EASE series produced by Louisiana Public Broadcasting. It is a fifteen minute long video which aims to educate young viewers about the legal and social ramifications which result from the use and/or abuse of alcohol by teenagers and young adults.

This video focuses on some of the legal consequences of alcohol use and abuse, such as alcoholism, deaths and injuries resulting from impaired driving, rape and sexual assaults, family violence and child abuse (including the effects of prenatal alcohol use on an unborn child), and some of the legal repercussions suffered by those who engage in destructive behaviors causing harm to themselves or others. It is recommended that the video be viewed by teenagers, individually or in groups, with a concerned adult who has reviewed and become familiar with the information offered in this guide. This video should be used to stimulate discussion about the consequences of alcohol use with teenagers, especially those who are at a crossroads — to help them choose the better, often life-saving, path. The companion guide provides adults who are neither specialists in the fields of alcohol abuse nor lawyers with background information on the physiological, social and legal consequences of alcohol use. It also provides information to help adults recognize when a young person is in need of assistance and steps that can be taken to get help.

Teachers or other adults who utilize the LegalEase video and print materials may encounter young people who raise issues

pertaining to personal or family situations. While LegalEase provides a wealth of information on various aspects surrounding the issue, these materials are NOT intended to be a sole or complete source of information on any of the topics covered. Adults using this video should avoid giving legal advice to students and should steer discussion away from specific personal or family references when inappropriate. At the same time, adults should familiarize themselves with the range of legal, prevention and treatment resources available in their communities so that they can serve as a resource person/conduit to direct young people to programs that can provide help when needed.

The on-air program host is basketball great Durand "Rudy" Macklin, who came to Louisiana State University in 1976 and, as a freshman, was voted AP and UPI All-American. Macklin made the ALL SEC First Team during his sophomore, junior and senior years, and led the LSU Tigers to the Final Four in Philadelphia in 1981. Macklin went on to play professionally for the Atlanta Hawks, the New York Knicks and the Los Angeles Clippers before a career-ending injury forced him to retire from professional sports. He now devotes much of his time to counseling youth on the importance of physical fitness and to working with children for the prevention of under-age drinking and the use of other drugs.

Funding for this segment of the LegalEase series was provided by a grant awarded to Louisiana Public Broadcasting by the Louisiana Governor's Safe and Drug-Free Schools and Communities Program.

THE CONSEQUENCES OF ALCOHOL USE AND ABUSE

The Human Toll

Alcohol and other drug use is associated with¹:

- 50% of traffic fatalities**
- 49% of murders**
- 68% of manslaughter charges**
- 69% of drownings**
- 38% of child abuse cases**
- 50% of spousal abuse cases**
- 52% of rapes**
- 62% of assaults**
- 20-35% of suicides**

Keep in mind that such consequences are the tip of the iceberg and indicate the magnitude of the problem that lies beneath the surface. In the video, real people share their tragic experiences to raise awareness of the human and economic costs associated with the abuse of alcohol. They do so with the hope of saving others from the pain and suffering that result from destructive decisions. How can a teenager find himself in such a state of despair from alcoholism that he would consider choosing death over life? Pain can be inflicted by the irresponsible actions of others. Through the personal account of one young man, we learn of dreams forever shattered when he "broke the law and his neck." Then there is the young woman who will for many, many years suffer a wide range of personal, legal, and economic consequences arising from her decision to drive a car under the influence of alcohol—a decision that took the life of another. These are but a few of the

thousands of true stories that can be told by real persons every year in this country — some of the stories must be told by family members and friends of victims who paid the ultimate price for their own or someone else's reckless actions.

This section provides information on some of the potential personal, societal, legal, and economic consequences of alcohol abuse and offers points for discussion as young people and adults view the video together.

The Problem of Underage Drinking

FACT

4.6 million teenagers are problem drinkers.

In the United States, the legal drinking age is 21. Nonetheless, alcohol is regarded as the number one drug problem among youth. Beer, followed by wine coolers and wine, is the most popular alcoholic drink among young people. Even though self-reports of alcohol use by high school seniors declined between 1982 and 1993, statistics on binge drinking² among young people indicate that alcohol consumption remains a major problem. In 1993, for instance, 27.5 percent of high school seniors acknowledged having five or more drinks in a row during the previous two weeks.³

FACT

More than half of the nation's junior and senior high school students say they drink to relieve stress and boredom.

Why are young people drinking? The first and most obvious reason to consider is availability — whether it is being illegally purchased, bought for or given to them, or taken from someone's (often their own) home. If teenagers want alcohol, they can usually get it. There are personal, social, cultural and/or environmental factors which influence a young person's decision to drink and the course (or extent) of his or her drinking. Experts point out that in the early years of a child's development, family is a major influence, teaching by word and, more strongly, by example. In homes where alcohol is abused, children get the message that drinking is acceptable behavior. As a child grows into adolescence, the major influence shifts from family to peers. At this stage of a child's development, "fitting in" with the peer group takes on major importance. Even though peer pressure contributes to alcohol use, a 1994 report found that 35 percent of parents tell their teens it is okay to drink under certain conditions. But, when parents "bargain" with their children, perhaps allowing them to drink as long as they promise not to drive, their children are actually more likely to take risks such as riding with someone who has been drinking or to drive when they themselves have been drinking.⁴

If you're under 21, what are a couple of good reasons not to drink?

- You could hurt yourself or someone else; and
- It's against the law.

