

Need A Brazilian Lawyer?

The U.S. Mission in Brazil does not recommend particular lawyers but our Embassy and Consulates maintain lists of attorneys throughout who speak English and who have expressed a willingness to represent American citizens living or visiting Brazil.

To view the list, go to our website (www.embaixada-americana.org.br), click on "U.S. Citizen Services," then "Other Services" and finally the "List of Attorneys" link.



The U.S. Mission to Brazil assumes no responsibility or liability for the professional ability or reputation of, or the quality of services provided by, the lawyers on the list.



Brazil's Legal System



American Citizen Services



Overview

The Brazilian legal system resembles the U.S. legal system in its structure (state and federal courts at the trial and appellate levels) but the laws and procedures differ enormously from what Americans are accustomed to in the U.S.

Although the U.S. government provides certain assistance to Americans overseas, the government does not provide personal legal advice or guidance to American citizens. This pamphlet contains only a brief overview of what in general to expect if confronted with a legal matter in Brazil. In many situations, the best way to deal with a legal matter in Brazil may be to retain a local attorney.

Criminal Charges

While in Brazil, a U.S. citizen is subject to Brazil's criminal laws, which sometimes differ significantly from those in the U.S., as do the protections and rights available to an individual. If arrested abroad, a citizen must go through the foreign legal process.

An American consular officer cannot demand the immediate release of a U.S. citizen arrested abroad or otherwise cause the citizen to be released.

Consular officers also cannot represent a U.S. citizen at trial, give legal advice or pay legal fees and/or fines.

A consular officer will visit an American prisoner as soon as possible after the arrest and provide a list of local attorneys to assist the prisoner in obtaining legal representation. If authorized by the prisoner, the Consulate will notify his or her family and/or friends and forward requests for financial or other aid.

The Consulate will also provide other forms of ongoing assistance to incarcerated Americans, including periodic visits. However, only a Brazilian attorney can assist an American prisoner navigate the court system or obtain release.

Family Matters

Americans living in Brazil are generally subject to Brazilian law in terms of divorce and child custody, which come under the jurisdiction of family courts. Brazilian laws resemble American laws but they can differ wildly in terms of their application.

Divorce proceedings in Brazil can be complicated and time consuming. Although there is no treaty governing the recognition of Brazilian divorces in the U.S., a divorce decree issued in Brazil is generally recognized in the United States as long as both parties received adequate notice and one of the parties was living in Brazil at the time of the divorce.

In terms of child custody, Brazilian law gives both married parents equal custody rights but, in practice, Brazilian judges tend to favor mothers over fathers and

Brazilian parents over foreign parents.

Brazil is also a signatory to the Hague Convention on International Child Abduction, which includes procedures for the expeditious return of children improperly taken by one parent to another country. However, as some high-profile cases have demonstrated, compliance with Hague Convention procedures has been a serious issue in Brazil.

Civil Lawsuits

Brazil's legal system is based on a Civil Code rather than the common law tradition that prevails in the U.S. federal system and in all American states except Louisiana.

Americans may find civil litigation particularly perplexing, both in terms of procedures and substantive law. There are no jury trials in civil cases, and no punitive damages. And, unlike the tradition in the U.S., losing parties in Brazil generally are required to pay the winning party's legal fees.

Common types of litigation include disputes over intellectual property and ordinary commercial litigation arising out of the breach of contracts and corporate agreements. Employment disputes for wrongful dismissal and unpaid wages are also common.

As with other legal matters, the U.S. Government can assist an American citizen in finding an experienced civil law attorney. However, Consulate officials cannot provide actual legal assistance.