Certainly the media, which includes alcohol advertising, conveys, or at least supports, the notion that drinking is not only acceptable, but the "cool" thing to do, enhancing just about any activity. Personality factors can also contribute to the use/abuse of alcohol, and some young people drink as a way of dealing with pressures and problems, seeking a feeling of well-being, or the pleasures of being a member of the group. Whatever one's reason for drinking, the behavior itself can, and often does, lead to disastrous consequences for either the young person or someone else.

Alcohol and Its Effect on the Body

There are lots of myths associated with the use of alcohol. A good place to start is to dispel the myths before getting to the facts. Take the following true-false test:

True or False?

- You can sober up by taking a cold shower.**
- You can sober up by drinking black coffee.**
- You can sober up by exercising.**
- Mixing different kinds of drinks will make a person drunk faster.**
- People can drive well after drinking if they concentrate.**
- Milk coats the stomach and keeps a person from getting drunk.**

If you said all of the above statements were false, you are right. As you talk to young people, ask them some of the same questions to gauge their knowledge of the facts.

By learning the facts about alcohol and its effects on the body, we can understand why its use can be harmful and why it is dangerous to engage in such activities as driving after consuming even small amounts of alcohol.

FACT

One 12-ounce beer has as much alcohol as a 1.5-ounce shot of whiskey or a 5-ounce glass of wine.

FACT

Wine coolers look like juice sparklers but they have as much alcohol as a 12-ounce beer.

Regardless of the form (beer, whiskey, wine, wine coolers, etc.), alcoholic beverages, also known as ethyl alcohol or ethanol, are a powerful drug that can cause both physical and psychological dependence (i.e. can be habit-forming) and may lead to brain and liver damage. The strength of alcohol is often measured in "proof" — the "proof" level being set by multiplying a drink's percentage of pure alcohol by two. Therefore, if a drink is 40-proof, its contents are 20 percent alcohol.

Alcohol, like heroin and tranquilizers, belongs to a class of drugs known as psychoactive or mind-altering. Although the effects can vary among individuals, an initial feeling of relaxation, sociability, and/or well-being may be replaced with depression, anger, loss of control or drowsiness. As a "downer" or central nervous system depressant, alcohol's effects include impairing judgment (can't make thoughtful deci-

sions), behavior (rowdy or risky actions), and ability to perform motor skills (such as driving), and lessens the ability to move or speak effectively.

If enough alcohol is consumed (as in binge drinking), it can result in death from an inability to breath, heart failure, or vomiting (which may lead to aspiration of vomit leading to asphyxiation or pneumonia).

Have you ever heard someone remark when a drinker gets verbally abusive, "That's the booze talking?" That is because when a person drinks, the alcohol (really the ethanol or ethyl alcohol) goes directly to the stomach, then moves quickly to the bloodstream, where it is carried to the brain and other parts of the body. When a drinker becomes verbally abusive, he or she is losing control of his or her actions. What the drinker is saying may be slurred. The process through which the body rids itself of the alcohol is slow. The liver filters alcohol from the bloodstream and eliminates it from the body at a rate of about a half-ounce of alcohol an hour. When someone drinks more than that, he or she gradually begins to feel the toxic (or poisonous) effects of alcohol. In fact, one word for this process is intoxication. Another word for intoxication is drunk. However, a person may be impaired by any amount of alcohol in his or her system, which can make an activity like driving dangerous.

Knowing when to say when doesn't work — with the first drink, a person's judgment may already be impaired.

Not everyone who drinks, even regularly, is considered an alcoholic. Alcoholism is a disease in which there is a loss of control over drinking, preoccupation with alcohol, continued use of alcohol in the face of adverse consequences and distorted

thinking. Generally speaking, alcoholism is repeated drinking that causes trouble in the drinker's personal, professional, school, and/or family life. When alcoholics drink, they often can't predict when they'll stop, how much they'll drink, or what the consequences of their drinking will be. Denial of the negative effects of alcohol on their lives is common among alcoholics and those close to them.

FACT

Teens can become addicted to alcohol more quickly than adults because their liver metabolizes alcohol more rapidly than adults.

There is no known cure for alcoholism. The disease can be arrested through complete abstinence from alcohol and other addictive drugs; although, once abstinent, most alcoholics recover from the damage caused by their drinking.⁵ Many are able to stop drinking and remain sober through medically assisted rehabilitation programs or organizations like Alcoholics Anonymous. [There are checklists available to determine if someone has a drinking problem. For more information, call AA in your local community or the "hotline" numbers listed at the end of this guide.]

Impaired Driving

When we consider the toll of alcohol abuse in this country, perhaps the consequence most often discussed is drunk driving. We see pictures on TV and read about drunk drivers in our local newspaper. If we are lucky, it doesn't affect us or someone we care about. The heading for this section is "impaired driving," rather than drunk driving, because driving under the influence of any amount of alcohol can be dangerous. In most states, a blood-alcohol concentration

(BAC) of one-tenth of one percent (0.10%) is considered evidence of drunken driving. However, even with a BAC of much lower than .10%, a person's driving may be impaired and he or she can be charged with *Driving While Intoxicated* (DWI) or *Driving Under the Influence* (DUI). Some states have a lower legal limit, such as .08% for all drivers, and some have a lower limit for young drivers. In Louisiana, for instance, the legal limit for drivers 18 and older is .10%, but the limit for drivers under the age of 18 is .04% BAC. In 1995, President Clinton established the goal of .02% BAC for all drivers under the age of 21.

In the midst of this continuing tragedy, there is some good news. Since the early 1980s, the incidence of all crashes has been significantly reduced. In 1992, traffic crashes killed 39,235 people (about 45% were alcohol-related) — the lowest in 30 years. The decrease has been attributed to a reduction in alcohol-related fatalities, and an increase in the use of seat belts and motorcycle helmets. On the down side, about 40,000 people are killed and hundreds of thousands are injured each year.

FACT

Someone in the United States is killed in an alcohol-related crash every 23 minutes.

Remember the stories related in the video. Each statistic that you read about in the newspaper represents a person. Even if you do not drink and drive or ride with someone who has been drinking, you are still at risk on the roadways. The best defense against being killed or injured by a drinking driver in another vehicle is to buckle up.

For young people between the ages of 15-20, there is no greater cause of death and injury than car crashes — not drugs, not handguns, not sexually transmitted diseases. However, alcohol-involved crashes are no longer the leading cause of death among teenagers, although any young person killed is one too many.

The reason why drinking and driving is a deadly mix is directly related to the effects of alcohol on the body combined with the skills required for driving. While the most obvious effects of alcohol include slowed reaction time, diminished coordination, slurred speech and overconfident behavior, the least obvious is the most important for driving: VISION. "Nearly 90 percent of the information we process about traffic is visual. Safe driving relies on visual perception."⁶

Alcohol's Effect on Vision:⁷

- distorts eye focus (muscles in the eye)
- reduces control over light (when driving at night, pupil is enlarged — alcohol slows the process for the pupil to restrict in response to oncoming headlights)
- diminishes visual acuity
- results in double vision
- decreases ability to distinguish colors

The Toll of Alcohol Abuse on Children

As Ruby's story clearly points out in the video, the long term effects of alcohol abuse and alcoholism can negatively alter not only the life of the drinker and his or her spouse, but also the lives of the children, who may carry the effects of abuse forever. Family violence occurs at an epidemic rate throughout this country, and, as statistics show, the

use and abuse of alcohol and other drugs are major factors in about half⁸ of reported child abuse cases. Ruby and her children are lucky because she recognized her problem with alcohol and decided to take the necessary steps to get help and protect her children. But not all children are so lucky. The fact that there is an organization like Adult Children of Alcoholics (ACOA) indicates that problems of children growing up in alcoholic homes can last for a lifetime.

But not all of the effects of parental use and abuse of alcohol on children is psychological. Pregnant women who drink can hurt their unborn children. The effects of drinking can range from low birth weight to severe mental and physical handicaps. This occurs with such frequency that there are two medical terms that describe these effects: Fetal Alcohol Syndrome and Fetal Alcohol Effects.

Since 1988, there has been a federal regulation that requires the alcohol industry to include a warning on their products. Alcohol use by pregnant women is the leading known cause of mental retardation in newborns. "Fetal alcohol syndrome (FAS), marked by dysfunction of the central nervous system, prenatal and postnatal growth deficiency and facial malformations, strikes one to three out of every 1,000 newborns (or 3,600 to 10,000 babies a year). The incidence of the less severe fetal alcohol effects (FAE) is at least three times that of FAS."⁹

How does consumption of alcohol by a pregnant woman hurt her unborn child? Whereas one ounce of alcohol clears the blood of a normal adult¹⁰ in one hour, in a pregnant woman, alcohol enters the baby's blood within 15 minutes of consumption through the placental circulation. Because the liver of the developing fetus cannot break down the alcohol as it would in an

adult, one drink can stay in the developing baby's system for at least 24 hours. When a pregnant woman consumes many drinks, there is no way to know how long this process takes. As Dr. Patricia Williams states, "in addition to the toxicity of the alcohol itself, the alcohol is broken down by the mother's liver into acetaldehyde. Acetaldehyde is toxic and crosses the placental barrier and enters the fetal circulation."¹¹

In addition to an increased rate of spontaneous abortions and still births from chronic alcohol exposure during pregnancy, there can be a multitude of effects on those children that do survive. In its severest form, the many abnormalities are known as Fetal Alcohol Syndrome (FAS). These include:

- brain and spinal cord defects
- growth deficiency
- deformed facial characteristics
- other abnormalities (i.e., heart and renal abnormalities, bone joint defects, and functional defects)

Additionally, there is a growing body of information that points to other effects from alcohol use (even when the gross physical abnormalities of the classic FAS child are not present), such as learning problems, attention deficits disorders, and motor coordination. Remember that a woman does not have to be an alcoholic to cause damage to her fetus, and if drinking occurs early in the pregnancy, the damage may have been done before the woman is aware that she is pregnant.⁵

The good news is that FAS and FAE are completely preventable. The bad news is that any amount of alcohol at any time during pregnancy can be dangerous.

Legal Ramifications Related to Alcohol Use and Abuse

While there is some variation in state drinking age laws as they pertain to alcohol sale, purchase, consumption, possession, and penalties, the legal drinking age in every state is 21. In most states, there are also penalties for the fraudulent (or fake) use of driver's licenses and identification cards to purchase alcoholic beverages and penalties for adults who purchase or otherwise make alcohol available to persons below the age of 21.

In association with the "21" laws, many states have passed statutes that lower the legal limit for drinking and driving for persons under the age of 21 (or 18). In 1995, President Clinton issued a statement that set the goal of zero tolerance for drivers below the age of 21. In effect, zero tolerance could mean no measurable amount of alcohol to .02%BAC. In all states, the legal limit for persons 21 years of age or older is .10% or lower, and some states have already enacted laws that establish a lower limit for persons below the age of 21. Drinking and driving laws carry with them penalties that usually include suspension or revocation of a driver's license, fines and incarceration. The severity of the penalties differ according to the state and number of times a person is arrested for DWI or DUI. However, a driver can be charged and convicted of DUI or DWI at limits below the "legal limit" if it is determined that the driver was impaired. Field sobriety tests can be entered as evidence in a drinking and driving case.

Moreover, there are laws in many states that invoke more severe criminal penalties when alcohol has been determined to be a contributing factor in a traffic crash that

causes death or injury. These laws are referred to as vehicular injury and vehicular homicide. Recently in Mississippi, for example, a drunk driver was convicted of murder and sentenced to 20 years in prison.

In addition to criminal penalties, drinking drivers and commercial dispensers of alcohol (such as bar owners or servers) can be sued in civil court and may be required to compensate victims or their families for the personal and/or economic losses suffered in a traffic crash. Anyone who sells or otherwise provides alcohol, particularly to drivers or persons under the age of 21, runs the risk of civil liabilities.

Other laws or ordinances pertaining to alcohol use, such as those pertaining to open containers or public consumption, have been enacted by state legislators and/or local governments. Open container laws or ordinances may prohibit a driver or occupant to have any open container of alcohol (even a bottle of beer) in a motor vehicle. Other laws or ordinances may prohibit open containers in places of business that are not licensed to dispense alcohol in this manner, on the street, or in other public places.

Economic Costs to Individuals and Society

FACT

In 1993, medical care for alcohol-related injury and illness alone cost at least \$25 billion.

As we learned from Tracy's story in the video, the personal and economic costs of drinking and driving are tremendous. But there also enormous costs to the public from alcoholism and alcohol abuse, drinking and driving, and other accidents in which alco-

hol is involved. Economic estimates soar to \$100 billion nationally and include costs of higher insurance rates, medical costs (injuries, illnesses and deaths) and lost employment and productivity. The costs associated with alcohol use and abuse ranks higher than the costs of illicit drugs and smoking.¹³

Summary

The personal, legal and economic toll of alcohol use and abuse for individuals, families, friends and society is staggering. Gavin's story in the video reveals the loss of freedom that can result from destructive decisions: the right to have a driver's license, the ability to get a job, freedom from jail, and even freedom to just walk whenever you like.

<u>Freedom to Chose</u>	<u>Freedoms to Lose</u> Driver's
Driving after Drinking	License Ability to Get a Job
	Freedom from Jail Ability to
	Walk or Think To Live

In the video, viewers are urged to consider the toll of alcohol use and abuse, and to think before they take that first drink. As host Rudy Macklin says, "if you drink, it affects your body. If you drink, it affects your relationship with others. And if you drink, you can face severe legal consequences you might not even have thought about until now. So give some thought as to what the law can do to you as a consequence of your drinking. Think about what a judge might do to you in criminal or civil court. And then, think again before you take that drink."

CLASS DISCUSSION QUESTIONS

Throughout this LegalEase video, a variety of questions appear on the screen to stimulate group discussion.

In order to make it easier for teachers, counselors, or other adults viewing this program with teen audiences to encourage a meaningful dialogue, those questions are repeated here. Also provided are brief answers which adults can use as starting points for discussion.

Why does the law allow someone who is injured to sue the person who caused the injury?

Louisiana law allows anyone injured by another person to sue that person for damages. Damage is the loss, hurt or harm which results from the injury. Civil Code Article 2315 states, "every act whatever of man that causes damage to another obliges him by whose fault it happened to repair it."

The purpose for allowing this type of lawsuit is to hold people responsible for their own actions. If a person hits a baseball and hits a window, he is obligated to repair the damage. If a person is involved in an automobile accident which causes damage to another person or property, the person at fault in the accident is obligated to repair the damage.

Do you think it is important to be able to collect damages from someone who injures you?

Damages for property loss or personal injury deals with the method of determin-

ing the sum of money which will restore the injured party to the condition which existed before the wrongful act.

Several common types of damages are recoverable. Some common examples are:

A. Pain and Suffering:

1. Pain is a physical reaction or sensation caused by some sort of physical impact that resulted in injury. If there is no physical impact, the pain may be in the form of mental anguish.
2. Suffering is the recognition of the possible danger resulting from the pain.

B. Medical Expenses:

A person who is injured by the fault of another is entitled to recover the expenses necessary to cure his injuries. These include past, present, and future expenses such as ambulance charges, hospital bills, doctor's bills, counseling, etc.

C. Lost Wages:

If a person is injured so badly that he is prevented from working, he may recover for the wages he will not receive as a result of the accident or incident. D. Property:

If damage is done to the property of another, the person causing the damage must compensate for the loss to the owner of the property.

Why does the law allow an injured party to garnish wages and get part of each paycheck?

The law allows an injured party to garnish the wages of the person causing the injury to assure that the injured party is fully compensated.

Garnishment is the process whereby the injured party (Creditor/Garnishor) seeks to collect his claim through the property of money of a third party (Garnishee). The third party owes this property or money to the Defendant (Debtor). In most instances the third party or Garnishee is the employer of the Defendant.

In most instances, the Defendant owes the injured party money as the result of a lawsuit and a judgement. The Garnishor then serves the Garnishee, who must declare under oath, what property he has in his possession or under his control that belongs to the Defendant/ Debtor, and in what amount he is indebted to him. The Garnishee then either delivers the property to the Sheriff immediately or pays him the indebtedness when due.

Depending on the type of judgement, different percentages of wages are allowed to be garnished. Usually in a money judgement for the commission of a negligent act, 25% of the Debtor's disposable income is the maximum that can be garnished. This amount is garnished until the total amount of the judgement (debt) is paid.

Do you think it is fair to erase the record of a first offender?

A discussion of this issue can lead students to understand not only the immediate consequences of their actions, but also how those actions might affect them in the future.

Points of View:

Yes, it is fair. We all make mistakes, but we learn from our mistakes. What is really important is not what we did long ago, but how we act today. The best thing we can do to help people get back on their feet is to let them face the world without paper impediments; the only thing a record does is give others an excuse to judge you on your past, not your present. Erasing a record is the best way for a first offender to get back into society and not become a second offender.

No, it is not fair. We all judge people not only by current behavior but also by past actions. If you were going to ask someone to be your employee, or to handle your money, or to do something else important, you would want to know whether or not that person is trustworthy. It might make a difference to you if you found out that person had been convicted of a crime. For example, you might not want to hire someone to handle your money if that person had been convicted of theft. In order to be able to find out about someone's past, it is only fair that records be kept.

The law:

Louisiana Revised Statutes 44:9(a) provides "Any person who has been arrested for violating a City or Parish Ordinance or a State Statute which is classified as a misdemeanor, may make a written motion to the appropriate court for expungement of the arrest record. However, certain conditions must be met before the record will be erased:

1. The time for institution of prosecution has expired and no prosecution has been instituted. For misdemeanors, there is a two year time limit if the offense is

punishable by fine or imprisonment or both. If the offense is punishable only by fine or forfeiture, then the institution of prosecution must begin within six months.

2. If prosecution was timely instituted and such prosecution was disposed of by dismissal or acquittal.
3. In any criminal court where there was an acquittal, dismissal of an offense (misdemeanor or felony), the court shall order the destruction of any arrest record. Also, the person shall be restored all civil rights lost or suspended by virtue of the arrest.
4. Any person arrested for violating a State Statute, which is classified as a felony, is governed by the same rules as in 1 above. The time for institution of prosecution for a felony is four years, or six years if the felony is punishable by life imprisonment or death. However, even though the records will be expunged (erased), the name, address, and facts of the case shall be kept for investigative purposes only.

Is it fair for your past to affect your ability to get a job?

This discussion point relates to the issue of erasing the records of a first offender and can lead to a discussion of reputation.

Points of View:

No, it is not fair. Everyone has to start somewhere in getting a job. If potential employers prejudge you based upon what they think you are like rather than what you really are like, then you might not ever get that first job. The best way to give people a

chance is to let them try and see how they do.

Yes, it is fair. In applying for a job, you want to tell employers about your experience and what a good worker you'll be. Just as you want to tell employers about how good a job you can do, you must expect that the potential employer will want to know how you have acted in the past - what other jobs you have held, what you have done for others, and what others think of you. Among two potential employees, neither of whom has experience, the person who can show a better "track record," whether by accomplishment or by references from others, often gets the job. This does not mean that your past must hold you back; employers often look for employees who can show that even if they have had a hard time, they have learned from their experiences. But, in both cases, knowing something about where you have been and what you have learned from that experience can tell a potential employer how you might perform as an employee.

The law:

Any person of the age of majority may inspect, copy, reproduce, or obtain a reproduction of any public record. The records of the arrest of a person may be disclosed after final judgement unless subject to expungement. These records become public records and a prospective employer may inspect them before hiring a prospective employee.

Why might drinking prevent you from taking care of your children?

The body reacts to the introduction of alcohol into its system. These reactions are

both physical and mental and both reactions can prevent the proper care of a child.

- A. Slowed mental and physical activity - If a child is in a dangerous situation, the person who has been drinking may not be able to realize and react quickly enough to prevent the child from being injured.
- B. If a person has had too much to drink, he may not be able to drive a car in the event that an injured child needs to be taken to get medical attention.
- C. A person drinking too much may pass out or simply fall asleep, thereby not affording a child the proper attention such as feeding, playing, or teaching. A child could also very easily walk out of the house without the inebriated person even being aware that the child had left.

Alcohol can have many effects on an individual. Alcohol may cause mental dysfunction such as forgetfulness, agitation, withdrawal from reality, or possibly senility. Physically, alcohol causes liver and brain disease. It is also a major cause of automobile accidents which injure or kill. Finally, alcoholism can cause families to break up.

Why are there laws that allow states to take children away from their parents?

Louisiana, like most states, has a strong public policy to protect its children. Louisiana has passed many laws specifically designed to protect children not only against acts of third persons but against acts of their parents as well. These laws include both civil and criminal acts.

Louisiana Civil Code Article 227 states "The father and mother, by the very act of marrying, contract together the obligation of supporting, maintaining and educating their children."

Louisiana Civil Code article 218 states that "an unemancipated minor can not quit the parental house without permission of his father and mother, who have the right to correct him, provided it may be done in a reasonable manner."

Louisiana Civil Code Article 368 states that "the minor may be emancipated against the will of his father and mother, when they ill treat him excessively, refuse him support, or give him corrupt examples."

Louisiana Revised Statutes 14:74 provides a duty for either parent to support his child. Criminal neglect is the desertion or intentional non-support of children who are in need or are destitute.

Louisiana Revised Statutes 14:79.1 is entitled Criminal Abandonment. This is the intentional physical abandonment, by the child's parent, of a child under ten years of age. Abandonment may be defined as leaving the child unattended and to his own care, when the evidence demonstrates that the parent did not intend to return to the child or provide for adult supervision.

The Childrens¹ Code also mandates the involuntary termination of parental rights for acts committed by the parents. An example of the types of acts committed by parents which might result in the involuntary termination of their parental rights are: criminal conduct, a parent who is unfit to retain parental control, and parental mistreatment, whereas the conduct of the par-

ent constitutes abuse, neglect, or cruel and inhuman treatment.

Should a mother who drinks and has a child born with Fetal Alcohol Syndrome be charged with a crime?

If it can be proven that a mother intentionally drank alcohol while pregnant to cause injury to the child, that mother could very well be charged with a crime, ranging from simple battery to murder, depending on the injury to the child.

The mother could also be charged with criminal negligence. Louisiana Revised Statutes 14:12 applies when there is such a disregard of the interest of others that the

offender's conduct amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances. Criminal negligence then leads itself to Louisiana Revised Statutes 14:39, Negligent Injury. Negligent injury is the inflicting of any injury upon the person of another by criminal negligence.

One issue that must be determined is whether or not an unborn child is "a person." Louisiana Revised Statutes 14:2(7) defines a person as including "... a human being from the moment of fertilization and implantation . . ." Thus, if the fetus is a person, the mother may be charged with criminal negligence.

INTERVENTION

Prevention of alcohol and other drug use by young people may be accomplished by providing them and their parents with pertinent information and by providing a home and community that supports healthy development. However, when prevention fails, the next step is intervention.

It takes a whole village to raise a child.

-African Proverb

Every adult can be a part of a community safety network for all young people, but especially for those who are at risk or who are already in trouble related to alcohol use. If you come in contact with youth in any setting — whether you are a parent, teacher, coach, social worker, law enforcement officer, probation officer, truant officer, school counselor, judge, youth leader, employer or co-worker, health-care provider, or member of the clergy — you have an opportunity to make a positive difference. The LegalEASE video and guide are intended to give you the information, strategies, and resources you need to provide a helping hand.

What Does It Mean to Intervene?

When it involves helping a young person who is at high-risk of becoming involved or is already involved in harmful or destructive behaviors, anything that a concerned adult does to interrupt, forestall, or modify that behavior and provide assistance is considered intervention. Before we go on to explain how you can identify a

need to intervene and the ways in which you can provide a helping hand, we will review two types of intervention from the perspectives of the public health and judicial systems.

The Public Health System's Continuum of Care

Regarding the use and abuse of alcohol and other drugs, the Public Health System's Continuum of Care provides interrelated services for prevention, intervention and treatment.

To understand the relationship between prevention, intervention, and treatment, imagine a series of safety nets. Each is designed to protect people from the adverse consequences of alcohol, tobacco, or other drug problems, depending on how far the problems have developed. This progressive array of nets represents prevention, intervention, and treatment. The first net represents prevention. The dictionary defines prevention as decisive counteraction to stop something from happening. We also know that prevention provides individuals with information and resources to raise their awareness of both risky and healthy behaviors, and helps shape environments to promote health and protect people from harm. Intervention is the next safety net. For youth, intervention targets those who have already begun to use alcohol, tobacco, or other drugs, with the goal of preventing further use. Intervention may also be directed at youth who have not yet begun to use, but who are at greater risk for use because of environmental or other factors. (Do not speak of high-risk youth as those who will use drugs but as youth who are at-risk

because of environmental or other factors). The third and final net is treatment for those who are experiencing alcohol, tobacco, or other drug problems. The goal of treatment services is the prevention of further physical, social, and psychological damage through total abstinence.¹⁴

A part of this system can be a family intervention in which family members and close friends come together to review firmly, yet lovingly, their concern for the individual and the ways in which his or her drinking has affected each of them. Usually this is done when the person is exhibiting symptoms of alcoholism, but it can be carried out when a young person or adult is experiencing trouble related to alcohol use. For instance, a teenage boy who begins drinking after a break-up with a girlfriend and whose grades are dropping may be the focus of such an intervention. Even if the problem seems minor, the family should seek the counsel and assistance of a trained intervention specialist or a treatment professional.

Intervention in the Juvenile Justice System

The American Bar Association Advisory Commission (1986) recommended the training of judges, court officers, lawyers, and related justice system personnel in alcohol and other drug problems, because of the significant incidence of alcohol and drug problems noted in both juvenile and family court proceedings. This recommendation has been taken seriously by many courts, with steps having been taken to identify and provide appropriate referrals for young people who are at-risk or have found themselves in trouble.¹⁵

An intervention in the juvenile justice system occurs during the period between arrest and a formal court hearing (before a judge or juvenile court referee). This point provides an opportunity to keep a young person with an alcohol or other drug abuse problem at the juvenile court intake stage. Several options can be exercised: filing a formal petition, dismissal, diversion to a social service agency, or delay pending outcome of an informal hearing. During this process, all those involved, such as police, prosecutors, court intake units, youth service bureaus, and social service agencies, are consulted. The goal of intervention in the juvenile justice system is prevention of future trouble for the young person. Sometimes intervention is mandated as a part of a sentence imposed by the court. A person convicted of driving under the influence of alcohol, for instance, may be required by the court to enter a substance abuse treatment program or attend AA meetings.¹⁶

Other Options for Intervention

Through programs offered by schools or social service agencies, teenagers may become aware of a problem they are having with alcohol or other drugs and ask for help. Many schools have peer helper programs, such as Natural Helpers, and/or Student Assistance Programs. Natural Helpers and other peer helper programs train students to assist their fellow students by listening, providing information on resources, referrals, and sometimes facilitating discussion groups with their peers or younger students. Peers are often the first to identify another young person who is in need of help. Modeled on employee assistance programs, Student Assistance Programs focus

on behavior and performance at school, using a process to screen students for alcohol, tobacco, and other drug problems. The purpose of student assistance programs is to provide school staff (Student Assistance Teams) with a mechanism for helping youth with a range of problems that may contribute to alcohol, tobacco, and other drug use. Teachers and other school staff receive training on how to identify youths experiencing problems. However, rather than intervening personally, students are referred to community health agencies for assessment and treatment services.

In addition to help that is available in the school from a substance abuse counselor, peer helpers, or student assistance teams, young people can access services within their communities or in a nearby town or city. Programs and services may be offered by an Alcohol and Drug Abuse Council, a treatment facility, social service agency, or self-help groups, such as Alcoholics Anonymous (AA), Al-Anon/Ala teen, and Children of Alcoholics (COA). Two types of referral and assessment services are telephone "hotlines" and "drop-in centers." "Hotlines," also known as "crisis lines," may be national, state, or local numbers that provide a wide range of services, from information and referrals to advising or counseling the caller. Many people with a problem refer themselves to these numbers because the callers are not required to give their names. "Drop-in Centers" are usually located in an area that is accessible to youth. Sometimes these centers are located in an area that is frequented by young people and some provide recreational facilities that are open after school, on weekends and during the summer.

For those young people who have found themselves in trouble with the law, there

may be referral services through the courts. Two early intervention programs for juveniles who have been cited or arrested for minor misdemeanors, traffic violations, or serious violations of school policy are Teen Court and Peer Jury. Young people, who have admitted guilt and have the permission of a parent or guardian, can be referred by a court official to appear before a panel of other young people who have been educated on court procedures and appropriate sanctions.

TIPS FOR TEENS

How To Intervene To Keep Someone From Driving After Drinking:

- **Emphasize the facts: you don't have to be drunk to be dangerous.**
- Things to say: "don't drive," "you might get a DWI," "you could go to jail," "your insurance rates would increase," "the weather is bad," "the roads are dangerous," "you might crash," "you might kill yourself or someone else," "you might wreck your car," "let me drive," "I care about you," "call a cab," "spend the night."
- Things to do: Phone an adult for a ride, call a cab, sleep over, wait for a sober ride, refuse to ride with a drinking driver, say "no."
- **Alternative things to do: let air out of tires, distract them, take keys to lock the car, ask them to come back and wait (nothing else to drink).**

Identifying the Need for Intervention

Regardless of who identifies a young person at-risk or in trouble, the obvious rule of thumb is "the earlier it's done, the better the outcome can be." Success can depend on knowing about appropriate courses of action or strategies for securing help. Teachers, parents, and other adults who come in contact with young people should be informed regarding signs or symptoms of trouble with alcohol or other drugs. Except in cases in which a problem is identified through drug testing or by the courts, most detection strategies are indirect, such as being sensitive to changes in behavior, mood, choices of friends, school performance, or rebellious behavior.

Obviously, there is no complete list of signs and symptoms that indicate without a doubt that a kid is involved in substance experimentation, so we must be careful not to label kids too quickly. On the other hand, to ignore the signs that have been identified is to court trouble.¹⁷

We tend to think that there are certain people in a young person's life who will notice if they start exhibiting problems related to the use of alcohol or other drugs and take actions to help that individual. However, we also know that in the "real world," things do not always work the way we think they should. Someone — and it may be you — will be in a position to recognize that a young person has a problem and take the initial steps to help.

I've Made the Decision to Intervene, So What Can I Do?

Do what you can, with what you have, where you are.

• Teddy Roosevelt

First and foremost, it's important to know that, although you need some basic information, you do not have to be an expert to lend a helping hand. If you come in contact with a young person in need of assistance, a little knowledge can be a big help. Understand that you are not going to solve the problem, but you can jump-start the process.

Things you can do:

- be a positive role model for young people
- identify services and resources
- educate yourself about the signs and symptoms of alcohol use and abuse
- express your concern to the young person (be sensitive with regard to the situation and to his or her culture)
- notify the parents of your concerns
- consult with and/or refer the youth to an appropriate person or agency

If a young person confides in you, listen, answer questions when you can, and provide support and referral. *Be aware, however,*

that you may be required by law to report a problem, like child abuse, to a law enforcement or social service agency.

You should not enable the behavior of the young person to continue — this means, don't try to take over the problem and fix it and don't overlook the behavior. Don't use put-downs, don't be preachy or judgmental, and don't gossip about the young person.

As you plan for being a part of the help network, an important initial step is to go through your local telephone directory and list local resources, hotlines, places and people that can be of assistance should the need arise. Call or write the organizations and agencies listed at the end of this guide. Contact social service and volunteer agencies that can provide support such as baby-sitting, transportation, and family assistance. For example, if a mother and her children want to leave an abusive home, there may be a shelter for battered women and their children. Sit with a few of your friends, co-workers and/or family members to brainstorm the possible sources of help and resources available in your community. Call some of the numbers and ask for other referral possibilities. The last page of this guide can be used as your personal "help" directory.

Conclusion

According to an article by Dr. P.E. Nathan in Public Health Reports (1988):

Current data on efforts to prevent alcoholism indicate that we are better able to prevent some of the consequences of alcohol misuse, such as alcohol-related car crashes and fetal alcohol syndrome, than chronic alcohol dependence itself. Many clinicians and researchers have concluded that rather than exclusive preoccupation with long-term alcoholics, early intervention with persons who are just beginning to abuse alcohol may be a more effective use of resources.¹⁸

This segment of LegalEase was intended to do just what Dr. Nathan suggests: to provide information to enable anyone, in whatever situation, to intervene to prevent more serious problems in the future. Communities and schools usually have in place a safety net for all young people, but sometimes a child or adolescent falls through that net or misses it entirely. We hope that this video and guide have provided you with the means to help a youngster before he or she hits the ground.

INFORMATION, REFERRAL, AND ASSESSMENT RESOURCES AND SERVICES

National

Center for Substance Abuse Prevention National Clearinghouse for Alcohol and Drug Information (NCADI) P.O. Box 2345 Rockville, MD 20847-2345 1-800-729-6686

Office of Juvenile Justice and Delinquency Prevention (OJJDP)
Department of Justice
635 Indiana Avenue, N.W.
Washington, D.C. 20531
(202) 307-5914

Boys and Girls Clubs of America
1230 West Peachtree Street
Atlanta, GA 30309 (404) 815-5700

4-H Extension Service
Ag Box 0904
U.S. Department of Agriculture
Washington, DC 20250-0904
(202) 720-5516

Emergency Nurses Cancel Alcohol-Related Emergencies (EN C.A.R.E.)
770 Grafton Street
Shrewsbury, MA 01545

National Highway Traffic Safety Administration Traffic Safety Programs (NTS-21) 400 Seventh Street, SW
Washington, DC 20590 (202) 366-2721

Toll-free Information and Referral Services:
National Institute on Drug Abuse 1-800-662-HELP
Al-Anon 1-800-729-6686
The Just Say No Foundation 1-800-939-6666
National Clearinghouse for Alcohol and Drug Information 1-800-729-6686

For comprehensive listings of national and state resources, call:

- NCADI at 1-800-729-6686 to request the publication *Citizen's Alcohol and Other Prevention Directory: Resources for Getting Involved*.

- Drugs and Crime Data Center and Clearinghouse at 1-800-666-3332 to request the publication *State Drug Resources: 1992 National Directory*.

Local

Compile your own list of local resources for information, referral, assessment and treatment options by checking your telephone directory and contacting: your school system's Safe and Drug-Free Schools Coordinator, school counselor, Parent/Teacher Organization, health care provider, local substance abuse center (e.g., Alcohol and Drug Abuse Council), community mental health center, or local public health department. Each of these contacts may lead you to other resources that can be helpful to you.

Contact	Type of Service	Address	Phone Number

GLOSSARY

AOD - AOD stands for alcohol and other drugs. Using the expression "alcohol, tobacco, and other drugs" emphasizes the too often overlooked fact that alcohol and tobacco are drugs.

BAC - BAC (Blood/Breath Alcohol Content/Concentration) is the amount of alcohol in the bloodstream. It is measured in percentages. For instance, having a BAC of 0.10 percent means that a person has 1 part alcohol per 1,000 parts blood in the body. In Louisiana, a person below the age of 18 can automatically lose his or her license with a BAC of .04 percent.

Binge Drinking - Binge drinking is defined as "the consumption of five or more drinks in a row on at least one occasion."

COA - Children of Alcoholics (COA) face special problems as a result of living in a home disrupted by alcohol problems. An estimated 6.6 million children under the

age of 18 live in households with at least one alcoholic parent.

DUI - Driving Under the Influence (of alcohol or other drugs)

DWI - Driving While Intoxicated

High-Risk or At-Risk Youth - Vulnerable young people who live in a high-risk environment.

Impaired Driving - Because a person's driving can be impaired before the person reaches a drunken or intoxicated state, the term "alcohol-impaired driving" or "drinking and driving" is preferable to "drunk driving." A person can be arrested for driving under the influence, even if his or her BAC is below .10 percent (for ages 18 or above) or .04 percent (for ages below 18).

ENDNOTES

¹ Source: National Institute on Alcohol and Alcoholism (1994).

² "Binge drinking," "getting smashed," and "getting bombed" are all terms used to describe drinking to intoxication.

³ Information from the National Highway Traffic Safety Administration, Campaign Safe and Sober, 1994.

⁴ Source: National Council on Alcoholism and Drug Dependence, Inc. and the Johnson Institute, 1994 Report.

⁵ Source: NCADD.

⁶ Source: Pamphlet titled "Alcohol, Vision, and Driving"/American Automobile Association, 1994.

⁷ *Ibid.*

⁸ According to various reports, alcohol involvement in child abuse cases ranges from about 38-60%.

⁹ Source: NCADD, 1993.

¹⁰ The average weight of an adult is used to denote "normal."

¹¹ Source: "Overview of the Literature on Fetal Alcohol Syndrome and Fetal Alcohol Effects," Patricia Williams, PhD, 1994.

¹² *Ibid.*

¹³ Source: *Substance Abuse: The Nation's Number One Health Problem*, 1993 report prepared by the Institute for Health Policy, Brandeis University, for the Robert Wood Johnson Foundation: Princeton, New Jersey.

¹⁴ Source: *Prevention Primer: An Encyclopedia of Alcohol, Tobacco, and Other Drug Prevention Terms*, U.S. Center For Substance Abuse Prevention, 1993.

¹⁵ Source: *American Bar Association Policy Recommendations on Youth and Alcohol Problems*, a publication of the American Bar Association, 1986.

¹⁶ Source: *Community Systemwide Response Manual*, 4H Grant from OJJDP, with funding support from NHTSA, 1994.

¹⁷ *Ibid.*

¹⁸ Source: "Alcohol Dependency Prevention and Early Intervention," Dr. P.E. Nathan, *Public Health Reports*, 103(6), 1988.